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TECHNOLOGY FOR PEOPLE
WITH DISABILITIES, OLDER
AMERICANS, AND VETERANS**

HEARING
BEFORE THE
SPECIAL COMMITTEE ON AGING
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THURSDAY, JULY 28, 2022

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, DC.

The Committee met, pursuant to notice, at 10 a.m., virtually via Webex, Room 562, Dirksen Senate Office Building, Hon. Robert P. Casey, Jr., Chairman of the Committee, presiding.

Present: Senators Casey, Blumenthal, Rosen, Tim Scott, Braun, and Rick Scott.

**OPENING STATEMENT OF SENATOR
ROBERT P. CASEY, JR., CHAIRMAN**

The CHAIRMAN. The hearing will come to order. Thank you everyone for being here this morning. I will start with my opening, then I will turn to Ranking Member Scott.

This week marks the 32nd anniversary of the signing of the Americans with Disabilities Act. As we commemorate that anniversary, our Committee will examine an important disability issue, how to improve the accessibility of Federal information technology for people with disabilities.

The COVID-19 pandemic accelerated a long-term shift in delivering government services using virtual front doors instead of physical front doors. Unfortunately, over the years, the U.S. Government has not prioritized making these virtual front doors accessible to people with disabilities, especially most recently. Digital access significantly affects older Americans and veterans, who experience disabilities at higher rates than the general population and more frequently use these government services.

Federal law requires that the Executive branch agencies make their technology accessible to people with disabilities. However, bipartisan oversight that I have led shows the U.S. Government is falling short on digital accessibility. I want to thank Ranking Member Scott and our Aging Committee colleague Senator Burr for joining me in these oversight efforts.

In 2018, my office heard from veterans who have a disability or more than one disability, who reported problems accessing the Department of Veterans Affairs' websites and kiosks. In response, I worked alongside Senator Jerry Moran to pass the bipartisan VA

Website Accountability Act in 2020. That law requires the VA to report on the accessibility of its websites and intake kiosks.

The resulting report had stark findings. Fewer than 10 percent—let me say that again—fewer than 10 percent of its websites were fully accessible as of last Fall and the Department’s plans to fix them were, in a word, inadequate. My understanding is that the VA will soon be responding to the letter I sent with Senator Scott and other colleagues regarding these longstanding accessibility shortfalls. I will be reviewing those plans and look forward to working with the Department to address these longstanding issues.

While serious, the VA’s accessibility shortfalls are not unique, unfortunately. A long list of Federal agencies, and even the White House, have settled lawsuits in recent years alleging their websites and technology are not accessible. That is why I am concerned that the Department of Justice has not evaluated Federal technology access for a decade. Federal law requires, as I said, these evaluations every two years.

The Biden Administration has rightfully prioritized improving digital access, but years of inattention to accessibility means there still is a lot of work to do.

Someone who just happens to live in the same county I live in—his name is Ron Biglin and I am holding up a letter, some of which I have highlighted—Ron Biglin, he lives in Clarks Summit, Pennsylvania, not too far from Scranton. He is one of the people who has suffered from this inattention. He submitted a statement for the record, and I will make that statement part of the record.

Ron Biglin is an Air Force veteran, who is blind. He can fish, kayak, and even do online banking, but the VA’s My HealthVet site does not work with his screen reader, making him unable to use it. Ron wrote a pertinent part in his statement: “When you are visually impaired you want to be as independent as possible and having problems getting on VA websites takes away this independency. If the VA could lead the way to make access easier, this would be a great plus and then also other government agencies could do the same.” I could not have said it any better than Ron Biglin said it.

We would not ask someone using a wheelchair to walk up the courthouse steps, but in a real sense we are doing something similar when we ask people with disabilities to use Federal websites. We are saying that all the time in government services, and thankfully it has worked for a lot of Americans, but when we are telling people to use these Federal websites, mobile apps, and other technologies that are inaccessible, that makes no sense. We have got to do better than that as a Federal Government and as a society.

I thank our witnesses for being here today and I look forward to hearing how to address these issues for people with disabilities, for seniors, and for veterans across the country like Ron Biglin and so many others.

I will now turn to Ranking Member Scott.

**OPENING STATEMENT OF SENATOR
TIM SCOTT, RANKING MEMBER**

Senator TIM SCOTT. Thank you, Mr. Chairman, and thank you to the witnesses for being here today. Without any question we look forward to hearing your testimony.

For many of our Nation's seniors and people with disabilities, accessing Federal resources and services has been too big of a problem that must be solved. This is especially true for our veterans, and that is why Senator Casey and I are working to solve problems with a variety of solutions. I thank you, Mr. Chairman, for your participation in so many of the efforts to include working with the VA and to improve the website accessibility for disabled veterans and disabled VA employees. We also requested the DOJ comply with reporting requirements regarding improved website accessibility for Americans with disabilities.

In May, I hosted an event to honor our active duty, reserve, and national guard and military personnel, defense contractors, and those who fought in Afghanistan and Iraq. We had nearly 700 attendees at home in Charleston, South Carolina. It was a wonderful event. It was a wonderful way for us to acknowledge the incredible sacrifice, and those who serve our country should be honored on a consistent basis.

I would like to acknowledge our South Carolina servicemembers, veterans, and those currently stationed at military bases throughout this Nation.

One out of four of our veterans have a disability that is consistent with their military service, and the median age of our veterans is around the age of 65.

Tony Green is a veteran from Charleston, South Carolina, who served in the Navy for eight years. Following his military career, he had problems assimilating into civilian life and started suffering severe bouts of depression. He went from living in the comfort of his own home to living in a homeless shelter. Determined to change his life, he reached out to the VA and received treatment for his bipolar disorder.

The VA and its telehealth services, which he accesses from his phone and laptop to receive care and manage his medication, have made all the difference in the world for Tony. He took advantage of the VA's comprehensive work-therapy program that led him to a job with the Palmetto Goodwill's Ability One program. He went from a food service worker, to cook, to supervisor. Tony is now an assistant project manager in downtown Charleston. He is also the first homeowner in his family.

Telehealth became a godsend for millions of Americans like Tony, especially our seniors during COVID-19. Patients connected with their doctors even when they were isolated. From March 2020 through February 2021, more than 28 million Medicare beneficiaries used telehealth services.

Donna Avant, named the 2021 Pharmacist of the Year, has been providing telehealth education free of charge, to the residents of Bamberg County, South Carolina, since 2020, in this rural community, where the nearest doctor is 12 miles away, the nearest emergency room is half an hour away, and, more that 100 seniors re-

ceived free tablets for health screenings in chronic disease education, such as diabetes and hypertension.

Seniors use Zoom and the phone. It improved access to health care, to doctors, and specialists that they otherwise might not be able to see. South Carolina is a leader in telehealth innovation. The Medical University of South Carolina has one of just two federally recognized telehealth centers of excellence in the Nation.

In 2021, I introduced the Telehealth Modernization Act with Senator Schatz and a bipartisan group including Senators Collins and Warnock, which makes telehealth flexibilities permanent even after this pandemic is completely done. Without congressional action, however, these emergency provisions will end, and they will end soon, like in mid-October of this year. For the tens of millions of Medicare beneficiaries and others who rely on telehealth services, that would be tragic.

Federal regulations have not kept up with the technological advancements that we have seen in this country. We must keep telehealth available and accessible for all Americans, including our seniors, our military heroes, and disabled individuals, so that they can take care of themselves and meet the needs they have.

I look forward to learning from today's witnesses. Thank you, Mr. Chairman, and I yield back.

The CHAIRMAN. Ranking Member Scott, thank you for your statement. I will now move to witness introductions.

Our first witness is Ms. Eve Hill, a disability rights lawyer at Brown, Goldstein & Levy. Ms. Hill previously as Deputy Assistant Attorney General at the U.S. Justice Department in the Civil Rights Division, where she was responsible for oversight of the division's disability rights, education, and Title VI enforcement and the American Indian Working Group.

She founded Inclusivity Strategic Consulting, a unit of the law firm designed to help businesses, organizations, government agencies, and industry groups to achieve real inclusion of people with disabilities in their workforces and their communities.

Our second witness is Mr. Anil Lewis, Executive Director for Blindness Initiatives at the National Federation of the Blind. Mr. Lewis oversees the development and implementation of projects that improve the education, employment, and quality of life of all blind people.

Our third witness is Ms. Jule Ann Lieberman, the Assistive Technology Specialist at TechOWL's Institute on Disabilities at Temple University in Philadelphia. Ms. Lieberman conducts assistive technology demonstration training for TechOWL and is responsible for public awareness activities at that organization. She is also blind herself and she will tell us how she has been personally affected by accessibility problems with Federal websites.

Ms. Lieberman is accompanied by her husband, John Lieberman. She is also accompanied by her guide dog, Bob. That is a good name, and for our fourth and final witness I will turn to Ranking Member Scott.

Senator TIM SCOTT. Thank you, Mr. Chairman.

Ronald G. Holmquest retired to South Carolina after a successful career in the Navy and later as a computer programmer and small business owner. Raised in New Jersey, he joined the U.S. Navy

after graduating from high school. He served overseas in Japan and was honorably discharged in 1966, having been promoted to petty officer second class.

He then pursued a career as a computer programmer and IT specialist in the New York City area. More importantly, he married Bonnie and they started a family. Ronald and Bonnie just celebrated their 56th wedding anniversary. What a blessing.

Seeking a different pace, they moved to Vermont, where Ronald continued his work as an IT specialist and a small business owner. In 2015, he moved to Charleston—good decision—area to be closer to his family and granddaughter, who is now 10 years old. He is proud to have moved to South Carolina.

Currently Mr. Holmquest receives care for chronic medical conditions at the Ralph H. Johnson VA Health System. He relies on telehealth and remote home monitoring devices to stay connected to his care team.

Mr. Holmquest, we look forward to your hearing testimony today, and once again, happy 56th wedding anniversary.

The CHAIRMAN. I join in those sentiments. Thank you, Ranking Member Scott.

Before we move to witness statements I just want to make it clear for our audience that various Senator will be in and out of the hearing today. Thursday mornings are busy here. Lots of hearings and commitments that people have, so we will be acknowledging Senators as they arrive and as they have been present. I know we are joined already by Senator Rick Scott, and so we will now move to our first witness statement.

Ms. Hill, you may begin.

STATEMENT OF EVE HILL, ATTORNEY AND PARTNER, BROWN, GOLDSTEIN & LEVY, LLP, WASHINGTON, D.C.

Ms. HILL. Good morning, Mr. Chairman. Good morning, Mr. Ranking Member and members of the Committee. As has already been said, my name is Eve Hill. I am a partner at Brown, Goldstein & Levy, and I have dedicated most of my career to implementing the rights of people with disabilities.

Imagine trying to do your job without access to the internet, when everyone else—your boss, your coworkers, your competitors—has access. Picture yourself having to call a customer service line every time you need information from an office while your competitors and colleagues get the information they need with a click, or waiting for a coworker to find time to read a data base to you or to interpret a video for you, while your colleagues click, scroll, and go.

Imagine traveling an hour or more to get to a medical office and waiting for in-person assistance while everyone sees a doctor through telehealth from their home. Or imagine a telehealth appointment in which your child has to interpret your intimate details for your doctor. We all laughed at the scene in the movie Coda, when the daughter had to interpret the sex lives of her parents for their doctor, but it is not funny, and it is not fiction.

In 2022, 97 percent of the top million home pages in the world had accessibility barriers, an average of 51 barriers per page, and there is no reason for this. Digital accessibility is not techno-

logically complex. It has been solved since Mark Zuckerberg was in high school.

Section 508 of the Rehabilitation Act has required Federal agencies to make their technology accessible for 24 years, but 30 percent of the most popular Federal Government webpages are inaccessible, and these are ones we use all the time, like weather.gov, energystar.gov, and census.gov, and websites are the simplest form of technology to make accessible. The accessibility of other forms of Federal technology is dismal. Clients of my firm right now are dealing with trainings required by the Centers for Medicare and Medicaid Services that do not work with blind people's screen readers, and within intake kiosks at the Social Security Administration that are not accessible to blind people, and Federal employees with disabilities are dealing with inaccessible software programs that make it nearly impossible to do their jobs as well as timekeeping software, office machines, and online trainings that make their jobs more difficult.

One might think this inaccessible technology is a relic of the past, but it is not. One blind employee of a large Federal agency for years worked on an inaccessible program that was central to her job, and recently the agency replaced the program, with a new one that is also inaccessible, and that agency failed to act on the employee's formal Section 508 complaint for eight years, so far.

In another recent case, an agency sat on a Section 508 complaint for nearly five years, and had to be sued under the Administrative Procedure Act in order to act.

The Social Security Administration, as a policy matter, is refusing to adopt accessible technology, insisting on wet ink signatures for documents to apply for SSDI benefits in spite of the wide availability, security, and accessibility of electronic signatures.

So what to do? Section 508, in my opinion, needs six improvements. First, transparency. As you mentioned, the Justice Department is required to report on compliance every couple of years but has not done so since 2012. At the same time, GSA is collecting information on compliance but does not share that information with the Justice Department, with Congress, or with the public.

Second, up-to-date standards. Technology develops quickly and accessibility guidelines keep pace, but Federal regulation does not. The Web Content Accessibility Guidelines 2.1 were released in 2018, and have not been incorporated into the Section 508 standards. Congress needs to ensure that the Access Board has the resources it needs to keep its standards up-to-date.

Third, testing. Agencies clearly cannot rely on the aspirational, misleading, or incorrect statements of their technology vendors. They must have the ability to test technology accessibility themselves before they roll it out.

There needs to be a significant remediation effort of barriers that already exist in technology, and fifth, oversight. Self-oversight has not worked. A Federal agency should be tasked with enforcing compliance with Section 508.

Finally, accountability. The Federal agencies that are violating Section 508 are violating civil rights. They are harming taxpayers by buying technology that is not worth what we paid for it and by making it harder for public servants with disabilities to do their

jobs, and vendors of inaccessible technology need to be held accountable to their Federal customers.

Thank you very much for inviting me today and I appreciate your interest in this topic.

The CHAIRMAN. Thank you, Ms. Hill, for your testimony.

Mr. Lewis, you may begin your statement.

**STATEMENT OF ANIL LEWIS, EXECUTIVE DIRECTOR
FOR BLINDNESS INITIATIVES, NATIONAL FEDERATION
OF THE BLIND, ATLANTA, GEORGIA**

Mr. LEWIS. Thank you. I want to thank the honorable members of the Special Committee on Aging for this opportunity to present on this extremely important topic. I see ICT, information communications technology as very important because it creates opportunities for us to access the fundamental civil rights that should be extended to every American citizen.

As stated, my name is Anil Lewis. I am the Executive Director of Blindness Initiative for the National Federation of the Blind, the most transformative organization of blind people in this country, and we believe that access to public services and public information is a fundamental civil right. We recognize that ICT holds the hope for us to access these Federal programs in a more dynamic fashion.

In my written testimony I go through the process of explaining how when I went blind in 1989, the old service systems that were in place made it frustrating, if not impossible, for me to access these services. I loved the term that you used and I am going to use it. Now that we have moved to the place of the virtual front door, those old services are even worse, because we put more resources into creating the virtual front door and taken them away from the old services, which were mediocre at best.

Again, the accessible ICT—and I mean accessible, not just information communications technology itself; if it is not accessible it does not work—it holds hope for us to finally really be able to access the information and the services like every other American citizen. Through screen readers that convert speech, the digital information on computers into speech for the blind person to hear, refreshable Braille displays like the one I am using today, which converts that digital information into a tactile form that I can read with my fingers, we can provide access and information to blind individuals and those with low vision, individuals that are deafblind, and because it is speaking the technology, those individuals who are illiterate and could not read, because it is in a digital and accessible format, it can convert to foreign languages, again, creating opportunities for every American citizen to access the programs and services that we should be allowed to.

Rather than going through a litany of personal examples, in my testimony you will see references of how inaccessibility has adversely impacted a representative sample of over thousands of people with disabilities, and it is preventing them from accessing services from the IRS, the Social Security Administration, Centers for Medicare and Medicaid, Department of Education, Small Business Administration, the Veterans Administration, and also even Homeland Security, and the reason that it is impacting is not just because we cannot access the information and services but also we

cannot become viable Federal employees if the systems that are used to support the employment are not accessible or non-vision accessible to blind individuals.

I want to spend most of my time in these remaining few minutes not to talk about the problems that are created but just get people to paradigm shift and recognize that accessibility is not difficult. That is the big thing. Accessible coding is just good coding, so we are not adding an additional burden on the existing systems to make them accessible if we focus on accessibility during the design and development process.

The only big problem is there is a flawed accessibility implementation strategy within the Federal Government. In my written testimony I do an analogy around typing, where individuals within the Federal Government are using Smith Corona typewriters to create documents, taking that document and giving it to someone who can use a word processor to create a digital accessible document, so of course, that person who runs that Smith Corona typewriter is going to think that it is difficult, and of course it is going to be more expensive because you have to add another layer. The strategy should be to teach that one who is working on that Smith Corona typewriter how to use the word processor to create that accessible document from the start, and then it is seamless. No additional cost, no additional difficulty. It just works.

I just want to stress, well, really appreciate the fact that this is a very good, collaborative effort, a bipartisan effort to really meet this need. We know that is law. Let's just implement it, and the Federal Government can be an exemplar. One, the Federal Government can continue to strive to be a model employer, making sure that blind people and other people with disabilities have the opportunity to obtain employment, lateral movement, and upward mobility within the Federal Government.

Two, the Federal Government can implement a procurement process that demands that vendors to the Federal Government make sure that they provide accessible technology and other services so that they can encourage those vendors to make sure that they are developing accessible information from the beginning. This will also affect not only the vendors' production of accessible materials but also the training of individuals in the IT profession, because a person who learned to program and develop, as long as they learn about accessibility it is just part of their everyday.

I would just really give one quick example of what has been really refreshing for me lately. We know that they have been offering free COVID tests to every American citizen. The National Federation of the Blind reached out to the Administration and recognized that these tests were not accessible to blind individuals. We, long story short, have been working with the National Institutes of Health, the Administration of Community Living, and we are working to make sure that the whole process, from soup to nuts, is accessible, the website is accessible, the instructions for the kits, we are working with those manufacturers to make sure they are accessible, the kits themselves, we are working them to be accessible, and the beautiful part about this is twofold. One, people are recognizing that accessibility is not expensive and it is not difficult, and two, we are enculturating the thought of accessibility into this

whole infrastructure so that every other product or service that NIH works with, especially when we are talking about telemedicine and all these other home health care pieces of devices that they are working with, are accessible, born accessible from the start, so the same insulin pump that a sighted person uses, a blind person can use because it is accessible. The same home chemotherapy that a person without a disability uses is the same one that a blind person can use who has to have chemo. It is just a win-win.

I am just optimistic that not only will this help us access the fundamental rights that we deserve, but the multimodal resulting impact of all this technology also helps every American citizen, not only just in literacy and language translation, but someone who can see also gets comfort in the validation of an audible confirmation when something happens.

Again, thank you for this time to present. I am looking forward to working collaborative with you moving forward to make the Federal Government the exemplar and introduction of accessibility that creates a better quality of life for every American citizen. Thank you.

The CHAIRMAN. Mr. Lewis, thank you for your statement.

As I mentioned we will be acknowledging Senators. Senator Blumenthal has joined us, and now I will introduce our third witness, Ms. Lieberman.

**STATEMENT OF JULE ANN LIEBERMAN, ASSISTIVE
TECHNOLOGY PROGRAM COORDINATOR, TECHOWL,
DEVON, PENNSYLVANIA**

Ms. LIEBERMAN. Thank you very much for this opportunity to speak before you today. I come to you not only as a person, as evident with the gray hair, of the aging community but also as a person who is blind. I was diagnosed in 1970 with a progressive vision loss, so I have gone through all the various stages of low vision to the point where now I would be considered profound vision loss or blind, and again, this does impact your daily life, especially when you do not have equal access to information.

I work with TechOWL, which stands for Technology Our Whole Lives. It is an Assistive Technology Act program that is located within the Institute on Disabilities at Temple University. Our office works very hard to promote the independence of persons with disabilities and also promotes self-esteem and other personal choice opportunities.

With that said, again, my experience teaching, I have been teaching for 24 years persons with vision loss, how to operate a computer independently, and that would be the use of assistive technology, as described previously, like screen readers.

I have to comment. When Ms. Hill made the comment about the scene in Coda, it flashed on a memory of my son accompanying me to my mammogram appointment. We were given a form to fill out, and he had to ask questions. My son, I am very proud of him, and he is probably one of the kindest persons in the world. He said at the end, "Mom, I know more about you than I ever wanted to know."

Again, equal access and equal opportunities to provide information is critical for anybody with any disability, of any age, so even

though I am within the older population now—I guess you could say that—I plan to continue working for some time, and having access to this information, not only for myself but also for the customers that I serve, I provide information assistance at my office and so very often I have to direct people to finding locations on the internet, over the phone, and it really bothers me when I know, in fact, I cannot get that information completely. Sometimes there are roadblocks.

As an example, these past few years we have all been in a crisis situation, dealing with health inequities and also the health situation as a result of COVID. I am a person that thinks information is power, and I rely on reliable information. I would hope that the Federal Government and its resources, like at the CDC, would be able to provide me with accurate information. You do not want us to merely be relying—as their best efforts are—with news media and/or social media to provide us with information that may or may not be accurate, so we look for these resources that we would hope that would ensure accurate information.

I tried to find the prevalence of COVID activity, and this was in the spring of 2020, again, in my region, my State, and my county, and it was presented in a graph with no description, so it was very frustrating. I could get to one point, to where I could actually identify where I lived, and everything was represented in a graph which provided me no information at all, and so, you know, for me, I had to rely on other sources.

Now I am very, very fortunate that I have a very supportive family, incredibly supportive family, so as a routine, my son would come up—we were both teleworking. Obviously, our offices were shut down, and as a routine he would come up at least once or twice a week, at lunchtime, sit down with his computer, and say, “Okay, Mom, here are the updates.” He would read them aloud to me, and it provided assurance to both of us and helped us make decisions on our activities. Is it safe for me to go to the grocery store? Is it safe for me to go to church?

The things that are important to us, we need to know that information so that I know that, okay, I am safe if I wear my mask or what other guidelines are there, but having that initial information of how often this is happening in my neighborhood is incredibly important.

You know, going down then to the spring of 2021, it was wonderful that we had the availability of vaccines. Unfortunately, when I tried to research how I could get a vaccine and make a vaccine appointment the sites that were directed by the CDC, including some providers, in order for you to access the information on availability of vaccines you had to click on a map.

Okay, pointing and clicking is not an option for me. If it is a graphical representation and the only access you have is clicking with a mouse, it is no access, and then if I did get any information I would not be able to make an appointment.

So out of frustration, I posted on our office, the Institute on Disabilities, listserv, what am I going to do about this? I need to find a vaccine, and fortunately a very respected manager—Jamie, thank you—sent me a phone number at the Area Office on Aging and Disability and she said, “I believe there are starting to have appoint-

ments in your area.” It took me five minutes to schedule an appointment. I did not have that information otherwise. There was no information of calling, you know, that agency anywhere, so that I could make that appointment myself.

With that said, it was a very positive experience that I had good relationships with my coworkers and a very supportive family, but that is not the case for everyone. I do work with individuals that may be vulnerable, for example, that they are blind and they are relying on someone that perhaps is less trustworthy or abusive. You do not want them to be providing that information to someone when they are seeking support services from the government. I really do not think that is something that should be expected, but again, it does put people in a very risky situation.

Again, I am fortunate that I do have a great support network, but that is not the case of many of my colleagues. I am active in the Pennsylvania Council of the Blind. Many of my colleagues do not have that option. They live alone, and they do not have those resources, so again, I am fortunate that I do, to a point, or it stops, and that is where I am hoping that these actions that you are taking today in this conversation, you can carry it forth, and like my colleagues here on right said to me, that it follows through. If you start with one, make some corrections at the VA, and then other websites to see how it works. Then they can become accessible—likewise in the commercial market. It is going to happen.

Again, it is something that is not hard to do. There are guidelines. Most people, when they create a website that is not accessible, it is not because they are intentionally trying to lock me out of information. They just do not understand that is a need, and so, therefore, they do not know.

In my written testimony I have some reference of where you could find about the website accessibility guidelines that are available, so that they can review, and also that there is information about how to get support services in order to do that.

