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<b>New York State Information Technology Policy</b>	<b>No:</b> NYS-P08-005
<b>IT Policy:</b>  <b>Accessibility of Information Communication Technology</b>	<b>Updated:</b> 01/24/2023
	<b>Issued By:</b> NYS Office of Information Technology Services  <b>Owner:</b> Chief Technology Office  WebNY Enterprise Platform Service Bureau

## 1.0 Purpose and Benefits

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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

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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<sup>1</sup>, issued January 2002, 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

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This standard applies to all “State Entities” (“SE”), defined as “State Government” entities as defined in Executive Order 117 or “State Agencies” as defined in Section 101 of the State Technology Law, including their employees, and all other third parties (e.g., 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 the ITS. While an SE may adopt a different standard, such a standard must include the requirements of this standard.

This Policy is based on Section 508, the regulations promulgated pursuant to 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

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Pursuant to Section 508, content made available by an SE 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.

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<sup>1</sup> All references to Executive Order 117 refer to that which was originally issued by Governor George E. Pataki on January 28, 2002 and continued by Executive Order 5 issued by Governor Eliot Spitzer on January 1, 2007, Executive Order 9 issued by Governor David A. Patterson on June 18, 2008, Executive Order 2 issued by Governor Andrew M. Cuomo on January 1, 2011, and Executive Order 6 issued by Governor Kathy Hochul on October 8, 2021.

Moreover, SEs shall, to the extent such creation does not create an undue burden on the SE, conform its newly created ICT and public facing content to WCAG 2.0 A and AA guidelines, which provide recommendations for making Web content even more accessible.

## **Ensuring Compliance**

To ensure compliance with the requirements of Section 508 and this policy, SEs must:

- Conduct manual testing of ICT before production use, prior to any fundamental alterations, and biennially thereafter through use of specialized software or services.
- 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 SE 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 SE.

## **Third Party Web-based Information and Application Development**

All solicitation documents, contracts, and any amendments executed by SEs 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***

Any component or portion of existing ICT, meaning ICT that has been procured, maintained, or used on or before January 18, 2018, that complies with an earlier standard issued pursuant to Section 508, as amended, 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 an SE 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 an SE's independent authority and responsibility to determine what constitutes an undue burden or fundamental alteration.

The SE, 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 SE resources available to the program or component for which the ICT is to be procured, developed, maintained, or used.

The responsible SE official shall document in writing the basis for determining that conformance to requirements in the Revised 508 Standards constitutes an undue burden on the SE 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 SE 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 undue burden or fundamental alteration. 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. However, ITS' review of such determinations is not meant to replace the judgement of the SE in arriving at this decision. The SE understands that it accepts the risk of non-compliance by publishing an ICT that does not conform to this standard and should consult its legal counsel accordingly.

## **5.0 Compliance**

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

## 6.0 Definitions of Key Terms

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

## 7.0 Contact Information

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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](mailto: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

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This policy should be reviewed consistent with the requirements set forth in [NYS-P08-002 Authority to Establish State Enterprise Information Technology \(IT\) Policy, Standards and Guidelines](#).

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
05/17/2010	Revised to replace customized NYS standard and instead to align with federal standards	CIO/OFT

Date	Description of Change	Reviewer
	Section 508, Subpart B, section 1194.22 and Subpart C, section 1194.31.	
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
07/17/2019	On page 3 in “Ensuring Compliance”, first bullet. Changed the word “biannually” to “biennial”	WebNY Enterprise Platform Service Bureau
01/24/2022	Updated policy	Chief Technology Office

## 9.0 Related Documents

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