

Screened Without Reasons:
Section 504, Meaningful Access, and the Closed Editorial Screen at SSRN
and Elsevier

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Abstract

The Social Science Research Network is the dominant preprint repository for legal scholarship, and Elsevier owns it. Elsevier Inc. is itself a direct recipient of federal financial assistance, and under the Civil Rights Restoration Act of 1987 that assistance extends Section 504 of the Rehabilitation Act to the operations of the corporation as a whole, including the repository. In 2026 the platform entered a contested transition and tightened a submission screen that the platform itself describes as one that gives no individualized reasons, hears no appeals, and reaches final decisions at volume. This Article argues that the closed screen, applied to disabled authors, denies meaningful access to the benefit the repository offers. It builds the claim on the theory that survives the current doctrinal landscape in any circuit: a denial of meaningful access under *Alexander v. Choate*, cured by the reasonable accommodation of a stated reason and a channel to ask. Because the courts divide on whether Section 504 reaches disparate impact, with the Ninth Circuit holding that it does and the Sixth holding that it does not, the Article pleads disparate impact where the systemic framing is available and rests its floor on the failure-to-accommodate theory, which survives even the narrowest reading. It establishes coverage, identifies the protected class and the disparate burden, sets out the governing theories and the split, applies them to the screen, answers the defenses a covered recipient would raise, and proposes accessible remediation.

Keywords: Section 504; Rehabilitation Act; meaningful access; reasonable accommodation; disparate impact; *Alexander v. Choate*; *Payan v. LACCD*; federal financial assistance; Civil Rights Restoration Act; preprint repository.

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I. Introduction

A doctrinal legal article about disability access can be submitted to the repository that legal academia treats as the front door to its own scholarship, and that repository can decline to post it without stating a reason and without permitting an appeal. The author receives a notice that does not say what was wrong. It offers two possibilities joined by an *or*, that the submission failed to meet requirements or that it fell outside scope, and it declines to say which. It refers the author to a frequently asked questions page. It closes by stating that the decision does not reflect a judgement on the merits. The platform's published policy confirms the rest: no individualized explanation, and no reconsideration, will follow.¹

For an author without a relevant disability, this is friction. The author can guess at the defect, revise, and resubmit, or move on. For an author with a cognitive disability recognized under the Americans with Disabilities Act Amendments Act of 2008, including memory impairment, intellectual and developmental disability, traumatic brain injury, and executive function disorder, the same notice operates differently. A decision that names no reason asks the reader to supply the reason, and supplying an unstated reason is exactly the kind of open-ended reconstruction that executive function disorder impairs. A process that hears no appeal removes the one accommodation that would let a disabled author surface the barrier and ask that it be cured.

This Article makes a single claim and builds it on the ground that is firmest. The repository is operated by a recipient of federal financial assistance and is therefore bound by Section 504 of the Rehabilitation Act across the whole of its operations. A submission screen that issues unexplained and unappealable decisions at volume, applied to disabled authors, denies them meaningful access to the benefit the repository offers. The Supreme Court has held that Section 504 guarantees meaningful access and that reasonable accommodations may be

1. SSRN, *Submission Guidelines and Screening*, SSRN Support Center, <https://www.elsevier.support/ssrn/answer/get-started> (last visited June 2026) (stating that SSRN does not provide individualized reasons for rejections, that decisions are final, and that SSRN does not reconsider rejections).

required to assure it.² That is the theory this Article leads with, because it does not depend on the contested question of whether Section 504 reaches disparate impact, a question on which the circuits now openly divide. Where the systemic framing is available the Article also presses a disparate-impact theory, which the Ninth Circuit has held cognizable. And it rests its floor on failure to accommodate, the theory that survives even the narrowest reading of the statute.