I do caution our Federal websites—

The CHAIRMAN. Ms. Lieberman, I just want to make sure we can move on to our next witness, if you can wrap up.

Ms. LIEBERMAN. Very quickly, yes. I just wanted to caution you not to take advantage of the commercial ones that say, “We can fix your accessibility.” Those overlays that they provide use artificial intelligence that, unfortunately, as much as this has evolved, it is not the answer. They cannot guess what my needs are. We have to be able to use our software independently.

Thank you for your attention.

The CHAIRMAN. Thanks, Ms. Lieberman.

We will now conclude our witness statements with Mr. Holmquest. You may begin.

**STATEMENT OF RONALD HOLMQUEST, RETIRED AND U.S.
NAVY VETERAN, MOUNT PLEASANT, SOUTH CAROLINA**

Mr. HOLMQUEST. Good morning Chairman Casey, Ranking Member Scott, and distinguished panel. Thank you for inviting me to speak to the Senate Aging Committee about my experience with telehealth and the VA.

You can probably tell I am not a native of South Carolina. I spent most of my life up north before moving here seven years ago. There are a lot of good reasons to live in South Carolina. I moved here to be close to my son, daughter-in-law, and granddaughter, who is now 10 years old. I have the pleasure of helping to take care of her a few days a week.

When I moved to South Carolina in 2015, South Carolina veterans welcomed me. I was invited to the Port of Charleston for the commissioning ceremony for the USS Ralph Johnson, a guided missile cruiser named after a Marine from South Carolina who posthumously received the Medal of Honor for his heroic actions during the Vietnam War. Ralph Johnson used his body to shield two fellow Marines from a grenade, absorbing the blast and dying instantly. I am wearing this baseball cap today in his honor.

South Carolina veterans recommended that I check into the VA. I have been with the Charleston VA since 2016. What I did not expect before I moved here was the excellent health care I would get at the Ralph H. Johnson VA Health Center, which is also named after that same heroic Marine.

A couple of years ago, the VA invited me to sign up for telehealth, and I was skeptical. I have lots of severe medical problems, but I never signed up for VA health care before 2016, because I thought it was for veterans who were hurt and maimed in Vietnam and other wars. I figured they needed it more than I did.

I served in the U.S. Navy during the Vietnam War, but most of my active service was in Japan, where I served as a communications technician. A highlight was attending a performance by Bob Hope. After being honorably discharged from the Navy, I eventually ended up in Montpelier, Vermont, where I worked in information technology.

I also served as a volunteer EMT for about a decade in Fire and Rescue. In those days, all we had was bottled oxygen to keep people going until the ambulance arrived. We did not have all the modern technology they have these days. Sometimes the ambulance got lost on the back roads of rural Vermont. I guess it was tough to navigate when the cows moved.

With telehealth, the VA can manage my complex chronic conditions very well. The VA assigned me a telehealth case manager—what a pleasure. Mine is an RN with a Bachelor of Science in Nursing who knows her stuff. Her name is Frances Santana. I thought that they were all vets, but not all of them are, and they always say, “Thank you for your service.”

The Ralph Johnson VA Health Center is a teaching hospital, so some of the docs are from the Medical University of South Carolina, so you get the best, smartest medical staff to be found.

A function of telehealth is that they watch after you. I send my vitals to my RN daily and if there is a problem you get a call immediately. She has direct contact with docs, fellow RNs, and other providers, and will get answers to your problems or education for you on medicine and procedures. She gets problems resolved for you.

A big plus at the VA is that one computer system is looked at by all, including docs, RNs, and medical staff. When you have an appointment, your provider has all the necessary information.

I have many decades of experience as a computer programmer from the early days of the industry. It is so important to have computers fully and properly used to benefit patients.

Another point is that telehealth and technology have made care more personal, not less. I have five different cardiologists who treat me. When I have questions about a medication or why I have been taken off of a medication, I would pick up the phone and call Frances. She checks with the doctor and tells me they prescribed it because other medications have adverse reactions to my existing medications.

I also use MyHealtheVet to make appointments. It is very effective.

Telehealth is critically important to veterans' care. All veterans should have this opportunity. Telehealth and the VA need to stay for the benefit of all vets. It would be a shame to lose these valuable assets.

Thank you for letting me share my story.

The CHAIRMAN. Mr. Holmquest, thanks so much for your testimony and thank you for your service. We are grateful, and we are grateful you are with us today.

I will now turn for our first set of questions to Senator Blumenthal, and we are joined by Senator Braun.

Senator BLUMENTHAL. Thank you very, very much, Senator Casey, and thanks to you and Ranking Member Scott for having this hearing, which is so important. Thanks to all of the experts who have come to talk to us, and a special thanks to you, Mr. Holmquest, for your service.

I gather you are now in South Carolina but you lived for a long time in Vermont, and as a fellow New Englander I am especially grateful for your personal insight into how telehealth and the VA, this technology, is making your life better, and I would agree with you that South Carolina is a good place to live and it is also a nice place to visit. Thanks to Senator Scott for inviting you to be part of this proceeding and sharing your story, which is really powerful because I think you have shown us how telehealth, and I am quoting you, "Telehealth and technology have made care more personal, not less." I think that is a really important point.

I am on the Veterans Affairs Committee and the Armed Services Committee. Telehealth really has broadened and deepened the kind of care that people have available, especially for people who have disabilities and may not be able to travel to the VA hospital in West Haven or in Newington, but can get care at home if they have access to the technology.

In Connecticut, 21 percent of all adults live with a disability, and 27 percent of all veterans—27 percent of all veterans in our state—have a disability, so this kind of technology is very, very important to them, and I wonder if you could tell us a little bit, Mr. Holmquest, talking about maybe some of your buddies in South Carolina, how access to this technology is very important to them, and maybe some of the difficulties they have encountered in accessing telehealth.

Mr. HOLMQUEST. I think the access to telehealth, for myself, if I had a question I would not know who to call as far as a doctor was going to be concerned, but I could call Frances and get her to

be contacting the appropriate doctors, the appropriate services that you might need, get those services to give me a call to set up an appointment to followup on what is needed for my care. That was the biggest assistance for me was to have that synergy where she could talk to other people. I would not know who to call, to be honest with you, but she could, and she handles that for me very well. It is just fantastic. If I have a problem of any kind my phone call is to her first, and she can solve the problem for me.

Senator BLUMENTHAL. You mentioned you have access to five different cardiologists, some of the best in the State, maybe the Nation.

Mr. HOLMQUEST. Yes, absolutely. I came down with some heart problems, and because this is a teaching hospital there are VA doctors, MUSC doctors that all get together. They have their meeting in the morning, when they talk to you when you are in the hospital. There is a whole bunch of them that come in there and discuss what is going on, and when they leave there they have a plan of attack on what is going on.

In fact, one day they said, "Oh, by the way, we have discussed this and we think you need a defibrillator implanted in you." I said, "Wait a minute. Am I that bad?" Their decision was it is better to have a defibrillator available than have to wait for one, so I was very pleased with that. I went along with what they said.

I trust every single doctor and nurse at the VA. They are just fantastic. The people that are with the VA are dedicated. The people that help them out, the nurses and so on, everybody is so dedicated and qualified to do their job here. It is unbelievable.

Senator BLUMENTHAL. Well, we are trying to push the VA to do even more of that kind of telehealth, and the present Secretary of the VA, Dennis McDonough, is very much on board with that approach. I am going to pass along your insights and your story to him, and thank you very much for joining us today.

Two of my sons have served, one as a Navy SEAL, the other as a Marine Corps combat infantry officer in Afghanistan. They have made use of VA services from time to time, and I hope it is available to even more people in South Carolina, throughout the country. Thanks to Chairman Casey and to our Ranking Member, Senator Scott, for this hearing today. Thank you.

Mr. HOLMQUEST. Thank you, sir. Thank them for their service.

Senator BLUMENTHAL. Thank you.

The CHAIRMAN. Thank you, Senator Blumenthal. I will turn next to Ranking Member Scott who will share his time with Senator Braun, I am told.

Senator TIM SCOTT. Thank you, Chairman Casey, and thank you, Senator Blumenthal, for your kind comments about the importance of living in South Carolina, and for visiting South Carolina, if you have to represent other states, and thank you also for your time and your service and your dedication on the Veterans Committee as well as the Senate Armed Services Committee. Certainly working in a bipartisan coalition or fashion is really important for our country to see and have here our witnesses watch that. Hopefully we will improve just a little bit and people's perception of how Congress or the Senate actually works together.

Mr. Holmquest, thank you for your comments. I am certainly proud to have you in South Carolina and thank you for your comments about Mr. Johnson as well, Ralph H. Johnson, who gave his life for the salvation—saving the lives of two other Marines was such a powerful story. I was at his commissioning of the USS Ralph Johnson in 2018. A powerful story that we should all read about, and I thank you, Senator Blumenthal, for focusing many of your questions on the importance of telehealth and how telehealth is actually bridging a gap and bringing expert care to where the person who needs it the most.

With your questions I am going to go ahead and defer to Senator Braun, since you and I both were going to focus on the telehealth environment. Senator Braun, I will give you the balance of my time.

Senator BRAUN. Thank you, and thank you, Mr. Chairman, as well.

My question is going to be for Ms. Lieberman. Before I got here in Senate I ran a logistics and distribution company for 37 years, and I remember vividly, early on, how crude our systems were when we were starting to automate. I think it might have been a Radio Shack system or something when we first started.

I do know that to be competitive in any business now, and especially in one like ours, when it is sprawling—it was so little for so long—technology, and being on the leading edge was the differentiator, in many cases, whether you were going to be successful in business or not.

Two of my four kids, my sons, started about 15 years ago right when we were getting some size, and we had to say either we are going to embrace technology or we are going to be left in the dust. Thank goodness my older son, he got schooled in it, is great at it, and we decided to do it, and he and my younger son now run the company with one of my two daughters.

I was listening to the testimony, and it is so reminiscent of what, in the early days, where we were not quite doing things the way they should be, mostly due to budgetary issues, and since I have been here in the Senate our technology is pretty good here for Senators, and I am sure over in the other side for Representatives, but I get complaints often when we are interfacing with the IRS, with the VA, and then hearing your testimony, especially in trying to access, being impaired in the way that you have to deal with it, you know, it is really kind of almost shameful.

Because when you have got all these agencies spending this much money, yet you are having simple issues of connectivity, you look at the stats here which the Information Technology Innovation Foundation, 30 percent of the most popular Federal websites did not pass an automated accessibility test for their home page. I mean, that is almost laughable if it would not be so sad.

So please elaborate on, in your particular case, what you have experienced, and then maybe give me a few ideas, give us a few ideas on what minimally needs to be done to see a difference.

Ms. LIEBERMAN. Sure. I think, first off, understanding how someone that is blind is accessing a website is the way things are logically arranged. Screen readers technically will read from left to right, up and down, and they will read everything, so when things

are designed, especially those that are low vision, that it is cluttered and things are low contrast, for example, that can be very difficult for them to navigate and also for the screen reader to interpret the information.

So what most screen readers will do—that is the software that I use to access—it will then allow us to be able to navigate quickly to various section of information, so if a website is designed with good structure, with headings and with well-labeled links—when I say well-labeled link, when you talk about those automated accessibility checkers, I am kind of burning it underneath because sometimes they will say everything is fine or your links are labeled, but it is not helpful when they are labeled “click here” or “see more,” because it is taken out of context in that list that the screen reader will do. It is very, again, disconcerting because I do not know what it is referring to, so having things that are well-structured, well-labeled, well-described, so graphics that are important.

I will have to commend NASA, the most recent ones with the images from space is a delightful visit for somebody who is blind, because it does give us a great appreciation of what these images, and very well-crafted descriptions, so there are some organizations that are getting it, that understand it.

Again, I mentioned the AI, the artificial intelligence that is being applied. That is not a good way of going about it. If you want to think about having accessibility you start with the basics of accessible design, so there are, as I mentioned, there are guidelines that you can refer to, and the best thing that I have found at my office they like to do is they pass it by, if Jule Ann can read it then it is okay, so a lot of times I will be asked by other organizations.

In fact, I recently provide technical assistance for the Southeast Pennsylvania Transportation Authority, or SPTA, on the accessibility of their website, and I provided them examples with my screen reader aloud, so they can hear it, and what the experience was.

So yes, there is information out there on how you can create it. Good structure from the beginning, good design saves a lot of time and remediation. You do not want to wait until a complaint.

Senator BRAUN. That all makes sense, and I think for as much money as we spend and for all the good things we try to do through our various agencies, and as important as high-speed anything is, when you have got that and you are not formulating the right home pages, the right techniques, I would welcome any of you to make sure to give us—on the side of getting ahold of us. My Senate office, if you are having trouble doing it through the agencies, call my Senate office. Tell my staff, and we will get in touch with those various agencies to see why they are not maybe putting the resources, putting the effort to it, when that is so highly recommended. It is so great when it does work, where you do not have to deal with the frustration of the basics, so keep that in mind. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Braun.

I will also turn back to Ms. Lieberman for a question and I will include it in this question. I will direct it also to Mr. Lewis. Both of you have had personal experience living with a disability, as

your testimony indicates so clearly. You have also both had decades of experience working with people with disabilities. You have seen both ends of it, hearing from those who have had their own experiences and having your own.

The hearing we are having today is, as I said earlier, particularly relevant because we celebrate this week the 32-year anniversary of the Americans With Disabilities Act, and the goal of the law is then-President Bush said, to quote, "Let the shameful wall of exclusion come tumbling down." That wall of exclusion is still, unfortunately, so evident in some of these issues we are talking about today.

Thirty-two years later, people with disabilities still face these walls of exclusion because of how technology has advanced and how we have not kept up with making that technology accessible, and of course, we are focused today on Federal agencies.

I would ask both Ms. Lieberman and Mr. Lewis, can each of you share an example of people that you have worked with who have experienced information technology barriers and the impact that it has had on them.

Ms. LIEBERMAN. Do you want to go first?

Mr. LEWIS. No, I am a Southern gentleman.

Ms. LIEBERMAN. Oh, a Southern gentleman. Well, thank you, Southern gentleman. I am from Pennsylvania so we talk a little fast.

Actually, Senator Casey, I did forget to mention that my formative years were spent in St. Clair, which is a small town in Schuylkill County.

The CHAIRMAN. Schuylkill County, right.

Ms. LIEBERMAN. Oh yes. I am a coal-cracker too, my background, but I lived 40 years outside of Philadelphia in Chester County.

To answer your question as far as the people that I have worked with, access is critical, as I have mentioned several times, and some of the barriers that they have, if a website is designed, oh, that you just need to tab, if you open up most websites, especially Federal websites, I believe when I attempted to look at the IRS one I think the opening page had over 200 links, so if you use your Tab key it is going to tab through each one of those links, so there has to be a way so that you can structure it so that you can get to things very quickly to get your answer, because quite frankly, time is not only money but time is also patience, so how much patience do you have?

I have had several individuals that will tell me, "Oh, I just gave up because it was too tedious. It was too hard to get to the information that I needed," and that seems to be one of, I would say, the carryover in most cases with all disabilities, and the older population. Our aging population, they want an answer now. They do not want to have to go through 15 steps in order to get to that answer. They want to have that information as easily found as possible, so that is pretty much the experience I have had with others, as well, on websites, not just Federal websites but in general.

Mr. LEWIS. I would have to offer that with respect to websites, we have a host of different examples of individuals that have tried to access information from the Federal Government website, and it is not even just the factor that you go to that site and it is inacces-

sible. It is to the point where there is a little bit of accessibility, so you can go through the process of actually providing essential information to get to the place where you need to get the information that you are requesting, and after you go through the tedious process of trying to maneuver through, and you are finally getting to that place where you are able to click this link that gives you access to this document that you have been searching for, for about an hour, you click it and the resulting document is inaccessible. I mean, it like the virtual front door is open and you walk in, and there are other doors that are still closed.

The one I really like to highlight, because we are talking about, again, information communication technology—and let me say for the record, I am a believer in the potential. My undergraduate is in computer information systems, and I have been, for years, talking to individuals that this is not very difficult, because in the world of digital information it all boils down eventually to 1's and 0's, and if we focus on doing internet development and design process, we can make it accessible. It is not a problem. We just have to make sure that it is intentional and not done after we have done this wonderful creation of something, and then we say, oh, now we should make it accessible. No. That is why it is difficult. That is why it is expensive.

Social Security Administration, trying to reach efficiencies in dealing with the old-school service system, where people have to go into the office to get access to services, and the kiosk system, which I have credibility. It is much better than going and just pulling a number. You can provide information that allows them to streamline the type of service that you specifically need. You just simply go to the kiosk, you enter your information including your Social Security number, your reason for the visit, boom, and you get associated not only just with a number but with the number that goes to that person that is going to help you with that specific issue.

The only problem is as a blind person when I go to that kiosk it is inaccessible, so either now I have to coordinate my visit to the Social Security office with a friend or family member that I trust, or because it is not staffed by the Social Security Administration staff, I have to ask a total stranger to enter my Social Security number into this kiosk in order for me to get the same services.

So yes, there are a host of examples we can give, but again, I would still like to continue to focus on the fact that the knowledge for accessibility is there, the tools already exist. It is really just about the efficient and ethical implementation of these strategies, and then that way all the money we are spending on DOJ complaints and the four-year wait to get access to services, all that time, energy, and resources can be refunneled into training the people who are developing the information delivery systems, and then it is a win-win for everybody.

The CHAIRMAN. Thanks very much, and I will turn next to Ms. Hill. As you know, the Department of Justice is required to issue a report on the Executive branch's compliance with accessibility requirements in Section 508 of the Rehabilitation Act, which you were highlighting and you know so much about.

This report has not been completed in the past ten years. As I mentioned, Ranking Member Scott, Senator Burr, and I recently

joined together to call on the Justice Department to begin issuing these reports again. We were joined by Senator Durbin, Senator Grassley, Senator Murray, Chair of the Health Education Labor Pensions Committee, and Senator Duckworth.

In your view, why are these reports important, number one, and how will Pennsylvanians who rely on government services like Medicare, Social Security, and the VA Health System benefit from these reports being made available again?

Ms. HILL. Thank you. Yes, transparency is really important in this field because without it agencies are tempted to not comply and wait to see if they get caught by someone who encounters the barrier. This transparency encourages agencies to take accessibility seriously at the beginning of a technology purchase, when it is easy and inexpensive to do, rather than wait and have to do fixes that are expensive and time-consuming, and Pennsylvanians and others will benefit not only from that cost savings but from the improved level of customer service that all that technology will provide if it is accessible from the beginning, not only for people with disabilities who will be able to count on being able to use it but as Mr. Lewis has said, accessibility is good design, so everyone with and without a disability will benefit from that additional good design, and the Federal Government's purchase power will improve those vendors' ability to have accessible products as a matter of course, and that ripples out into the rest of the world.

The CHAIRMAN. Well that all makes sense and it is all the more reason why we have got to keep pushing every agency, but in this case to push the Department of Justice to begin to issue those reports again after such a long period of time of not issuing those reports.

I will turn back to Ms. Lieberman. In your role as Coordinator of the Assistive Technology Program in Pennsylvania you come in contact with many people with many different types of disabilities. We know that there are over 61 million Americans in our country with a disability, and almost two-million of those are in the State of Pennsylvania.

As I mentioned earlier, the pandemic has accelerated the Federal Government's adoption of electronic information and technology communications to share information and provide services online. That is a good thing that those services are available online. Critical benefits from the Federal Government, such as Medicare enrollment, now primarily take place online.

Can you tell the Committee why it is essential to ensure online services, especially Federal online services, are accessible?

Ms. LIEBERMAN. I think, well, besides the fact that it is my right, as a citizen of the United States, to expect that I can obtain services when it is need, something like Medicare, for example, it is vital that I would have that access to that information and be able to complete it independently.

Things that would be of note would be when we are requested to complete a form online that all the form fields are labeled. They may show up on the screen but the screen reader does not have that information so it is not telling me, so I just get blank edit fields.

So for me, to quickly, efficiently apply without having to ask somebody else to help me, that is the type of barriers that I see as well, with individuals that contact our office, that they seem to have issues. Is it because the technology is too complex, so they think, or is it the website is not accessible? Sometimes I have to do a little detective work to try it out myself, to see if, indeed, if it is, again, operator error or is it an error literally in the design of the website.

I have encountered that a few times over the years—I have been there nine years—and I would say I can think of 25 cases where people have asked me to get that assistance for them in order for them to access information on the internet, whether it be Medicare or any other location on the internet.

I do not know if I answered your question. Hopefully I did.

The CHAIRMAN. You did, and thank you for that testimony. I appreciate it.

We will now turn to Senator Rosen for her questions.

Senator ROSEN. Well, thank you so much, Chair Casey. I really appreciate you bringing forward this hearing, and thank you to everyone for being here, digitally, and we just appreciate what you have been doing and how we can help you.

I want to talk a little bit about digital equity because the Bipartisan Infrastructure Law that Congress passed last year, it is the most significant Federal investment we have ever made to close the digital divide, something that is really important.

I was proud to be one of the group of Senators that helped draft the key portions of the law, which included critically important digital equity provisions. The past three years have shown us how critical access to affordable, high-speed broadband is for everyone. The pandemic has shown us that, but speed and low cost are just part of ensuring digital equity for all individuals. Digital literacy, access to devices that meet users' needs, applications that enable and encourage self-sufficiency and participation—well, they are all components of ensuring digital equity and inclusion.

So in drafting the equity provisions of the infrastructure law Congress did make it a priority to improve the digital equity as well, including for individuals with disabilities.

So I would like to ask Mr. Lewis and then Ms. Lieberman, how are your organizations working with NTIA and the State broadband offices to ensure that these digital equity programs that we created here in Congress are promoting equity among our aging, disabled, and our veterans communities, and if you are not collaborating, this is something that we should consider doing. Do you need help? Can you just speak to that?

Let's start with Ms. Lieberman.

Ms. LIEBERMAN. I am very fortunate where I work. TechOWL has participated very much so in health equity issues in two areas. Initially, we received some money from the Area Office on Aging funding, and with that we expanded our lending library so that we could introduce iPads to seniors so that they could have that same access to telehealth, to Zoom, as we had previously heard described, so they could have all that kind of access, and we put it into our lending library and made the decision for them to borrow it for rather extensive time periods so that they can explore wheth-

er that works for them first, because one of the things that we have noticed over the years, assistive technology can be abandoned. If people have not had an opportunity to try it first, then they have a tendency to purchase something or have something provided and it sits in the drawer. The last thing we wanted to do was to have this resource not used properly, so that is the intent that we had with addressing the need initially.

We now subsequently have received funding so that we can expand the health equity to providing tablets for individuals that have no computer access in the home, and that, again, is not necessarily disability based but it could be anybody that does not have that access in the home, and that program is going like gangbusters with applications from across the State. I think the latest I heard was that we were up to like 1,200—but do not quote me on the data—applications that we have provided for the Android tablets.

Senator ROSEN. We have just a minute left. Mr. Lewis, could you speak a little bit? Are you having cooperation with other offices to be sure that we are doing some of the same things that Ms. Lieberman spoke about?

Mr. LEWIS. Sure, I will be brief, and just State that I will be reaching out to you after the hearing to see how we can work with those entities, because as a nationwide organization of blind individuals we have been focusing mostly on working regarding broadband access with some of the commercial providers, Comcast, et cetera, some of the innovative programs, they have been doing to get in the rural areas, but I would like to explore other ways that we can work with some of the entities that you just mentioned.

Senator ROSEN. Well, thank you. I really appreciate that. We will get together.

I know I only have 42 seconds left. The last thing I wanted to just ask, and I will take the response off the record, is driver-assisted technology for disabled veterans, because in Nevada we have 225,000 veterans, but we are getting all this new technology that you do not have to drive the car, and I think our veterans really deserve that, and so we are developing legislation to provide tax credit to all disabled veterans, no matter what level of disability, to cover the cost of driver-assisted technologies, whether they are just helping them to park or cruise control, the mirrors, any of the features that we have. It does not have to be a driverless vehicle.

Mr. Holmquest, we are going to ask you this question. You can submit that answer to us off the record. I am not in the room so I am sure there is somebody after me. Otherwise, if Chair Casey says there is not we can have you answer. Otherwise, I will take it off the record.

The CHAIRMAN. It is perfectly appropriate to answer it if he would want to.

Senator ROSEN. Oh thank you. Mr. Holmquest, how do driver-assisted technologies and all the related supports help level the playing field for disabled veterans and their quality of life after they return home?

