[Revising Agency 508 Policy for the Refresh and Managing for User Access](https://section508.gov/sites/default/files/Revising%20Agency%20508%20Policy%20for%20the%20Refresh%20and%20Managing%20for%20User%20Access.pptx) (MS-PPT, October 2017). Read the transcript (coming soon).

Speaker: Pierce Crowell and Deborah Kaplan

Room: 1151

11:30 "Revising 508 policy for managing access"

CCB: This is the revising agency 508 policy for the refresh and using manager access session. Our presenters for today is Miss Debby Kaplan and Mr. Pierce Crowell my southern drawl Crowell for those of you ‑‑ never mind. Debbie is with the Health and Human Services (HHS), she is 508 policy lead and Section 508 coordinator. She has been around in the technology accessibility world for many years. She worked at the World Institute on Disability where she focused on technology policy and universal design for technology. She also did a stint with the California State University system for the accessibility technology initiative and on board of the director for California Emergency Technology Fund. She is part of the executive committee for the CIO Council on Accessibility community of practice. Start of the steering committee with the web initiative on the worldwide web short for W3C and on planning committee for M‑Enabling. Everyone should have copies of the bios in their packets. Is he you can see Debbie has a breadth and depth of background on accessibility. Pierce comes to us from Social Security Administration – Debbie, could I have my water back? Seriously, Social Security Administration. He too has been working on the accessibility community for a while. He is currently the Section 508 executive of the Section 508 program manager he has been also very active in the interagency effort to try to update a lot of the 508 artifacts to align with the new standards and several other agencies interface with Pierce frequently because we are trying to update our artifacts and baseline to be in line with the new standards. Pierce is also got a new toy out. One of the first open source ‑‑ well, not one of the first ‑‑ first Social Security Administration. Open source web testing tools it's out on get hub. In his former life executive 508 program manager for SUN microsystems and passionate about making sure a lot of their products were IT accessible. So, while we are waiting to get set up maybe give a brief overview of what they can expect in the section today?

Deborah: Sure. Like I said if anybody has difficulty hearing we are waiting on getting a microphone we have got captions and please come up to the front. And we should have slides soon too.

But we are here to talk about revising your agency policy for the revised standards. And, also, maybe we should talk about this first. One of the themes that emerged from my reading of the revised standards is that it is critical to move away from a siloed approach if that's what you have been doing. With respect to Section 508, Section 504 and Section 501. All three laws have a bearing on technology accessibility in the federal government.

And are very important if you look at it from the user perspective. Whether your user is a member of the general public, who has a disability, or an employee with a disability of the federal government. And it's important to understand that Section 508 which has to do with the federal government's purchasing practices, and development of technology sometimes only takes you so far in meeting the needs of to end up needing to get their information or interact with your agency in one way or another. And it's very important that finding the most accessible product or the most accessible solution that is available not be your ending point.

And your ending point really has to be whether a person with a disability who needs, is talking, having trouble with access to technology has access to the functionality and the information that the technology is serving as a tool for them to get you. Or for most people to get to. And that's where it's important to represent your agency, your agency's interests best by always knowing who the 504 people are in your agency deal with, people with disabilities, and making sure that accessibility happens.

And the 501 people who are responsible for making sure that employees with disabilities have the same opportunities and the same access to the tools in the workplace as everybody else. Did you want to talk about that?

Pierce: Yeah. Debbie talks a lot about these different groups you have 501 or often your EEOC or accommodation group under Section 504. And 508 you know which are usually separate groups. Not in all agencies but in most. One of the important things when you are writing a policy for Section 508 is to recognize that your risks your legal risks and business risks on Section 508 if you think of a Venn diagram have to reach into the two other areas. If you are not meeting Section 508 you are putting a burden on your accommodations. Yes it requires coordination in the operation but most importantly when you are writing a policy, take note of the fact that the new regulations actually discuss this issue more. As well, if you look at the biggest risk that your agency faces, it is not section 508 and it is not always accommodation it's discrimination of the Section 501 is about discrimination against people with disabilities. Whether intentional or inadvertent or constructed. So, those are very important things to consider. A single document is not going to cause a lawsuit. A compendium of documents that prevent people from completing the work task having access to a competitive career will. So, you are likely not to see your Section 508 risk express themselves as 508 lawsuits. Your policies should reflect that reality and should express that to the people that's pointed at its target audience.