II. The Repository and the Regime Change

A. A Dominant Platform Under a Single Owner

The Social Science Research Network became the principal venue through which legal scholars circulate pre-publication drafts and the Legal Scholarship Network through which those drafts are discovered.³ Elsevier acquired SSRN in 2016, and the platform now operates as an Elsevier property. The significance of that ownership is jurisdictional, because Section 504 coverage runs to the recipient and to all of the recipient's operations, and the repository is one of those operations.

B. A Contested Transition in 2026

In April 2026 the platform announced a renewed focus on its core mission and stated that it would close a series of commercial products, including its institutional Research Paper Series, by the end of December 2026.⁴ The announcement drew immediate public criticism from within the legal academy. A prominent corporate law scholar described the changes as significant and unwelcome and catalogued his objections, and the controversy was covered across legal academic blogs.⁵ The platform then published a response acknowledging the scholar's concerns

2. *Alexander v. Choate*, 469 U.S. 287, 301 (1985).

3. See Stephen Bainbridge, *The Social Science Research Network Has Jumped the Shark*, StephenBainbridge.com (June 3, 2026), <https://www.stephenbainbridge.com> (describing SSRN's centrality to the legal academy and reporting the author's own use of the platform).

4. SSRN, *Strategic Update: Renewed Focus on Core Research Sharing Mission* (Apr. 13, 2026), <https://blog.ssrn.com>.

5. Bainbridge, *supra* note 3; see also *SSRN Has Not Jumped the Shark*, TaxProf Blog (June 7, 2026), <https://taxprof.typepad.com>.

and clarifying its plans, in which it confirmed that it was moving to ring-fence the site against bad actors and spam submissions and that it expected to introduce additional identity verification measures.⁶ That criticism is relevant for one narrow purpose. It did not concern disability access or the screen at issue here. It establishes only that the platform entered a real and contested transition in 2026, which is the factual predicate this Article needs.

C. The Screen as the Platform Describes It

The platform's own account supplies the operative facts. Submissions are screened. Rejections are final. No individualized reason is given. No appeal is heard. Screening is driven by volume and by automated and policy criteria.⁷ A recipient bound by Section 504 cannot dispute the character of its own process when that process is described in the recipient's published policy.

III. Section 504 Coverage of Elsevier and SSRN

A. The Statutory Trigger and the Recipient Question

Section 504 provides that no otherwise qualified individual with a disability shall, solely by reason of disability, be excluded from, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance.⁸ Coverage turns on recipient status. A recipient is not a mere beneficiary, as the Supreme Court held in concluding that commercial airlines were not recipients simply because they benefited from a federally funded airport and airway system.⁹

6. SSRN, *SSRN's Ongoing Commitment to Legal Scholarship* (June 4, 2026), <https://blog.ssrn.com>.

7. SSRN, *supra* note 1.

8. 29 U.S.C. §794(a).

9. *U.S. Dep't of Transp. v. Paralyzed Veterans of Am.*, 477 U.S. 597, 605–07 (1986) (distinguishing recipients from beneficiaries and requiring identification of the entity to which assistance is extended).

Federal financial assistance means grants and similar extensions of assistance. It does not include federal procurement contracts, under which the government buys a product or service at arm's length.¹⁰ The line matters because it determines which federal dollars count.

B. The Recipient and the Award Records

Elsevier Inc., the entity in the corporate line that operates the repository, is itself a direct recipient of federal financial assistance. It holds a direct award from the National Science Foundation under the agency's EAGER mechanism, an exploratory research grant, in the amount of \$230,292.¹¹ The classification is not a matter of inference. The federal government's own records mark the award as assistance rather than procurement by its award-identifier prefix, by its grant instrument, and by the budgetary object class to which the agency booked the funds. Because the statute conditions coverage on recipient status rather than on the amount or purpose of the assistance, a single qualifying grant is enough, and this one is direct, clean, and to the operating entity itself.

