

Title 260. Office of Management and Enterprise Services

CHAPTER 15. ACCESSIBILITY OF INFORMATION TECHNOLOGY

[Authority: 75 O.S. 302]

[Source: Codified 9-11-06]

260:15-1-1. Purpose

This chapter provides information and establishes procedures to assure state compliance regarding accessibility of information technology for individuals with disabilities based on the provision of Title 62, Section 34.28 and Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998.

[Source: Added at 23 Ok Reg 3162, eff 9-8-05 through 7-14-06 (emergency)¹; Added at 23 Ok Reg 3211, eff 9-11-06; Amended at 30 Ok Reg 1113, eff 7-1-13]

EDITOR'S NOTE: ¹This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the text of the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), the text of Section 260:15-1-1 was no longer effective, and remained as such until added by permanent action on 9-11-06.

260:15-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Accessibility" means compliance with nationally accepted accessibility and usability standards, such as those established in Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998;

"Appointing authority" means the chief administrative officer of an agency. As the term is used in this chapter, the term includes employees of an agency to whom the Appointing Authority has lawfully delegated authority to act on his or her behalf.

"Director" means the Director of the agency.

"Individual with Disabilities" means any individual who is considered to have a disability or handicap for the purposes of any Federal or Oklahoma law.

"Information Technology" or "IT" means equipment or interconnected system or subsystem of equipment that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, telecommunications, or reception of data or information. The term shall include computers, ancillary equipment, software, firmware, and similar procedures, services, including support services and consulting services, software development, and related resources.

"Oklahoma Information Technology Accessibility Standards" or "IT Accessibility Standards" or "Standards" means the accessibility standards adopted by the Office of Management and Enterprise Services (OMES) to address all technical standard categories based on the provisions of Section 508 of the Workforce Investment Act of 1998, which are to be used by each state agency in the procurement of information technology, and in the development and implementation of custom-designed information technology systems, websites, and other emerging information technology systems.

"Section 508" means Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998.

"State agency" means any office, officer, bureau, board, counsel, court, commission, institution, unit, division, body or house of the executive or judicial branches of the state government, whether elected or appointed, excluding political subdivisions of the state. State

agency shall include the Oklahoma State Regents for Higher Education, the institutions, centers, or other constituent agencies of The Oklahoma State System of Higher Education, the State Board of Career and Technology Education and Technology Center school districts. [62 O.S., Section 34.28]

[Source: Added at 23 Ok Reg 3162, eff 9-8-05 through 7-14-06 (emergency)¹; Added at 23 Ok Reg 3211, eff 9-11-06; Amended at 28 Ok Reg 2367, eff 9-11-11; Amended at 30 Ok Reg 1113, eff 7-1-13; Amended at 32 Ok Reg 1749, eff 9-11-15]

EDITOR'S NOTE: ¹This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the text of the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), the text of Section 260:15-1-2 was no longer effective, and remained as such until added by permanent action on 9-11-06.

260:15-1-3. Information technology accessibility standards

(a) OMES shall prescribe Information Technology Accessibility Standards to address all technical standard categories of Section 508 in accordance with 62 O.S. §34.28. Information technology products covered by these standards shall comply with all applicable provisions. When developing, procuring, maintaining or using information technology products (either directly or through administration of contracts or grants), each state agency, as defined in this Chapter, shall ensure that the products comply with these all applicable standards, unless an undue burden would be imposed on the agency.

(b) These standards are effective September 1, 2005 and apply to all information technology procured, developed and/or substantially modified or substantially enhanced after the effective date of these standards, providing the procurement and/or development process was not initiated prior to the effective date.

(c) The Information Services Division of OMES shall maintain the IT Accessibility Standards.

(d) The Standards will be made available to the public at the principal office of OMES and shall be published on its respective website.

(e) When compliance with these standards imposes an undue burden, agencies shall provide individuals with disabilities the information and data involved by an alternative means of access that allows the individual to use the information and data in accordance with other applicable State and Federal laws such as Title I and Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

[Source: Added at 23 Ok Reg 3162, eff 9-8-05 through 7-14-06 (emergency)¹; Added at 23 Ok Reg 3211, eff 9-11-06; Amended at 28 Ok Reg 2367, eff 9-11-11; Amended at 30 Ok Reg 1113, eff 7-1-13; Added at 32 Ok Reg 1673, eff 9-11-15]

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260:15-1-4. Evaluation of proposed custom-designed information technology systems

(a) A state agency shall evaluate the accessibility of any proposed custom-designed information technology system prior to the expenditure of state funds in accordance with review procedures prescribed by the Director, or a designee.

(b) The Appointing Authority of the agency shall certify the results of the review in writing on a form prescribed by the Director, or a designee. If applicable, the form shall include a declaration that the agency has determined that an undue burden or exception exists.

[Source: Added at 23 Ok Reg 3162, eff 9-8-05 through 7-14-06 (emergency)¹; Added at 23 Ok Reg 3211, eff 9-11-06; Amended at 32 Ok Reg 1749, eff 9-11-15]

EDITOR'S NOTE: ¹This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the text of the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), the text of Section 260:15-1-4 was no longer effective, and remained as such until added by permanent action on 9-11-06.

260:15-1-5. Accessibility compliance representative

(a) The Appointing Authority in each state agency shall designate an Accessibility Compliance Representative(s) to:

- (1) Ensure all electronic and information technology produced, procured, or developed by the agency is accessible to the disabled;
- (2) Receive, investigate and process formal complaints alleging the agency's failure to comply with electronic and information technology accessibility laws, rules and/or standards;
- (3) Assist complainants to ensure a complaint is clear and complies with this Chapter;
- (4) Upon receipt of a formal complaint, thoroughly investigate other instances of similar accessibility issues in related systems within the agency.
- (5) Annually execute a certified statement assuring compliance with the IT Accessibility Standards and submit the name and contact information for the Accessibility Compliance Representative to the State CIO by October 1 each year.