Deborah: Another way to look at it Pierce and I have had some interesting discussions in preparing for this workshop. And I think it actually was used as ‑‑ one way to look at it conceptually is Section 508 just as standards but a tool that agencies use to comply with sections 501 and 504. And often it's the most effective way to come play with 501 and 504. And sometimes ‑‑ I mean, if you think about it, hypothetical example if you your agency website is not accessible, (indicating), and a person with a disability is trying to interact with it in some way, and get information or enter information that they need to, the law says Section 504 says that they need to have equally effective access. So, what does that mean if people who have access to the website can you know submit their taxes or fill out a form at 11 at night. And yet person with a disability doesn't have access to that website to do that at that time. The agency technically would need to then have somebody available and an 800 number to read that information or enter it together with the employee with the disability to give that person equality effective access. And that would be an accommodation through Section 504. 504 would require an accommodation. But having that available all the time is pretty expensive. And not necessarily as easy even that where the employee ‑‑ or the person with a disability who needs it just making the website accessible. So, that's an example of how it works together in reality and why it starts at the policy level. The policy that we developed at HHS talks about it being ‑‑ the policy on technology accessibility and it talks about 501 and 504 as well as 508. Although the focus really is on technology accessibility a lot of it has to do with Section 508.

Pierce: We don't have slides up to the group but the first one I think we can tackle.

>> Go ahead.

(LAUGHTER)

Pierce: All right.

Deborah: Or else I have to get closer.

>> We are waiting on a connection.

>> Yes, my government laptop with government monitor of course will never plug in together without nongovernment open purchase dongles from Amazon.

>> The microphone is still ‑‑

>> Dead.

>> If you have any questions throughout this, please speak loudly.

Deborah: And, again, I really apologize ‑‑

Pierce: There you go turn it on.

Deborah: I apologize we do not have a mic, it's not ideal if anybody has difficulty hearing please move to the front we would like you to be able to hear everything. And if we aren't speaking clearly or loudly enough, please let us know.

>> Is this a great time to talk about the policy implications of interagency services?

(LAUGHTER)

Deborah: Or the policy implications of every agency acting completely independently of ever ‑‑ of everybody else. You see before you an example of the down side thank you Mark.

So, while we are talking about policy in general, when we wrote the Section 508 policy for HHS or revised it, a few years ago, we brought together a group of people from throughout the agency who had expertise on technology accessibility, and other people who are major stakeholders who would have a significant role in carrying out the policy which is always a good place to start because the people who are going to have to play a major role in carrying out the policy are going to have influence on what it says sooner or later. And it's a good idea to involve everybody from the start. And that way, it's easier to get it through all of the clearances that you need. But it's also easier to implement because you haven't made things difficult for yourself inadvertently by not understanding how things work for people in another part of your agency who you end up relying on. So, that's the start of the process. And it's also ‑‑ if you are going to be revising an existing policy for Section 508, or technology accessibility, it's a good idea to think about who are the people who you want to educate about 508 and technology accessibility. And bring along maybe you wish they understood it better. Bring them into your group. And it's a great way for people to understand what it involves, you know, when you are drafting the policy people tend to bring up examples and it's an education for people if they aren't that familiar with it. And there are a lot of new provisions in the revised Section 508 standards as we will reach ‑‑ we will get to sometime soon, that people in your agency need to know about. And so, it's a very logical place to start and it's ‑‑ think about how you can use the process to revise your policy for writing a policy if you don't already have one strategically to create new allies, and strengthen relationships that you would like to build on. And I give up.

(LAUGHTER)

Pierce: We are going to go with ‑‑ there was too much text on the slides anyway.

(LAUGHTER)

>> We are going to pretend everybody hear is blind. But can you ‑‑

Pierce: Well, I ‑‑

Deborah: Can you enlarge the view?

Pierce: Somehow. (indicating) it's going out to the projector. There we go.

Deborah: Thank you.

Pierce: Okay. So with Section 508 standards refresh, we have a lot of new emphasis to pay attention to when we have, you know, when we are considering revising Section 508 policy or if you are considering writing one base your agency doesn't yet have one. Or updating something less than a policy procedures, process, et cetera. And the 7 major areas that we have identified in the work group were: There is a new section "user needs" this is standard IT development concept that if you have a requirement maybe you should know something about what that means. And so, when projects are up starting, or when they are considering new updates, that they should while they are putting their business requirements together, include the business requirement of accessibility for people with disabilities. And that, if you are doing usability studies, or considering usability group assistance whether inside or outside, that that includes users with disabilities. My agency we find that to be quite a challenge because most of the prototyping tools are pro tote typing tools you have to wave your hands a lot. One of the things we have to wave our hand a lot although output in HTML output is not accessible to HTML. We think it's challenging but it's something that should be entered into your policy. Digital content. Does everybody here think all digital content electronic content needs to be accessible under Section 508? I see one person I think he is person shaking his head. Thanks Tim.

(LAUGHTER)

Pierce: It's ‑‑

Tim Cregan, Access Board

>> We will get into the lost list of categories. We have a new thing that is that we have old set of ‑‑ not old, tired, set of 508 requirements.

(LAUGHTER)

Pierce: Now we have a new set of requirements and we also have a consideration of if you were doing well under the old set of requirements, what do you do now? Does it mean that you automatically have to go inventory everything you have and go fix it? So, we want to talk about the legacy IT exception and your consideration of that into policy. Maintenance and monitoring spaces. What is another name for that that we love so much

Deborah: Under the ‑‑ under the older Section 508 standards was known as back office. And that has been changed. And so, your policies can be changed order to be consistent with the new standards. We will go into that.