That the recipient is Elsevier Inc., and not merely a distant corporate parent, removes the step that would otherwise require attributing a parent's assistance to a subsidiary. The federal records corroborate the point from several directions. Elsevier Inc. is also the direct recipient of a substantial award under the National Institutes of Health Generalist Repository Ecosystem Initiative, which funds the operation of a generalist repository to enable the search and discovery

10. See *United States v. Univ. Hosp.*, 575 F. Supp. 607, 612 (E.D.N.Y. 1983) (distinguishing procurement contracts from federal financial assistance). The line is dispositive: a contract to license a database is procurement and does not trigger Section 504. See *Cook v. Budget Rent-A-Car Corp.*, 502 F. Supp. 494, 497–98 (S.D.N.Y. 1980) (holding that federal automobile-rental contracts were procurement and did not make the contractor a recipient).

11. Nat'l Sci. Found. Award No. 2431145, recipient Elsevier Inc. The federal record classifies the award as assistance, not procurement, in three independent ways. First, the unique award identifier carries the prefix reserved for assistance awards rather than the prefix reserved for procurement contracts. See USASpending.gov, Award ASST_NON_2431145_049, https://www.usaspending.gov/award/ASST_NON_2431145_049. Second, the funding instrument is the National Science Foundation's EAGER mechanism, an established research-grant vehicle. Third, the award is booked to budgetary object class 41.0, "Grants, subsidies, and contributions," out of the National Science Foundation's Research and Related Activities appropriation through its Technology, Innovation, and Partnerships directorate. Procurement contracts are booked instead to the contractual-services object class. The funding agency, in short, classified this money as a grant.

of federally funded research data, a function materially identical to the repository at issue here.¹² The broader corporate family, RELX plc and Reed Elsevier (UK) Ltd. as parents, Elsevier B.V. as the holder of additional federal sub-grants for research software, and LexisNexis Risk Solutions Inc. as the named subrecipient on a large number of federal sub-grants, is entangled with federal assistance across years, agencies, and programs.¹³ This Article does not rest on those subsidiary and parent records, and it does not rely on any theory that a forgiven loan converts into a permanent grant obligation. The direct grant to Elsevier Inc. carries the argument by itself.

C. Coverage of the Whole Corporation

Once an entity is a recipient, the reach of Section 504 within that entity is settled by the Civil Rights Restoration Act of 1987, which defines a program or activity to include all of the operations of an entire corporation where federal financial assistance is extended to the corporation as a whole.¹⁴ An author therefore need not prove that the repository itself was funded by federal dollars. Because Elsevier Inc. is the recipient, every operation of Elsevier Inc. is a program or activity, and the repository, operated within the Elsevier corporate line, is one of those

12. Nat'l Insts. of Health Award No. OT2DB000002, recipient Elsevier Inc. This award is issued under the agency's Other Transaction authority, an instrument that may be either assistance or acquisition depending on its purpose. Its mission-advancing object, broadening access to and discovery of research data, indicates an assistance character; coverage here does not depend on it, because the National Science Foundation grant independently establishes recipient status.

13. The LexisNexis Risk Solutions Inc. sub-grants are administered through state agencies under federal programs including the Supplemental Nutrition Assistance Program (Assistance Listing 10.561), Temporary Assistance for Needy Families (93.558), Grants to States for Medicaid (93.778), Foster Care Title IV-E (93.658), and Refugee and Entrant Assistance (93.566). These are offered to show the breadth of the family's federal-assistance footprint and to foreclose any contention that the relevant award is a de minimis or one-off event. Some of these sub-grants describe vendor-style authentication services that a recipient might seek to recharacterize as procurement; coverage here does not rely on them, because the National Science Foundation grant to Elsevier Inc. is the anchor.

14. 29 U.S.C. §794(b)(3)(A)(i) (defining "program or activity" to mean all of the operations of an entire corporation if assistance is extended to the corporation as a whole).

operations.¹⁵ The federal dollars need not touch the repository directly. They reach it because the recipient's coverage runs to all that the recipient operates.