(b) The name and contact information of the designated Accessibility Compliance Representative shall be filed and updated, whenever necessary, with OMES and Oklahoma ABLE Tech.

(c) The contact information for the Accessibility Compliance Representative shall be published on the agency website.

[Source: Added at 23 Ok Reg 3162, eff 9-8-05 through 7-14-06 (emergency)¹; Added at 23 Ok Reg 3211, eff 9-11-06; Amended at 32 Ok Reg 1749, eff 9-11-15]

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260:15-1-6. Filing a formal complaint

(a) Any individual may file a complaint alleging that a state agency or its authorized agent does not comply with electronic and information technology accessibility laws or the Information Technology Accessibility Standards.

(b) The written complaint shall be filed with the agency responsible for the information technology in question.

(c) The written complaint must:

- (1) State the name, contact address and telephone number of the complainant;
- (2) Identify the information technology in question; and,
- (3) Describe the non-conformance with the IT Accessibility Standards in sufficient detail as to allow a thorough investigation.

(d) The agency Accessibility Compliance Representative will review the complaint, and when necessary, work with the complainant to ensure the complaint is clear and is addressed by the IT Accessibility Standards.

[Source: Added at 23 Ok Reg 3162, eff 9-8-05 through 7-14-06 (emergency)¹; Added at 23 Ok Reg 3211, eff 9-11-06; Amended at 30 Ok Reg 1113, eff 7-1-13; Amended at 32 Ok Reg 1749, eff 9-11-15]

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emergency action), the text of Section 260:15-1-6 was no longer effective, and remained as such until added by permanent action on 9-11-06.

260:15-1-7. Processing a complaint

(a) Upon receipt, the agency Accessibility Compliance Representative will review the complaint to determine whether the technology listed in the complaint is subject to the IT Accessibility Standards.

(b) The Accessibility Compliance Representative will send a written notice to the complainant within ten (10) business days, excluding holidays, from the receipt of the written complaint, which will include:

(1) a statement indicating whether the technology in question is or is not subject to the IT Accessibility Standards;

(2) a statement that the agency will conduct a review to confirm whether the technology in question is non-compliant, if the technology in question has been determined to be subject to the IT Accessibility Standards; and

(3) a copy of these complaint procedures.

(c) The Accessibility Compliance Representative will conduct a review within thirty (30) days from the receipt of the written complaint to determine whether the technology in question is non-compliant. The State Chief Information Officer (CIO) or a designee may assist with the review, if necessary.

(d) Upon completion of the review, the agency shall provide written notice of the results of the review to the complainant and OMES, which shall include one of the following:

(1) Documentation that the technology conforms to all applicable Standards;

(2) A documented explanation that any non conformance with the Standards was exempted due to an exception or undue burden; or

(3) An agreement in part or in whole with the written complaint that includes a plan with reasonable timelines for conforming to applicable IT Accessibility Standards.

[Source: Added at 23 Ok Reg 3162, eff 9-8-05 through 7-14-06 (emergency)¹; Added at 23 Ok Reg 3211, eff 9-11-06; Amended at 28 Ok Reg 2367, eff 9-11-11; Amended at 30 Ok Reg 1113, eff 7-1-13; Amended at 32 Ok Reg 1749, eff 9-11-15]

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260:15-1-8. Disagreement with final complaint response

(a) If a complainant is not satisfied with the final complaint response issued by an agency, a complaint may be refiled with the agency or with the State CIO.

(b) Whenever a complaint is filed with the State CIO pursuant to this section, a review team will convene to review the complaint and the agency response. Members of this team shall include a representative of the Information Services Division of OMES or a designee; a representative of Oklahoma ABLE Tech and may include additional members with technical expertise needed to determine conformance with the Standards.

(c) Written notice of receipt of a complaint pursuant to this section shall be sent to the complainant, within ten (10) business days, excluding holidays, from the date the complaint is filed.

(d) The review team shall evaluate the complaint and the agency response and may gather additional information as necessary to render an independent decision.

(1) If the review team determines the technology does not comply with IT Accessibility Standards, the team shall send written notice to the agency of such findings and request a plan of resolution including timelines.

(2) The team shall also send written notice of their findings to the complainant and the agency indicating an agreement or disagreement with the agency's initial complaint response. If the technology in question is out of compliance, the written notice shall also include a copy of the agency's plan for resolution.

(e) The review team must conclude this review and send the final written notice to the complainant and the agency no later than sixty (60) calendar days from the receipt of the written complaint with OMES.

(f) Any actions, decisions or individual proceedings that may occur as a result of a formal complaint shall be in accordance with 75 O.S. §250 et seq.

[Source: Added at 23 Ok Reg 3162, eff 9-8-05 through 7-14-06 (emergency)¹; Added at 23 Ok Reg 3211, eff 9-11-06; Amended at 28 Ok Reg 2367, eff 9-11-11; Amended at 30 Ok Reg 1113, eff 7-1-13; Amended at 32 Ok Reg 1749, eff 9-11-15]

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260:15-1-9. Annual complaint report

The Appointing Authority shall maintain summary and statistical information about the number, nature and outcome of all formal complaints filed. A complaint report for the prior state fiscal year containing such information shall be provided to the State CIO on October 1 each year.

[Source: Added at 23 Ok Reg 3162, eff 9-8-05 through 7-14-06 (emergency)¹; Added at 23 Ok Reg 3211, eff 9-11-06; Amended at 30 Ok Reg 1113, eff 7-1-13; Amended at 32 Ok Reg 1749, eff 9-11-15]

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