



Architectural and Transportation Barriers Access Board
1331 F Street NW, Suite 1000
Washington, DC 20004-1111

May 27, 2015

Re: Proposed Information and Communication Technology Standards and Guidelines, Docket ID: ATBCB-2015-0002.

The California Department of Rehabilitation (DOR) respectfully submits the following comments in response to the Notice of Proposed Rule Making (NPRM) published February 27, 2015 regarding both the proposed Information and Communication Technology (ICT) Accessibility Standards and the Telecommunications Act Accessibility Guidelines.

The DOR supports improving access to electronic and information technology for individuals with disabilities consistent with Section 508 of the Rehabilitation Act of 1973, as amended, and Section 255 of the Telecommunications Act of 1996. The DOR supports the purpose of the proposed changes in the NPRM and offers the following comment to further improve upon the proposed regulations.

Comment: Conforming to WCAG 2.0

In general, the proposed regulations provide clear guidance and align with Web Content Accessibility Guidelines (WCAG) 2.0. Although the proposed regulations apply to federal entities, we appreciate the clarity as California law requires its governmental entities to comply with Section 508 "in developing, procuring, maintaining, or using electronic or information technology, either indirectly or through the use of state funds by other entities" (California Government Code Section 11135 et seq.).

The ICT Refresh requires websites to be accessible to individuals with disabilities by conforming to WCAG 2.0. WCAG 2.0 permits a non-conforming (i.e., inaccessible) webpage to be considered compliant if there is an accessible mechanism for reaching a current and comparable, accessible, version of the

web page. A web page that meets all the criteria qualifies as a “conforming alternate version” and is intended to provide individuals with disabilities equal access to the same information and functionality as the non-conforming web page.

However, unrestricted use of conforming alternate versions may facilitate the emergence of two separate websites: one for individuals with disabilities and another for individuals without disabilities, resulting in segregation. Alternatively, prohibiting the use of conforming alternate versions may result in significant costs to federal departments and agencies by limiting their options for providing accessible content.

The Architectural and Transportation Barriers Access Board (Board) seeks comments on whether allowing inaccessible content, even with conforming alternate versions, negatively affects the usability and accessibility of websites by individuals with disabilities. The Board also requests comments on the difficulty or costs that may be incurred if federal departments or agencies are not free to use conforming alternate versions of content along with inaccessible content.

Our experience is that many alternative web pages do not offer the “same information and functionality” as the inaccessible web pages, frequently rely upon transcripts instead of captioning, fixed font displays that require separate enlargement software, limited keyboard functionality, and other information that is not the same as that which is available to an individual who may access the non-conforming web page. The individual accessing the alternative website must resolve accessibility limitations in order to access and use the information. The regulation must require comparable access to support the varying needs of individuals with disabilities, rather than permitting an exception that risk excluding individuals with disabilities.

It is essential that individuals with disabilities have comparable access as intended: “equivalent access to the same information and functionality as the non-conforming web page.” Permitting unrestricted accessible alternatives may not provide the accessibility that is intended.

Occasionally, accessible alternatives are necessary such as an interim solution when legacy systems and processes are not yet accessible. Organizations utilizing the alternatives must make the alternatives accessible, and there should be a documented plan for keeping them synchronized with the inaccessible versions.

We recommend a regulation requiring agencies providing an accessible alternative to a web page to develop an accessibility remediation plan available to the public. The plan should contain a detailed assessment of the inaccessible web pages and an explanation why the pages are not accessible and the plan for making the information accessible, written for the general public. We have found that when an organization develops a written plan, the web pages are made accessible more rapidly.

Comment: E205.3 Agency Official Communication

The proposed requirement in the Agency Official Communication (E205.3) requires electronic content falling into certain categories of official communications by federal agencies to be accessible.

The Board states that it expects that only ‘final’ drafts on non-public facing documents to meet the requirements of Section E205.3 Agency Official Communication. That is, only final documents and other electronic materials that are ready for dissemination to their intended audience would be subject to categories 1 through 8.

However, individuals with disabilities who depend upon documents or web content meeting WCAG 2.0 Level A and Level AA standards in order to fully participate and contribute, may not have access to the same information available to individuals without disabilities.

By applying accessibility standards only to final drafts, all information may not be available to individuals with a disability including those who use screen-reader technology for their personal and professional use and advancement.

DOR strongly encourages the Board to apply the standards to all information and not final drafts only.

Comment: E402 Closed Functionality

The Board has proposed specific requirements for ICT with Closed Functionality to ensure accessibility to individuals with disabilities. DOR supports all proposed changes to the requirements for ICT with closed functionality, including the change of the term, ‘Self Contained, Closed System’ to ‘Closed Functionality’. Some of the proposed changes, in the ICT Refresh related to products with Closed Functionality, that DOR supports are listed below:

- 402.2 Speech-Output Enabled. This section requires ICT with closed functionality that has a display screen to be speech-output enabled. While

§1194.25(a) may have been intended to require the function, the proposed regulation is more specific.

- 402.2.2 Braille Instructions. This proposed change requires that the instructions for initiating the speech mode be provided in braille. This proposed rule provides greater accessibility for persons who use Braille.
- 402.3.1 Private Listening. This proposed change clarifies that private listening mode is required.
- 402.4 Characters. This section proposes to require that at least one mode of characters displayed on a screen be in Sans Serif font. This is the first time a specific font type has been identified as being more accessible than others. This proposed requirement also confirms with the DOR standard.

The proposed changes to ICT with Closed Functionality, including the sections above, will improve accessibility and independence for individuals with disabilities. Therefore, DOR supports all of the proposed changes.

We live in a digital age and digital literacy is a necessary life skill, similar to the importance of the abilities to read and write. For individuals with disabilities, digital literacy is possible only with effective and comparable access to information and communication technology. Such access to technology is critical for individuals with disabilities in order to achieve employment, independence and equality in all aspects of everyday living.

Thank you for considering our comments, in furtherance of our shared goal of providing equal access to individuals with disabilities.

Sincerely,

[Original signature on file]

Joe Xavier
Director