Pierce: Yes, we will go into that.

>> This is just a preview right now.

Pierce: Undue burden it was combined with fundamental alteration and the documentation requirements are much clearer. So, that is probably something that you need to address in your Section 508 policy. The same with fundamental alteration if you were claiming fundamental alteration required I believe that was 1194.3 (f) you will have to do this after the fact. Can you tell me what "alternative means" means?

Alternative means is actually one of an interesting area where implementing it in an illustration of that convergence between 508, 504 and 501, alternative means is shorthand for the requirement that under Section 508 you have to purchase or develop the most conformant version of something that you can get your hands on. But it may not be fully in conformance with all of the relevant standards. What do you do, is that the end of ‑‑ end of the story for ‑‑ unfortunately a lot of people they stop there. I have done it. I picked the most accessible one.

But the new standards make it real clear the agency is responsible for providing accessible through an alternative means. It might be through technology, it might with be ‑‑ be with human assistance? I mean there is a variety of things. And we will talk about that too. So, we talked about the overall approach. You want to ‑‑ okay well please ‑‑ so, Pierce is going to talk again about the overall approach before we get into the specifics that we just listed.

Pierce: We were talking about alternative means, and this is where the new Section 508 standards refresh although something that existed before in standards, not getting a lot of attention or well understood, the prominence of that concept is brought forward. We have an image I wish that you could see or described but since you can't see it I will describe it. Three people in a four‑legged race. Their feet tied together. Of course in the center is Section 501 and on either side is Section 504 and 508.

>> They are wearing T‑shirts with the different numbers on them.

>> Their heads look like light bulbs.

(LAUGHTER)

Deborah: I pointed it out when I saw the image what?

Pierce: We were teasing each other how to describe it. The prominence of 501 being so important one of the biggest risks that we face is agencies is you know making sure that employees have full access and to a competitive career. And 501 or 508 and 504 are integral to that. But we have members of the public to be concerned about. If you are not in lock step if your policy is not in lock step with these other sections of the federal Rehabilitation Act you are probably not getting far enough along in your maturity model. Does it matter if in the state of Virginia, you get a ticket for going 80 or for reckless driving? I don't think it matters. Either way you are in trouble.

Does it matter if because of lack of Section 508 compliance your agency is in a discrimination lawsuit or in a public accommodation lawsuit? That doesn't name Section 508? It doesn't matter to the agency they suffer the consequence and you will likely be because of the prominence of technology and need to interact through technology your solutions will probably be technical. So, don't lose sight of that in your policy if you are not mentioning 501 and 504 in the 508 policy there is something missing. And they are prominent in the 508 standards.

Deborah: Also, conversely or something like that. ‑‑

(LAUGHTER)

Deborah: I was going to say alternatively, but the 501 and 504 policies may need to be revised as well. And chances are those policies don't talk much about technology accessibility. And yet, how ironic, because these days technology ‑‑ how can you ‑‑ how can you talk about not discriminating against people with disabilities and not be thinking about whether your technology is accessible. So, and in fact the new Section 501 regulations that came out of the EEOC last year specifically call out 508 in that they require that the Section 501 notices also let people know who the 508 coordinator is, and how to file a 508 complaint. So, there's ‑‑ and it certainly would make sense if you are revising the policy to invite in EEO if they are the ones who do 501. And whoever HR ‑‑ HR ‑‑ anyhow, EEO, HR, civil rights ‑‑ whoever in your agency are the ones because different agencies do it different ways. Whoever are the ones that do 501 or 504 in your agency. So, it's important. And the other thing from a practical point of view from operational point of view. The people who operate the 501 program and the 504 program chances are they don't understand technology very well. You know? They didn't go to IT school. Or anything like that. And they don't spend their days conversing with IT folks all the time about accessibility of IT and so they don't know what to do when somebody comes to them and says that they are having problems in accessing something. I mean, and what worries me is that they might end up giving somebody a personal accommodation when the real problem is that there is a system or app or form or website that's not accessible. And that's really what needs to be addressed. But they don't know how to diagnose that. So, those relationships really need to exist so that things work out the best for people with disabilities who need to use the technology and so that the agency doesn't waste money.

Pierce: So, we are going to jump into each one of these and talk a little about language ‑‑

Deborah: I'm sorry. By the way, before we go much further, if you go to Section 508.gov you will find a wealth of new publications that are directly relevant to many of the workshops that we are giving today at this forum why. There is one specifically on how to revise your agency policy. There is also one on user needs, there is ones on document accessibility. There is ‑‑ we just worked our butts off.

(LAUGHTER)

Deborah: To make this stuff available. And so, you don't have to reinvent the wheel. We really hope these things are useful to you. If they are not or if you think that they can be better, let us know. They are works in progress. And ‑‑ so please go check them out. You will find a lot more than what we cover today and you couldn't be expected to remember all of this anyhow.

