

## Training, Education, and Workforce Development

### Americans With Disabilities Act (ADA)

#### **Background:**

The Federal Highway Administration (FHWA) has a legal, stewardship role in ensuring that persons with disabilities have opportunity to use the nation's transportation system in an accessible and safe manner. The FHWA's legal obligations include ensuring that Federal-aid is not used in a discriminatory manner, and that people with disabilities have equitable opportunities for using the public rights-of-way. Laws and regulations require accessible planning, design, and construction, and integration of people with disabilities into mainstream society. These laws also require that the actions of government highway entities do not discriminate in their programs and activities against persons with disabilities.

**Section 504 of the 1973 Rehabilitation Act** (Public Law 93-112) prohibits discrimination on the basis of disability in federally assisted programs. Section 504 requirements for U.S. Department of Transportation (USDOT) administrations are covered under Title 49 Code of Federal Regulations (CFR), Part 27 (USDOT), nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Financial Assistance. The Americans with Disabilities Act of 1990 (ADA), (Public Law 101-336) is a broader civil rights statute that prohibits discrimination against people with disabilities in all areas of public life.

The ADA addresses State and local government services, activities, and policy making under the U.S. Department of Justice's (DOJ) ADA Title II implementing regulations. The ADA, under Title II, Subpart A, covers public rights-of-way. The DOJ has rulemaking authority and enforcement responsibility for Title II while DOT is legally obligated to implement compliance procedures relating to transportation, including those for highways, streets, and traffic management. The FHWA Office of Civil Rights oversees the DOT mandate in these areas.

**Authorities:** **Section 504 of the 1973 Rehabilitation Act**  
**Americans with Disabilities Act of 1990 (ADA)**  
**49 CFR, Part 27**

#### **FHWA Stewardship/Oversight Responsibilities:**

- Ensure that FHWA recipients/sub-recipients are informed of their responsibilities to provide reasonable accommodation in their employment practices; and provide accessibility in their programs, activities, and facilities (i.e., public rights-of-way)
- Ensure that recipients/sub-recipients are applying appropriate accessibility standards to all transportation facilities
- Ensure that all complaints filed under Section 504 or the ADA are processed in accordance with established complaint procedures

## **State Transportation Agency (STA) Responsibilities (Title I and II):**

- Appoint an ADA/504 Coordinator
- Identify essential functions of positions
- Make reasonable accommodation
- Investigate/process complaints
- Administer an internal grievance procedure that allows for quick and prompt solutions of complaints based on alleged noncompliance with ADA/504
- Ensure the wide dissemination of a nondiscrimination notice stating that the State transportation agency (STA) does not discriminate on the basis of disability regarding admission and access to its programs and activities and its employment practices. At a minimum, this notice must be sent to participants, contractors, consultants, employees, and unions of the STA programs and activities
- Conduct self-evaluations of the STA's current services, policies, and practices and analyze the effects to determine needed modifications to achieve program accessibility
- Monitor sub-recipients who receive STA assistance to ensure compliance with Title II of the ADA and Section 504
- Develop and implement a Transition Plan that outlines which structural modifications must be made to those programs and services that are not accessible, including a curb ramp installation schedule for pedestrian facilities the STA owns, operates, or maintains
- Install curb ramps when roadways or crosswalks are newly constructed or altered
- Ensure that existing facilities are accessible
- Maintain those features of a facility and equipment that are required to be readily accessible; meet accessibility standards for new construction or alterations
- Provide auxiliary aids (i.e., sign language interpreters, readers, Braille, large print text) upon request for participation in STA programs and services (public meetings)

**Section 504 of the Rehabilitation Acts of 1973** – Prohibits discrimination on the basis of disability in any program, service, activity, or benefit of a recipient/sub-recipient of Federal financial assistance. Many of the responsibilities under Section 504 are similar or identical to those under Title II ADA.

Section 504 responsibilities not detailed specifically in Title II ADA are listed below:

- Rest areas on Interstate highways must be accessible
- Pedestrian overpasses, underpasses, and ramps constructed with Federal financial assistance must be accessible

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**For more information visit our website:**

**[www.fhwa.dot.gov/civilrights](http://www.fhwa.dot.gov/civilrights)**

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