



Office of Information Technology Services

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New York State Information Technology Policy	No: NYS-P08-005
IT Policy: Accessibility of Information Communication Technology	Updated: 03/26/2019
	Issued By: NYS Office of Information Technology Services Owner: WebNY Enterprise Platform Service Bureau

1.0 Purpose and Benefits

This Policy is based on the requirements of Section 508 of the Rehabilitation Act of 1973, as amended (“Section 508” or “Revised Section 508”) and mandates that State Entities “develop, procure, maintain, or use” Information and Communication Technology (“ICT”) in a manner that ensures State employees with disabilities have comparable access to, and use of, such information and data relative to other State employees, unless doing so would impose an undue burden on a State Entity. Further, pursuant to Section 508, State Entities must ensure that members of the public with disabilities have comparable access to publicly-available information and services unless doing so would impose an undue burden on the agency.

This policy establishes minimum accessibility requirements to ensure that ICT developed, procured, maintained or used by State Entities is accessible to people with disabilities. ICT is defined as 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; telecommunications equipment; customer premises equipment; multifunction office machines; software; applications; Web sites; videos; and, electronic documents. This policy revision supersedes all prior revisions to NYS-P08-005. This policy is intended to facilitate the full and complete use of State applications, websites, and other digital interfaces by the public and State employees.

2.0 Authority

Section 103(10) of the State Technology Law provides the NYS Office of Information Technology Services (“ITS”) with the authority to establish statewide technology policies, including technology and security standards. Section 2 of Executive Order No. 117 provides the State Chief Information Officer with the authority to oversee, direct and coordinate the establishment of information technology policies, protocols and standards for State government, including hardware, software, security, and business re-engineering. Details regarding this authority can be found in ITS Policy, [NYS-P08-002 Authority to Establish State Enterprise Information Technology \(IT\) Policy, Standards and Guidelines.](#)

3.0 Scope

This policy applies to all “State Government” entities as defined in Executive Order 117 or “State Agencies” as defined in Section 101 of the State Technology Law (“State Entities”), their employees, and all others, including third parties (such as local governments, consultants, vendors, and contractors), that use or access any ITS Information Technology Resource for which ITS has administrative responsibility, including systems managed or hosted by third parties on behalf of ITS. Where a conflict exists between this policy and a State Entity’s policy/standard, the more restrictive policy/standard will take precedence.

This Policy is based on Section 508 and the Web Content Accessibility Guidelines (“WCAG”) 2.0 A and AA guidelines. ITS reserves the right to modify, supplement, or otherwise revise, rescind or archive this policy as new Section 508 standards take effect.

4.0 Information Statement

Pursuant to Section 508, content made available by an agency to members of the general public (“public facing content”) shall be accessible. Further, electronic content that is not public facing but is official business communicated through one of the following nine categories must also be made accessible: 1) an emergency notification; 2) an initial or final decision adjudicating an administrative claim or proceeding; 3) an internal or external program or policy announcement; 4) a notice of benefits, program eligibility, employment opportunity, or personnel action; 5) a formal acknowledgment of receipt; 6) a survey or questionnaire; 7) a template or form; 8) educational or training materials; and 9) intranet content designed as a web page.

Moreover, the State shall make best efforts to conform its newly-created ICT and public facing content to Federal WCAG 2.0 A and AA guidelines, which provide recommendations for making Web content even more accessible. States are not

mandated to comply with Federal WCAG 2.0 guidelines. However, voluntarily following these guidelines for newly created content and platforms could make NYS ICT more accessible to individuals with a wider range of disabilities (including blindness and low vision, deafness and hearing loss, learning disabilities, cognitive limitations, limited movement, speech disabilities, photosensitivity, and combinations of these).

Ensuring Compliance

To assure compliance with the requirements of Section 508 and this policy, State Entities should:

- Conduct manual testing of ICT before production use, prior to any fundamental alterations, and biannually thereafter through use of specialized software or services. In accordance with New York State Finance Law §§ 162 and 163, State Entities are encouraged to utilize Preferred Source offerings to obtain Digital Accessibility and Usability Testing and Remediation Reporting Services. For more information see <https://www.ogs.state.ny.us/procurecounc/pdfdoc/pplist.pdf>
- Maintain documented testing reports for each ICT until the next automated and manual testing is completed.
- Keep a list of ICTs and the current compliance status of each.
- Clearly post an “accessibility” link on the agency Home Page footer. The linked page should specify whom to contact with questions about the site’s accessibility and the accessibility of any other ICT under the control of the agency.

Third Party Web-based Information and Application Development

All solicitation documents, contracts and any amendments executed by State Entities containing a scope of work requiring development, procurement, and/or maintenance of ICT shall include the following clause:

Any network-based information and applications development, or programming delivered to or by the State pursuant to this contract or procurement, will comply with Section 508 of the Rehabilitation Act of 1973, as amended, and be consistent with New York State Enterprise IT Policy NYS-P08-005, Accessibility of Information Communication Technology, as such policy may be amended, modified or superseded (the “Accessibility Policy”). The Accessibility Policy requires that State Entity Information Communication Technology shall be accessible to persons with disabilities as determined by accessibility compliance testing. Such accessibility compliance testing will be conducted by (State Entity name, contractor or other) and any report on the results of such testing must be satisfactory to (State Entity name).

