

ADA Accessibility: General Expectations and Responsibilities Across the Transportation Network



2016 DOT Civil Rights Virtual Symposium
Speaking with One Voice: Accelerating Access to Opportunity
March 09, 2016



ITEMS TO BE COGNIZANT OF:

- The ADA and Section 504 are LAWS, not aspirations
- Time and money are generally not valid reasons for not complying with ADA
- All about choices...but if violating the law, the DOJ may get involved (Project Civic Access)
- The answer to the majority of your ADA questions will be "it depends" (Fact Specific)



Federal Highway Administration (FHWA): Authority

Introduction



- The Americans with Disabilities Act (ADA) Directs DOJ to effectuate Title II of ADA through regulations (28 CFR Part 35)
- DOJ delegated responsibility for implementing DOJ's ADA Title II regulations to DOT for all programs, services, and regulatory activities related to transportation
- Both DOJ and DOT have enforcement authority
- The FHWA, an agency within the DOT, has authority to enforce the regulatory requirements of Title II of the ADA for activities related to the highway public right-of-way



Question 1

Introduction



According to the 2010 Census, what percent of the U.S. population over the age of 15 has a disability?



Answer to Question 1

Introduction

- 21 percent (or approximately 52 million) of the U.S. population over the age of 15 has a disability
- 7.5 million Americans have hearing disabilities



Question 2

Introduction

How many Americans would you guess have vision disabilities?



Answer to Question 2

Introduction

- 8 million Americans have vision disability (2010 Census)
- Visual disability can range from total blindness to low vision
- The National Council on Disabilities estimates that 70 percent of our country's population will eventually have a temporary or permanent disability that makes climbing stairs impossible



Title II - State and Local Governments

Introduction

Basic Requirements:

Must ensure that individuals with disabilities are not excluded from programs, services, and activities (pedestrian facilities are an example of a program)



Title II - State and Local Governments

Introduction

Basic Requirements:

- Designate an ADA Coordinator
- Development & postings of an ADA Policy Statement
- Development & postings of Grievance Procedures/Complaint Procedures
- Complete a self-evaluation
- Development of a Transition Plan



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FEDERAL TRANSIT ADMINISTRATION

ADA Accessibility

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U.S. Department of Transportation
Federal Transit Administration

Dawn Sweet
Program Manager
Office of Civil Rights

Transit Means Access

People with disabilities are among the most transit-dependent group



Access to:

- Jobs
- School
- Health care
- Social activities



FTA Office of Civil Rights - Who Are We?



- We ensure the Nation's 800+ public transit systems comply with the ADA
- Oversee bus, rail, and paratransit service & station construction compliance



Public Transit ADA Regulations

- 49 CFR Part 37 (transit service delivery)
- 49 CFR Part 38 (bus & rail car design)
- DOT Facility Standards (station design)

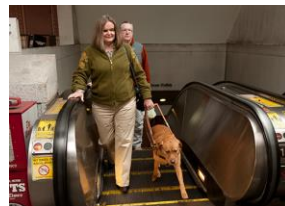
code of
federal regulations

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Key ADA Requirements

- General nondiscrimination
- New vehicles must be accessible
- New facility construction / alterations must be accessible
- Hundreds of service-related provisions
 - Maintenance of accessibility equipment
 - Service animals
 - Use of bus lifts
 - Stop announcements ...



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Paratransit as a “Safety Net”



- Goal of the ADA is an accessible, usable fixed route system
- ADA complementary paratransit is the “safety net” for people who can’t take fixed route

How Does FTA Ensure Compliance?

- “Master Agreement” self-certification
- Grant reviews
 - \$11 billion annually
 - Vehicle procurement and station construction, etc.
- Onsite compliance reviews
 - Triennial reviews
 - Specialized civil rights reviews
- Complaint investigations



What Does Compliance Look Like?