Mr. HOLMQUEST. I am not clear on the driver-assisted cars.

Senator ROSEN. Well, maybe not where they drive you by themselves, but I know that there are new technologies that will help you park, right, assisted parking, or there are special mirrors so you can see the backup cameras, they can help you notice if someone is getting close and merging, so that is what I would like to ask you about.

Can you hear me okay?

[No response.]

Senator ROSEN. That is okay. We can take it off the record. Okay.

The CHAIRMAN. Mr. Holmquest, yes, if you want to you can provide an answer in writing, or if you want to answer now. What is your preference?

Mr. HOLMQUEST. I would take it off record if we can because we just got interrupted by a loud-speaker here.

The CHAIRMAN. Oh, okay.

Mr. HOLMQUEST. I did not hear what you were saying. I am sorry.

Senator ROSEN. Okay. Well, thank you. All right. Well, thank you. Thank you, Chair Casey. I appreciate it.

The CHAIRMAN. Senator Rosen, thanks very much, and just for everyone to know, and Mr. Holmquest, we often have questions that get submitted for the record and they are answered in writing, that becomes part of the record after the hearing is over, so there is nothing unusual about that, and we appreciate his willingness to do that.

I know we have to conclude a little bit early today, but before we do that I just wanted to pose maybe one more question to Ms. Hill about the law. Section 508 of the Rehabilitation Act, as we cited before, establishes a floor from which experts at the Access Board set standards for accessible information technology for the Federal Government.

Despite the good intentions of this law, Section 508, there are serious accessibility gaps across the Federal Government. Today's hearing has, if anything, reinforced that fact. Are there changes to Section 508 that would bring it in line with the time, so to speak, after a quarter century of this law being on the books?

Ms. HILL. Thank you for that question. I think we have learned a great deal over the last 24 years about how implementation of accessibility in technology works, and one of the things that we have learned, both in the private sector and in the Federal Government, is that self-monitoring does not work, and so a Federal agency should be tasked with enforcing compliance with Section 508. The Federal Government experienced a similar issue with the Architectural Barriers Act back in the 1960's, and the Access Board was eventually given enforcement authority under that act, and the same thing could happen here.

In addition, right now the vendors of inaccessible technology, who may be not giving their clients the full scope of the inaccessibility of their technologies, need to have methods of accountability, so Federal agencies need to be able to take action against those vendors and to rescind contracts and take other actions, and that is not available, or not clear right now in Section 508.

The CHAIRMAN. Well that is helpful to have that because we, obviously, want to make changes to law where we can. Mr. Lewis said it pretty well in his opening, and I am quoting from his very simple, blunt statement. He said, "Accessibility is not that difficult. It is the law. Let's just implement it." Sometimes the challenge is implementing the law appropriately, and we have got some shortfalls here, but in addition to implementation of existing law we want to consider ways that we can, in fact, change the law.

I just have one more question that my staff has given me, and I want to make sure that we get this on the record. The Blind Veterans of America first brought Federal accessibility shortfalls to my attention way back in 2018. I did not realize it was that long ago. They remain concerned that the VA is still far behind.

Ms. Hill, I am going to turn to you again because these are questions we should have answered on the record if we can. You have received the report required by the VA Website Accountability Act, the law that I passed with Senator Moran that I made reference to earlier. We know the VA is answering questions about how they will move the ball forward, but what should we be looking for as markers of success? If you could give us some free guidance on that.

Ms. HILL. Certainly. If an entity is planning to achieve success in accessibility there are a few things they have to do. One is stop digging into inaccessibility. Stop bringing in new technologies that are not accessible, and that involves not taking your vendor's word for it but testing your own technology before you roll it out, and that involves both automated and user testing.

The other things are a substantial remediation effort, and that involves planning, identifying what is wrong, which really requires an audit of what is wrong, and then prioritizing when you are going to fix things in order—what is most important to fix—scheduling deadlines, assigning staff with responsibility and authority to get the job done, and paying attention to whether the deadlines are met, and then consequences for when the deadlines are met, and in the things that I saw from the VA, none of those elements were present.

The CHAIRMAN. Well that is very helpful for us as we discharge one of the obligations of the members of the Senate and committees in the Senate, and that is oversight, is one of the changes that you have suggested.

I want to thank our witnesses for their testimony and for their willingness to bring their professional and personal experience to this hearing so that we can make changes and hold Federal agencies and hold our government accountable, and to make sure that there is accessibility for people with disabilities, in all kinds of settings but especially in settings like the Veterans Administration.

Today's hearing shows that there is a long way to go before Federal technology is fully accessible for people with disabilities, for older Americans, and for veterans. It also shows that Congress needs to take a close look at Section 508 of the Rehabilitation Act to see if changes are needed. In the meantime, there is a path to ensuring websites and other technologies are accessible with existing laws, as I mentioned earlier.

I plan to work with the Biden Administration to make sure it continues prioritizing improved disability access to Federal technology and online services. A good first step would be for the Department of Justice to begin issuing, again, the biennial accessibility reports required by Section 508 of the Rehabilitation Act. This will provide taxpayers with an important status update that is at least eight years past due.

As we move forward, let's keep the disability community's long-held motto of "Nothing about us, without us." We should keep that front of mind and make sure that they have a seat at the table when it comes to accessing important information that they need and that their families need.

Ranking Member Scott has submitted a closing statement for the record, and with that I want to mention for the record as well that if Senators have additional questions for the witnesses or statements to be added, as I mentioned earlier, the hearing record will be kept open for seven days, until next Thursday, August 4th.

Again I want to thank our witnesses for their testimony and for their work in preparing for this hearing and being with us today, and this concludes today's hearing.

[Whereupon, at 11:25 a.m., the Committee was adjourned.]

CLOSING STATEMENTS

**CLOSING STATEMENT OF SENATOR
TIM SCOTT, RANKING MEMBER**

Thank you, Mr. Chairman, and the witnesses for your testimony. Today's hearing highlighted how we can continue to develop policies that enable our seniors, veterans, and those with disabilities to remain connected.

I will continue to prioritize legislation that grants all Americans access to telehealth services. The Telehealth Modernization Act is an important step to ensure that the tens of millions of Medicare beneficiaries and others who have relied on telehealth during the COVID emergency can continue to receive these services.

I also join Chairman Casey in looking forward to the responses from the VA and DOJ regarding our letters on improving website accessibility.

Thanks to today's witnesses, Congress is better informed to take steps to improve access for our seniors, veterans and Americans with disabilities. Thank you all for your testimony today.

APPENDIX

Prepared Witness Statements

Written Testimony to the United States Senate Special Committee on Aging
Eve L. Hill
Partner, Brown Goldstein & Levy
July 28, 2022

Good morning Mr. Chairman and members of the committee. My name is Eve Hill. I am a Partner at Brown Goldstein & Levy and was formerly a Deputy Assistant Attorney General at the U.S. Department of Justice, Civil Rights Division. I have spent my career implementing the laws protecting the rights of people with disabilities.

I have testified previously that the remarkable pace of technological change is bringing people with disabilities to a critical juncture. The advances of information and communication technology have been spurred even further by the pandemic, during which technology had to quickly replace nearly all of our day-to-day in-person interactions.

Emerging technologies open doors for many people with disabilities and provide them the means to achieve fully integrated and truly equal access to American life. Technology can make travel less necessary, provide flexibility in how communication occurs, and make the physical accessibility of streets, sidewalks, and buildings less impactful. But technology excludes people with disabilities if it is not made accessible.

In a world in which digital communications and services happen at the speed of light, people with disabilities must not be left to rely on slow, obsolete, and expensive analog technologies. If websites aren't accessible to people who are blind¹ or low-vision, if videos are not captioned for people who are deaf or hard of hearing, and if kiosks are not built to communicate flexibly, people with disabilities are not just inconvenienced – they are shut out.

¹ Many individuals with vision disabilities use screen reader software that can convert visually delivered Internet content into an audio or Braille form; however, the visually-delivered content must be properly formatted and structured for the screen reader to work effectively. For instance, a screen reader or similar assistive technology cannot “read” an image. Thus, when images appear on websites they must be paired with “alt-text” that describes the image for screen readers to read. In addition, individuals with vision and manual dexterity disabilities often cannot effectively use a mouse, so websites need to be coded to allow navigation using the keyboard.

Imagine trying to do your job without access to the internet, even though everyone else in your position—your boss, your coworkers, and all of your competitors—does. Picture yourself trying to keep up with your colleagues by calling the customer service line for each company, government agency, or office you need information from, while your colleagues get what they need with a click. Imagine waiting for a coworker to find the time to read a database or interpret a video for you, while your colleagues click, scroll, and go. Or traveling to a medical office and waiting for in-person help while everyone else completes their medical appointments through telehealth. This is the reality that individuals with disabilities face every day.

As the Court in *Robles v. Dominos Pizza, LLC*, explained, “Defendant contends that its phone line is an acceptable accessibility substitute for its webpage and App. This is not true; it is undisputed that Plaintiff waited over forty-five minutes before hanging up on at least two occasions. No person who has ever waited on hold with customer service – or ever been hungry for a pizza – would find this to be an acceptable substitute for ordering from a website.”²

There is no reason digital technology should be inaccessible. There is nothing magical about accessible digital technology. It is a long-solved problem. The Web Content Accessibility Guidelines (WCAG) - international consensus standards for digital accessibility - have existed for a generation, that is, since 1999 when Mark Zuckerberg was 15 years old and his college project, “The Facebook” was still years in the future!

Nonetheless, in February 2022, 96.8% of the top one million home pages still had accessibility barriers.³ Each page had an average of 50.8 accessibility errors. A user with a disability can expect to encounter one error in every 19 home page elements they use. And most of these errors are simple – low contrast text, missing alt-text for images, incorrectly labeled form inputs, empty links or buttons, and failure to identify the site’s language. If these accessible elements had been

² *Robles v. Dominos Pizza, LLC*, CV 16-6599 (C.D. Cal., June 23, 2021)

³ The WebAIM Million, The 2022 Report on the Accessibility of the Top 1,000,000 Home Pages, <https://webaim.org/projects/million/>.

incorporated as a matter of course in the design of the site, they would have added nothing to the complexity or cost of the site. In fact, they would have made the sites work better for everyone.

Digital Access and the Americans with Disabilities Act

The Department of Justice's upcoming web accessibility regulations under Title II of the Americans with Disabilities Act (ADA) will be a welcome addition to the tools available to assist in working toward an accessible digital world. And other agencies' announced plans to update their regulations under Section 504 of the Rehabilitation Act (Section 504) will also make a big difference in making health care, education, and state and local government services accessible to everyone. I hope those regulations will be effectively coordinated to ensure consistency across agencies, but encourage agencies to proceed expeditiously.

While issuing digital accessibility regulations for federal, state, and local governments and agencies is a good first step, it is also critical to issue regulations addressing the web accessibility obligations of public accommodations under Title III of the ADA. Private entities, including retail stores, restaurants, medical professionals, entertainment, schools, gyms, and service providers, play significant roles in our lives. Now that they have mostly moved their goods and services online, people with disabilities cannot afford to wait for equal digital access.

At the same time, the existing level of needless exclusion of people with disabilities from the digital world calls for serious enforcement of the ADA. While regulations are essential, it is also critical that the Justice Department not reduce its enforcement efforts. Enforcement and regulation involve different skill sets; addressing one should not require sacrificing the other. Congress should provide resources specifically for the Civil Rights Division to carry out its regulatory and guidance responsibilities regarding digital technology.

Digital Access and the Federal Government

The federal government should be a model of accessibility. As the world's largest buyer of goods and services, the federal government's \$650 billion annual purchasing power has the potential to significantly impact the behavior of developers and suppliers – something virtually no other entity can do. Since 1998,

Section 508 of the Rehabilitation Act (Section 508) has required federal agencies to ensure all electronic and information technology they develop, procure, maintain, or use is accessible to people with disabilities. 29 U.S.C. § 794d. Prior to 2017, the Section 508 Standards adopted by the Access Board were based on WCAG 1.0. Since 2017, the Section 508 standards have been WCAG 2.0 Level A and AA. If the federal government insisted on its technology being accessible, it could increase the availability of accessible technology for everyone.

Yet, in 2021, the Information Technology & Innovation Foundation found that 30% of the most popular federal websites were not accessible and nearly half had access barriers on at least one of their most popular pages.⁴ Sites for agencies such as the National Highway Traffic Safety Administration, Department of Housing and Urban Development, Administration for Community Living, National Weather Service, Immigration and Customs Enforcement, Federal Aviation Administration, Department of the Treasury, Drug Enforcement Administration, National Cancer Institute, and Federal Student Aid office all revealed significant accessibility barriers.

In one of my cases, the Office of Personnel Management failed to ensure that the health insurance plan information it provides online for federal employees was accessible. As a result, my client, a blind federal employee, who signed up for federal health insurance, could not even access the login page to see his own medical records.⁵

If this is the result for websites – the simplest form of information and communication technology to make accessible – one need not guess at the level of accessibility of other forms of technology, such as self-help kiosks, telehealth platforms, multimedia trainings, and office equipment.

⁴ Ashley Johnson & Daniel Castro, Info. Tech. & Innovation Found., Improving Accessibility of Federal Government Websites 4–11 (2021), <https://www2.itif.org/2021-improving-accessibility-federal-government-websites.pdf>

⁵ Although OPM originally insisted that making such information was exclusively the obligation of the insurance plans, once the case was filed, to its credit, it agreed to make the plan information on the OPM website accessible and to consider accessibility of the plans' websites in determining their performance adjustments. *National Federation of the Blind, et al. v. U.S. Office of Personnel Management, et al.*, Consent Decree, 1:19-cv-06249 (N.D. Ill., May 13, 2021).

In fact, the accessibility of those types of technology is dismal. Clients of my firm, alone, are currently dealing with trainings required by the Centers for Medicare and Medicaid Services that are totally unusable by screen readers, and intake kiosks used by the Social Security Administration that are not usable by blind people. In each case, people with disabilities are being forced to rely on third parties, and even to reveal private information to strangers, such as security guards, in order to receive service at all.

And federal employees with disabilities are dealing with inaccessible software programs that make it nearly impossible to do their jobs, not to mention the inaccessible timekeeping software, copy machines, and online trainings that make their jobs more difficult.

One might think that such inaccessible technology is a legacy of the past, but that is simply not true. For example, one blind employee of a large federal agency was forced to work for years on an inaccessible program that is central to her job. Recently, the agency replaced the program with a new one. **But it is still inaccessible.**

In each case, the federal agency responsible has been nonresponsive to requests to fix the problem. In one case, the agency has failed to act on the employee's formal Section 508 complaint **for eight years so far**. In another recent case, the agency sat on a Section 508 complaint for nearly five years and had to be sued under the Administrative Procedure Act to force it to take action. Despite numerous requests, the Social Security Administration refused to acknowledge the problem with its kiosks until after a lawsuit was filed. At that time, the agency agreed to replace all the inaccessible kiosks by the end of 2021. Unfortunately, the agency is now breaching that agreement and has reopened its field offices with the inaccessible kiosks still in place without even instructing staff how to accommodate individuals with disabilities.

The Social Security Administration has also, as a policy matter, refused to adopt accessible technology at all. For example, it insists on wet-ink signatures on various documents required to apply for Social Security Disability Insurance benefits, in spite of the wide availability, security, and accessibility of electronic

signature programs.⁶ Although the agency began accepting e-signatures temporarily as a result of litigation during the pandemic, and did so successfully for nearly 18 months, it has refused to change its policy on a permanent basis.

Transparency

It is notable that the only publicly available information we have about the level of federal compliance with Section 508 is from a private foundation. Section 508, itself, requires the Justice Department to conduct a study and issue a report every two years on federal compliance, but the Department has not done so since 2012. Similar to its regulatory work, discussed above, this work should not take resources away from the Department's enforcement efforts. Therefore, Congress should provide specific staff resources to accomplish this goal without reducing its enforcement work.

Much of the information needed to assess the progress of federal agencies toward accessible technology is presumably already being gathered. The Office of Management and Budget's (OMB) 2013 Strategic Plan for Improving Management of Section 508 of the Rehabilitation Act tasks the General Services Administration (GSA) with collecting information on accessibility metrics from agencies government-wide, assessing agency compliance, and tracking progress. This information should be shared with the Justice Department for its Section 508 report, to avoid forcing the Department to reinvent the wheel.

Moreover, the information collected and analyzed by GSA should be made available to the public and Congress. OMB's own Strategic Plan highlighted the need for transparency in Section 508 compliance, but did little to achieve that goal. Transparency will incentivize agencies to ensure technology is accessible from the beginning, when it is inexpensive and simple, rather than waiting to remediate inaccessible technology when they receive a complaint. This will save taxpayer money as compared to remediation efforts, which may be more difficult and costly. Such up-front accessibility will also improve customer service, allowing taxpayers

⁶ The wet-ink signature policy is also in violation of the Government Paperwork Elimination Act, the Electronic Signatures in Global and National Commerce (ESIGN) Act, the 21st Century Integrated Digital Experience Act, and Executive Order 14058 (2021).

with disabilities to count on being able to access government services without jumping through additional hoops.

Testing

For Section 508 to be effective, the federal government needs to stop the inflow of inaccessible technology into its agencies. This requires agencies to pay attention to accessibility at the beginning of a procurement or development. Agencies often rely on Voluntary Accessibility Product Template forms or other statements from vendors made during the procurement process to support their assumptions that selected products meet the Section 508 standards. Unfortunately, these statements are often aspirational, misleading, or confusing and too often do not ensure accessibility. This is particularly problematic when agencies such as the Treasury Department or GSA purchase technology that is then used across the government.

The government must have its own resources to test the accessibility of technology obtained from third parties prior to product selection and implementation. These testing resources must include both automated and user testing. Certain agencies have on-staff Trusted Testers available, but others do not. As the Information Technology and Innovation Foundation recommended, providing a centralized resource for testing would ensure all agencies have access to the needed resources and would ensure consistency of results.

Similarly, government-developed technology, such as websites or web content, needs to be tested and certified for accessibility prior to posting or implementation. Dedicated in-house or outside accessibility experts could serve this role. Alternatively, the staff developing websites and content could be required to certify its accessibility and be held responsible for improper certifications through the performance review process.

Remediation

Given the extent of inaccessible technology across the federal government, a substantial remediation effort will be necessary. Effective remediation requires prioritization, responsibility, deadlines, and monitoring. Remediation may mean correcting the barrier, updating the technology to be accessible, or replacing the technology with an accessible one.

- Remediation begins with a thorough understanding of the problem – generally identified through an audit that identifies existing barriers, as well as by reviewing complaints received.
- Once the barriers are identified, priorities can be established based on the frequency of encounters with the inaccessible technology by members of the public or employees, the importance of the function provided by the technology, the severity of the barrier, and the ripple effect of the remediation.
- A schedule should be established for the remediation of barriers based on their priority, responsibility for the remediation should be assigned, along with adequate resources in terms of money, expertise, and staff, and progress should be closely tracked and reported.
- In the interim, while remediation is being carried out, alternative methods of access should be provided and publicized to ensure the public and employees are not harmed by the delay.
- In addition, audits should be conducted periodically to ensure progress is being made, and priorities and schedules should be periodically reviewed and updated to reflect changed circumstances.
- Finally regular feedback should be sought from taxpayers and employees, both on progress and on the established priorities. This feedback, as well as complaints received, should be considered when establishing or changing priorities.

Oversight

We have learned a great deal about how to incorporate accessibility into technology development and deployment over the last 24 years. Much like accessible buildings, accessible technology does not happen without oversight. Section 508 provides a mandate, exceptions, standards, and a reporting mechanism. It does not provide for oversight, either internally or externally.

The federal government faced a similar problem in implementing the Architectural Barriers Act (ABA), which was passed in 1968 to require federal buildings to be accessible. Similar to digital accessibility, physical accessibility costs are negligible when incorporated in the design phase but can be costly to retrofit. But similar to Section 508, the General Accounting Office (now the Government

Accountability Office) (GAO) repeatedly found that agencies were not complying. In 1980, the GAO recommended that the Access Board be made the principal authority to provide leadership and ensure compliance with the ABA.⁷ The Access Board could serve a similar role under Section 508, providing individuals a complaint mechanism that does not rely solely on the agencies policing themselves and serving as an expert to approve or reject requests for exceptions to the accessibility requirements.

If the Access Board is given enforcement responsibility, it must also be given appropriate authority to respond to complaints, to conduct compliance reviews, to engage in informal enforcement activities, such as public notices of violation, and to engage in formal enforcement, such as administrative compliance orders.

Of course, with a staff of fewer than 30, the Access Board does not currently have the resources to meet its current responsibilities and add responsibility for oversight of federal government digital offerings.

Accountability

In litigation challenging Section 508 violations, the Justice Department has sometimes taken the position that federal employees have no private right of action to enforce Section 508. Rather, federal employees must rely on the federal EEO process to provide accommodations. Unfortunately, those accommodations rarely, if ever, correct the source of the problem – the illegally inaccessible technology itself. Despite Section 508’s explicit referral to “Civil Actions,” a few district courts have agreed, finding that because Section 508 – a law applicable only to *federally conducted* activities – adopted the Section 504 remedies applicable to *federally funded* activities, Section 508 can only be privately enforced against *federally funded* entities, to whom it does not apply.⁸ This nonsensical

⁷ GAO, Making Public Buildings Accessible to the Handicapped: More Can Be Done (June 6, 1980), <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjXzaamo5T5AhX3ElkFHSJqDmEQFn0ECDMQAQ&url=https%3A%2F%2Fwww.gao.gov%2Fassets%2F130%2F129576.pdf&usg=AOvVaw0MXCVykcYfm7EpuKZyT4L4>.

⁸ *Clark v. Vilsack*, Civ. Action No. 19-394, 2021 WL 2156500 (D.D.C., May 27, 2021); *Orozco v. Garland*, Civ. Action No. 19-3336, 2021 WL 4502072 (D.D.C. Oct. 1, 2021).

interpretation, if upheld, threatens to negate Congress' intent for Section 508 to be effective.

Congress should amend Section 508 to make clear that both taxpayers and federal employees have a private right of action to enforce the law. In addition, Congress should explicitly waive the government's sovereign immunity to such suits – another argument that has been raised by the government but not decided by the courts. It would make no sense, in a statute governing federal agencies' actions and providing for "Civil Actions," to maintain sovereign immunity to thwart such actions.

There is no publicly available information about agencies rejecting or canceling contracts when the technology being purchased turns out to be inaccessible, or even requiring the vendor to provide an accessible version. I fear this is because agencies are not doing so. This lets vendors off the hook for their violations of procurement requirements and even allows them to benefit from violating the law. Ironically, it forces people with disabilities – the intended *beneficiaries* of Section 508 – to suffer the consequences of vendors' and agencies' violations.

Congress should ensure that agencies have strong tools to hold their vendors accountable – including contract rescission, liquidated damages, indemnification, and specific performance. Congress should insist that agencies actually use those tools and requiring regular reporting on technology products that were found to be inaccessible, the vendor responsible, and the action taken to remedy the breach.

Standards

Technology develops quickly and its proliferation is exponentially more rapid now than it was just a few years ago. So far, regulations have not been able to keep up. For example, WCAG 2.0 was released in 2008, but was not adopted by the Access Board as the Section 508 Standard until 2017. WCAG 2.1 was released in 2018 and the Access Board's Unified Agenda shows no movement to update the Section 508 Standards. With its current resources, the Access Board simply cannot keep up.

If this is not addressed, technology and accessibility will continue to outpace the legal requirements, leaving the federal government behind private entities and

other countries. Delay hurts the federal government, as often developments in accessible technology and guidelines make compliance easier, address new technologies (such as mobile apps), and address new means of meeting the needs of additional populations (such as those with cognitive disabilities, including those associated with aging). Congress should ensure the Access Board has sufficient resources to meet its regulatory obligations under Section 508 in a timely manner.

In summary, Section 508 has the potential to be an important tool to make access to federal services and employment equally accessible to people with disabilities. In addition, because of the government's leverage with suppliers and developers, Section 508 has the potential to encourage technology to be accessible as a matter of course, thus benefiting private companies, state and local governments, and, ultimately, all people with disabilities. But without careful attention, transparency, pre-purchase and pre-posting testing, active remediation, oversight, accountability, and up-to-date standards, Section 508 will not meet its goals and the United States will fall behind other countries in ensuring equality for all.