IV. The Protected Class and the Disparate Burden

The Americans with Disabilities Act Amendments Act of 2008 confirmed that cognitive impairments are disabilities when they substantially limit a major life activity, including concentrating, thinking, and reading.¹⁶ Memory impairment, intellectual and developmental disability, traumatic brain injury, and executive function disorder fall within the class.

A decision that states no reason transfers the work of identifying the reason to the reader. An author without a relevant cognitive limitation can perform that work. An author whose disability impairs the open-ended construction of an unstated rule cannot reliably perform it. The notice supplies a disjunction and refuses to resolve it, so the author must hold two unranked hypotheses, test each against an external taxonomy, and select between them without feedback. That sequence is a description of executive function, and the screen requires the author to run it unaided. The finality rule then forecloses the single accommodation that would neutralize the unexplained decision, the ability to ask what was wrong and have the question answered.¹⁷ For an author who cannot reconstruct the reason alone, the removal of any channel to ask falls on the author who most needs it.

15. The repository was acquired by Elsevier and operates under the Elsevier corporate umbrella. The only factual predicate the coverage analysis requires is that the repository is an operation of Elsevier Inc. or of a commonly controlled Elsevier entity reached by the same federal assistance; that predicate is established by the corporate ownership records.

16. See 42 U.S.C. §12102(1)–(2); ADA Amendments Act of 2008, Pub. L. No. 110-325, 122 Stat. 3553. The Rehabilitation Act incorporates the ADA's definition of disability. 29 U.S.C. §705(9)(B).

17. SSRN, *supra* note 1.

V. The Governing Theories and the Circuit Split

A. *Meaningful Access Is the Circuit-Neutral Spine*

The Supreme Court has held that Section 504 requires that an otherwise qualified individual be provided meaningful access to the benefit the grantee offers, that the benefit cannot be defined so as to deny that access, and that reasonable accommodations may have to be made to assure it.¹⁸ Meaningful access is the spine of this Article's claim because it holds in every circuit. It does not depend on the contested disparate-impact question, and it carries with it the duty of reasonable accommodation, which is a distinct and independently recognized theory of liability.

B. *The Three Theories*

A disability discrimination claim under Section 504 may rest on one of three theories: disparate treatment, disparate impact, or failure to make a reasonable accommodation.¹⁹ The theories are distinct but can overlap. The difference that matters here is one the Ninth Circuit drew directly: a reasonable-accommodation claim focuses on an accommodation based on an individualized request or need, while a disparate-impact claim focuses on modifying a policy or practice to improve systemic accessibility.²⁰

C. *The Split on Disparate Impact*

The circuits divide on whether Section 504 reaches disparate impact at all. The Ninth Circuit holds that it does, that disparate-impact disability claims remain enforceable through a private right of action, and that *Alexander v. Sandoval* did not disturb *Choate*; it further held that systemic accessibility barriers, such as a student web portal run on software incompatible with screen readers, are properly analyzed as disparate impact and are remediable by reasonable

18. *Choate*, 469 U.S. at 301.

19. *Payan v. LACCD*, 11 F.4th 729, 738 (9th Cir. 2021) (identifying the three theories and citing *Davis v. Shah*, 821 F.3d 231, 260 (2d Cir. 2016)).