Exemptions

A. Existing ICT

Pursuant to Section 508 as amended, any component or portion of existing ICT that complies with an earlier standard issued pursuant to Section 508, as amended (and republished in Appendix D), and that has not been altered on or after January 18, 2018, shall not be required to be modified to conform to the Revised 508 Standards.

B. Undue Burden or Fundamental Alteration

Where a State Entity determines that conformance to requirements in the Revised 508 Standards would impose an undue burden or would result in a fundamental alteration in the nature of the ICT, conformance shall be required only to the extent that it does not impose an undue burden or result in a fundamental alteration in the nature of the ICT. Nothing in this policy alters a State Entity's independent authority and responsibility to determine what constitutes an undue burden or fundamental alteration.

The State Entity, in determining whether conformance to requirements in the Revised 508 Standards would impose an undue burden, shall consider the extent to which conformance would impose significant difficulty or expense considering the State Entity resources available to the program or component for which the ICT is to be procured, developed, maintained, or used.

The responsible State Entity official shall document in writing the basis for determining that conformance to requirements in the Revised 508 Standards constitutes an undue burden on the State Entity or would result in a fundamental alteration in the nature of the ICT. The documentation shall include an explanation of why and to what extent compliance with applicable requirements would create an undue burden or result in a fundamental alteration in the nature of the ICT.

Where conformance to one or more requirements in the Revised 508 Standards imposes an undue burden or a fundamental alteration in the nature of the ICT, the State Entity shall provide individuals with disabilities access to and use of information and data by an alternative means that meets identified needs.

ITS may request to review any determinations of exemption from this policy. Such review may include, but is not limited to, review of the technical and business analyses, and other project documentation, technologies or systems which are the subject of this policy or any applicable standards.

Agency Counsel's Office, Agency Accessibility Coordinator, and ITS Division of Legal Affairs must together complete an assessment of any litigation risk associated with the proposed exemption. On completion of the litigation risk assessment, the State Entity must document that it is responsible for and accepts the risk of non-compliance with Revised Section 508. The State Entity's Counsel's Office must maintain a copy of the exemption for the life of the ICT or until the application is rendered compliant.

5.0 Compliance

This policy shall take effect upon publication. Compliance is expected with all enterprise policies and standards. ITS may amend its policies and standards at any time; compliance with amended policies and standards is expected.

6.0 Definitions of Key Terms

Except for terms defined in this policy, all terms shall have the meanings found in <http://www.its.ny.gov/glossary>.

Term	Definition
Fundamental Alteration	Shall have the same meaning as set forth in 36 C.F.R. Appendix A to Part 1194, a change in the fundamental characteristic of the product, not merely a cosmetic or esthetic change.
Information Communication Technology	Shall have the same meaning as set forth in 36 C.F.R. Appendix A to Part 1194, 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.
Information Technology	Shall have the same meaning as set forth in 40 U.S.C. § 11101(6): (A) any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by a State Entity, if the equipment is used by the State Entity directly or is used by a contractor under a contract with the State Entity that requires the use (i) of that equipment; or (ii) of that equipment to a significant extent in the performance of a service or the furnishing of a product; (B) includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but (C)

Term	Definition
	does not include any equipment acquired by a State contractor incidental to a State contract.
Undue Burden	Shall mean significant difficulty or expense. In determining whether an action would result in an undue burden, State Entities must consider all resources available for use in the funding and operation of the service, program, or activity.

7.0 Contact Information

Submit all inquiries and requests for future enhancements to the policy owner at:

WebNY Enterprise Platform Service Bureau
Reference: NYS-P08-005
NYS Office of Information Technology Services
State Capitol, ESP, P.O. Box 2062
Albany, NY 12220
Telephone: 518-457-3300
Email: webnysupport@its.ny.gov

Statewide technology policies, standards, and guidelines may be found at the following website: <http://www.its.ny.gov/tables/technologypolicyindex>

8.0 Revision History

This policy shall be reviewed at least once every two years to ensure relevancy.

Date	Description of Change	Reviewer
06/21/2004	Original Policy Release.	CIO/OFT
10/25/2006	Revised to add procurement language and to make minor changes to the standards.	CIO/OFT
08/01/2008	Revised to update the standards and eliminate any exceptions to the policy.	CIO/OFT
01/14/2009	NYS P08-005, NYS S08-005, and G06-001 Best Practice Guidelines are combined as one document numbered NYS P08-005.	CIO/OFT
01/27/2010	Made conforming changes to align with Webcasting Open Meetings Standard, NYS-S07-001; eliminated compliance schedule in A.11.1; A.11.2 and A.11.3. Compliance schedule has passed. Made similar conforming changes to Best Practice Guideline.	CIO/OFT

Date	Description of Change	Reviewer
05/17/2010	Revised to replace customized NYS standard and instead to align with federal standards Section 508, Subpart B, section 1194.22 and Subpart C, section 1194.31.	CIO/OFT
9/10/2010	Revised to reflect change in reporting date from March 31 to December 31 of each year.	CIO/OFT
10/17/2011	Revision to Section 5.0.	CIO/OFT
09/12/2012	Reformatted and updated to reflect current CIO, agency name, logo and style.	ITS
03/26/2019	Scheduled review. Updated template scope authority	WebNY Enterprise Platform Service Bureau

9.0 Related Documents

[NYS-S07-001 Webcasting Open Meetings Standard](#)