**Testimony of Anil Lewis, Executive Director of Blindness Initiatives
for the National Federation of the Blind**

***"Click Here: Accessible Federal Technology for People with
Disabilities, Older Americans and Veterans"***

July 28, 2022

United States Senate Special Committee on Aging

I would like to thank the Chair Casey, Ranking Member Scott, and all of the other members of the Special Committee on Aging for this opportunity to offer testimony on Section 508 and web accessibility. This is an extremely important topic pertaining to the fundamental ability for people with disabilities to live, work, and play in our communities. My name is Anil Lewis, and I'm the executive director of Blindness Initiatives for the National Federation of the Blind, the transformative civil rights organization of blind people in America. The National Federation of the Blind recognizes web accessibility as a critical civil right for the blind and other Americans with disabilities. Moreover, the tools and strategies that are used to provide access to information and services to people with disabilities also has a mutually beneficial impact on the quality of life for all Americans, including the ever-growing population of older Americans.

Our federal government, through a network of agencies/departments provide information and services designed to "... promote the general welfare, and secure the blessings of liberty..." that every American has the fundamental right to access. Section 508 of the Rehabilitation Act is a statute that seeks to ensure the right of Americans with disabilities to accessible federal electronic and information technology (EIT). This statute, with the promise of creating so many opportunities for people with disabilities, is failing due to lack of proper implementation and enforcement, and in many instances, this makes it even more difficult for people with disabilities to access information and services than before.

I became blind in 1989 due to Retinitis Pigmentosa, and my fundamental right to independently access public information and services was extremely frustrating at best. With the onset of my blindness, I was eligible for, and needed access to, my disability insurance benefits from the Social Security Administration in order to maintain a financial floor that would hopefully keep me from sinking into poverty. However, the extremely long wait times on the phone or the long lines at the SSA office made it very difficult to secure these services and resulted in financial hardship that should have been avoided. The process of tapping into the vocational rehabilitation services that would enable me to acquire the training and support to re-enter the workforce was plagued with inaccessible forms, handbooks, and other documentation that created significant challenges and delays in my ability to benefit from these services. The same was true in my attempts to

access mainstream job training and employment resources from the Department of Labor and to access any information about the medical services and benefits I was eligible to receive through the Centers for Medicare and Medicaid Services. Once gainfully employed, I was still confronted with an inability to independently and effectively access the information and forms necessary for me to file my income taxes with the Internal Revenue Service.

This is only a representative sample of the barriers that I and other people with disabilities have faced in our effort to access essential public services. My eventual success should not be interpreted as a demonstration that these systems work, because my experience is more the exception than the rule. Many are unable to endure the frustration, indignity, disrespect, and intolerance that result from lack of independent access to essential services and supports, which is definitely a contributing factor to the over 70 percent unemployment/underemployment rate of people with disabilities, who could otherwise be contributing, tax-paying citizens. Moreover, re-mediating inaccessible technology consumes additional time, money, and other resources that could be used to implement new strategies and create greater opportunities.

The experience I described was in 1989, and there has been a significant reduction in the in-person and other resources formerly used to support those methods of accessing public information and services. Today, the primary method of accessing information and/or services from most, if not all, federal agencies is through the use of a website, smartphone application, or other type of information and communication technology. When coded correctly, access technology like screen readers that convert the digital text to synthesized speech and large print, and refreshable Braille displays that convert the digital information to Braille, would allow independent access to this information by the blind, low vision, deaf-blind, those who are illiterate, and non-English speakers. The appropriate implementation of this technology holds the hope of creating greater accessibility and independence for so many. However, this hope is unrealized due to improper implementation and enforcement of Section 508, leaving people with disabilities unable to capitalize on the new systems and even more overwhelmed and underserved because of the diminished capacity of the previous systems.

The Social Security Administration offers good and bad examples of providing equal access. In one instance, the introduction of technology has made it more difficult for a blind person to access SSA services. Formerly, I would go into a Social Security office, pull a number and wait an indefinite time alongside other citizens. This was frustrating, but equal. With the implementation of the new Social Security kiosks, which are inaccessible to the blind, I am confronted with the option of coordinating my visit with a sighted friend or family member, or asking a complete stranger to enter my Social Security number into the inaccessible kiosk to be added to the service cue. In another instance SSA has demonstrated the benefit of accessibility through the creation of one of the most accessible websites within the federal government. At one time, it was extremely easy to use my screen reader to access the information provided at <https://www.ssa.gov/>. Unfortunately, this was only as long as the individuals familiar with the technology were on staff. The access continues to diminish as the trained staff retires, or leaves for other employment.

The National Federation of the Blind has been contacted by thousands of blind and low-vision individuals that are experiencing difficulty in accessing public information and services. We are

unable to address each and every situation, but we do try to strategically engage in a manner that creates systemic change. The following are examples of some of our advocacy:

Internal Revenue Service

- July 15, 2020, [IRS to Implement Process to Provide Accessible Tax Notices to the Blind](#)
- July 15, 2020, [Rose v. Mnuchin Settlement Agreement](#)
- July 25, 2019, [Blind Taxpayers Sue the IRS](#)
- July 24, 2019, [Rose v. Mnuchin Complaint](#)

Social Security Administration

- March 12, 2020, [Blind Americans Settle Lawsuit against Social Security Administration](#)
- August 28, 2017, [The National Federation of the Blind and Two Blind Individuals File Lawsuit against SSA for Lack of Accessible Kiosks](#)
- November 11, 2014, [National Federation of the Blind Praises Social Security Class Action Settlement](#)
- August 24, 2009, [National Federation of the Blind and Blind Social Security Beneficiary File Complaint with Social Security Administration](#)

Centers for Medicare and Medicaid Services

- April 20, 2018, [Medicare Information to Become Accessible to Blind Beneficiaries](#)
- April 20, 2018, [NFB-CMS Settlement Agreement](#)

U.S. Department of Education Student Loans

- October 8, 2014, [National Federation of the Blind Reaches Agreement with U.S. Department of Education](#)

Small Business Administration

- June 16, 2014, [National Federation of the Blind and Blind Business Owner Resolve Enforcement Action with Small Business Administration](#)
- July 22, 2009, [National Federation of the Blind and Blind Business Owner File Complaint with Small Business Administration](#)

US Department of Agriculture

- February 14, 2019, [Clark v. Perdue Complaint](#)

US Department of Veterans Affairs

- November 9, 2021, [McDuffie v. McDonough Settlement Agreement](#)

Department of Homeland Security's Customs and Border Protection

- March 27, 2013, [National Federation of the Blind Assists Federal Employee Experiencing Discrimination](#)

It is important to note that these are only a representative sample of the inaccessible experiences of thousands of blind Americans.

Inaccessibility creates barriers for people with disabilities seeking information and services, but also creates barriers for people with disabilities to obtain and advance in employment with the federal government. The NFB has been contacted by many federal employees that are currently working in jobs that have significant accessibility barriers. Rather than correcting the inaccessibility, flawed "accommodations" are attempted that leave the disabled employee unable to independently and efficiently perform the job tasks. This results in an adverse, frustrating work environment that makes it impossible for the employee to demonstrate sufficient competence to be considered for any opportunities for lateral or upward mobility. It takes courage for the individuals referenced above to actively advocate for accessibility. Unfortunately, in many instances, the individuals are afraid of retaliation and losing their jobs, and the National Federation of the Blind is unable to assist them beyond continuing to advocate to the employer for the enculturation of accessibility. In cases where blind individuals proceed with filing complaints of discrimination, federal agencies can take years to investigate a complaint and longer yet to resolve the accessibility barriers. This is evident in *Clark v. Perdue*, in which a blind USDA employee, Michelle Clark, proceeded with filing a federal lawsuit against her employer after the USDA sat on her 508 complaint for four and a half years without any action. The Court finally ordered the agency to do its job and investigate the complaint. Michelle's story is not unique, and federal employees face delays regularly.

Enculturation of accessibility is not difficult, nor is it more expensive than operating in a manner that does not consider accessibility. These are false assumptions that result from the continued use of antiquated methods and that do not leverage current knowledge and resources. A simple analogy to describe the current strategy being used by many public agencies to create accessible information is like someone using a typewriter to create a document (using Wite-Out to make corrections) and then finally giving the document to someone who knows how to use word processing software to create an accessible digital document. Of course the person only trained in using the typewriter thinks that using word processing software is difficult, and of course it is more expensive to use resources to create a printed document and then convert it to an accessible digital document. It seems unbelievable that anyone would be using this strategy, but there are many public agencies spending significant time and money to remediate inaccessible documents created through an antiquated process, rather than investing in the training necessary to teach someone to create a "born accessible" document during the initial design and development process.

Beyond the federal government, information and communication technology has become the primary method most people use to access banking, healthcare (telehealth), travel, news, social media, rideshare, food delivery and so many other services. The federal government can be the exemplar and catalyst for private- and public-sector accessibility by continuing to prioritize the employment of people with disabilities, while providing the appropriate accessible infrastructure

that facilitates retention and lateral and upward mobility. After all, active employment of people with disabilities continues to make the issue relevant, and offers internal expertise for suggestions and feedback. Moreover, by requiring accessibility throughout the federal procurement process, the federal government can encourage industry to acquire the resources to create accessible tools and content. This, in turn, will require our educational systems to do a better job of integrating training in accessibility within the mainstream educational programs for information technology professionals, as prescribed by the Teach Access movement, which promotes the common sense understanding that "accessible coding is just good coding." The resulting websites and apps are easier to use by everyone and allow for better integration with other systems.

Moreover, our advocacy for the enculturation of accessibility in technology development has benefited and will benefit more than just the blind. A recent exciting example of this is the collaboration between the National Federation of the Blind and the National Institutes of Health to develop accessible COVID-19 test kits. NIH recognizes that in order for it to be truly impactful, people with disabilities should be active participants in the design and development process. We have received information that the technology developers are excited about working to integrate accessibility into these test kit devices. Moreover, we are excited that accessibility will become an expectation in their work to develop future medical technology. The resulting multimodal means of accessing medical information is technology that can be used more effectively by everyone, including the ever-growing population of older Americans in this country.

I sincerely hope that we can work together to meet the equal access expectation set forth by Section 508 toward the improved quality of life for people with disabilities and older citizens to live, work, and play in our communities. More importantly, I hope we recognize the value it has for the improved quality of life of every American citizen.

Anil Lewis, M.P.A
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Testimony for Jule Ann Lieberman

My name is Jule Ann Lieberman, and I am a lifelong resident of Pennsylvania. My formative years were in Saint Clair, a small town in Schuylkill County, and I have lived in Devon, Chester County, for close to 40 years to date. I come before you today as a representative of the aging demographic and a blind person who uses computer technology. I have lived with progressive vision loss since diagnosed in 1970 and now have profound vision loss/blindness. I have over 24 years of experience training others with vision loss on the use of technology that enables them to participate fully in schoolwork, employment, and activities of daily living.

Currently, I am a specialist in technology for low vision and blindness with TechOWL – part of the Institute on Disabilities at Temple University. TechOWL is Pennsylvania's designated Assistive Technology Act (AT Act) program.¹ The Institute on Disabilities encompasses Pennsylvania's University Center for Excellence in Developmental Disabilities Education, Research and Service (UCEDD)² and TechOWL. I bring to this position personal experience using screen reading software which gives me audio non-visual access to all my computer tasks. I have earned a Master of Science in Low Vision Therapy certification as an Assistive Technology Instructional Specialist granted by the Academy for Certification of Vision Rehabilitation and Education Professionals (acvrep.org).

In my role, I provide information, assistance, and technology demonstrations for people with various disabilities. When Pennsylvanians are looking for assistive technology for blindness or low vision, I help them determine the best tools to help them. According to the CDC, "as of 2012, 4.2 million Americans aged 40 years and older suffer from uncorrectable vision impairment, out of which 1.02 million who are blind; this number is predicted to more than double by 2050 to 8.96 million due to the increasing epidemics of diabetes and other chronic diseases and our rapidly aging U.S. population." ([Fast Facts of Common Eye Disorders | CDC](#)).

I am here today to describe my concerns and the concerns of the myriad of people I work with regarding the accessibility of federal websites. Access to information and services provided by the Federal government must be equal to all, regardless of disability.

In my personal experience, for example, when visiting the CDC.gov website to gather information such as the prevalence of COVID 19 in my state, county, or community, the information was presented in a graph with no text description. Therefore, this information was not available for my screen reader to access and obtain the information I needed. I relied on

¹ The AT Act of 2004 specifies the statewide activities required of programs receiving funds under Section 4 of the AT Act. These include four "state level" activities designed to help people with disabilities, their families, service providers, and others access and acquire assistive technology devices: device demonstration, device lending, state financing, and device reuse.

² The UCEDD is funded by the US Department of Health and Human Services, Administration on Community Living) working toward a vision of self-determination, independence, productivity, and community inclusion for people with disabilities throughout their lifespan.

others with vision to provide me with the graph's information. I am fortunate to have an incredibly supportive family; however, as a person with a disability, I must wait until they are available to assist. Repeated requests for help become burdensome for those who support me, potentially leaving me with either no access or not timely information.

I am not alone. Many people with blindness or low vision have similar experiences. Consider the vulnerable person requesting help from a significant other who could be abusive, creating a safety issue. This vulnerable person must trust another rather than obtain the information or services privately. While there are app services on my iPhone, such as AIRA and Be My Eyes, they do not provide total assurance of privacy despite their best intentions. I must rely on others to provide information or access to services fosters dependence and can affect self-esteem.

When web designers create websites, they must follow accessibility compliance guidelines. Federal websites must be reviewed with these guidelines and monitored for compliance to ensure all have equal access to vital information and services. You can find more information about accessibility guidelines at [W3C Accessibility Standards Overview | Web Accessibility Initiative \(WAI\) | W3C](#).

As the COVID pandemic continued and vaccines became available once again, I turned to the Internet to find locations through CDC.gov where I could make an appointment. Here, I encountered another barrier. I experienced that sites and appointment requests were only accessed using a mouse click. As I cannot use a mouse to make selections, this was a frustrating and anxiety-producing time. I posted my frustration on the Institute on Disabilities email list, and a respected manager responded with a phone number to call with the Area Office on Aging and Disability. I had no means otherwise to find this information, and once again, I am genuinely grateful for the support of others.

Failures of accessibility are likely not intentional but result from quick response times and a lack of knowledge of the accessibility guidelines. Recently, companies have been offering what is termed a "complete and quick accessibility fix," sometimes as overlays for websites using Artificial Intelligence to predict visitors' needs. As much as AI has evolved, it cannot replace careful web design. Artificial Intelligence makes its best guess on the user's intentions without identifying what support the user's disability requires.

In crisis times, all need access to trusted information and services. I encourage legislative action to ensure compliance and monitoring of accessibility on all federal websites. To better understand how the blind experience websites, please visit: [Introduction to Screen Readers - YouTube](#). This video provides essential information on what is a screen reader and gives examples of poor web access and meaningful web access. You can learn more about TechOWL by visiting www.techowlpa.org.

Respectfully Submitted,
Jule Ann Lieberman

**Statement of Ronald G. Holmquest
Retired and U.S. Navy Veteran
July 28, 2022
Hearing before the U.S. Senate Special Committee on Aging**

Good morning Chairman Casey, Ranking Member Scott, and Distinguished Panel.

Thank you for inviting me to speak to the Senate Aging Committee about my experience with telehealth and the VA.

You can probably tell I am not a native of South Carolina. I spent most of my life up North before moving here 7 years ago.

There are a lot of good reasons to live in South Carolina. I moved here to be close to my son, daughter-in-law, and granddaughter, who is now 10 years old. I have the pleasure of helping to take care of her a few days a week.

When I moved to South Carolina in 2015, South Carolina Veterans welcomed me. I was invited to the Port of Charleston for the commissioning ceremony for the USS Ralph Johnson, a guided missile destroyer named after a Marine from South Carolina who posthumously received the Medal of Honor for his heroic actions during the Vietnam War.

Ralph Johnson used his body to shield two fellow Marines from a grenade, absorbing the blast and dying instantly. I am wearing this baseball cap today in his honor.

South Carolina Veterans recommended that I check into the VA. I've been with the Charleston VA since 2016.

What I did not expect before I moved here was the excellent healthcare I would get at the Ralph H. Johnson VA Health Center, which is also named after that same heroic Marine.

A couple of years ago, the VA invited me to sign up for telehealth, and I was skeptical.

I have lots of severe medical problems.

But I never signed up for VA health care before 2016 because I thought it was for veterans who were hurt and maimed in Vietnam and other wars. I figured they needed it more than I did.

I served in the U.S. Navy during the Vietnam War, but most of my active service was in Japan, where I served as a communications technician. A highlight was attending a performance by Bob Hope.

After being honorably discharged from the Navy, I eventually ended up in Montpelier, Vermont, where I worked in information technology.

I also served as a volunteer EMT for about a decade in Fire and Rescue. In those days, all we had was bottled oxygen to keep people going until the ambulance arrived. We did not have all the modern technology they have these days.

Sometimes the ambulance got lost on the back roads of rural Vermont. I guess it was tough to navigate when the cows moved.

With telehealth, the VA can manage my complex chronic conditions very well.

The VA assigned me a telehealth case manager - what a pleasure. Mine is an RN with a Bachelor of Science in Nursing who knows her stuff. Her name is Frances Santana.

I thought that they were all Vets, but not all of them are, and they always say, "Thanks for your service."

The Ralph Johnson VA Health Center is a teaching hospital, so some of the Docs are from the Medical University of South Carolina, so you get the best, smartest medical staff to be found.

A function of telehealth is that they watch after you. I send my vitals to my RN daily and if there is a problem you get a call immediately.

She has direct contact with Docs, fellow RNs, and other providers and will get answers to your problems or education for you on medicine and procedures; she gets problems resolved for you.

A big plus at the VA is that one computer system is looked at by all, including Docs, RNs, and medical staff. When you have an appointment, your provider has all the necessary information.

I have many decades of experience as a computer programmer from the early days of the industry. It's so important to have computers fully and properly used to benefit patients.

Another point is that telehealth and technology have made care more personal, not less. I have five different cardiologists who treat me.

When I have questions about a medication or why I have been taken off of a medication, I would pick up the phone and call Frances.

She checks with the doctor and tells me they prescribed it because other medications have adverse reactions to my existing medications.

I also use MyHealthVet to make appointments. It is very effective.

Telehealth is critically important to veterans' care. All veterans should have this opportunity.

Telehealth and the VA need to stay for the benefit of all vets. It would be a shame to lose these valuable assets.

Thank you for letting me share my story.

Questions for the Record

U.S. Senate Special Committee on Aging
 “Click Here: Accessible Federal Technology for People with Disabilities, Older Americans, and Veterans”
 July 28, 2022
 Questions for the Record
 Ms. Eve Hill

Chairman Robert P. Casey, Jr.

Question:

In your oral and written testimony, you described six steps necessary to ensure websites and other technologies are accessible to people with disabilities. Can you please prioritize or sequence these actions and expand upon how Congress can play a role in making these actions a reality?

Response:

Thank you for this question. I recommended the following six elements needed for a thorough approach to digital accessibility across the federal government: Transparency; Standards; Testing; Remediation; Oversight; and Accountability. Congress has an important role in each element. The actions necessary to accomplish these elements, in priority order are as follows:

1. Demand and Fund Transparency: Without transparency into the current level of Section 508 compliance, the progress that agencies have made, and the plans they have to improve compliance in the future, Congress and the public cannot effectively evaluate the barriers to compliance, the need for resources, and any adjustments to the law that may improve implementation. In addition, keeping this information in the dark allows agencies to continue to shirk their duties under Section 508 to ensure technology is accessible from the beginning. Ensuring their inaccessible technology purchases will be public will incentive them to take their obligations seriously early on, when compliance is simple and inexpensive, rather than waiting to be caught and having to employ expensive and time-consuming remediation. This will benefit the public by increasing cost-effectiveness of accessibility, improving customer service, and allowing taxpayers with disabilities to rely on the accessibility of the tools they use to interact with their government.

The Department of Justice (DOJ) already has a duty to report on federal agencies’ progress, but has not done so recently and lacks access to the necessary data. The General Services Administration (GSA) has been collecting data on agency Section 508 compliance for years, but does not share the data with DOJ. Requiring DOJ to re-collect the data that GSA already has is an ineffective use of resources.

- In the short term, Congress should strongly encourage GSA to share the data it has collected on agencies’ Section 508 compliance with DOJ. In addition, Congress should insist the information GSA has collected and any advice, recommendations, or responses GSA has given to the agencies be made public. In the upcoming budget, Congress should appropriate funds for the DOJ and GSA specifically to collect and report information on each federal agency’s website and technology baseline and annual progress.
2. Amend Section 508 to Address Transparency, Testing, Remediation, Oversight and Accountability: Congress should amend Section 508
 - Transparency: Assign a federal agency responsibility and sufficient funding to collect

information and report annually on federal agencies' accessibility audits, remediation plans and progress, and exceptions.

- **Standards:** Require and provide funding for the Access Board specifically to participate in the W3C Accessibility Guidelines development process and adopt updated Section 508 Standards within 1 year of updates to the Web Content Accessibility Guidelines or other applicable technology accessibility standards.
- **Testing:** Require the development of, and provide appropriate funding for, an Accessible Technology Testing Center to provide a centralized expert accessibility and usability testing resource, using automated and user testing. The Center should be available to all agencies and all agencies should be required to receive approval from the Center prior to purchase or implementation of covered technology;
- **Remediation:** Require each federal agency to
 - Within 6 months, annually for the subsequent 5 years, and every 3 years thereafter, conduct and publicize an accessibility audit of its websites, web pages, web content, mobile apps, intranet sites, self-service kiosks and other transaction machines, and employee-use software and digital information;
 - Within 12 months, develop and publicize a plan for remediation or replacement of all inaccessible websites, web pages, web content, mobile apps, intranet sites, employee-use software and digital information, and self-service kiosks and other transaction machines, to be completed within 3 years, unless subject to a Section 508 exception approved by a federal agency with authority to do so (see Oversight, below);
 - Establish and publicize measures for making inaccessible digital information and services accessible to members of the public and employees with disabilities until such time as the digital information is accessible or for as long as it is subject to an exception;
- **Oversight:** Assign a federal agency to approve exception requests and take complaints under Section 508 from members of the public and federal employees with disabilities, investigate complaints, conduct compliance reviews, engage in informal enforcement activities, such as public notices of violation, and take formal enforcement, such as administrative compliance orders.
- **Accountability:** Ensure both agencies and vendors can be held accountable for the inaccessibility of federal technology by
 - Clarifying that members of the public and federal employees with disabilities have a private right of action to challenge violations of Section 508, that no administrative exhaustion is required, and that sovereign immunity is waived;
 - Providing that any vendor that provides noncompliant covered technology (not subject to an approved exception) to a federal agency is required to remediate the technology without charge, must indemnify the agency for any damages, attorneys' fees or other losses resulting from the technology, and is liable directly to a person with a disability affected by the inaccessibility.

Senator Mark Kelly**Question:**

Your testimony referenced several different agencies that have inaccessible websites. I was troubled to hear that HUD and the Administration for Community Living were among them.

In Arizona, we're seeing more and more cases of investors buying up apartment complexes, making simple changes, and then dramatically raising the rent the rent, which older folks on fixed incomes often can't afford. In Phoenix, seniors are among the fastest-growing segment of the population of people experiencing homelessness.

I would certainly think we'd like to make it easy for these individuals to access a federal website intended to help them find housing resources and assistance. This is a simple question. Why does accessibility seem to be so hard for the federal government? What can Congress do to move this ball along?

Response:

Thank you for your question. Federal websites that offer access to resources, government benefits, and entitlements for income, housing, and health care are obviously essential to helping people utilize the services they have paid taxes for their whole lives and avoid devastating events like losing their homes, serious illness, and food insecurity. But one might assume that the accessibility of those websites was of only minor, secondary importance compared to the substance of the sites, at least for people who do not consider themselves to have disabilities. This is incorrect. Accessible design of websites is, simply, good design.