Pierce: I can barely see it.

(LAUGHTER)

Pierce: So, user needs. E203.2 do people know their 1194's raise your hand. Just Mark?

(LAUGHTER)

>> Tim.

>> We are just embarrassed to say we got a new set of numbers we have E203.2 which is user needs when agencies procure develop maintain the IT (reads) how users will perform the function supported by the ICT how ‑‑ oh, is everyone familiar with the term ICT? Information and Communication Technology (ICT), it supplants EIT. If you are not with it, get hip.

(LAUGHTER)

Pierce: How ‑‑ and number 2 how the ICT will be developed installed configured and maintained to support users with disabilities. This is pretty comprehensive. Basically, we are saying you got no excuses. Of course, maybe you don't know all of the user's needs. Of course, it's hard to find out. But not knowing is just as bad as before Section 508 came about saying we don't have an accessible version on our contract so we can't bring that to you. Which is why Section 508 was really enacted. We had that problem in the government space. And we have written some stock language that people should insert. Don't think that this is a directive part of a policy. This is just a reminder that accessibility and user needs as far as people with disabilities really are part of your requirements gathering when you are looking at a project, authoring a document, et cetera. It's a comprehensive thing that must be injected into all of your other processes and life cycles, et cetera.

Deborah: And so, we are not going to read the whole thing verbatim right now. These slides I believe are available at Section 508.gov now. They certainly will be right after the forum. If you want the slides. And they are accessible. Also, this language, the recommended language is in the best practice guidance at Section 508.gov on the transition toolkit web page on how to revise your agency policy. So, you don't have to take notes. We are not going to read these lengthy things because they are boring.

(LAUGHTER)

Pierce: And written down.

Deborah: And we can't see them anyhow.

(LAUGHTER)

Deborah: But you know we draft it ‑‑ we drafted recommended language that you can use but don't feel like you have to use our language if it doesn't fit. Every agency has its own strangeness, doesn't it? We all know too well.

(LAUGHTER)

Deborah: And take it and adapt it.

Pierce: So, electronic content. Who here knows the 9 categories of electronic that must feet the standards raise your hand up high if you know there are actually 10. There are 11, sorry, 11.

>> 12.

>> There are 12.

>> Make it 13?

(LAUGHTER)

Pierce: No, there are 11. But because the 9 are a long list of 9 everybody focuses on the 9. There is one before it and one after it. The one before it says all public facing content. So, don't let people get confused, because you got this big old list that really gets people's attention but you have one up above it all public facing and one down below it that says all software.

Deborah: I found the definition of public facing to be quite helpful from the standard

>> Content made available by agency to members of the general public. Examples include but not limited to an agency website, blog post and social media pages. Yes. Twitter, YouTube, Facebook, the whole 9 yards you are putting it out to the public you are now obligated it make it accessible.

>> Let me ask you a leading question: Is this a change from current existing 508?

>> the public facing?

>> Yeah.

>> No. Other than we have general exceptions that of course apply. Our purposes et cetera.

Deborah: All of the others they are not new. It's new that they are called out and specifically listed. But this is not a new requirement.

Pierce: The 9 categories are new. They confuse that this public content might have to be within those 9 categories. And that's not true.

>> Well remember we are talking about anything public facing. That has to be accessible unchanged like you just said. The separate thing is nonpublic facing official agency communication has to have the 9 categories.

>> We want to make sure faces the public general exceptions can apply and that's it. Don't look at the 9 categories.

>> Public facing if you are working in something and you are pointing they have a document in that document I am pointing someone to Facebook or to Twitter or to ‑‑ am I responsible for where I am pointing them to or ‑‑

>> No only what your agency generates.

>> Okay.

Pierce: Okay. So are we all clear public facing applies. Good. A through I you want to take this one?

Deborah: Yes, I have to get closer. So, here are ‑‑ well here is the list, we just did a workshop in the morning some of you were there. Where we went through these giving examples and talking about what are some things to keep in mind in terms of how to make it happen. So, we are not going to cover it here. What we are saying probably in your policy you want to probably want to list these so that nobody argues with you later about it. And so, here is what they are: Emergency notifications. I get close enough and I back away I can't see it. I don't have my glasses on that's why.

>> Emergency notifications. Initial or final decision adjudicating administrative claim or proceeding. Internal external program or policy announcement. A notice of benefits program eligibility employment opportunity or personnel action. Remember, this is whether broadly or narrowly disseminated.

A formal acknowledgment of receipt. A survey questionnaire. A template or form. That means whether it is just a Microsoft Word document that you were to fill in by making extra lines or whether it's a fillable form in a pdf extension. Education or training materials. Internet content designed as a web page. Now, this one's a little difficult to understand. And people like to thin slice it I am going to use the example that people love. I have a website and I have a share point site. The share point site isn't ‑‑ isn't designed to be a web page it's interactive. It doesn't fit this category. So, I don't have to make it accessible, right?

>> It's software.