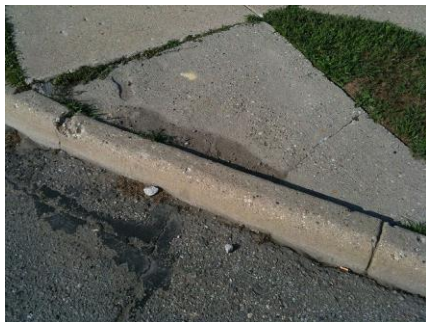
- Nearly 100% of fixed route buses are accessible
- Since 1990, all new and altered rail stations are accessible
- All new rail cars are accessible; older trains have at least one accessible car
- 668 of the 680 key stations in the Nation's oldest rail systems—98%—are accessible



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A Challenge: The Pedestrian Environment



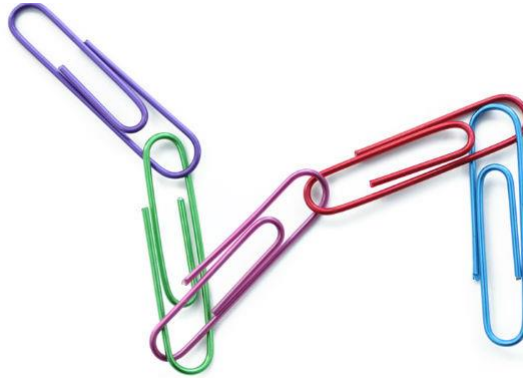
People with disabilities need to be able to get to stops and stations

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We All Play a Part in Making Transit Reachable

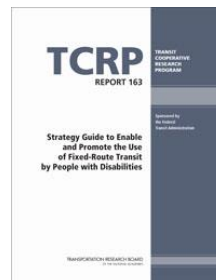
Federal Government
Municipalities
State DOTs
Transit agencies
Private landowners
Disability community



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Consequences of an Inaccessible Pedestrian Environment

- Makes communities less livable and desirable for everyone
- People with disabilities forced onto ADA complementary paratransit
- Transit agencies usually incur cost of paratransit
 - But someone's bottom line is always affected
- See TCRP Report 163: *Strategy Guide to Enable and Promote the Use of Fixed-Route Transit by People with Disabilities*



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Resources

- **New FTA ADA Circular 4710.1**
 - One-stop shopping on ADA transit requirements
 - Sample policies and tools
- **Contact Us Web Tool**
 - Submit your transit questions online

www.fta.dot.gov/ada



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Regina Morgan, Director
Office of Civil Rights

National Highway Traffic Safety Administration

- Sets and enforces performance standards for motor vehicles and motor vehicle equipment.
- Investigates safety defects in motor vehicles.
- Sets and enforces fuel economy standards.
- Conducts research on driver behavior and traffic safety.
- Provides grants to state and local governments to conduct local highway safety programs.

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Safer drivers. Safer cars. Safer roads.



NHTSA Office of Civil Rights (NCR)

- Responsible for civil rights and equal opportunity matters.
- Enforces laws and regulations that prohibit discrimination on the basis of race, color, national origin, sex, religion, disability, age, genetic information, sexual orientation, and reprisal in employment and the provision of services to the public. This includes the Americans with Disabilities Act (ADA).
- Enforces ADA compliance of State Motor Vehicle Agencies.

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NCR and ADA Accessibility

- NCR has been delegated responsibility for ensuring that State Motor Vehicle Agencies comply with the ADA.
- The ADA is an “equal opportunity” law for people with disabilities.
- Title II (28 CFR Part 35) is the provision of the ADA that applies to State and Local Governments.

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Title II of the ADA

- Covers all facilities, programs, services, and activities of state and local governments whether or not they receive Federal funds.
- Requires state and local governments to provide programs and services in integrated setting.
- Requires that unnecessary eligibility requirements be eliminated.

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Title II of the ADA

- Requires that state and local governments make reasonable modifications in policies, practices, and procedures.
- Requires state and local governments to provide auxiliary aids and services to ensure effective communication.
- Requires that state and local governments provide program access to all programs, services, and activities.

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NCR and ADA Accessibility

- NCR investigates ADA complaints against motor vehicle agencies – mostly facilities and medical standards complaints.
- NCR receives complaints from various sources including private citizens, advocacy groups, senators, congressional representatives, and the Department of Justice.
- NCR works with state and local governments to resolve complaints at the lowest level possible.