Accessibly designed websites are easier to use, more intuitive, and more flexible than inaccessible websites. And such ease and flexibility are absolutely essential to effective access for older people, with or without disabilities, who may not have a great deal of experience with digital technology. Ease and flexibility are also essential for those, such as homeless people, who do not have access to computers, but who have smart phones (provided for free or at reduced prices through government programs), because flexibility makes the sites more usable on a phone. In addition, people who do not consider themselves to have a disability often cannot effectively use a website unless it has accessibility features, such as high contrast and the ability to increase font size. Finally, research has shown that individuals in crisis situations, such as those facing impending job or home loss or those who are homeless, sick, or without income, have a high cognitive load and are less able to manage complexity. A barrier that might seem small to a 30-year-old with a job, a car, and an apartment, will be overwhelming to someone who is about to lose everything or who is struggling to survive.

Agencies who do not take accessibility into account think they are merely leaving out blind and deaf people. But in reality, they are leaving out their elderly, low-income, and unhoused constituents and any constituents who are in crisis.

Frankly, website accessibility is not hard when it is incorporated at the beginning. It is harder (although actually it is just time consuming and expensive, not technologically difficult) to incorporate accessibility after the website has been rolled out. I believe several elements contribute to federal agencies' failure to comply with Section 508, including:

- Commercial off-the-shelf technologies are not being built accessibly from the beginning – new software and websites are being developed to get to the marketplace quickly, before a competitor can get there first. Accessibility is often left out in favor of speed. At that point, unless the

government insists that the technology vendor remediate its technology, it will never happen. In addition, unless they have to remediate their inaccessible technology, the vendors will never learn that they have to build accessibly from the beginning.

- Government agencies do not have the capability of independently testing technology and have to rely on vendor representations, many of which are based on inadequate automated-only testing, are confusing, and are misleading.
- Purpose-built and government-built technology is being designed by people who do not have expertise in accessibility and assume it is “someone else’s problem.” Unfortunately, there is often no one in the design process who has the responsibility and authority to recognize, insist on, and pay for accessibility.
- Section 508 offices are understaffed, are underresourced to do their own accessibility testing, are consulted too late in the process (or only after a complaint is received), and do not have the authority to overrule an operating unit’s choice of inaccessible technology or to stop development and send designers back to the beginning to incorporate accessibility.
- Agencies overuse the exceptions process. I have seen agencies grant exceptions to software that could easily have been accessible simply because they did not have any blind employees in the unit that would use the technology, because they acted on their own misconceptions about what blind people can do, or because the agency used inaccessible inputs (pdfs) into the software (which is not a reason the software, itself, could not be accessible).
- Content creators (e.g., those who write documents, those who convert them to PDFs, and those who post them to government websites) are not trained and required to ensure those documents are accessible. Instead, agencies rely on remediation after-the-fact – the hardest, most time-consuming method of achieving accessibility.
- Agencies assume they will not be held accountable for their inaccessible technology – and they are right. Section 508 compliance is not subject to any transparency or government oversight, the people who need accessibility do not have the resources to challenge it, and the bureaucratic processes to respond to accessibility complaints are immensely time consuming and ineffective. As you noted, many people trying to use government websites are in crisis and are desperately seeking government help, not an opportunity to work through a government complaint process.

Congress has an important role in moving Section 508 compliance forward. I address much of that role in my response to Chairman Casey’s question, addressing the six areas of Transparency; Standards; Testing; Remediation; Oversight; and Accountability.

U.S. Senate Special Committee on Aging
“Click Here: Accessible Federal Technology for People with Disabilities, Older Americans, and Veterans”
Conducted July 28, 2022
Questions for the Record
Mr. Anil Lewis

Chairman Robert P. Casey, Jr.

Question:

The Veterans Administration's own reporting shows that fewer than 10 percent of their websites are fully accessible to people with disabilities. Alongside other Committee leaders in the House and Senate, Ranking Member Scott and I wrote a letter to the VA to urge the agency to improve the accessibility of its websites and other information technology. Our letter asked the VA to do a better job working with people with disabilities as the Department works towards this goal.

VA responded to our bipartisan letter after the Aging Committee's hearing. In their response, the VA stated a preference for working with Veterans Service Organizations for outreach related to Section 504 and Section 508 accessibility solutions. VA specifically cited their work with the Blinded Veterans Association “on ways to improve communication and increase awareness.” They went on to say that “[i]ntroducing separate engagement channels will require Section 508 additional staff and potentially overcomplicate issue resolution.”

Could you explain why it is essential to work with people with disabilities when designing accessible websites and other technologies? Also, please explain why it is important to work with people across the spectrum of disabilities when designing access to websites and other technologies. Finally, do you support providing additional funds to the VA and other federal agencies to support this engagement?

Response:

Many well intended individuals seek to develop websites and other technologies that are accessible to those with disabilities. Unfortunately, many have not been trained to do so, and make assumptions that lead to disastrously inaccessible experiences. The simplest example is that many technology developers assume that if they can make something talk, then it is nonvisually accessible to blind people. This is equivalent to assuming that if we provide text on the page, even though the text is in Swahili, then it is accessible to the sighted. Some may be able to read it, but not most. With proper training, developers will not make these false assumptions. They will be empowered with the skills and knowledge to properly code for accessibility, and to appropriately consider multimodal means of accessing technology that would benefit everyone. The best practice is to provide training in accessibility that allows the developers to use their talent to create an accessible experience. In this manner, there is no additional burden to creating an accessible website or other technology.

It is essential to work with people with disabilities when designing accessible websites and other technologies, because it is just best practice to engage the stakeholders in the design and development process. This is especially true when developing accessible websites and technologies for people with disabilities. The lived experiences of people with disabilities often result in the development and implementation of innovative strategies and solutions to address the unique problems we face. Therefore, we will most likely have some beneficial suggestions on some techniques that will enhance the accessibility of the user's experience. It is important to note that seeking input and feedback from

employees with disabilities to ensure accessibility is a best practice that should complement the work being done, and not as a substitute for a qualified developer trained in accessibility.

The techniques that enhance the accessibility of the user experience for people with disabilities often provide a value-added experience for every user. Therefore, it is important to work with people across the spectrum of disabilities when designing access to websites and other technologies. Moving to more paperless work environments using digital content that is accessible to blind employees has also proven to increase the productivity of sighted employees. Accessible digital information can provide speech access to blind people and offers the ability for those that are illiterate to listen to the content. Accessible digital transcripts of proceedings provide accessibility for deafblind individuals while also allowing anyone to effectively search audio and video content in a more effective fashion. Moreover, accessible digital information, using ever improving artificial intelligence, can offer seamless language translation. Closed captioning used by deaf and hard of hearing is also helpful for those individuals that read the captions of videos being played in noisy environments. Consideration given to implementation of worksite modifications for those with physical and mobility challenges introduce ergonomic improvements that benefit the health and safety of all. It is obvious that by addressing the accessibility concerns being raised by Americans with disabilities, we can increase the productivity and quality of life of all Americans.

I strongly support providing additional funds to the VA and other federal agencies to support the effort to improve the accessibility of the federal government, including the infrastructure necessary for people with disabilities to secure, retain, and advance in employment with the federal government. Of course, the funds should be allocated and used in a manner that achieves economies of scale through appropriate centralization of resources, provision of appropriate training for all content developers, and procedures for the engagement of people with disabilities through the design, development, and implementation processes.

Question:

In your testimony, you discussed how the Social Security Administration has established an extremely accessible website. You also noted how this accessibility has diminished as people with expertise in that area have left that agency's staff.

What steps should agencies take to retain institutional knowledge on accessible websites and other forms of technology? And what steps should Congress take to support agencies in this process?

Response:

Currently, there is a lack of qualified trained individuals to meet the existing need, and the private sector is actively seeking out and employing most of the experts in the field of accessibility. Many formal learning institutions have recognized this need and have begun to adjust their related curriculum to arm their graduates with this skill. It will probably be years from now, but eventually, efforts like the Teach Access movement will result in the integration of instruction in accessibility in the formal training of information technology professionals, enabling them to integrate accessibility into their standard development process. Moreover, many of the DIY online trainings are starting to integrate accessibility strategies and techniques into their presentations, so the self-taught developers will also be able to create accessible content. With these and other initiatives, we are hopeful that eventually, websites and other technology that is "born accessible" will be the industry standard. We are actively working to address the immediate concern in the interim.

The federal government has made attempts to address accessibility concerns, and in some instances, had significant, but temporary, success. For example, the Social Security Administration, at one time, had an exemplary accessible website experience. Unfortunately, this was the result of limited internal expertise that eventually went on to other pursuits, and there was no plan for sustainability put in place. It is understandable that without a plan there will be limited to no attention given to accessibility.

The most immediate steps that agencies can take to retain institutional knowledge on accessible websites and other forms of technology is to provide training and support for existing staff to acquire the skills necessary to develop accessible content, and to be more intentional about enculturating accessibility as an expectation. The tools for making documents, websites, and other content accessible exist, and in many instances these tools are integrated into the same tools currently being used by the content developers. Yet, most have not been taught how to use these tools, and as a result, continue to develop inaccessible content that needs to be remediated at an additional cost of staff time and resources. This is wasteful and inefficient.

In addition to providing existing staff with the necessary training to better use these tools to create accessible content from the start, an evaluation of existing systems and procedures should be conducted to determine how accessibility principles can and will be implemented as standard procedures. Accessibility is more sustainable when you set an expectation that it be enculturated within the day-to-day operation rather than considered as a separate undertaking.

Congress has an opportunity to support agencies in this process by creating some centralized areas of expertise in accessibility that attract trained qualified experts. These areas of expertise could be developed in a manner that attracts accessibility experts by providing opportunities that are competitive with industry incentives. These highly trained accessibility experts can be employed to develop and implement a strategic plan for an accessible information communications technology infrastructure for the federal government and their expertise can be shared across all agencies. This should result in significant economies of scale, sharing of best practices, and consistent user experiences across agencies.

Senator Mark Kelly

Question:

Thank you for participating in this hearing and bringing your perspective as advocates. One of the reasons I think my VA Quality bill [*the VA Quality Health Care Accountability and Transparency Act, which would require the VA to work with veterans, veteran service organizations, and caregivers to determine how to best design the VA website so it works for the people who rely on it*] will make a meaningful difference is that it brings stakeholders in the room who have lived experience. It will require VA to work directly with veterans, veterans service organizations, and caregivers so they have real feedback and guidance.

We know when stakeholders with lived experience have a seat at the table, it makes a difference. We're seeing this right now in Arizona, where the state is considering moving to a statewide internet-based system for distributing federal assistance for energy bills. This assistance is incredibly important for a hot state that's getting hotter. I've heard from many seniors that they're concerned about this because they have trouble accessing the internet, and may have low tech literacy skills. But now they're able to work directly with the state on this change, to make sure moving to an online platform is as accessible as possible, and ensuring the state hears feedback from seniors and those with certain accessibility needs. I'm so glad this is happening.

Could you speak to the value of stakeholder input when the federal government or private businesses are seeking to make their websites or technologies more accessible?

Response:

I expressed the value add for gaining input from people with disabilities (stakeholders) during the design, development, and implementation stages when the federal government or private businesses are seeking to make their websites or technologies more accessible. I applauded the requirement for the “VA [and every other agency] to work with veterans, veteran service organizations, and caregivers to determine how to best design the VA website so it works for the people who rely on it.” Again, this is an essential best practice, and should not be considered a substitute for engaging the talent and expertise of those that are trained in the technical aspects of accessibility. Instead, it should be recognized as a complementary strategy because accessibility does not equate to usability. A website can be accessible, but still may create a problem for individuals to use it, just like any other experience for any other user. The many seniors and people with disabilities that are concerned about the use of technology as an option may have low tech literacy skills. But generally, have trouble accessing the internet because of the lack of accessibility coupled with the lack of consistency in the user experience. They essentially must learn techniques to interact with each individual webpage rather than gaining the fundamental skills required to use what they have learned to interact with every page. Again, the federal government has the ability to create uniformity that will eliminate this problem.

It is important to note that as states consider moving to a statewide internet-based system for distributing federal assistance for the provision of information and services like energy bills, there should be consideration of providing efficient non-internet-based alternatives for those that do not have access to the “virtual doors” to the information and services.

I am comforted by this collaborative effort to address a significant barrier to the full participation of American citizens with disabilities, and appreciate the opportunity to address these and any other questions you may have.

U.S. Senate Special Committee on Aging
“Click Here: Accessible Federal Technology for People with Disabilities, Older Americans, and Veterans”

July 28, 2022

Questions for the Record
Ms. Jule Ann Lieberman

Chairman Robert P. Casey, Jr.

Question:

The Veterans Administration's own reporting shows that fewer than 10 percent of their websites are fully accessible to people with disabilities. Alongside other Committee leaders in the House and Senate, Ranking Member Scott and I wrote a letter to the VA to urge the agency to improve the accessibility of its websites and other information technology. Our letter asked the VA to do a better job working with people with disabilities as the Department works towards this goal.

VA responded to our bipartisan letter after the Aging Committee's hearing. In their response, the VA stated a preference for working with Veterans Service Organizations for outreach related to Section 504 and Section 508 accessibility solutions. VA specifically cited their work with the Blinded Veterans Association “on ways to improve communication and increase awareness.” They went on to say that “[i]ntroducing separate engagement channels will require Section 508 additional staff and potentially overcomplicate issue resolution.”

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Response:

Equal access to information and services is fundamentally a right of all regardless of disability. When websites and other technologies are not accessed independently by a person with a disability, they must be reliant on others to provide access. This is burdensome for both the person with a disability and their assistants. This is especially true when assistance is provided for a fee. This fosters further dependence and expense of the person with a disability when independent access can be achieved. For a checklist of web accessibility guidelines visit: [WebAIM: WebAIM's WCAG 2 Checklist](#). And for a more complete description of guidelines visit: [Web Content Accessibility Guidelines \(WCAG\) 2.1 \(w3.org\)](#).

As disabilities can differ and access means can vary, inviting persons with disabilities in the website development or remediation process will provide the best description of “usability” of a website. Questions for consideration; is the experience level of the computer user novice or proficient, whether they use assistive technology for low vision or rely on browser accessibility settings, if screen reader software is in use which uses keyboard access exclusively and if alternative pointer such as alternative mouse devices, switch controls or eye gaze technology is in use. All these access methods should be considered when review of accessibility and usability is performed. Usability can be described as how efficiently a computer user can access information or services in time efficient manner and with least effort. This can be achieved by inviting focus groups of persons with disabilities to evaluate websites prior to final launch to the public. In-person and remote testing and data can be collected in both qualitative and quantitative measures. Interviews, surveys, and video recordings can provide evidence of accessibility and usability success.

Question:

Finally, do you support providing additional funds to the VA and other federal agencies to support this engagement?

Response:

Yes, providing funds to compensate focus group members for their time and other expenses such as travel, or additional recording equipment would be a valuable investment for best results. Recently web accessibility and conformance of guidelines have been offered using overlays. This is accomplished when a computer code is inserted over the existing web content code and claims to provide accessibility for the website visitor. This should never replace good web design and in truth these overlays can create an inaccessible experience for those using assistive technology. These overlays use artificial intelligence (AI) which attempts to identify what the user needs and gives the best guess as to the accessibility needs. Machine learning (AI) cannot estimate the needs of all the variations of disabilities and experience described previously. For a more complete discussion of the failures of the use of overlays in web design visit: [Overlay Fact Sheet. Investment of time and expenses in human testing provides practical solutions over the "quick fix" solutions offered by companies marketing overlays.](#)

Senator Mark Kelly**Question:**

Thank you for participating in this hearing and bringing your perspective as advocates. One of the reasons I think my VA Quality bill [*the VA Quality Health Care Accountability and Transparency Act, which would require the VA to work with veterans, veteran service organizations, and caregivers to determine how to best design the VA website so it works for the people who rely on it*] will make a meaningful difference is that it brings stakeholders in the room who have lived experience. It will require VA to work directly with veterans, veterans service organizations, and caregivers so they have real feedback and guidance.

We know when stakeholders with lived experience have a seat at the table, it makes a difference. We're seeing this right now in Arizona, where the state is considering moving to a statewide internet-based system for distributing federal assistance for energy bills. This assistance is incredibly important for a hot state that's getting hotter. I've heard from many seniors that they're concerned about this because they have trouble accessing the internet, and may have low tech literacy skills. But now they're able to work directly with the state on this change, to make sure moving to an online platform is as accessible as possible, and ensuring the state hears feedback from seniors and those with certain accessibility needs. I'm so glad this is happening.

Could you speak to the value of stakeholder input when the federal government or private businesses are seeking to make their websites or technologies more accessible?

Response:

One way to look at website accessibility and usability is in the framework of customer satisfaction. How satisfied was the visitor to the website? Were they able to gain information, apply for services or make purchases or did they get frustrated or confused and abandon the task? We all have recognized there is a

digital divide in our country. This is due to limited Internet access in mostly rural communities or in low-income neighborhoods, lack of experience using technology by many seniors and reluctance to trust technology compared to contact with a person either through in-person or over the telephone. The reality of today's complex services and business delivery systems depends upon multiple communication layers beginning with the customer through all interactions with the various employees of a provider. The digital age has increased efficiency and timely delivery of services compared to historical practices where response time was dependent upon mail delivery or physical encounters. Indeed, some feel left behind. I believe when websites are created in plain language, have clear instructions/directions, and provide multiple options for access that all can take advantage of goods and services. When I instruct persons with vision loss or blindness in computer use, I always remind them that there are several ways you can perform a task. The trick is to determine the best method for you. It is the responsibility of those who introduce inexperienced users of technology of these options to gain their confidence in this new way to obtain goods and services. I believe in the KISS principle, keep it simple silly! When a service or product is identified, make it a straightforward process to communicate with the provider and leave any extraneous information aside. Encourage the new user and offer alternative means if the customer is less successful, such as a customer support contact by phone or through a contact form submission. Customer feedback whether negative or positive provides tremendous value to the provider of goods and services.

We are all customers whether we are visiting a federal, utility, or commercial website seeking information, services or purchasing goods. Hearing from customers from surveys, interviews and focus groups can provide great insight. Experienced web designers can learn a great deal from user experiences to create a "usable" experience for all.

U.S. Senate Special Committee on Aging
“Click Here: Accessible Federal Technology for People with Disabilities, Older Americans, and Veterans”
July 28, 2022
Questions for the Record
Mr. Ronald Holmquest

Senator Jacky Rosen

Question:

DRIVER-ASSISTED TECHNOLOGY FOR DISABLED VETERANS: Nevada’s over 225,000 veterans have sacrificed so much for our country and those with service-connected disabilities deserve access to technology that allows them to continue living their lives to the fullest. Unfortunately, critically important driver assisted technologies that disabled veterans need – including blind spot monitoring systems, lane assist, and automatic self-parking systems – are often too expensive for many veterans to afford. That’s why I’m developing legislation to provide a tax credit to ALL disabled veterans – no matter what level of disability – to cover the cost of driver assisted technologies, and I invite my colleagues to join me in working on this bill.

- a. Mr. Holmquest, how do driver assisted technologies and related supports help level the playing field and increase quality of life for disabled veterans who return home after serving our country?
- b. Mr. Holmquest, can you speak to how financial barriers can sometimes prevent our nation’s veterans from accessing the critically important technological supports they need?

Response:

I do not have a driving disability and cannot answer your question without further information.

Senator Mark Kelly

Question:

Mr. Holmquist, first, I want to thank you for your service to our country. Thank you for participating in this hearing, too.

It’s clear from this hearing that information intended for a target audience—like seniors, or veterans—only has value if it can actually be used by that audience. That’s one reason why I worked with Senator Blackburn to introduce the VA Quality Health Care Accountability and Transparency Act. This bill would require the VA to work with veterans, veteran service organizations, and caregivers to determine how to best design the VA website so it works for the people who rely on it. This bill was voted out of the Senate Veterans Affairs Committee one year ago today.

But in the meantime, the VA is already working to improve user experience. They’ve recently updated AccessToCare.VA.gov to make the format showing wait times and location of services clearer. As a veteran and a computer programmer, I’m interested to get your take on the new website. And, if my bill were signed into law and you were asked, as a veteran, what input would you to VA about how to best

display the information veterans are looking for—wait times, quality of care measures, health site staffing information?

I'd like to learn more about your experience with telehealth and remote patient monitoring devices. Telehealth services have been critical to ensuring Americans have access to quality care, and a vital tool amidst the COVID-19 pandemic. These services are even more important for our seniors and those in rural communities. And the audio-only component is essential for folks who live in areas that are still waiting for broadband.

You mentioned that your experience with telehealth at the VA has been positive. I'm really glad to hear that. And we know that you weren't the only one taking advantage of these services. The Medicare population's use of telehealth increased 63-fold just in the first year of the pandemic. Currently, flexibilities surrounding Medicare coverage of telehealth services are extended for 151 days after the end of the Public Health Emergency. I think it makes sense to make those flexibilities permanent, so folks can continue to have easy access to their provider. Do you agree?

Response:

I use the telehealth system in a different way in that I provide my vitals directly to the system which are then reviewed by Frances. If I have a problem I call Frances directly. I do not use remote monitoring. Nor do I use wait times info.

Statements for the Record



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July 28, 2022

United States Senate Special Committee on Aging
 G31 Dirksen Senate Office Building
 Washington, DC 20510

Dear Chairman Casey, Ranking Member Scott, and Members of the Senate Special Committee on Aging,

The American Council of the Blind (ACB) thanks you for the opportunity to submit our statement for the written record on today's Committee hearing "Click Here: Accessible Federal Technology for People with Disabilities, Older Americans, and Veterans". We write to urge Congress to work with the Administration to ensure that the federal government takes all necessary and sufficient steps to advance diversity, equity, inclusion, and accessibility (DEIA) in the federal workforce, including implementing meaningful consequences for agencies that continue to renege on their legal obligations under Section 508.

The American Council of the Blind is the nation's leading consumer-driven organization of and for individuals who are blind and experiencing vision loss. Founded in 1961 and comprised of over 65 state and special interest affiliate organizations, ACB strives to increase the independence, security, equality of opportunity, and to improve the quality of life for all blind and low vision individuals. Integral to our mission is ensuring that our members, and the broader blind community, are able to access the internet, websites, mobile applications, and other information and communication technology, including reminding entities of their obligations under existing legislation and regulation.

ACB applauds the Biden administration's commitment to ensuring that the federal workplace is fully accessible to individuals with disabilities in addition to other diversity, equity, and inclusion efforts laid out in Executive Order 14035. In particular, we strongly support the unequivocal directive in the Executive Order that:

- "All information and communication technology and products developed, procured, maintained, or used by Federal agencies are accessible and usable by employees with disabilities consistent with all standards and technical requirements of the Rehabilitation Act of 1973" [E.O. 14035§ 10(b)(iii)(F)] and
- "[the federal government] Ensure all technology, whether developed in-house or externally, is compliant with Section 508 of the Rehabilitation Act before deployment." [Government-wide DEIA Strategic Plan, § 4 Accessibility Roadmap, p. 14].

As the Committee considers opportunities for Congressional action to advance digital accessibility, we encourage you to work with the Biden Administration to identify legislative, regulatory, sub-regulatory, and other avenues to achieve these goals in the short and long-terms. In particular, we concur with the following recommendations for administrative action provided by the Consortium of Constituents with Disabilities, and encourage the Committee to raise these ideas with your colleagues in the Administration.

1. In accordance with current legislative and regulatory requirements, ensure that the Department of Justice (DOJ) conducts a regular, comprehensive review of compliance with Section 508 by federal agencies and submit periodic reports to the President and Congress. This mandatory audit review is required to be conducted biennially under §(d)(2) of Section 508 but has not been completed since 2012.

