

CE Section 508 NPRM Public Response

Connections Education submits these comments in response to the Notice of Proposed Rulemaking (NPRM) issued by the Architectural and Transportation Compliance Board (Access Board) to update and revise its standards for electronic and information technology developed, procured, maintained, or used by federal agencies covered by Section 508 of the Rehabilitation Act of 1973 and its guidelines for telecommunications equipment and customer premises equipment covered by Section 255 of the Communications Act of 1934. 80 Fed. Reg. 10880 (Feb. 27, 2015).

Connections Education is a leading, fully-accredited provider of high-quality, highly accountable virtual education solutions for students in grades K–12. Connections Education is part of the global learning company Pearson and is committed to expanding quality education through technology and helping students achieve both academic and personal success. Our interest in the Access Board’s effort on these issues is due to the unique nature of our online program.

We appreciate that the Access Board has set out specific questions that recognize the costs associated with the regulatory changes and that there will need to be a phase-in for the new requirements. Our comments focus on Questions 6 and 35 in the NPRM as they relate to implementation of the new Section 508 requirements.

Question 6. The Board seeks comment on the extent that the proposed incorporation of WCAG 2.0 Level A and Level AA Success Criteria would result in new costs or benefits. We have characterized the majority of success criteria as “substantially equivalent” to requirements under the existing 508 Standards and 255 Guidelines and request comment as to the accuracy of this characterization.

When weighing costs and benefits, it is essential for the Access Board to consider the widespread impact of this decision. Updating the 508 standards to the same level as WCAG 2.0 Level A and Level AA impacts not only federal agencies and the federal procurement process, but also state and local agencies and related industries. This is the case because many state and local agencies and related industries look to the Section 508 regulations when setting their own accessibility requirements. For example, the South Carolina Public Charter School District has adopted the Section 508 Technical Standards in their Accessibility Policy as it relates to their school programs. As a result, the Access Board’s decision will have a cascading effect on how businesses and governments at all levels will have to respond. In the final rule, the Access Board should specifically recognize these additional costs. It should also note that the Department of Justice is intending to issue its own NPRMs under Titles II and III of the Americans with Disabilities Act (ADA) of 1990 that will specifically address the legal obligations of state and local governments and public accommodations respectively to ensure that their web information and services are accessible to people with disabilities.

There are increased costs associated with achieving WCAG 2.0 Level A and Level AA compliance compared to what is required to achieve compliance with the existing 508 technical standards. While it may generally be accurate to suggest the new standards are “substantially equivalent” to the previous standards, they are not actually equivalent, especially considering the broad application to information and communications technologies (ICT) and materials that were not previously covered by Section 508. Video-oriented, educational interactives and tools and legacy

PDFs, in particular, require significant investment to achieve WCAG 2.0 AA compliance, not only in dollars, but in time. These items are prevalent in virtually any type of website and each of these items will need to be reviewed individually to ensure compliance. This is a time and resource intensive undertaking. For example, a single two-page, legacy PDF takes an average of 2.25 hours to convert to ensure full accessibility. This involves the conversion effort, any necessary redesign, alt tag creation, and integration. Creation of one robust transcript for a 4 to 5 minute video segment can take approximately 6 hours for full creation. The Access Board should also factor in the costs associated with providing staff with the appropriate training to make legacy content accessible, as well as to ensure that staff know how to build accessible content in the first place.

We recognize that overall costs can be reduced when building new products with teams that have been appropriately trained on the relevant techniques. However, as noted above, significant challenges arise when considering the costs of bringing legacy technologies and materials into compliance, especially without consideration of timelines for when these technologies and materials would typically be updated or revised.

Question 35. The Board seeks comment on its proposed approach to making its revised 508 Standards effective six months after publication in the Federal Register, with the exception of federal ICT-related procurements. The Board also seeks comment on deferring to the FAR Council to establish the effective date for application of the revised 508 Standards to "new" ICT contracts (i.e., contracts awarded after publication the FAR Council's final rule), as well as existing ICT contracts.

The NPRM is not clear about whether existing content on federal agency websites is required to be updated to WCAG 2.0 AA standards, or whether the updated standards will only apply to newly posted content. The Access Board should clarify its intent. Our response to Question 6 assumes that the revised standards apply to existing content. Assuming that is the case, the Access Board's proposed effective date of six months after final publication of the rule in the Federal Register is not sufficient time to apply the updated standards to legacy materials, especially considering the expanded definition of ICT in the NPRM. We recommend the Access Board implement two separate effective dates: six months for newly acquired or developed technology and materials, and 24 to 36 months for legacy technology and materials. As discussed in the response to Question 6, video-oriented, educational interactives and tools and legacy PDFs, in particular, require significant investment to achieve WCAG 2.0 AA compliance, not only in dollars, but in time. Providing a longer time period to bring legacy technology and materials into compliance will allow public and private institutions to become compliant without having to redirect critical research and development resources away from emerging technologies and materials that will further innovations to the benefit of all populations, including people with disabilities. Finally, we agree with the Access Board's proposal to defer to the FAR Council for establishing the effective date of application for new and existing ICT contracts.

Thank you very much for considering these comments.