20. *Payan*, 11 F.4th at 738–39.

modification.²¹ The Sixth Circuit holds the opposite, concluding that Section 504 does not prohibit disparate-impact discrimination because the statute bars discrimination solely by reason of disability.²² The Supreme Court itself, in *Choate*, rejected the boundless notion that all disparate-impact showings make out a prima facie case while assuming without deciding that Section 504 reaches some unjustifiable disparate impact.²³ A recent regulatory current runs against disparate impact generally. In December 2025 the Department of Justice amended its Title VI regulations to rescind the disparate-effect provision that had prohibited methods of administration with a discriminatory effect, though no agency has yet rescinded the parallel Section 504 or ADA provisions.²⁴

D. Pleading to Survive the Narrowest Reading

The lesson of the split is structural. This Article’s harm is systemic, because the no-reasons and no-appeal policy burdens the entire class of cognitively disabled authors rather than one individual, and under the Ninth Circuit’s framework that is a disparate-impact claim remediable by modification. But disparate impact is alive in the Ninth Circuit and dead in the Sixth, and the author here sits in the Seventh, where the question is not foreclosed in either direction. The claim is therefore pleaded to survive the narrowest available reading. It leads with meaningful access, which holds everywhere. It presses disparate impact where the systemic framing is available and cites the Ninth Circuit for it. And it carries failure to accommodate as the floor, because the blanket policy forecloses the individualized accommodation request before any disabled author

21. *Payan*, 11 F.4th at 736–39 (holding that a facially neutral practice producing systemic inaccessibility states a disparate-impact claim, while denials of individualized accommodations are analyzed as failures to accommodate).

22. *John Doe v. BlueCross BlueShield of Tenn., Inc.*, 926 F.3d 235, 241 (6th Cir. 2019) (“We now resolve what *Choate* did not and conclude that §504 does not prohibit disparate-impact discrimination.”). The same court did not reach the reasonable-accommodation theory, which the plaintiff had forfeited.

23. *Choate*, 469 U.S. at 298–99.

24. See Rescinding Portions of Department of Justice Title VI Regulations To Conform More Closely With the Statutory Text and To Implement Executive Order 14281, 90 Fed. Reg. 57,141 (Dec. 10, 2025) (to be codified at 28 C.F.R. pt. 42) (rescinding 28 C.F.R. §42.104(b)(2)). The rescission reaches Title VI alone; the Section 504 and ADA disparate-effect regulations remain in force.

can make it, which is a categorical denial of a reasonable accommodation and does not depend on a disparate-impact theory at all.

VI. Applying the Theories to the Closed Screen

The benefit the repository offers is the posting and discovery of scholarship. A disabled author who is screened out by an unexplained and unappealable decision, and who cannot cure because the process supplies neither the reason nor the channel to ask, has not been given meaningful access to that benefit. The cure is a reasonable accommodation, not a fundamental alteration: a stated reason on request and a single channel to ask again. *Choate* holds that such reasonable accommodations may have to be made to assure meaningful access, and these do not require the recipient to post anything it does not wish to post.²⁵

The Section 504 regulations supply parallel support. A recipient may not use criteria or methods of administration that have the effect of subjecting individuals with disabilities to discrimination or that defeat the objectives of the program with respect to them.²⁶ The closed screen is the standing rule by which the recipient decides what to post, it withholds the reason that would permit cure, and it forecloses the reconsideration that would restore access. The point sharpens when the screened scholarship is itself about disability access, because the recipient has then administered an inaccessible process to exclude the very work that describes the inaccessibility. The recursion is not the legal theory. It is the cleanest illustration of the meaningful-access failure.

25. *Choate*, 469 U.S. at 301.

26. 28 C.F.R. §41.51(b)(3) (Department of Justice coordinating regulations); accord 45 C.F.R. §84.68(b)(3) (Department of Health and Human Services, as redesignated and revised effective July 8, 2024). The Department of Health and Human Services overhauled Part 84 in its 2024 final rule, moving the methods-of-administration provision from former §84.4(b)(4) to current §84.68(b)(3). See Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance, 89 Fed. Reg. 40066 (May 9, 2024) (effective July 8, 2024).

VII. Anticipated Defenses

A. Editorial Discretion

A private actor receiving no federal financial assistance may run a reasonless and unappealable screen. A recipient may not run it in a manner that denies meaningful access to individuals with disabilities, because Section 504 is the constraint editorial discretion does not dissolve.