>> It's software you are right it doesn't mean the criteria it's not a web page it's still software you still have to make it compliant.

>> but documents that you put into it that might meet those requirements that would be the requirements.

Deborah: Oh, man.

>> You have a Dagwood sandwich, thin slice of rye on the top and pumpernickel on the bottom, in between are the 9 things people forget, the two slices of bread. Always remember. Software will save you and public facing will save you from people trying to wiggle around with the 9 categories. Any questions on that before we move on we know that is important stuff. Okay.

So, the policy guidelines pretty much mirror the standards. We are not going to go over it it's basically a retooling of the ‑‑

Deborah: This is just suggestion of what you might want to use to put in your policy. Okay. So, let's move on to next topic.

Pierce: Want to make take that one?

Deborah: Sure. You didn't write this? You wrote this, no?

Pierce: No, I did write that. That was months ago.

>> It's yours.

Pierce: Are people familiar with the safe harbor provision affectionately name. Or IC general exception. This is a general exception not one of the specific exceptions because it's not part of the included applicability like with internally facing content. If ‑‑ there is a whole string of if's you will get here. If before January 18, 2018 you had content that was accessible and you had reported it as accessible you have evidence of that, we think you would be able to say that you don't have to do anything the way the standards are written with the legacy IT exception. But if you make any updates to that content, the portions that you update you will probably have to keep track of which portions were updated, can then have to meet the new standards and the old stuff that you never updated or made changes to would not have to be up ‑‑ meet the new standards of the so, who would love to manage a project an application that meets two different sets of standards for some portions of the project and not others? So, it's not a happy place but it's actually an important tool. Because you are otherwise going to be forced into updating everything that you have because you have no transactional moment. We have a transaction of January 18, 2018 at that time you want to start converting over the requirements to the new Section 508 standards and begin sunsetting your adherence to the old standards. Your legacy content make sure you record compliance before January 18 so that at least nonupdated portions will have that protection. Does that make sense to everybody

>> It does it might be too die tailed but I am ‑‑ I am new to 508. New, newly appointed coordinator, so it seems like I am hearing a lot of the standards haven't changed that much things are highlighted in more detail. Not too many additions. So, are you imagining there is a lot of difference between something that was compliant from original to something that ‑‑ something is going to break with the new ‑‑

Pierce: It depends on your agency. There is a section 119431 performance criteria. If you were using that section as a means to say we are modernizing and we will make sure people who are blind people with low vision low mobility people with no speech people who cannot hear et cetera if you are using modern best practices, with the old standards, there is probably not much difference at all. If you were strictly adhering to the technical requirements of 508 your world has changed. And for those agencies that were doing things in a more modern way hopefully you are also recording if not get on that. So that you can get the baseline set on your legacy content. I do not think I would want to use this as a defense in a 504 or 501 lawsuit. This is more of a, we are doing due diligence. We will get to it when we can and thank you for the attention we will get to it now. You want to delay action so that you can do good. This is ‑‑ this is what this section allows you to do

>> Speak to it as it pertains to software. Safe harbor

>> It applies to software it applies to documents it applies to web pages it applies to everything.

>> We were just talking about documents that's why I was saying let's ‑‑

Deborah: But I mean, I think to ‑‑ this is just my own personal opinion. We are sort of getting away from policy here. It's a good thing that this exists. But if you haven't been documenting that things are accessible all along, you know, how good is it how good is it going to be for you. But, also, resources are limited especially now because it's so difficult to hire behind people when they leave. My first priority if I were managing accessibility and the website, would be to make sure that going forward, we are going to be able to say, we comply with the new standards. And that would mean making sure that you know, my testing, my tools, and my training are all, you know, WCAG 2.0 and the new standards that would be my first priority. But, yes, Mark?

>> I was going to say we are actually doing a session this afternoon on the life cycle and 508 standards so that might be a good time to have a more detailed conversation about when you are going to do the cutoff why you do the cutoff and how you might want to (inaudible) we will talk about that.

>> Thank you. Good.

>> Is there a definition of "record"?

>> The standards do not say you need to record I would say you don't want to use this as a defense in any way if you don't have the evidence to present.

>> Right.

>> If you have evidence to demonstrate the safe harbor is not is not going to be something you can stand up on. You probably don't want to any way except to say thank you for bringing attention to the issue, we want to fix it, we want to update it to the new standards now could we have some time let's not go to court yet.

>> I was thinking more of ‑‑ I am with HHS and so we man the leader boards and such I was thinking more points coming to us and saying no, I have that documented and recorded that it doesn't need to be updated to WCAG. We are trying to figure out how we navigate that water with everybody coming back ‑‑

Pierce: That's a separate. Yes, that has to be made compliant for employees and people accessing the services from the public. Section 508 today under current standards what do you do in February. In this case if you recorded your test and your compliance level you wouldn't have to increase the compliance level anymore to the new standards because you have this legacy safe harbor.

>> Actually to go along is there a definition for update?

