

## Pathways to Progress: Civil Rights Laws and Access to Assistive Technology

Adriana M. Kranyecz

Advances in assistive technology and accessible software present growing opportunities for people with disabilities as society shifts towards a digital world. To ensure equal access, Congress has enacted legislation in several areas such as education, employment, assistive technology, and electronic communication services.<sup>1</sup> Although Congress will continue to address these issues further in the future, existing laws plant the seeds of progress by establishing the framework for upholding these civil rights protections.

In the employment realm, Section 504 of the Rehabilitation Act of 1973 protects qualified individuals from discrimination based on their disability by providing them with reasonable accommodations.<sup>2</sup> Qualified individuals with disabilities are persons who, with reasonable accommodation, can perform the essential functions of the job for which they are applying or have been hired to perform. The Act is limited to programs and activities that receive Federal financial assistance, the United States Postal Service, or any program conducted by an Executive agency.<sup>3</sup>

In 1986, Section 508 was added as an amendment to the Act. Section 508 requires that when federal agencies develop, procure, maintain, or use electronic and information technology, they ensure that federal employees with disabilities have access to the use of that technology.<sup>4</sup> However, the Americans with Disabilities Act of 1990 (“ADA”), including changes made by the ADA Amendments Act of 2008, reaches beyond the scope of the Rehabilitation Act.

The ADA is civil rights legislation that protects people with disabilities in areas of public life by providing them with equal opportunities. Title IV of the Act addresses assistive technology, more specifically, it requires that telephone companies provide necessary services to allow people who are hearing impaired to use telecommunication devices.<sup>5</sup> In addition to the ADA, Congress has passed other legislation that is specifically targeted toward the technology realm.

The Assistive Technology Act of 1998, also known as the "Tech Act" provides funds to states to support three programs aimed at improving access to assistive technology.<sup>6</sup> Among other things, the programs address the establishment of assistive technology information centers and

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<sup>1</sup> *What are legal issues associated with the design of accessible software?* ACCESS COMPUTING, <https://www.washington.edu/accesscomputing/what-are-legal-issues-associated-design-accessible-software#:~:text=Section%20508%20requires%20that%20when,by%20federal%20employees%20who%20do> (last visited December 2, 2023).

<sup>2</sup> Rehabilitation Act of 1973 § 504, 29 U.S.C. § 794 (2018).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*, § 508, as amended by the Workforce Investment Act of 1998, § 1194, 29 U.S.C. § 794d (2018).

<sup>5</sup> Americans with Disabilities Act of 1990, § 401, 42 U.S.C. §12202 (2012).

<sup>6</sup> Assistive Technology Act of 1998, 29 U.S.C. §§ 3001-3058 (2018).

referral services and ensure there are protection and advocacy services in place to help people with disabilities access the resources they are eligible for.

The legal landscape on accessible software and assistive technology will need to continue improving as technology advances to ensure equal access and civil rights protections for people with disabilities. While significant progress has been made thanks to several laws passed by Congress, there is still room for improvement. To uphold and advance civil rights, Congress will need to continually revisit where accessibility needs meet the possibilities of current technology while striking a balance between innovation and inclusion.