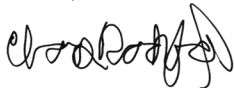
2. Direct the Office of Management and Budget (OMB) to update the [2013 Strategic Plan for Improving Management of Section 508 of the Rehabilitation Act](#). The update should include, among other things, a directive that each federal agency proactively engage with users and take proactive steps to modernize infrastructures and support the rapid adoption of technological innovations that reduce reliance on inaccessible formats (such as paper and ink signatures), in-person meetings, and telephone interactions, including ensuring accessibility and usability for people with disabilities at the initial design stages. The current Strategic Plan requires agencies to report to OMB regularly on their progress in improving baseline assessment measures. These reports, or a summary developed by OMB, should be made public on an annual basis to enhance transparency and ensure progress in advancing accessibility goals.
3. Direct federal agencies to explicitly report on digital accessibility efforts in annual reporting required by § 3(d) of the 21st Century Integrated Digital Experience Act (IDEA).
4. Require that the annual report to the President regarding implementation of EO 14035 [§ 4(c)] include a specific section on digital accessibility and that each federal agency submit quarterly progress reports to the Domestic Policy Council regarding digital accessibility. These reports should also incorporate by reference the accessibility sections included in the aforementioned 21st Century IDEA reports, and report on planned activities to address outstanding requirements under this legislation and any barriers to accessibility identified in these reports.
5. Require that compliance with and implementation of Section 508 is included in audits conducted by each agency's Inspector General and include Section 508 compliance in OMB Circular A-123 audits.
6. Require that federal agencies appoint a Chief Accessibility Officer who is responsible for ensuring compliance with Section 508 agency-wide and implementing the digital accessibility roadmap prescribed by E.O. 14035 and the Government-wide Strategic Plan.
7. Establish and communicate to federal agency officials' clear consequences for failures to comply with and implement Section 508 and the digital accessibility initiatives included in E.O. 14035.
8. Require that all federal agencies include in their DEIA strategic plan specific goals, objectives, and benchmarks for carrying out the roadmap for achieving digital accessibility set out in "[Integrating Accessibility into Agency Diversity, Equity, Inclusion, and Accessibility \(DEIA\) Implementation Plans](#)."
9. Require third party certification (verification) of vendor accessibility claims including usability testing by actual users with disabilities (in procurement, require a certification of 508 compliance from a qualified third party with material experience in the space).
 - a. Certification must come from a legitimate expert in the space with the systems and methodology to make a valid determination of compliance.
 - b. Certification must also cover the vendor's "accessibility maturity" (i.e., the product should not just be evaluated for accessibility at a single point in time; vendors must have the systems and processes in place to maintain a product's compliance as it "matures").
10. Review, expand, and improve the Voluntary Product Accessibility Template (VPAT) process and documentation.
 - a. Vendors should provide a warranty related to the product's accessibility covered in their VPAT.
 - b. The US Access Board panel setting applicable standards should include a balance of representatives with all types of disabilities and technical experts including those who have actually built a product.
 - c. The current VPAT form, which is cumbersome and confusing, should be reviewed and replaced with a process that makes sense both from the vendors' and reviewers' point of view.

- d. Require, if possible, accessibility features be turned on by default—avoiding a decision by buyers/operators who may not understand the requirement.
 - e. The agency should report who evaluated Section 508 compliance in the process, as well as:
 - i. The results of that assessment.
 - ii. The way that assessment maps back to the regulatory requirements; and
 - iii. The way that assessment was scored as part of the overall process.
11. Modify the complaint resolution process to safeguard federal employees who find and report that something does not work.
 12. Include the Section 508 requirements in all procurements of technology by default.
 13. Require the personal certification of the procurement officer and report of such certification back to the public.
 14. Review the application of the National Security Exemption in the Section 508 regulation [36 C.F.R. 1194 (Appendix A, E. 202.3)] to determine whether it is being applied to ICT operated by agencies as part of a national security system [as defined in 40 U.S.C. 11103(a)] in a manner that unnecessarily screens out or tends to screen out qualified individuals with disabilities in military, intelligence, and/or foreign affairs agencies.

Implementing these recommendations would help ensure that all federal agencies finally make digital accessibility a core aspect of “doing business” so that applicants and employees with disabilities enjoy a genuine, effective, and meaningful opportunity to participate in the federal workforce.

We thank you for reading through our comments and appreciate the opportunity to provide feedback on ways to improve Section 508 and access to the technology it covers for individuals with disabilities, including those who are blind and experiencing vision loss. If you have questions or would like to discuss our comments further, please contact Clark Rachfal, Director of Advocacy and Governmental Affairs, at crachfal@acb.org.

Sincerely,



Clark Rachfal
Director of Advocacy & Governmental Affairs
American Council of the Blind

Statement for the Written Record

“Click Here: Accessible Federal Technology for People with Disabilities, Older Americans, and Veterans”

Special Committee on Aging, United States Senate

July 28, 2022

The American Foundation for the Blind (AFB) is a national nonprofit that advocates for a world of no limits for people who are blind or have low vision by mobilizing leaders, advancing understanding, and championing impactful policies and practices using research and data. We appreciate the opportunity to submit this statement for the record.

People who are blind or have low vision regularly experience significant barriers accessing information and communications technology (ICT) ranging from hardware and software to video and interactive content. These barriers are widespread and exist in all aspects of society and, in the federal context, limit access to employment, research, services, information, programs, and benefits. The Rehabilitation Act has been around since 1973, and the Americans with Disabilities Act (ADA) has been law since 1990, yet agencies large and small – along with their myriad contractors – continue to fail to provide equal access to blind and low vision people. Therefore, we are greatly appreciative that the Committee is marking the 32nd Anniversary of the ADA by exercising oversight over federal technology accessibility. AFB strongly urges Congress to continue exercising oversight and to seek further legislative and administrative remedies to ICT inaccessibility.

Access to Employment

The Federal government has rightly adopted goals for hiring people with disabilities, including a goal that each federal agency strives for 12% of its workforce to be people

with disabilities, and 2% of its workforce to be people with targeted disabilities.¹ These goals are further articulated at higher and lower employment grades to measure and work toward advancement and retention. Setting hiring metrics is important considering that the U.S. employment rate of people with disabilities has consistently been about half the rate of people without disabilities,² and inaccessibility of the workplace is an important contributor to that rate. In addition, federal employees increasingly work remotely, so accessible technology is instrumental for workers as the primary gateway to participating in work activities. As the federal government seeks to improve its overall inclusion of people with disabilities from about 9% governmentwide in FY 2019, accessible technology is and will remain a critical part of the recruitment, retention, and advancement strategy.³ Moreover, by creating an inclusive and accessible work environment for people with disabilities, the federal government will also develop the expertise and expectations necessary to deliver more accessible services to constituents with disabilities.

Delivering better access to accessible technology and technology-related workplace accommodations requires prioritizing training, expertise, and improving procedures in every agency and federal contractor. AFB conducted research in 2021 that is illustrative of many ways in which the federal workforce needs more accessible technology and improved accommodations practices to support the use of assistive technology.⁴ Although the study examined the U.S. employment experiences of 323 people across employment sectors, more than a third of respondents reported working for local, state, or federal governments or on a federal contract, and much of the data was applicable regardless of the respondents' employment sector.

We found that:

¹ 29 CFR 1614.203(d)(7)

² Bureau of Labor Statistics (February 24, 2022). Persons with a Disability: Labor Force Characteristics Summary. <https://www.bls.gov/news.release/disabl.nr0.htm>

³ Equal Employment Opportunity Commission (2019). Annual Report on the Federal Work Force Fiscal Year 2019. <https://www.eeoc.gov/annual-report-federal-workforce-fiscal-year-2019>, see Table A-3a.

⁴ Silverman, A. M., Rosenblum, L. P., Bolander, E. C., Rhoads, C. R., & Bleach, K. (2022). Technology and Accommodations: Employment Experiences of U.S. Adults Who Are Blind, Have Low Vision, or Are Deafblind. American Foundation for the Blind. www.afb.org/wts

- about a third of participants disagreed that automated screening, interviews, and/or testing were accessible;
- 48% of those going through onboarding experienced accessibility challenges with electronic paperwork;
- participants reported tremendous variability in the process for requesting accommodations, the review process once the accommodation request was made, the reactions of others, and the amount of time it took to receive a final answer to the accommodation request;
- 86 employees reported that they themselves purchased equipment that they needed in the workplace;
- 39% of employees who use assistive technology software reported that they did not receive timely and effective training for using newly required tools or technology in a way that supported their assistive technology use;
- Many participants described difficulty working with inaccessibly formatted digital documents and inaccessible presentations;
- 30% of participants reported that IT staff are not knowledgeable about accommodations used by employees with disabilities; and
- 61 participants reported they were concerned that they would face backlash from a supervisor, coworker, HR staff, client, or others for making an accommodation request.

These concerns represent a sample of the issues that blind and low vision employees face in the federal workforce. Such inaccessibility and lack of preparedness to meet the accessible technology needs of people with disabilities can result in lower productivity, job restructuring, and even job loss. It is imperative, therefore, that the federal government consistently implement accessible technology to sustain and support the employment of people with disabilities.

Access to Public Services and Information

The public also needs better access to accessible technology. Technology opens doors to quicker communication, more information access, and more efficient, less time-

intensive transactions. However, these improvements are only available when the digital infrastructure is accessible to all people. In 2021, the Information Technology and Innovation Foundation used automated testing (which counts the number of accessibility errors based on a standard) to understand whether the most popular federal government webpages were accessible.⁵ Approximately 30% of the homepages tested had more than 10 accessibility issues, and only half of the web domains for which multiple pages were tested “passed” for all three pages. A qualitative assessment of the lower performing homepages found they did not have accurately described visual content or understandably labeled links. Many sites also lacked easily discoverable accessibility pages that include contact information for reporting accessibility issues. The inability to efficiently and effectively access content on federal webpages impedes access to benefit applications, tax filing, understanding federal programs and laws, and much, much more.

The fact that technology constantly changes contributes to the need for a coordinated and ongoing prioritization of technology accessibility. The Section 508 standard was refreshed in 2017 to align with the Web Content Accessibility Guidelines (WCAG) 2.0 that were published in 2008. Despite the fact that in 2018, WCAG 2.1 was released,⁶ there is no plan to update the Section 508 regulations to reflect the changes to WCAG. That means that current regulations are based on a 14-year-old standard that is not considered current best practice. Falling behind the current standard can result in important accessibility improvements not being adopted, even though the industry standard has long since recognized and adopted them. Thus, when setting standards, the federal government should write regulations in a forward-looking way that ensures functionally equivalent access is required in addition to compliance with a standard.

⁵ Johnson, A. & Castro, D. (2021). Improving Accessibility of Federal Government Websites. Information Technology and Innovation Foundation. <https://itif.org/publications/2021/06/03/improving-accessibility-federal-government-websites/>

⁶ “The Accessibility Guidelines Working Group recommends that sites adopt WCAG 2.1 as their new conformance target, even if formal obligations mention WCAG 2.0, to provide improved accessibility and to anticipate future policy changes.” WCAG 2.1, 0.5.1 New Features in WCAG 2.1, <https://www.w3.org/TR/WCAG21/#comparison-with-wcag-2-0>

Despite the current barriers, with coordinated effort, accessible federal technology is within grasp. The White House appropriately demonstrated that accessibility should be a priority and equal partner in diversity, equity, and inclusion efforts by issuing Executive Order 14035.⁷ There are also certainly examples of successful accessibility implementations that can be used as examples for other agencies. For instance, NASA and the Space Telescope Science Institute recently put coordinated effort and forethought into describing recent photos from the James Webb Space Telescope.⁸ The result was effective – indeed excellent – access through text to otherwise visual media that was shared around the world. The decision to provide alt-text and extended image descriptions simultaneously with the photo releases resulted in the inclusion of blind people in a notable public event. What’s more, it improved the experience of all users of these photographs by providing missing context to understand the images, not simply to see them as something beautiful and mysterious. This positive experience should be replicated for all federal technology and programmatic content.

Yet, we know that the federal government still has a long way to go to truly make federal technology consistently accessible for the public and for employees. We recommend that Congress and the Administration take the following steps.

Recommendations

Congress should provide close and regular oversight of federal technology accessibility. Under the Rehabilitation Act and the 21st Century Integrated Digital Experience Act, each federal agency must report on their accessibility progress. We urge Congress to hold agencies accountable for reporting and following through on the gaps revealed in these reports. Congress should also urge the administration to standardize these reports across agencies.

⁷ Executive Order 14035 of June 25, 2021. Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce. 86 FR 34593

⁸ E.g. Southern Ring Nebula (NIRCam/MIRI Side by Side), Text Description, available at <https://webbtelescope.org/contents/media/images/2022/033/01G709QXZPFH83NZFAFP66VWCZ>

Congress should exercise oversight on the following priorities, as well as other recommendations provided to the Domestic Policy Council by the Consortium for Constituents with Disabilities Rights and Technology Task Forces.⁹

- The Office of Management and Budget should update the 2013 Strategic Plan for Improving Management of Section 508 of the Rehabilitation Act.
- The Section 508 regulations should be regularly updated to keep pace with current accessibility best practices.
- Agencies should report on digital accessibility efforts as required by the 21st Century Digital Experience Act and as part of E.O. 14035 reports.
- USAJOBS.gov and agency-specific hiring websites should be held to the highest accessibility standards.
- The Administration should provide agencies with guidance on the interplay between Sections 501 (federal employment) and 503 (federal contractors) of the Rehabilitation Act with Section 508 (ICT).
- Each agency's inspector general should audit compliance with Section 508.
- Agencies should face consequences for failure to implement Section 508 and other digital accessibility efforts.
- Agency procurement procedures should require that all technology meet Section 508 by default and that vendor accessibility claims be verified by a third party.
- The Voluntary Product Accessibility Template (VPAT) should be reviewed and improved for understandability and effectiveness.
- Agencies should improve the complaint resolution process, so that federal employees can safely and confidently report accessibility issues without jumping through hoops.
- National Security Agencies should review and report on the use of the National Security Exemption in Section 508 to ensure that qualified individuals with

⁹ Letter CCD Technology Rights Task Forces to Ambassador Susan Rice, Director, Domestic Policy Council, July 8, 2022. <https://c-c-d.org/fichiers/CCD-Technology-Rights-Letter-to-Administration-re-Section-508-Implementation-07082022.pdf>

disabilities are not unnecessarily excluded from service in military, intelligence, and foreign affairs agencies.

Reporting on these issues alone is, of course, insufficient. Congress should require that agencies have the appropriate expertise and procedures in place to support the development and procurement of accessible technologies, as well as the internal implementation of those technologies throughout programmatic, HR, and IT teams. Many agency officials, especially procurement officers, will need guidance and ongoing professional development opportunities. Key to these efforts will be both the prioritization of accessibility and resource allocation through appropriations that Congress should provide.

Congress must further ensure that accessibility is a priority for the legislative agencies and within its own offices. Congressional staffers with disabilities need ready access to their computers and other office technologies as well as accessible kiosks, such as those that may be used in food services. Individual offices would benefit from greater accountability for making their websites accessible, providing accessible software, and meeting accommodation requests.

Additionally, whenever possible, Congress should mandate in legislative text that websites required by law not only be “publicly accessible” but also be “accessible to and usable by people with disabilities.”

We note that the issue of inaccessible technology extends beyond the federal government. Indeed, there are many areas in which the success of federal programs depends on accessible state-government or privately owned or operated technologies. For example, it is equally important that the FAFSA application be accessible as the financial aid application for an individual university. Or, even if a federal housing database is accessible, someone searching for housing will still encounter significant barriers if the private provider’s application for housing is inaccessible. In order to achieve the full objective of inclusion and accessibility in federal programs, it is important to ensure that technologies used in the rest of society are also accessible. To that end, while the ADA currently requires websites, software applications, kiosks, and

other technologies used by covered entities be accessible, Congress should do more to ensure that agencies issue ICT accessibility regulations under Titles I, II, and III of the ADA as well as under Section 504 of the Rehabilitation Act explicitly prohibiting public accommodations, public entities, employers, and recipients of federal funding from discriminating through technology.

We would like to express our appreciation to the Committee for holding this important hearing. Please do not hesitate to contact me at senyart@afb.org or Sarah Malaier at smlaier@afb.org for any further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephanie Enyart".

Stephanie Enyart, J.D.
Chief Public Policy and Research Officer



**Statement for the Written Record
by the Blinded Veterans Association**

PRESENTED BY

**James R. Vale, Esq.
BVA DIRECTOR, BENEFITS & POLICY**



**BEFORE A FULL SESSION OF THE
SPECIAL COMMITTEE ON AGING
UNITED STATES SENATE**

Hearing on:

Accessible Federal Technology for People with Disabilities, Older
Americans, and Veterans

July 28, 2022

Chairman Casey, Ranking Member Scott, and distinguished Members of the Senate Special Committee on Aging, on behalf of the Blinded Veterans Association (BVA) and its membership, we thank the Committee for holding today's hearing on the critical issue of ensuring that federal agencies are held accountable, particularly the U.S. Department of Veterans Affairs (VA), for achieving digital accessibility under Section 508 of the Rehabilitation Act. We also thank the Committee for allowing us to present written testimony on a subject so dear to our hearts.

We applaud the administration's successes in advancing social reforms resulting in a more diverse, equal, and inclusive society. In keeping with our Congressional Charter, BVA has a long history of providing free claims assistance to all blinded veterans otherwise eligible for benefits, regardless of other factors.

In Executive Order No. 14035, President Biden established priorities for his administration based on the ideals of *Diversity, Equity, Inclusion, and Accessibility* (DEIA). The administration has made great strides inside and outside VA with respect to diversity, equity, and inclusion—too many to mention here. However, we feel like accessibility has been placed on the back burner for too long now.

Despite requirements imposed by Section 508 of the *Rehabilitation Act* to ensure accessibility and usability for people with disabilities, we find many blinded veterans completely locked out when trying to access common VA benefits online. Blinded veterans face significant barriers when VA websites and technology are not accessible, and this lack of accessibility can cause delays in obtaining VA benefits information and travel reimbursements, or an inability to simply check in for VA medical appointments.

VA has enhanced the functionality of its websites to help sighted veterans access claims and benefits information more quickly and easily by not having to call the VA 800 number. However, for blinded veterans, the convenience of these websites is out of reach if the VA website is not compatible with their screen reader. They must either have someone read the information for them, call the VA 800 number to obtain the information, or call their accredited representative to look up the information.

Blinded veterans often face delays in accessing their claims or benefits information, either by having to wait on hold when calling VA, or by waiting days for a call back from their accredited representative. If the information they are seeking is on the VA website, then they should be able to access it independently without having to seek the assistance of a sighted person. We cannot begin to enumerate the problems encountered by blind users of VA systems, including veteran claimants and VA employees, but we include some of these problems below anecdotally.

Recently, BVA heard from a blinded veteran unable to receive her authorized VA travel expense reimbursement from the VA Medical Center because VA mandates online filing. However, the travel website does not comply and remains inaccessible. This may seem trivial to some, but for a blinded veteran on a fixed income, transportation expenses can become very burdensome.

We have received numerous complaints from our membership about check-in kiosks deployed at VA Medical Centers that are not accessible to blinded veterans. One member we heard from could not use the kiosk to check in to his VA medical appointment, and ended up seeking help from a sighted patient, a stranger, who helped him with the check-in process using the kiosk. *Imagine being blind and having to give a stranger your personal information in order to check in for your medical appointment.* Blinded veterans should not have to put their personal information at risk to check in at their VA medical appointments.

Additionally, BVA has received complaints from blind and visually impaired VA employees that VA's non-compliance with Section 508 impacts their job performance and, ultimately, can adversely affect their ability to maintain their VA employment. Their job performance suffers when they cannot access the VA-specific databases they need to access as part of the performance of their official duties. VA has a long list of legacy databases used in claims processing and claims appeals that are not accessible.

To overcome these barriers for its blind or visually impaired service officers working at a VA Regional Office, BVA previously employed fully sighted assistants who could read and fill in the gaps where data needed to be viewed from a VA database that was not Section 508 compliant. Fortunately, most of these legacy systems have either been retired or are soon to be retired and have been replaced with VBMS (Veterans Benefits Management System), which is more modern and more advanced than the systems it replaces. VBMS, however, has Section 508 challenges. We expect more in today's electronic environment.

BVA has also heard complaints from blind and visually impaired VA employees that accessing VA electronic health records in VA's legacy CPRS was and still is an issue for blind VA employees. We have heard many complaints that the new \$16 Billion VA electronic health record, which is based on mouse hover technology, is not 508 compliant. In addition, the VA TMS (Talent Management System) training website used to deliver mandatory annual Rules of Behavior, HIPAA, and Privacy Act training to VA employees, contractors, and accredited Veterans Service Organization staff has Section 508 compliance issues. This creates an obstacle to annual training re-certification for blinded VA employees, many of whom are also veterans.

These roadblocks come as no surprise when considering the *VA Website Accessibility Act of 2019* mandated report showing that only 7.7 percent of VA's 812 websites are fully 508 compliant. This failure to comply reveals a significant barrier that blind and visually impaired persons, including veterans and VA employees, have known for more than two decades as they have been left out when it comes to the other 92.3 percent of noncompliant VA websites.

Blinded veterans and employees cannot access over 90 percent of VA's websites!

VA provides a wide range of benefits to veterans under Title 38, including disability

compensation, pension, education benefits (such as the GI Bill, Vocational Rehabilitation, and employment readiness services), home loans, healthcare benefits, and burial and survivor benefits.

It is important for blinded veterans to have independent access to the VA website for information on the wide range of VA benefits available, including eligibility requirements. Further, we must have the ability to prepare and submit online applications.

Through its website, VA provides veterans the ability to schedule medical appointments, order prescriptions, view medical test results, and communicate with their VA medical provider via secure online messaging. The more self-service functionality VA puts on its websites, the more important accessibility becomes for our disabled veterans.

Clearly, website accessibility has not been a priority for a very long time at VA. We ask the Committee to push for greater accessibility to VA systems for all veterans and VA employees who need accommodation, especially those who are blinded.

The law requires that all VA websites, medical center check-in kiosks, and the new Electronic Health Record (EHR), be fully 508 compliant. BVA requests stronger Congressional oversight and agency transparency on VA's progress of updating websites, files, and applications that are still inaccessible to blinded individuals.

Platforms such as SharePoint, used throughout the VA enterprise, and other similar platforms are still not addressed by this review as VA does not consider these to be websites. It is noteworthy that Microsoft, the maker of SharePoint, posted on its website: "What is SharePoint? Organizations use Microsoft SharePoint to create websites. You can use it as a secure place to store, organize, share, and access information from any device. All you need is a web browser such as Microsoft Edge, Internet Explorer, Chrome, or Firefox." To the blind or visually impaired user SharePoint looks just like a website. VA skirting 508 compliance is a departure from its goal as a world-class promoter of inclusion, and specifically excludes blind and visually impaired persons.

BVA urges VA to create an Under Secretary of Accessibility to champion with the authority and subject matter expertise to lead VA's 508 compliance efforts and ensure that all VA websites (to include SharePoint) and facilities—including self-service kiosks at VA Medical Centers and Community Based Outpatient Clinics—will be accessible for all blinded and visually impaired individuals.

We congratulate the administration on its noble efforts to increase DEIA, particularly with regard to care and benefits provided by VA. However, without accessibility, there can be no true equity or inclusion, and thus no real diversity.

Please remember that blinded and low-vision veterans and employees wish to be equally included in our nation's beautiful patchwork of diversity. Only by creating more pathways to accessibility will the goal of DEIA be fully realized.

Our veterans and those who serve them deserve better.

Please contact BVA National Service Director James Vale at jvale@bva.org for more information or if we may be of any other assistance.

BIOGRAPHY

JAMES R. VALE, ESQ.
BVA National Service Director

James R. Vale is the National Service Director, Benefits & Policy at the Blinded Veterans Association, where he leads both Government Relations and Veteran Service Programs. Mr. Vale has more than 17 years of veterans' advocacy experience in leadership positions, including Assistant Director for Claims at The American Legion, National Service Director and Senior Counsel for Vietnam Veterans of America, and Supervisory Senior Counsel at the Board of Veterans' Appeals. In 2008, he was the David Isbell Law Clerk for the Veterans Consortium Pro Bono Program. He began representing veterans in 2004 as an American Legion Service Officer. Mr. Vale is a legally blind Gulf War Era veteran of the U.S. Navy and a graduate of Embry-Riddle Aeronautical University (B.S. 1993; M.B.A. 1995; M.A.S. 1999), University of Arizona (Ed.S. 2001; M.P.A. 2003), and Seattle University School of Law (J.D. 2008). He is a member of the Washington State Bar. Mr. Vale is the author of Section 5.2.12 regarding the evaluation of eye disabilities in the Veterans Benefits Manual (NVLSP/LexisNexis). He is a graduate of both the VA Blind Rehabilitation program and VA Vocational Rehabilitation & Employment program.