Pierce: I believe there is in the standards. I think it means, a lot.

(LAUGHTER)

Tim: The question was: What is considered an alteration it's in the text that you would go to chapter 1, 103.4 defined terms. And the defined term is for alterations. And it says: A change to existing ICT that effects interoperability, reducing interface or access to information or data. So, the example that we have used is, if there is a typographical error, you change the typographical error that would not meet the definition of alteration of the if you were however to change the footer on a page, that would be an 58 alteration and therefore all of the rules for font size et cetera would kick in

>> For the footer or the whole page

>> For the footer only. Remember, the provisions that you all are talking about goes to it says: Any component or a portion of existing ICT.

>> Right. So, I think it's useful to sometimes envision other scenarios and you know the framework that the Access Board is very familiar with, and they have more years dealing with is the built environment. And the concept is taken from the way that accessibility is handled for architectural accessibility. Older buildings under say the ADA didn't have to all be re‑built to comply with accessibility standards. It was going forward just like this is going forward after January 18 things have to comply with the new standards. But the rule for architectural accessibility is: If you make a significant modification like you put in a new bathroom, to an existing facility, that new bathroom has to comply with the accessibility standards. So, that's ‑‑

Pierce: This is especially important in modern development where you have small sprints agile sprints ‑‑ sprints or for the next two weeks we are going to separate last name first name that's all we are doing in the form. You can imagine the complexity of using something like safe harbor in today's modern development where thin slicing are ‑‑ are testing are certification testing for 508 we are looking at myopically what they changed it fits well with that so long as you have record that you tested the other stuff before old standards. There are problems inherent in reporting compliance you never look at the whole application you never know. One more question we want to move on.

>> We are getting beyond policy here, way beyond.

>> It's a loose association but when you are doing development through the life cycle you go back to the capital planning guidelines, doing O and N enter the space doing development and modernization chances are you triggered it. Whichever portion or component you were actually developing. If you are just using O and M knowledge and doing cosmetic fix to something no. I think there is exception to that but as a general rule that's ‑‑

Pierce: They are real thin in general if someone asks you the question you should sum up the person and character not the question.

Deborah: Let's move on. Okay. This is back office. So, back office as it turned out the back-office exceptions said that ICT and maintenance and monitoring spaces didn't have to be accessible because the idea was, you know, there are places where the technicians go and they are the ones who mess with it, and you know don't worry about it. That's not how technology works anymore because most of that functionality is now carried out at a terminal it can be anywhere, and it doesn't work that way anymore for the most part. And, also, back office came to be a very popular exception who would have thought there was so much back office stuff.

(LAUGHTER)

Deborah: And so, the new standards are very, very clear that the ‑‑ this concept of making an exception when only a few people are going to be accessing very, very specific functionalities have only to do with ‑‑ you can read the specific language.

Pierce: I am going to get down to a summation everyone can get it's not where it is it's what it is. Now, instead of where the product is located, it's where the thing on the product is located. So, for instance, if you are in a back-office situation, maintenance monitoring space, the LEDs is on the front if you open the becomes all of the cards you put in a server, all of the connectors on the back, these are things you don't have to worry about. It's the places on the box because of where the box is located. But the terminal concentrator that can hookup to administrative software over the network, does need to be accessible. The administrative software that provisions your wild spaces across multiple machines does need to meet Section 508 requirements. This software and network connectivity firmware even really do need to be considered for Section 508 the back office is exception are very important exceptions. There were calls to eliminate it all together. The amount of work that that would put on our agency given the scrutiny that we give to procurement would be so much we would probably have to do less of the things that matter. Because we have so much hardware that had to go through so many requirements and then we have to judge them and might have to pay more for products that don't really matter to us. The bottom line is a data center is a dangerous place have you been in a data center. Who can hear it? You can't hear a darn thing. It's forced air. That means high oxygen environment, it's a big issue. Halon extinguishers will go out, you need to get out in two minutes, raised floor tiles removed all of the time, dangerous place.

Deborah: Please can you read the language?

>> Sure.

(LAUGHTER)

>> Products located in spaces frequented only by personnel for maintenance repair or occasional monitoring of equipment are not required to meet that part that's the old exception. The revised standard ICT functions ‑‑ functions located in maintenance and monitoring spaces were the status indicators operable parts for ICT functions are located in spaces that are frequented only by personnel service personnel for maintenance repair or occasional monitoring of equipment status indicators operable parts shall not be required to conform to the revised 508 standards. So, it's a lot of words ‑‑

>> It's very, very narrow.

>> It means LEDs, buttons, cables in the back, connectors in the back, reaching into a box 240 volt. All of that stuff. Don't worry about it. That's a maintenance area. It can be the maintenance area of a product or the product is in a maintenance area. Yes.

