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Civil Rights American with Disabilities Act Foundations of the ADA/Section 504

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Protecting the rights of persons with disabilities helps agencies accommodate all users

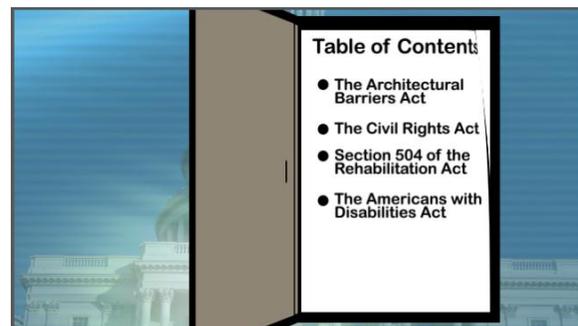


In our daily lives we routinely encounter stairs, sidewalk curbs, and have the need to transport ourselves along and over uneven and cracked pavement. These routine activities of navigating through our communities can present significant challenges for people with disabilities that could mean the difference between being a spectator rather than a participant. Without the proper features and facilities that meet the needs of individuals with disabilities in our buildings, government offices, places of entertainment, and public rights-of-way environments, to name a few, individuals with disabilities are denied an equal opportunity to fully participate in today's complex society.

As far back as 1968, the U.S. Congress recognized and condemned the "invisibility of the disabled in America," thereby passing legislation to "level the playing field" for all people in the United States.

As local public agencies, or LPAs, you must be aware of the foundational laws enacted to promote accessibility and to make discrimination against individuals with disabilities a thing of the past.

The Civil Rights Act of 1964 addressed the discriminatory treatment of minorities and women based on their race, color, religion, sex and national origin. However, this act did not include individuals with disabilities as a protected class. In subsequent years, Congress passed four major pieces of civil rights legislation to correct this deficiency. They were:



- The Architectural Barriers Act of 1968
- The Civil Rights Act of 1968
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990

Let's take a closer look at these four pieces of legislation.



First, the Architectural Barriers Act of 1968 required buildings and on-site facilities designed, constructed, altered or leased with Federal funds to comply with Accessible Design Standards, which were, at the time, the Uniform Federal Accessibility Standards. The Uniform Federal Accessibility Standards marks one of the first efforts to describe how to make facilities accessible and to ensure everyone has access to the built environment. The Uniform Accessibility Standards are no longer recommended for use on Federal-aid projects since the implementation of the Americans with Disabilities Act Accessibility Guidelines.

The Civil Rights Act of 1968 prohibits discrimination on the basis of race, color, religion, sex, or national origin in the rental or sale of housing. However, this law did not protect people with disabilities. Not until 1988 was this law amended to add two new classes: people with disabilities and families with children.

Section 504 of the Rehabilitation Act of 1973, or Section 504, prohibits discrimination against people with disabilities in federally funded programs and activities. When your agency accepts Federal funds on a transportation project, your entire transportation program becomes subject to Section 504 requirements.

Section 504 was the first law requiring curb ramps to be installed on Federal-aid projects to improve accessibility. When curb ramps are installed on today's projects, Section 504 requires you to incorporate detectable warnings to aid persons with visual impairments. The requirements of Section 504 apply to States and LPAs that use Federal funds. However it does not apply to private-sector employers providing public accommodations, Federal government agencies, and public entities that do not use federal funds.

The Americans with Disabilities Act of 1990, or ADA, prohibits discrimination on the basis of

disability in employment, access to public services, public accommodations, commercial facilities, and transportation. One goal of the Americans with Disabilities Act was to remedy gaps in previous legislation that, while providing civil rights protections, did not fully extend those protections to persons with disabilities. All State departments of transportation, or State DOTs, and LPAs in the United States fall within the regulatory definition of "public entity" for Title II of the Americans with Disabilities Act. Accordingly, all regulatory requirements of Title II of the Americans with Disabilities Act apply to you as the LPA, as well as other public entities, even if you do not receive Federal financial assistance.

The U.S. Architectural and Barriers Compliance Board, or Access Board, is a coordinating body among Federal agencies that directly represents the public, particularly people with disabilities. Created in 1973 to ensure access to federally funded facilities, it is comprised of officials from most of the Federal departments, and members of the public appointed by the President, the majority of whom must have a disability.