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Examples of ADA Complaints

- Program Access
 - No accessible parking space or route to the facility
 - No accessible entrance or counter
 - No accessible toilet room
- Effective Communication
 - No interpreter provided
 - No alternate format materials available
- Reasonable Modification
 - Wait times and lack of seating
 - Medical related inquiries and standards
 - Disability parking placard vs. hard plate

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Program Access

- Accessible parking space
- Access aisle
- Accessible route to entrance
- Accessible entrance

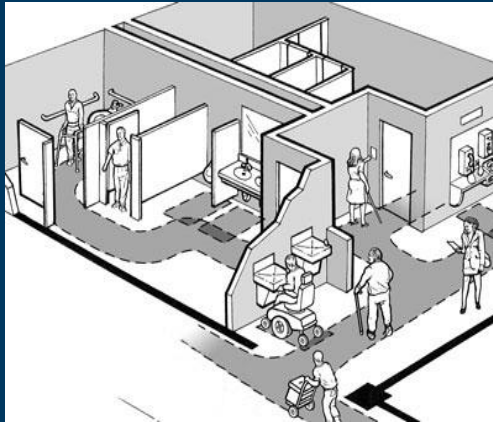


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Program Access

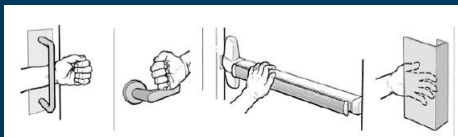
Accessible route
throughout facility



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Program Access



Accessible door
hardware

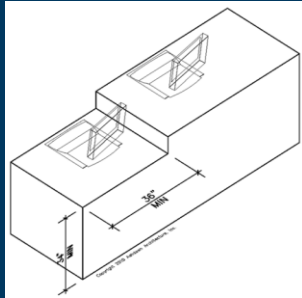
Accessible door with
maneuvering
clearance



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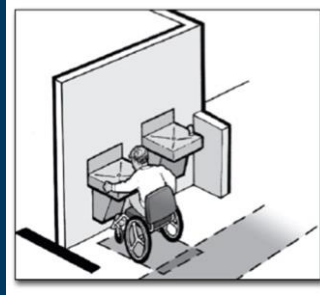


Program Access



Accessible counter

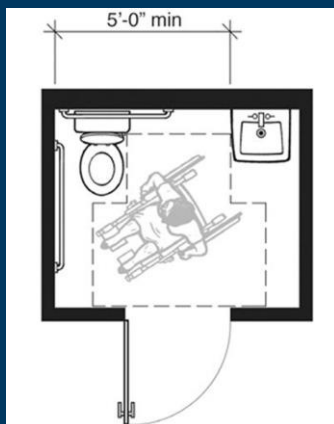
Accessible drinking fountains



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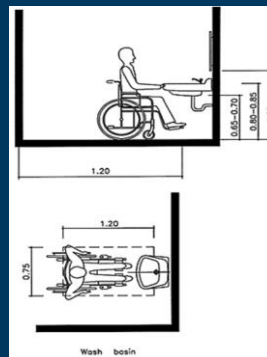


Program Access



Accessible toilet room

Accessible lavatory



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Elements for Successful ADA Compliance

- Designate ADA coordinator.
- Provide ADA training for employees.
- Conduct annual reviews of programs, services, and facilities.
- Develop effective grievance procedures.

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Elements for Successful ADA Compliance

- Require facilities to conduct annual self-surveys.
- Provide program access to all programs, services, and activities.
- Make reasonable modifications in policies, practices and procedures.
- Ensure effective communication by providing auxiliary aids and services.

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ADA Coordinator

- Required for all public entities that employ 50 or more people.
- ADA coordinator must have adequate levels of authority.

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ADA Grievance Procedure

- Required for all public entities that employ 50 or more people.
- Develop an ADA grievance procedure and post in visible areas in facilities and on your web sites.

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Essential Considerations

- Disability is determined on case-by-case basis.
- Individualized assessment is key.
- Ensure equal treatment, equal access, equal rights, and equal opportunities to all regardless of disability – hidden or obvious.

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National Highway Traffic Safety Administration

Office of Civil Rights

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www.nhtsa.gov