>> Tim: Just one thing when you think about the civil rights act of that. Speaking for myself the word back office, it's used because it's never ever intended that an office would be off limits it brings up the thing to say we will call it a back office so you people with disabilities can whistle. That is not the ‑‑ that is not what this is intended to do. What this is saying very, very limited think broom closet and little hole in the wall no one goes into this that helps you don't use the word back office it's not intended for an office. An office is intended as federal employee under 501 you have access to your workplace. If there is an office you have okay says to it. Pierce and Debbie is saying it's extremely limited to a user interface where the user interface itself is located and only those maintenance people go to it that's the extremely narrow limitations I would strike the word back office from your vocabulary. Because it's extremely misleading.

Pierce: I just got back handed on back office.

(LAUGHTER)

>> So, I am going to speak for us and typically, when we are applying this when we are looking at this we are really looking for those areas that are supported by the users like we have the telephones and stuff the data stuff Verizon AT&T equipment in our office our personnel don't touch that. So, you know whatever the requirements are for their personnel is their personnel and their equipment and they are managing it. But when we are looking at things that we are managing, then we apply the appropriate standards we are looking at hardware and looking at software and how to maintain it.

Deborah: We just got the 15‑minute notice so ‑‑

>> We are going to run through it.

>> As enticing as it is for us to get into the how to stuff. We are not going to do that so much now.

So, the undue burden general exceptions is also very popular. And I am going to sum it up. The ‑‑ you can correct me if I botch this but basically, in order to ‑‑ in order to successfully use undue burden exceptions, an agency must first clearly identify the specific standards that apply to any particular ICT functionality, and because many products these days are multi ‑‑ multiple functions it's a good idea to identify the specific standards that apply to each function of the technology each major thing that it does. And then once ‑‑ once you know which standards apply, there has to be an analysis of what it would take to comply with each one. And only then is it relevant or is it ‑‑ do you have the ability to assert that undue burden applies that's basically how the revised undue burden exception works. It's only for a specific standard not for the whole thing. And you have to be able to ‑‑ the request for undue burden has to specifically state why it's an undue burden to comply with the specific standard.

So, and the revised standard also clarifies that it has to be a very high-level authority within your agency making the decision about whether to grant the request for an undue burden exception and that all of this has to be documented. And so, your policy, really has to reflect all of these significant changes and what it means operationally and we have got language there as well.

>> One of the more prominent things in undue burden now is the elevating or more prominence to alternative means. Not only is it handled as a separate issue all together but it's coupled into undue burden and fundamental alteration. If you claim undue burden remember the three guys with the light bulb heads. They are mutually exclusive. You have exception with 508 great. You can wipe your hands of just that. You still have to meet your discrimination requirements you still have to meet your accommodation requirements if you are claiming undue burden it's explicit now that you are on the hook to provide not just accommodations but an alternative means which may mean that your accommodation may be specified by the individual’s management et cetera. We have language, we are not going to go over the exact language but take a look at that on the website. Coupled with undue burden is one of my favorite exceptions, fundamental alteration. Because it ‑‑ it's like a puzzle. When you can use it when you can't and when you do how you rationalize it.

Deborah: Can I just set it up? I think where this came from was, all of this was written before people understood technology accessibility very much. And the people who were going to have to comply with it and make things accessible were saying oh, but what if making this accessible would just really change everything so this product wouldn't even be whatever. And so, that's the problem that the fundamental alteration exception is addressing.

Pierce: Correct. If I want to make video editing software in a purchase or I want to purchase video editing software I am not going to apply the requirements that are geared towards nonvisual operation. Because if you were to make the product accessible to people who use a screen reader, I don't want that product. You are going to ruin my intended use of the product. You can make it accessible. It's going to make it horrible at the same time. My intended use is now ruined. So, that's really what it's about. Never focus on people when you are writing a justification or making this kind of decision. It's not that blind people or people with low mobility can't do it it's if you did it wouldn't be what you are asking for. I want a monitor ‑‑ a scanner that can work for a loading dock people if they find a little UPC code they can grab it reach around the backside scan it say it's inventory and I can bring it in with a forklift and put it over where it needs to go. I can make that accessible. I can put it on a 3D scanning platform and have the scanner go all the way around suddenly my need for the handheld simple to use integrate is gone. So, these are the types of things. Not the person, the product is the issue. To make it accessible what happens to my intended use if it increases your burden and increases the cost to the agency, doesn't address the business need you can begin to think about this exception. If you keep gravitating towards the people can't do this the people can't do this probably not there. Keep checking. Keep finding that way through. Or decide I can't write it. It's not ‑‑ it's not real.

Deborah: We have suggested language here. Next.

Pierce: One thing about the suggested language. Fundamental alteration undue burden the same section the same requirements for prior decision making and documentation are required for fundamental alteration. You can't say we wouldn't have done it anyway because fundamental alteration that's off. This is part of that record that Cathy was asking about. We need to ‑‑ we need to be deliberate about exceptions. General exceptions most especially. And now the standards have really done that to fundamental alteration by coupling it with undue burden.