Today, the Access Board carries several responsibilities in addition to being a leading source of information on accessible design. The Access Board is responsible for enforcing the Architectural Barriers Act of 1968, and providing initial versions and updates for the Americans with Disabilities Act Accessibility Guidelines, or ADAAG.



The Americans with Disabilities Act Accessibility Guidelines are, amongst other things, the standard for access relating to the built environment. When the Americans with Disabilities Act Accessibility Guidelines for buildings were originally published, accessible pedestrian facilities within the public right-of-way were not fully addressed.

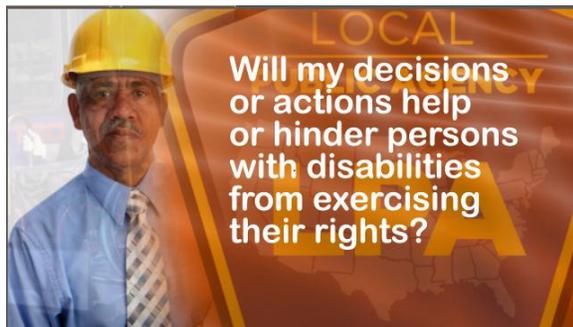
In response, the Access Board created the Public Rights of Way Access Advisory

Committee to specifically address the subject of pedestrian accessibility in public rights-of-way. One of this committee's key accomplishments was the development of the draft Public Rights-of-Way Accessibility Guidelines, also known as PROWAG. The PROWAG is being created specifically to address pedestrian accessibility in the public right-of-way environment and to fill the void left by the Americans with Disabilities Act Accessibility Guidelines, which currently applies primarily as a building standard.



The Public Rights-of-Way Access Advisory Committee and the Access Board are currently finalizing the PROWAG. The PROWAG is not required to be used on Federal-aid projects until fully adopted by the Federal government. However, your agency can use it as a best practice or model for developing policies on accessible design. The Federal Highway Administration, or FHWA, also recommends applying the draft PROWAG to projects when the Americans with Disabilities Act Accessibility Guidelines or Section 504 requirements do not fully address a design or construction situation.

If you receive Federal financial assistance from FHWA, you have a responsibility to ensure your programs, services, activities and construction projects comply fully with the provisions of Title II of the American with Disabilities Act and Section 504.



There are four major goals of the Americans with Disabilities Act: equal opportunity, full participation, independent living, and economic self-sufficiency. In support of the Americans with Disabilities Act's goals, as the LPA, you must ensure that all programs, services and facilities are accessible for persons with disabilities. Increasing your knowledge of the rights of persons with disabilities will ensure that you do not unknowingly deny them their right to exercise their freedom of choice. As an LPA in a position to provide or influence the delivery of services to persons with disabilities, you should assess your decisions against these questions:

- Will my decision or actions help or hinder persons with disabilities from exercising their rights?
- Do my programs or services meet any or all of the Americans with Disabilities Act's goals and Section 504 requirements?
- Do my programs or services remove any barriers that prevent persons with disabilities from exercising their rights?

Increasing your knowledge of the legislation that protects the rights of persons with disabilities will help you, as an LPA, accommodate all users and allow everyone the freedom of choice, and opportunity to fully participate in society.

Web Resources

- U.S Department of Health & Human Services Office of Civil Rights fact sheet on Section 504 of the Rehabilitation Act
<http://www.hhs.gov/ocr/civilrights/resources/factsheets/504.pdf>
- U.S. Department of Justice's American with Disabilities Act Web site
<http://www.ada.gov/pubs/ada/htm>
- 2005 U.S. Access Board's proposed accessibility guidelines for pedestrian facilities in the public right-of-way
<http://access-board.gov/prowac/draft.htm>
- 2011 U.S. Access Board's proposed accessibility guidelines for pedestrian facilities in the public right-o- way
<http://access-board.gov/prowac/nprm.htm>
- 2010 U.S. Department of Justice ADA standards for accessible design
http://www.ada.gov/2010ADASTandards_index.htm

The content of this document is not a substitute for information obtained from State departments of transportation, appropriate FHWA Division Offices, and applicable laws. Scenarios have been simplified for emphasis and do not necessarily reflect the actual range of requirements applicable to the scenario or this topic. This document was created under contract number DTFH63-12-F-00025 by the Federal Highway Administration, U.S. Department of Transportation, and is offered to the public to heighten and focus awareness of Federal-aid requirements within the local public agencies community and reinforces the importance of these necessary policies, procedures, and practices.

This companion resource is the script content for the video production of the same name.