Statement for the Written Record
from the Undersigned Members of the

Consortium for Constituents with Disabilities (CCD)

**Special Committee on Aging
United States Senate**

Hearing on:

[“Click Here: Accessible Federal Technology for People with Disabilities,
Older Americans, and Veterans”](#)

July 28, 2022

Contact: Joe Nahra, CCD Technology and Telecommunications Task Force Co-Chair
(202) 349-4243 | Joseph.Nahra@PowersLaw.com
www.c-c-d.org

Chairman Casey, Ranking Member Scott, and Members of the Senate Special Committee on Aging:

On behalf of the undersigned members of the Consortium for Constituents with Disabilities (CCD) Technology & Telecommunications and Rights Task Forces, we write to thank the Committee for holding today's hearing on the critical issue of ensuring that federal agencies are held accountable for achieving digital accessibility under Section 508 of the Rehabilitation Act (an outcome that should have been achieved years ago). We thank the Committee for its attention to these issues and urge Congress to work with the Administration to ensure that the federal government takes all necessary and sufficient steps to advance diversity, equity, inclusion, and accessibility (DEIA) in the federal workforce, including implementing meaningful consequences for agencies that continue to renege on their legal obligations under Section 508.

The CCD is the country's largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ based discrimination and religious intolerance.

Importance of Federal Digital Accessibility

The development, procurement, maintenance, and use of websites, online systems, mobile applications, and other forms of information and communication technology (ICT)¹ are central to the operation of Federal agencies in the 21st century. Reliance on the Internet and intranets has dramatically changed the way agencies conduct work and communicate internally as well as with the public, including the manner in which individuals apply for jobs. Further, agency use of email and social media is dramatically changing the way agencies communicate, both internally and externally.

On June 25, 2021, President Biden issued [Executive Order No. 14035 on Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce](#),² establishing that diversity, equity, inclusion, **and accessibility**³ are priorities for the Biden administration and

¹ The term "information and communication technology" means information technology and other equipment, systems, technologies, or processes, for which the principal function is the creation, manipulation, storage, display, receipt, or transmission of electronic data and information, as well as any associated content. Examples of ICT include but are not limited to: computers and peripheral equipment; information kiosks and transaction machines; telecommunication equipment; customer premise equipment; multifunction office machines; software; applications; web sites; videos; and electronic documents. [Appendix A to Part 1194, E103.4; Architectural and Transportation Barriers Compliance Board (U.S. Access Board); Information and Communication Technology (ICT) Standards and Guidance, 82 Fed. Reg. 5,790 (January 18, 2017).]

² Exec. Order No. 14035, 86 C.F.R. 123 (2021). Available at <https://www.federalregister.gov/documents/2021/06/30/2021-14127/diversity-equity-inclusion-and-accessibility-in-the-federal-workforce>

³ The term "accessibility" means the design, construction, development, and maintenance of facilities, information and communication technology, programs, and services, so that all people, including people with disabilities, can fully and independently use them. Accessibility includes the provision of accommodations and modifications to ensure equal access to employment and participation in activities for people with disabilities, the reduction or elimination of physical and attitudinal barriers to equitable opportunities, a commitment to ensuring that people

detailing additional procedures to advance these priorities across the Federal workforce.⁴

[Section 508 of the Rehabilitation Act](#)⁵ requires agencies to provide federal employees and members of the public with disabilities access to information and data that is comparable to the access provided to federal employees and members of the public without disabilities. Consistent with the Section 508 statute, [regulations implementing Section 508](#)⁶ also require that ICT developed, procured, maintained, and used by federal agencies be accessible to and usable by people with disabilities.

We applaud the Biden Administration for including “accessibility” as a cornerstone of efforts in E.O. 14035 to “cultivate a workforce that draws from the full diversity of the Nation.” In particular, we strongly support the unequivocal directive in the Executive Order and the [Government-wide DEIA Strategic Plan](#)⁷ that:

- “All information and communication technology and products developed, procured, maintained, or used by Federal agencies are accessible and usable by employees with disabilities consistent with all standards and technical requirements of the Rehabilitation Act of 1973” [E.O. 14035§ 10(b)(iii)(F)] and
- “[the federal government] Ensure all technology, whether developed in-house or externally, is compliant with Section 508 of the Rehabilitation Act before deployment.” [Government-wide DEIA Strategic Plan, § 4 Accessibility Roadmap, p. 14].

Further, we applaud the technical assistance materials prepared by the Administration for use by federal agencies in achieving digital accessibility, particularly the guidance on [www.Section508.gov](#) titled “[Integrating Accessibility into Agency Diversity, Equity, Inclusion, and Accessibility \(DEIA\) Implementation Plans](#).”⁸ But we believe that these efforts, alone, will not ensure achievement of these goals, and that additional proactive steps need to be taken to ensure that the charge of the President’s Executive Order is realized and Section 508 is fully implemented.

Recommendations for Implementing EO 14035 and Section 508 Requirements

with disabilities can independently access every outward-facing and internal activity or electronic space, and the pursuit of best practices such as universal design. [E.O. 14035, § 2(e)]

⁴ See Appendix for a more comprehensive description of digital accessibility provisions in E.O. 14035 and the [Government-wide Strategic Plan to Advance Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce](#).

⁵ Rehabilitation Act of 1973 § 508, 29 U.S.C. § 794(d). Available at:

<https://www.dol.gov/agencies/oasam/regulatory/statutes/section-508-rehabilitation-act-of-1973>

⁶ Architectural and Transportation Barriers Compliance Board (U.S. Access Board); Information and Communication Technology (ICT) Standards and Guidance, 82 Fed. Reg. 5,790 (January 18, 2017). Available at:

<https://www.federalregister.gov/documents/2017/01/18/2017-00395/information-and-communication-technology-ict-standards-and-guidelines>

⁷ *Government-wide Strategic Plan to Advance Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce* (November 2021). Available at: <https://www.whitehouse.gov/wp-content/uploads/2021/11/Strategic-Plan-to-Advance-Diversity-Equity-Inclusion-and-Accessibility-in-the-Federal-Workforce-11.23.21.pdf>

⁸ Available at: <https://www.section508.gov/manage/deia-guidance/>

As the Committee considers opportunities for Congressional action to advance digital accessibility, we encourage you to work with the Biden Administration to identify legislative, regulatory, subregulatory, and other avenues to achieve these goals in the short, medium, and long-terms. In particular, we have identified the following recommendations for Administrative action, and encourage the Committee to raise these ideas with the Domestic Policy Council and other facets of the Administration.

1. In accordance with current legislative and regulatory requirements, ensure that the Department of Justice (DOJ) conducts a regular, comprehensive review of compliance with Section 508 by federal agencies and submits periodic reports to the President and Congress. As was noted in the June 30, 2022 letter⁹ led by Chairman Casey, Ranking Member Scott, and leaders of other relevant Senate Committees, this mandatory audit review is required to be conducted biennially under §(d)(2) of Section 508, but has not been completed since 2012.
2. Direct the Office of Management and Budget (OMB) to update the [2013 Strategic Plan for Improving Management of Section 508 of the Rehabilitation Act](#).¹⁰ The update should include, among other things, a directive that each federal agency proactively engage with users and take proactive steps to modernize infrastructures and support the rapid adoption of technological innovations that reduce reliance on inaccessible formats (such as paper and ink signatures), in-person meetings, and telephone interactions, including ensuring accessibility and usability for people with disabilities at the initial design stages. The current Strategic Plan requires agencies to report to OMB regularly on their progress in improving baseline assessment measures. These reports, or a summary developed by OMB, should be made public on an annual basis to enhance transparency and ensure progress in advancing accessibility goals.
3. Direct federal agencies to explicitly report on digital accessibility efforts in annual reporting required by § 3(d) of the 21st Century Integrated Digital Experience Act (IDEA).¹¹
4. Require that the annual report to the President regarding implementation of EO 14035 [§ 4(c)] include a specific section on digital accessibility and that each federal agency submit quarterly progress reports to the Domestic Policy Council regarding digital accessibility. These reports should also incorporate by reference the accessibility sections included in the aforementioned 21st Century IDEA reports, and report on planned activities to address outstanding requirements under this legislation and any barriers to accessibility identified in these reports.

⁹ Available at <https://www.aging.senate.gov/press-releases/casey-leads-bipartisan-letter-demanding-answers-from-department-of-justice-on-lack-of-web-accessibility-for-people-with-disabilities>.

¹⁰ Office of Management and Budget, *Strategic Plan: Improving Management of Section 508 of the Rehabilitation Act: A Framework for Enhancing and Sustaining Management Improvements to Increase the Accessibility of Electronic and Information Technology* (2013). At: <https://obamawhitehouse.archives.gov/sites/default/files/omb/procurement/memo/strategic-plan-508-compliance.pdf>

¹¹ 21st Century Integrated Digital Experience Act, Pub. Law 115-136.

5. Require that compliance with and implementation of Section 508 is included in audits conducted by each agency's Inspector General and include Section 508 compliance in OMB Circular A-123 audits.
6. Require that federal agencies appoint a Chief Accessibility Officer who is responsible for ensuring compliance with Section 508 agency-wide and implementing the digital accessibility roadmap prescribed by E.O. 14035 and the Government-wide Strategic Plan.
7. Establish and communicate to federal agency officials clear consequences for failures to comply with and implement Section 508 and the digital accessibility initiatives included in E.O. 14035.
8. Require that all federal agencies include in their DEIA strategic plan specific goals, objectives, and benchmarks for carrying out the roadmap for achieving digital accessibility set out in "[Integrating Accessibility into Agency Diversity, Equity, Inclusion, and Accessibility \(DEIA\) Implementation Plans](#)."
9. Require third party certification (verification) of vendor accessibility claims including usability testing by actual users with disabilities (in procurement, require a certification of 508 compliance from a qualified third party with material experience in the space).
 - a. Certification must come from a legitimate expert in the space with the systems and methodology to make a valid determination of compliance.
 - b. Certification must also cover the vendor's "accessibility maturity" (i.e., the product should not just be evaluated for accessibility at a single point in time; vendors must have the systems and processes in place to maintain a product's compliance as it "matures").
10. Review, expand, and improve the Voluntary Product Accessibility Template (VPAT) process and documentation.
 - a. Vendors should provide a warranty related to the product's accessibility covered in their VPAT.
 - b. The US Access Board panel setting applicable standards should include a balance of representatives with all types of disabilities and technical experts including those who have actually built a product.
 - c. The current VPAT form, which is cumbersome and confusing, should be reviewed and replaced with a process that makes sense both from the vendors' and reviewers' point of view.
 - d. Require, if possible, accessibility features be turned on by default—avoiding a decision by buyers/operators who may not understand the requirement.
 - e. The agency should report who evaluated Section 508 compliance in the process, as well as:
 - i. The results of that assessment;
 - ii. The way that assessment maps back to the regulatory requirements; and
 - iii. The way that assessment was scored as part of the overall process.
11. Modify the complaint resolution process to safeguard federal employees who find and report that something does not work.
12. Include the Section 508 requirements in all procurements of technology by default.

13. Require the personal certification of the procurement officer and report of such certification back to the public.
14. Review the application of the National Security Exemption in the Section 508 regulation [36 C.F.R. 1194 (Appendix A, E. 202.3)] to determine whether it is being applied to ICT operated by agencies as part of a national security system [as defined in 40 U.S.C. 11103(a)] in a manner that unnecessarily screens out or tends to screen out qualified individuals with disabilities in military, intelligence, and/or foreign affairs agencies.

Implementing these recommendations would help ensure that all federal agencies finally make digital accessibility a core aspect of “doing business” so that applicants and employees with disabilities enjoy a genuine, effective, and meaningful opportunity to participate in the federal workforce.

We appreciate the opportunity to provide the Committee with our perspective on the importance of federal action to enhance accessibility of information and communication technology covered under Section 508. The Consortium for Constituents with Disabilities and its members look forward to working with Congress and the Administration to ensure that people with disabilities can access and use the federal technology they encounter.

If you have any questions or if we can be of any assistance, please do not hesitate to reach out to Joe Nahra, CCD Technology & Telecommunications Task Force co-chair, at Joseph.Nahra@PowersLaw.com. Thank you for your consideration of these recommendations.

Sincerely,

The Undersigned Members of the Consortium for Constituents with Disabilities

Access Ready
American Council of the Blind
American Foundation for the Blind
American Therapeutic Recreation Association
The Arc of the United States
Assistive Technology Industry Association
Association of Assistive Technology Act Programs
Association of People Supporting Employment First
Autistic Self Advocacy Network
Autistic Women & Nonbinary Network
Center for Public Representation
Disability Rights Education and Defense Fund
Epilepsy Foundation
National Disability Rights Network
Perkins School for the Blind
TASH
Telecommunications for the Deaf and Hard of Hearing
United Spinal Association
The Viscardi Center

**Click Here: Accessible Federal Technology for Persons with Disabilities,
Older Americans, and Veterans**

Public Statement for Committee Hearing

Deepa Goraya, Attorney, Washington DC

Section 508 of the Rehabilitation Act of 1973 is supposed to ensure that Electronic and Information Technology (EIT) is accessible to persons with disabilities, including members of the public and federal employees. However, almost 50 years later, this is not the case, especially for those who are blind. Federal blind employees and blind members of the public still experience issues not only with many federal websites, but with internal government programs and technology necessary to do their jobs. I am a blind disability rights attorney, and I have represented individuals who have experienced difficulty using federal websites such as sam.gov, used by independent federal contractors to register and renew their contracts. Sam.gov, run by GSA, contained several correctable digital accessibility issues such as undisclosed timeouts, mouseovers and other hidden text, and hidden text boxes which made it impossible for blind contractors to use it independently. I have also represented a federal employee who was experiencing access issues with Business Intelligence software used by his agency, to the point that he was unable to do his job without sighted assistance. This kept him from advancing in his career, being promoted beyond a GS13 position in 13 years, getting more advanced training, and from taking on more job responsibilities. I myself have experienced issues with accessing documents, statutes, and other information on federal websites such as HHS when doing legal research. This has slowed down my progress on my job, as I have had to use sighted assistance to access and sift through large inaccessible documents. Many federal District electronic court filing systems are also largely inaccessible to screen readers. This has made it difficult for me to file court documents independently, necessitating the help of a paralegal even late at night.

Federal websites are not the only EIT that blind individuals lack access to. Internal government software, equipment, programs, apps, and other technologies are also even more largely inaccessible to federal employees. This lack of access keeps blind employees from doing everyday job tasks independently, and slowing their professional development and advancement. Some examples of inaccessible technologies include many features of SharePoint, digital copiers, phones with touchscreen keypads, Slack, inaccessible medical records at the VA, parts of Microsoft Teams, the WebEx video conferencing platform used by many federal agencies, and much more. Often these technologies are very difficult or impossible to use with a screen reader, thus making it difficult or impossible for that blind employee to do their job and equally participate. Often, Section 508 administrative complaints go unresolved, or take years to resolve because they “go into a black hole” and blind employees and contractors eventually grow exhausted and stop filing such complaints. The answer to these accessibility issues is not to use sighted assistance, such as a reader, as a work around. Utilizing a sighted reader presents yet another obstacle, as the blind employee must now work around that reader’s schedule and cannot

work at the hours he or she wants, cannot work after hours, and cannot navigate the information efficiently. A reader is also another employee that the federal agency must hire and fund to accommodate the blind employee. More emphasis must instead be placed on only procuring hardware and software that is accessible from the beginning, rather than purchasing it and then trying to make it accessible later. Federal agencies need to employ a much more robust procurement process relating to digital accessibility testing, especially by qualified testers who are both blind and visually impaired, and digital accessibility practitioners. The more this is done, the more vendors and suppliers will have the incentive to make their products accessible from the start. The federal government, as one of the largest procurers of technology, needs to take a much more active role with vendors to ensure full accessibility. This will also benefit the private sector employees, who will be able to utilize this accessible technology. Nearly 50 years after the implementation of Section 508, and after a 508 refresh, we cannot afford to have these accessibility issues. We can't afford to leave a significant part of the federal workforce out. The more we create a culture of inclusiveness and equal participation, the more diversity of minds and skills we will have contributing to the economy and to the success of our agencies and companies. The more creativity and innovation we will have, and the more talent we will utilize and keep. We must also incorporate this culture of inclusiveness into the general public, and ensure that information and data is accessible to everyone. Federal agencies, procurement officers, and vendors should openly welcome and encourage accessibility feedback across the disability stakeholder community, and apply it. This is how we build transparency and trust. We must do a much better and more consistent job of enforcing Section 508 at all stages. This is essential to reduce the 70% unemployment rate for people who are blind.

**Testimony to the U.S. Senate Committee on Aging
Hearing on the Accessibility of Federal Websites and Technology
July 28, 2022
Jonathan Lazar, Ph.D., LL.M.
Professor of Information Studies, University of Maryland**

Section 508 of the Rehabilitation Act (“Section 508”) has the potential to improve the quality of life for millions of Americans with disabilities. However, the implementation of Section 508 over the past 20 years has been poor. In this testimony, I will describe some of the current weaknesses of Section 508 and point to potential solutions.

1. Section 508 of the Rehabilitation Act

Section 508 requires that:

When developing, procuring, maintaining, or using electronic and information technology, each Federal department or agency, including the United States Postal Service, shall ensure, unless an undue burden would be imposed on the department or agency, that the electronic and information technology allows, regardless of the type of medium of the technology

(i) individuals with disabilities who are Federal employees to have access to and use of information and data that is comparable to the access to and use of the information and data by Federal employees who are not individuals with disabilities; and

(ii) individuals with disabilities who are members of the public seeking information or services from a Federal department or agency to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities.¹

Let’s start by discussing what is good about Section 508:

1. Section 508 clearly requires coverage of all types of electronic and information technologies, including web sites, software applications, operating systems, and hardware.
2. Section 508 clearly covers both technologies available to the public (such as web sites), as well as technologies for Federal employees.
3. The regulations for Section 508 were updated in 2017², to require conformance with the Web Content Accessibility Guidelines (WCAG), the most well-known, well accepted, and well understood accessibility guidelines in the world.³

¹ 29 U.S.C. § 794d(a)(1)(A)

² 36 C.F.R. § 1194

³ <https://www.w3.org/WAI/standards-guidelines/>

To summarize, the coverage provided by Section 508 is good, and the regulations are updated and involve well-respected technical guidelines for accessibility.

We often think of Section 508 as only improving the quality of life for people with disabilities. However, accessibility helps all users. Designing digital technologies and content so that they can be utilized by the broadest number of people, including people with disabilities, should be an obvious design goal. This seems straightforward, since it's good design (to design for the largest number of users) but also cost-effective (since users who can access services online will reduce the demand on call centers and for paper publications). Just as curb cuts on the street help not only wheelchair users, but also bikers and those pushing strollers or luggage, accessible electronic and information technology is also more usable for people without disabilities.⁴ The Washington Post recently featured a great example of this, in an article titled "The unexpected star of NASA's Webb images — the alt text descriptions":

The alt text feature on social media platforms allows a person to describe through words an image so that someone who is blind or visually impaired can use screen-reader technology to know what is being shown. In other words, it makes an image accessible to everyone. And in the case of the recent photos shared by NASA, it allowed everyone to know they were looking at celestial scenes bursting with colors and shapes. NASA, of course, should have included those descriptions with its photos. That it did was not surprising. What proved unexpected was how poetically striking and scientifically accurate those descriptions ended up being..... That description can be appreciated by someone who is blind or someone who wants to know more about astronomy or anyone who appreciates the care that goes into choosing just the right word.⁵

2. Problems with Section 508 implementation

Over the past 20 years, the implementation of Section 508 has been very poor. Many Federal web sites remain inaccessible. Many Federal agencies procure inaccessible technologies. There is very limited transparency. Both the public, and Federal employees suffer as a result. There are multiple potential reasons for this:

- The Department of Justice (DOJ) has the statutory responsibility to report on Section 508 compliance every two years,⁶ but through most of the last decade, has neglected to do so.

⁴ See research articles such as Sven Schmutz et al., Implementing Recommendations from Web Accessibility Guidelines: Would They Also Provide Benefits to Nondisabled Users, 58 HUM. FACTORS 611 (2016) (concluding that "that implementing accessibility guidelines can provide several benefits for nondisabled users.").

⁵ <https://www.washingtonpost.com/dc-md-va/2022/07/20/nasa-images-accessible-text/>

⁶ From 29 U.S.C. § 794d(d)(2): "Not later than 3 years after August 7, 1998, and every 2 years thereafter, the Attorney General shall prepare and submit to the President and Congress a report containing information on and

- While some agencies have full-time Section 508 coordinators, at many other agencies, those responsibilities are simply “tacked on” to someone who already has full-time job responsibilities, without further resources or time to coordinate Section 508 compliance within the agency.
- While the regulations provide clarity on what features make a website accessible, there isn’t clear guidance on the management and maintenance processes to keep a website accessible.
- Agencies are not required to document or report on an ongoing basis what they do to ensure accessibility on their Web pages. Website accessibility needs to be a key component of open and transparent government. Most agencies provide very little information to the public about their compliance with Section 508.
- There isn’t one clear person or agency responsible for accessibility. Over the past 10 years, the major players have been the DOJ, the U.S. Access Board, GSA, the CIO Council Accessibility Committee, and (when the position has existed) the White House liaison for the Disability Community. However, none of these entities have enforcement power, as neither the statute nor the regulation authorizes any enforcement power.

In many ways, Section 508 compliance has not improved in over a decade, and the reasons for noncompliance have not changed in over a decade. The list of reasons that I just provided are not new. In fact, this list of reasons is from an invited guest blog post that I wrote on disability.gov, titled “Federal Government Website Accessibility-Still a Long Way to Go.” It was posted on June 29, 2011, over a decade ago.⁷ The problems that exist in Section 508 compliance are still due to the same root causes as in 2011. Each Federal agency is essentially on the “honor system,” as no agency has the authority to enforce Section 508, no agency is required to report publicly about their compliance with Section 508, and so Section 508 remains hidden away.

In part due to this lack of transparency, in 2011 and 2012, disability rights lawyers filed a series of FOIA requests to learn more about how Federal agencies are managing Section 508 compliance. I was given some of the resulting documents to analyze, and I discussed these findings in the book that I co-authored, *Ensuring Digital Accessibility Through Process and Policy*.⁸ Among the problematic patterns highlighted from the FOIA requests:

recommendations regarding the state of Federal department and agency compliance with the requirements of this section, including actions regarding individual complaints under subsection (f)."

⁷ While the post is no longer active on disability.gov, and in fact the disability.gov site no longer exists and users are redirected to the U.S. Department of Labor Office of Disability Employment Policy web site, some sites on the web have kept up the blog post in full, such as: <https://www.accessibilitynewsinternational.com/federal-government-website-accessibility-%E2%80%93-still-a-long-way-to-go/>

⁸ Lazar, J., Goldstein, D., and Taylor, A. (2015). *Ensuring Digital Accessibility Through Process and Policy*. Waltham, MA: Elsevier/Morgan Kaufmann Publishers, 164-165.

- Agencies use a variety of automated software tools from different vendors without any validation or confidence in the results.
- Each agency creates its own "Section 508 documents" which provide information to agency employees on what Section 508 is and how to comply.
- In many cases, agencies do not have a good understanding of whether they are compliant with Section 508 and, if so, how compliant they are, and are not even sure how to evaluate that.⁹
- Agencies often make accessibility fixes only reactively, when notified of problems or if an administrative complaint is filed. Reactively retrofitting for accessibility is the most expensive way to do it. When technologies are designed from the start to be accessible, the additional costs to be accessible are minimal. Retrofitting a technology for accessibility after it is built can lead to higher costs, however, the costs are not inherent to the accessibility, the costs are due to the need to retrofit.¹⁰ Also, the time delay in retrofitting the technology for accessibility, when a person with disabilities doesn't have access to it but a person without disabilities does have access, is a form of societal discrimination.¹¹

In one of the most shocking examples from the FOIA requests, employees at the U.S. Department of Labor had a discussion about whether they could potentially get a waiver from Section 508 requirements because they did not have any employees with disabilities who might use the product.¹² Obviously, if you do not currently have any employees with disabilities, and you procure or build technologies that are inaccessible, they will serve as a barrier for hiring employees with disabilities in the future.

3. Suggestions for improving Section 508 implementation

I provide the following suggestions for improving the implementation of Section 508:

- **Requirements for transparency.** As of right now, agencies can get away with ignoring Section 508 requirements because there is no requirement to publicly provide any information about their compliance with Section 508. There needs to be a requirement that each Federal agency provide annual or semi-annual reports to the public on their compliance with Section 508. My understanding is that GSA has been collecting data for

⁹ Lazar, J., Goldstein, D., and Taylor, A. (2015). Ensuring Digital Accessibility Through Process and Policy. Waltham, MA: Elsevier/Morgan Kaufmann Publishers

¹⁰ See Wentz, B., Jaeger, P., and Lazar, J. (2011). Retrofitting Accessibility: The Inequality of After-the-Fact Access for Persons with Disabilities in the United States. First Monday, 16(11) (available at: <http://firstmonday.org/>) for more information on the costs of retrofitting accessibility.