Deborah: Okay ‑‑ we talked about alternative means yes

>> I have a question. Exception in general. So, if you give an exception grant exception for a product version 1.0 and then ‑‑ how long does it last? Forever? Or this product gets updated and now we are 4.0 do they have to go back there ‑‑

>> the agency has the type of risk the need for documentation and whether it has resources to record all of that information over and over and over again. It depends on the situation.

>> Yeah it depends on what it is.

>> Some people think once you get an exception that's it. You can update that product and make as many changes to it 10 years later ‑‑

>> There are no waivers

>> They say I have exception

>> It's not exemption it's exception for that particular instance.

>> a good policy approach to that is whatever you use as the standard for when you do security re‑review and system accreditation or software accreditation that's a great time to do 508 review as well.

>> It's not fun to go to a judge 150 years after and say, well, we said ‑‑

>> The cool thing about the policy, if one is approved it's not forever, so to speak you alter it ‑‑ exactly, okay.

>> This must be in writing and include an explanation of the basis for the decision including how conformance would be fundamentally altered the nature of the product. So, if it never ‑‑ that fundamental alteration would never ever change, you might have an appetite for more risk then.

>> Okay.

Deborah: We talked about alternative means that the standards are now very clear that when you grant an exception you still have to find an alternative means for someone to get the functionality of the information that everybody else has access to. And we have got suggested language for that.

Pierce: I ‑‑

>> I don't think ‑‑

Pierce: Oh, okay.

Deborah: So, and I think just thinking about alternative means, I said this already. Keywords are: Access to and use of. That's what somebody needs, you know you have to think about the alternative that you are suggesting is that really giving somebody the same access to and use of. And yeah, it's ‑‑ it's okay. Okay so, if you don't already have a Section 508 policy use the transition to the revised standards as a reason to develop one. You know, if you have been having a hard time getting your agency to come up with a policy, maybe this is a good time and they might be convinced because of this. As I said earlier bring all of the affected stakeholders together. Use the process to education people. If you already have one it really does need to be updated. And follow the same process.

Pierce: One last word on the federal Rehab Act not section ‑‑ to make it whole, think about compliance even technical requirements compliance as there are individuals who have tasks that they need to complete. Given that they are going to do them through this IT can they complete those work tasks in a way that gets them access to services that they are seeking allows them to complete the work task in a way that keeps them competitive in their career. Those are really the fundamental ways to think about accessibility and how to write about it when writing your policy. Think about it holistically. This is not you know about meeting a bunch of standards because if I have a report I am going to get my case dismissed. It won't be a 508 case there aren't that many of them out there. You are going to be ‑‑ if you hold up all of your that one document they mentioned is 508 compliant that's fine we are talking about other things. You have to think holistically. This is very important to understanding the refresh. The refresh is explicit now. These are related. And they must be attended to together. So, use that attitude accordingly when writing a policy.

>> Any last questions?

>> Sure. You want to talk about elements of a good 508 complaint policy.

>> I don't think we have time for that right now.

(LAUGHTER)

Deborah: I did see something the Department of Justice published something that is really, really useful. It was circulating around the Section 508 coordinators list just recently. And I downloaded it and saved it.

>> Section 508.gov page.

>> Okay. It's on that page. That is a really good question. And I would expect that for many agencies, that that's a good thing to look at.

>> The complaint process is usually it's not 508. So, whatever you can do to get people who are having accessibility issues with IT, get them the help that they need. Give them ways to communicate that don't get them to the angry moment where they think I just work for a bunch of jerks, and I need to get help, and I can't through this IT talk to the people who do help desk get them trained so they are not inadvertently be insensitive to the frustrations they don't understand because they don't have context. Get to the members of public who you get to repeatedly if it's accommodation need it goes to the accommodation people, if it's technical that's the web master. That's the person who send it to the accommodation that's a vicious circle going around and around how do we insert somebody who says we have a person with a problem they can get a solution like that if I could just talk to them. Find those gaps and fill those. That's the best way to deal with complaints. Get them hope help.

>> Tim: Well, a lot of agencies have accessibility statements on the bottom of their home page where you link on it and it gives you guidance who to contact if you run into problems with the accessibility of an agency website. And that policy dates back to the prior administration when agencies were required to put in those statements.

Pierce: Clinton era that that was called for. But ‑‑ because most agencies complaint process and because the law is set up under 504 complaint procedures, see it goes to the 504 group it's not technical we will send it back to the web master to find technical people you get a vicious loop. Find ways to insert ‑‑ for instance in our agency, if you need help with your A.T. we have one group that does your help disk you are identified when you come in as being an A.T. user you are if in the database your call is routed to the people who know who you are what you have and the configuration you have to do if you need to reimage. That's one way to sir couple navigate the complaint issue. What we need is feedback that's what we really need is feedback. Complaints are ‑‑ are wonderful things for attention.

(LAUGHTER)

>> Not all of it is wanted.

>> Okay. Thank you very much.

>> Thank you.

(APPLAUSE)

>> Next is lunch break in 12:45 to 2 p.m.