B. Volume and Automation

Volume explains the policy; it does not exempt the recipient from the statute. A covered recipient cannot discharge a meaningful-access obligation by adopting an automated screen that issues unexplained and unappealable decisions and then citing the automation as the reason no human cure path exists. If the screen is automated, the automation is the method of administration, and the disabled author bears the cost of the machine's error precisely because the recipient built no channel to correct it.

C. Section 504 Does Not Reach Disparate Impact

A recipient in a circuit following the Sixth Circuit will argue that Section 504 reaches no disparate impact at all. The argument does not reach this claim, because the claim does not depend on disparate impact. Meaningful access and failure to accommodate are independent theories that survive even that reading, and the Sixth Circuit's own decision left the accommodation theory untouched.²⁷ In a circuit following the Ninth, the disparate-impact theory is available as well.²⁸

D. The Nexus Question and Why It Does Not Reach This Case

A recipient may try to import the Title III debate over whether a website with no physical location is a place of public accommodation. That debate does not reach a Section 504 claim.

27. See *BlueCross*, 926 F.3d at 241 (declining to reach the forfeited reasonable-accommodation theory).

28. *Payan*, 11 F.4th at 736–39.

Title III coverage depends on the public-accommodation status of the defendant and has divided the courts over web-only services. Section 504 coverage depends on recipient status and, once established, extends to all operations of the recipient regardless of physical location. That is why Section 504, and not Title III, is the cleaner vehicle for this harm.

E. Out of Scope or Not Scholarly

Where the screened work is a doctrinal legal article of the kind the Legal Scholarship Network exists to circulate, the scope rationale fails on its own terms, and the platform's own notice forecloses it by disclaiming any judgement on the merits. A decision that disclaims a merits judgement cannot later be defended as a merits judgement that the work was not scholarship.

VIII. Remediation

The remedy is accessible administration, and it is modest. A recipient can provide an individualized reason on request as an accommodation, without committing to provide one in every case. It can offer a single channel for reconsideration as a reasonable modification, so that a disabled author who cannot reconstruct an unstated reason can ask and can cure. It can route submissions flagged by an automated screen to human review where the author identifies a disability and requests it. None of these requires the recipient to post every submission, and none disturbs editorial judgement on the merits.

The recipient has, by its own public commitments, already conceded the principle, maintaining an accessibility statement that invites any user who experiences issues with its site or needs an accommodation to contact it and commits to respond within two days.²⁹ A recipient that publicly commits to receive and answer accommodation requests, and then administers a screen that supplies no reason and hears no appeal, has not met its own commitment. Where it declines

29. Elsevier, *Accessibility*, <https://www.elsevier.com/about/accessibility> (last visited June 2026) (providing that a user who experiences issues with the site or needs an accommodation may contact accessibility@elsevier.com, and that Elsevier “will get back to you within two (2) days”). The statement is a general site-accessibility commitment, offered here only to show that the recipient publicly undertakes to receive and answer accommodation requests, which the closed submission screen does not.

to remediate, the disabled author may file a complaint with the federal agency that extended the assistance or with the Department of Justice.³⁰

IX. Conclusion

The repository that legal academia treats as the front door to its own scholarship is operated by a recipient of federal financial assistance, and Section 504 follows the recipient into every one of its operations. A submission screen that issues unexplained and unappealable decisions at volume denies meaningful access to disabled authors who cannot reconstruct an unstated reason and cannot appeal a final one. That claim does not rise or fall with the contested disparate-impact question, because it rests on meaningful access and on the duty to accommodate, theories that survive in every circuit. A recipient cannot host the field's scholarship on access while administering itself in a manner the same body of law condemns. The cure is not to post everything. The cure is to give a reason when asked and to hear the author who asks.

30. See 29 U.S.C. §794a (remedies and procedures). An administrative complaint lies with the civil rights office of the agency that extended the assistance, or with the Department of Justice.