¹¹ Lazar, J., Goldstein, D., and Taylor, A. (2015). Ensuring Digital Accessibility Through Process and Policy. Waltham, MA: Elsevier/Morgan Kaufmann Publishers

¹² Source document: Quality Management Team: Meeting Minutes, July 8, 2011. "[Name removed] said that if there are no disabled users for a product it should automatically qualify for undue burden. The group unanimously agreed

years on the compliance of agencies with Section 508, but that data has never been made public.

- **Enforcement power.** An agency or officer within the Federal government needs to be given enforcement power for Section 508. While the U.S. Access Board is authorized to promulgate the rulemaking for Section 508,¹³ no agency is given enforcement authority, and while there are multiple “interested parties”, there is no agency that can enforce Section 508 compliance. Furthermore, the means for enforcement listed in Section 508 is filing a complaint with the offending agency: *“Complaints filed under paragraph (1) shall be filed with the Federal department or agency alleged to be in noncompliance.”*¹⁴ Such self-enforcement is an unreliable means of meeting something as important as a civil rights requirement.
- **Centralized information and procurement.** Many agencies may claim that their mission is unique and what they do is unique and they cannot be subject to centralized information technology guidance. However, with some exceptions (e.g. the national security systems which already are exempted within Section 508¹⁵), the underlying technologies agencies use are identical and the approaches for improving accessibility are identical. There is no reason that agencies should each create their own basic documents on accessibility, and should procure a wide range of tools for accessibility testing, without being aware of the effectiveness of these tools. For instance, documents on Section 508 compliance should explain the universal principle that building or procuring an inaccessible technology and then retro-fitting it for accessibility, is expensive and is the least cost-effective way to reach accessibility.¹⁶ Centralizing information about Section 508 compliance, as well as testing of and procurement of accessibility-related tools, would improve efficiency and effectiveness of Section 508 compliance. A great example is the Trusted Tester program offered by the Department of Homeland Security.¹⁷ The Trusted Tester program trains Federal employees throughout the government, about the technical standards and processes for testing for accessibility for Section 508 compliance. The certifications offered by the Trusted Tester program are well-respected, both inside and outside of government.
- **The role of Section 508 Coordinators/Program Managers must be clarified and enhanced.** Each agency is supposed to have a Section 508 coordinator to manage the agency’s compliance with Section 508. The title used to be “coordinator” but according to

with [name removed]; however, [name removed] and [name removed] stated that by law this cannot be a justification for choosing undue burden alone.”

¹³ 29 U.S.C. § 794d (a)(2)(A)

¹⁴ 29 U.S.C. § 794d (f)(2)

¹⁵ 29 U.S.C. § 794d (a)(5)

¹⁶ See Wentz, B., Jaeger, P., and Lazar, J. (2011). Retrofitting Accessibility: The Inequality of After-the-Fact Access for Persons with Disabilities in the United States. *First Monday*, 16(11) (available at: <http://firstmonday.org/>)

¹⁷ <https://www.dhs.gov/trusted-tester>

the GSA Section508.gov web site, the title is now “Section 508 Program Manager.” The role of the Section 508 Program Manager is unclear, and while there are full-time Section 508 Program Managers at some agencies, at other agencies employees may just have the title attached on to an already long list of responsibilities. The role and responsibilities of a Section 508 Program Manager need to be clear, and the job needs to be a full-time job. Larger agencies may need multiple Section 508 Program Managers for different centers within the agency, or a “Section 508 compliance team.” Right now, the staffing for Section 508 compliance is insufficient throughout government.

- **Federal employees with disabilities, and public members with disabilities, need to be brought more directly into the Section 508 process.** Using procurement techniques and automated tools for testing for accessibility is not sufficient. We need to ensure that the lived experience of people with disabilities is also brought into the process of Section 508 compliance. A few Federal agencies have experienced success with having a panel of employees or members of the public with disabilities to guide the Section 508 implementation.¹⁸ The U.S. Access Board may be the model for this, in terms of bringing in the lived experiences of people with disabilities into policymaking. This model of inclusion, of having people with disabilities guiding Section 508 implementation, needs to be implemented across the Federal government.

4. Summary

I want to repeat something that I wrote in my 2011 blog post on disability.gov, as it is still key to understanding the solution:

Let me be clear about something: the solutions, the knowledge, and the expertise to solve federal website accessibility already exist within the federal government. There are many federal employees with extensive knowledge in the areas of usability and accessibility, who are striving towards excellence in 508 compliance on a daily basis.

More than 10 years later, there is still much existing expertise about digital accessibility within the Federal government. The solutions involve a restructuring of how Section 508 is implemented, when information must be shared with the public, who has enforcement power, and who takes responsibility. Because of how Section 508 implementation has been structured, Section 508 basically gets “hidden away,” easy to ignore because there are so many other existing challenges. Major changes need to be made in how Section 508 is implemented, to improve outcomes for people with disabilities.

¹⁸ Lazar, J., and Olalere, A. (2011). Investigation of Best Practices for Maintaining Section 508 Compliance in U.S. Federal Web Sites. *Proceedings of the 2011 Human Computer Interaction International Conference*, 498-506.

*Dr. Jonathan Lazar is a Professor in the College of Information Studies (iSchool) at the University of Maryland. At the University of Maryland, Dr. Lazar is the director of the Trace Research and Development Center, the nation's oldest research center on technology and disability, and is a faculty member in the Human-Computer Interaction Lab. Dr. Lazar joined the iSchool in 2019, after 19 years as a Professor of Computer and Information Sciences at Towson University, where he served as director of the information systems program for 14 years. Dr. Lazar has authored or edited 14 books, including *Research Methods in Human-Computer Interaction* (2nd edition, co-authored with Heidi Feng and Harry Hochheiser), *Ensuring Digital Accessibility Through Process and Policy* (co-authored with Dan Goldstein and Anne Taylor), and *Disability, Human Rights, and Information Technology* (co-edited with Michael Stein). He has published over 150 refereed articles in journals, conference proceedings, and edited books, and has been granted two US patents for his work on accessible web-based security features for blind users. He frequently serves as an adviser to government agencies and regularly provides testimony at federal and state levels, and multiple US federal regulations cite his research publications. Dr. Lazar has recently been honored with the 2020 ACM SIGACCESS Award for Outstanding Contributions to Computing and Accessibility, the 2017 University System of Maryland Board of Regents Award for Excellence in Research, and the 2016 ACM SIGCHI Social Impact Award, given annually to an individual who has promoted the application of human-computer interaction research to pressing societal needs. **The opinions expressed in this testimony are the opinions of Dr. Lazar and do not represent the University of Maryland or the University System of Maryland.***

Dr. Lazar can be reached by e-mail at jlazar@umd.edu.

**Ken Lebron,
Director
Berks County Veterans Affairs
726 Cherry Street Reading PA 19602
(610) 378-5601**

Barriers to VA Website Access for (Senior/Aging) Veterans

The mission of the Berks County Department of Veterans Affairs is to administer a comprehensive array of benefit programs and provide assistance services pertaining to claims to the veterans of Berks County and their dependent widows/widowers and orphans in the most expeditious and accountable manner we can. These benefits include those provided by federal, state, and local governments. Our staff of 5.5 makes our services available to over 20,030 veterans and secures VA benefits awards of more than \$30 Million annually in Berks County.

Barriers to Access

Aged/Senior Veterans have limited to no access to computer or internet. Most of the veteran population we serve and advocate on behalf (>80%) are seniors over the age of 50, where “younger” veterans (under the age of 50) tend to be self-sufficient, do it yourselves as it pertains to computer usage, internet access and technological abilities. Aged/Senior Veterans often lack the basic technological skills to navigate and access VA resources on VA websites on electronic devices. Even if a veteran has access to such technology and the internet, they may not have the capability and wherewithal to access and navigate such systems. Computer technology and its operating systems change at such a high rate of speed (annually) that the cost to maintain or upgrade that technology (hardware and software) can also be a financial barrier when aged and senior veterans are living on low and fixed income. These barrier result in their need of assistance from others to navigate these systems such as family members, friends, neighbors, volunteers, caregivers, aides, etc.

Accessing a new system or resource for the first time requires account creation. Aged/Senior Veterans often have difficulty creating and maintaining logon credentials, especially since those accounts require complex and stringent security protocols be met, such as creation of a complex password that must be changed frequently. If a veteran gets locked out of an account due to multiple incorrect login attempts, it becomes nearly impossible for them to navigate the security portal/process to unlock the account. Calling the VA for technical support results in long, discouraging wait times and calls that often suddenly drop without connecting to a support technician due to staffing shortages and high call volumes.

As our veterans age, they present with increased and severely debilitating disabilities (both service-related, and non-service related) coupled with diminished cognitive ability. Illiteracy, Dyslexia, Memory Loss, Traumatic Brain Injury, or other cognitive disabilities are just a few examples of such disabilities plaguing our veterans. Will they understand what they are seeing and reading? Will they know what to do next? How to follow-up after a claim for benefits are submitted. Who do they contact? Too much of anyone thing is never a good thing. In this case, the web resources are flooded with information and scattered everywhere. Veterans don't know where to go to find it all. Family, friends, providers and caregivers who help these veterans at home are often misinformed themselves regarding VA benefits, resources and where to find them. Lastly, the push to reduce budget costs by "going paperless" by all governmental organizations can create unintended barriers for reducing access to this information for Veterans.

Feedback from Richard Lingle

Richard Lingle is a former Berks County VA Director who currently serves as a Veterans Assistance Representative and lives at DIAKON Lutheran Homes. He recently reported on concerns about the barriers veterans face accessing information through the VA website:

My biggest concern is that many vets are not computer literate enough to do much of anything on the web, let alone navigate the VA website. Because of so many of the legal hoops, HIPAA/PHI/PII issues, etc., it gets so confusing. Logging in, jumping through numerous security protocols, following the prompts, attempting to understand the language, terms, definitions, and filling in the appropriate blanks make it virtually impossible for anyone not up to date on computers to navigate the system. In addition, the Star Review Process for the Adjudicators which require any issues or missing information to be possible violations and/or considered incomplete applications, makes the process even worse. VA will not even accept old or outdated forms. I do not file electronically myself due to my own lack of computer issues due to my age and background. Even signing electronic signature blocks in person or remote can be an issue.

I do not want the VA to eliminate the submission of paper applications. Submitting necessary evidentiary documentation would require computers, scanning devices, signature pads, etc. that many vets do not have or do not have access available would create problems. The VA has a history of trading people for computers with savings on costs but with additional problems. Also, the systems and suppliers of these systems many times do not work together efficiently, i.e., Medical and VBMS systems and what may be best for one department may not work well for another. There have also been times when the systems have crashed with no backup system able to rectify the problem with lost data.

I wish I could be there, and I appreciate your allowing me to give my views.

Proposed Resolutions

As a County Veteran Service Officer (CVSO) for the last six years who works with veterans, their dependents, and caregivers daily, below are my proposed recommendations for possible resolutions to the barriers I believe exist between the VA and the veteran population it is sworn to serve. These proposals could serve to improve its services and reduce the barriers to web information access to Senior/Aged Veterans if implemented.

- The VA should work to centralize and unify all its VA benefit web resource information to one Central Location/HUB/Portal such as to www.va.gov.
- The VA should not eliminate paper applications or the VA's ability to accept those applications via Fax or Mail.
- The VA should not eliminate paper benefits booklets/guides/manuals or the VA's ability to mail those literary resources at the request of a veteran, service organization, veterans non-profit, or any organization serving veteran's, their families, and their caregivers.
- VA should avoid creating unreasonably stringent and unnecessary barriers to VA benefit access, such as eliminating the acceptance of faxed or mailed claims forms to the VA.
- The VA should NEVER refuse to accept any form it receives from a veteran, even if that form is outdated.
- I would encourage the VA to further expand and apply the **VA's Duty to Assist(DTA) 38 CFR § 21.1032** in recognizing the applicants' intent and automatically create an **Intent to File(ITF 21-0966) 38 CFR § 3.155(b)(1)(iii)** for a VA benefit claim with any form of communication they receive from a veteran (written, verbal, implied or otherwise).
- The VA should simplify the language it uses to describe its benefits and resources to a 4th grade reading level (as do newspapers) and keeping it as simple as humanly possible for the average layperson to understand.
- The VA should work to simplify web user login credential creation and maintenance by implementing modern technology such as biometric login options (i.e., face, eye, voice, fingerprint scan, geographic location) or a "universal password" for safe, secure, and easy access to all VA systems for each user.
- The VA can continue to work to increase access and eligibility to [Program of Comprehensive Assistance for Family Caregivers: Eligibility Criteria Fact Sheet \(va.gov\)](http://www.va.gov) by adding the support of Caregiver who helps and assists a veteran with

technological access, guidance, and online application support to be a function of a Caregiver under PCAFC expansion.

I would like to see the VA create and expand partnerships between offices such as Area Agency on Aging (AAA), Abilities in Motion, and Public Library systems to offer one-on-one supports to technological, computer support, training, and access. The VA can also consider allocating additional funding from the Federal and State Governments down to County VA offices to support this exact need. Positions could be funded and expanded and described as **VA Assistive Technology Advocate (VAATA)**. Federal funding to support such an initiative would help growth and expand the reach of county VA offices. County VA offices serve as a point of entry into VA benefits for many of our veterans, their families, and their caregivers. Our offices (in Pennsylvania) are solely funded by county tax-payer dollars. Increased budgets to county level VA offices can increase staff to support more veterans with technological barriers to access their information.



National Association of the Deaf

www.nad.org

Chairman Bob Casey
U.S. Senate Special Committee on Aging
G-41 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Casey,

We appreciate the opportunity to provide written testimony on the current state of government web accessibility for deaf and hard of hearing people. The National Association of the Deaf (NAD) is the oldest national civil rights organization in the country, having been founded in 1880 by, of, and for deaf and hard of hearing people. Our mission is to preserve, protect, and promote the civil, human, and linguistic rights for over 48 million deaf and hard of hearing people in the United States. Part of our advocacy work includes ensuring that there are no barriers for deaf and hard of hearing people to access information on the Internet. Section 508 of the Rehabilitation Act of 1973, which requires government electronic and information technology, including websites, to be accessible for individuals with disabilities¹, furthers that goal in theory. However, the painful reality is many government agencies fail to ensure their websites are Section 508-compliant.

At the beginning of the pandemic, several government agencies such as the Department of Health and Human Services (HHS) disseminated COVID-19 videos that lacked proper captioning and American Sign Language (ASL). This failure to ensure Section 508 compliance put deaf and hard of hearing people more at risk with respect to the coronavirus as they were left behind without access to the latest updates and actions shared by the U.S. government. Even if these videos had been properly captioned, that by itself would not have been enough for full compliance as public health communication around the coronavirus has been mostly disseminated in the form of complex written English, which is not accessible to many deaf and hard of hearing people who require ASL to fully understand such information.

Upon observing the rapid dissemination of critical public health information without proper accessibility in the early stages of the pandemic, the NAD contacted the Centers for Disease Control and Prevention (CDC) at the HHS to inquire about any plans to make available in ASL the same information being posted on their website. It took repeated inquiries for more than a month before we were assured that ASL videos would be produced, but it took several more weeks for a few ASL videos to be posted on YouTube. That critical delay left deaf and hard of hearing people without meaningful access to this consequential information for quite some time. While we appreciate the CDC's work in creating a few ASL videos about the pandemic, they have since then created several more videos but failed to ensure that content always incorporated

¹ 9 U.S.C. §794d; Section 508 was added to the Rehabilitation Act in 1986 and further amendments in 1998 strengthened the accessibility standards and made them a requirement.

accurate translation in ASL. We have continued to push the CDC - and other agencies with similar instances of inaccessibility - to do better. The lack of built-in protocols to ensure full accessibility through both captioning and ASL at the same time any public health information is disseminated is unacceptable.

Further, there are people who are DeafBlind and it is essential that all communication be shared with them in a fully accessible manner. This requires expertise and preparedness in anticipation of all emergency communication. This has not happened at all during this pandemic.

Many such compliance issues exist across countless government websites and have yet to be resolved. Even when we reach out and request access, it takes far too long to see results and then it becomes painfully clear it was simply a one-time thing. Even after significant dialogue on the subject, videos continue to be released without proper access. We deserve forward progress rather than going backwards on a repeated basis. We deserve substantive remediation plans on how these agencies plan to be Section 508-compliant. There needs to be sufficient policy guidance and processes to ensure Section 508 compliance with full oversight at the upper echelons of these agencies. There needs to be meaningful outreach to various disability advocacy organizations to ensure these websites are more inclusive of different types of disabilities. In short, there should be specific protocols in all government agencies to follow prior to releasing videos of any kind.

The National Association of the Deaf is available as a resource to government agencies to ensure that their videos are accessible to our members.

We thank the Aging Committee for spotlighting attention on this important issue and for its diligence in gathering information in the course of this hearing. We hope this will result in agencies renewing commitments to Section 508 compliance and fully accessible websites for the public, including deaf and hard of hearing people.

Sincerely,

A handwritten signature in black ink, appearing to read "H.A. Rosenblum", enclosed in a thin black rectangular border.

Howard A. Rosenblum, Esq.
Chief Executive Officer



August 4, 2022

Written testimony of the National Disability Rights Network for the Senate Special Committee on Aging's hearing on website accessibility for persons with disabilities on July 28, 2022

Thank you for the opportunity to submit written testimony for the above referenced hearing. The National Disability Rights Network (NDRN) commends the committee for holding this hearing and writes to comment on the crucial need to uphold and advance the standards of Section 508 of the Rehabilitation Act.

NDRN is the non-profit membership association of Protection and Advocacy (P&A) and Client Assistance Program (CAP) agencies located in all 50 States, the District of Columbia, Puerto Rico, and the United States Territories. In addition, there is a P&A and CAP affiliated with the Native American Consortium which includes the Hopi, Navajo, and San Juan Southern Paiute Nations in the Four Corners region of the Southwest. P&A and CAP agencies are authorized under various federal statutes to provide legal representation and related advocacy services, and to investigate abuse and neglect of individuals with disabilities in a variety of settings. The P&A / CAP Network comprises the nation's largest provider of legally-based advocacy services for persons with disabilities. Work involving the enforcement of the ADA is an important component of the advocacy the P&A / CAP Network does throughout the year.

Section One—The Problem

Despite the legal obligations of Section 508 (29 U.S.C., 794(D)), too many federal websites lack accessibility for people with disabilities, including veterans and older Americans. The [Bureau of Labor Statistics](#) (BLS) reported in 2021 that 27% of veterans are individuals with disabilities. This means that over ¼ of our Nation's veterans may not be able to access fully and independently websites and web

portals. Essential tasks such as accessing benefits and employment resources and managing active and preventative healthcare appointments are difficult, if not impossible, without assistance from family members and friends. Jule Ann Lieberman, Assistive Technology Program Coordinator at Temple University, rightfully pointed out in her testimony not all veterans with disabilities live close enough to trusted family members or friends, or they may be wary of trusting others with their personal information. The burden of seeking out alternative methods of accessing these websites and portals should not be placed on veterans with disabilities; federal government websites must comply with section 508's standards, and should be user friendly and easy to navigate for veterans with disabilities and older Americans.

Section Two: Legislative History:

Section 508 of the Rehabilitation Act requires federal agencies to procure, maintain, and use information and communication technology (ICT) that is accessible to persons with disabilities. Subsequently, the U.S. Access Board developed standards to comply with this law. The law applies both to federal employers as well as federal websites that the general population may access. ICT is any equipment or system that is used to create, convert, duplicate, or access information. In other words, ICT encompasses more than websites. It may also include materials such as PDF documents or content such as webinars.

The four witnesses properly demonstrated how the federal government continues to neglect the enforcement of Section 508's requirements. The first witness, Eve Hill from Brown, Goldstein and Levy, accurately explained the significant barriers to federal employment of inaccessible websites and technology that continue to exist for millions of Americans with disabilities. She explained that thirty percent of federal agency websites are inaccessible for users with disabilities. The nationwide network of fifty-seven P&As and CAPs continuously receive reports of inaccessible federal and nonfederal websites. For example, NDRN closely follows the census every ten years; the information is vital to provide governmental services for persons with disabilities. However, NDRN has found that technology barriers exist that keep some persons with disabilities from fully and independently participating in the census process.

Section Three: Solutions and Benefits of Accessibility:

Despite the existence of Section 508 for twenty-four years, federal agencies continue to fail to comply with the requirements. Both the Social Security Administration (SSA) and the General Services Administration have been sued because of inaccessibility issues. The federal government must do more to both assist agencies to improve accessibility as well as hold accountable those agencies that fail to comply.

Eve Hill, as well as other witnesses, explained that compliance with the standards are not difficult; it is mostly a matter of coding. Consequently, the federal government must do more to insist that federal agencies comply with such standards. First, the federal government should provide assistance in training federal agencies to comply, as well as hire accessibility experts to make their sites accessible. Second, the U.S. Department of Justice must approach more agencies that fail to comply and force them to adhere to the standards. Third, federal agencies should be kept from posting information online until it is accessible for all Americans. Jule Ann Lieberman explained that during the COVID-19 pandemic, the CDC website relayed information for persons to register for a vaccine that was inaccessible. To accelerate accessibility design, the government could bar the introduction of websites and other ICT until it is fully accessible to all persons as well as those who use assistive technology such as screen reading software.

Greater enforcement of Section 508 by the federal government is not just imperative, but also paramount to ensuring equal access for all veterans and older Americans to federal websites. Equal access to websites and portals benefits everyone, not just those with disabilities. Moreover, accessibility is achievable, attainable, and is easy to implement. Useable and accessible federal websites are key in ensuring veterans with disabilities and older Americans can independently access any personal and sensitive information, providing security, confidentiality, and overall peace of mind.

Thank you for the opportunity to submit these comments. If you have any follow-up questions, please do not hesitate to reach out to Claire Stanley, Public Policy Analyst, at Claire.stanley@ndrn.org, or Stephanie Flynt, Public Policy Analyst, at stephanie.flynt@ndrn.org.

Sincerely,

A handwritten signature in blue ink that reads "Eric Buehlmann". The signature is fluid and cursive, with a long horizontal flourish at the end.

Eric Buehlmann
Deputy Executive Director for Public Policy
National Disability Rights Network

Statement for the Record from Ronald Biglin

July 28, 2022

My name is Ronald Biglin and I am from Clarks Summit, Pennsylvania. I am 72 years old and I am visually impaired. I spent four years in the Air Force and am presently retired. My eyesight started failing me and I was in line for an early retirement at the company I worked for so with the failing eyesight I took it.

I first started going to the VA in the 70's and then returned again when my eyesight started failing. We had a support group at the local VA for the visually impaired and we would get the latest information. As computers and other electronic devices came about there was information available on websites and such. When you lose your eyesight you feel like your independence is taken away, you need someone in order to go anywhere and also to do tasks.

The VA came out with My Healthy Vet for patients to log on to the website and do most of your medical items. I have a computer program I received from the VA called JAWS which reads to me what is on the screen. There is also another program that allows you to increase the font size, but with my condition, I can't see anything except for a little light. I got my user name and password and tried getting on the website but had a lot of problems, as with JAWS, it jumps around a lot. I went to the local office that was in charge of this website and expressed my situation of getting on the website. I was basically told that they only run the program and would have to go to a computer office to deal with the program. I tried that and it was very difficult to get training on it. So over the past few years it was easier for me to call and get my items taken care of. In the last month I received an email from the Healthy Vet program and was told that they were taking me off the website as I have not used it lately.

When you are visually impaired you want to be as independent as possible and having problems getting on VA websites takes away this independency. There are some emails I receive from the VA that I have very little problems with but then there are those that are very difficult. If they were made easier to access it would save a lot of time waiting on a phone call to get your items, it could be as easy as a click away. Even some training on how to access websites would be a great help. Maybe only one class would do the trick.

The VA websites are not the only sites that I have problems with. There are sites on the outside that fall in the same category, but if the VA could lead the way to make access easier, this would be a great plus and then also other government agencies could do the same.

I still try to keep my independence up as I still use some sites for my everyday life along with still fishing and kayaking. I would like to continue this with the VA sites.

Thank you for the opportunity to express my thoughts.

Ronald Biglin