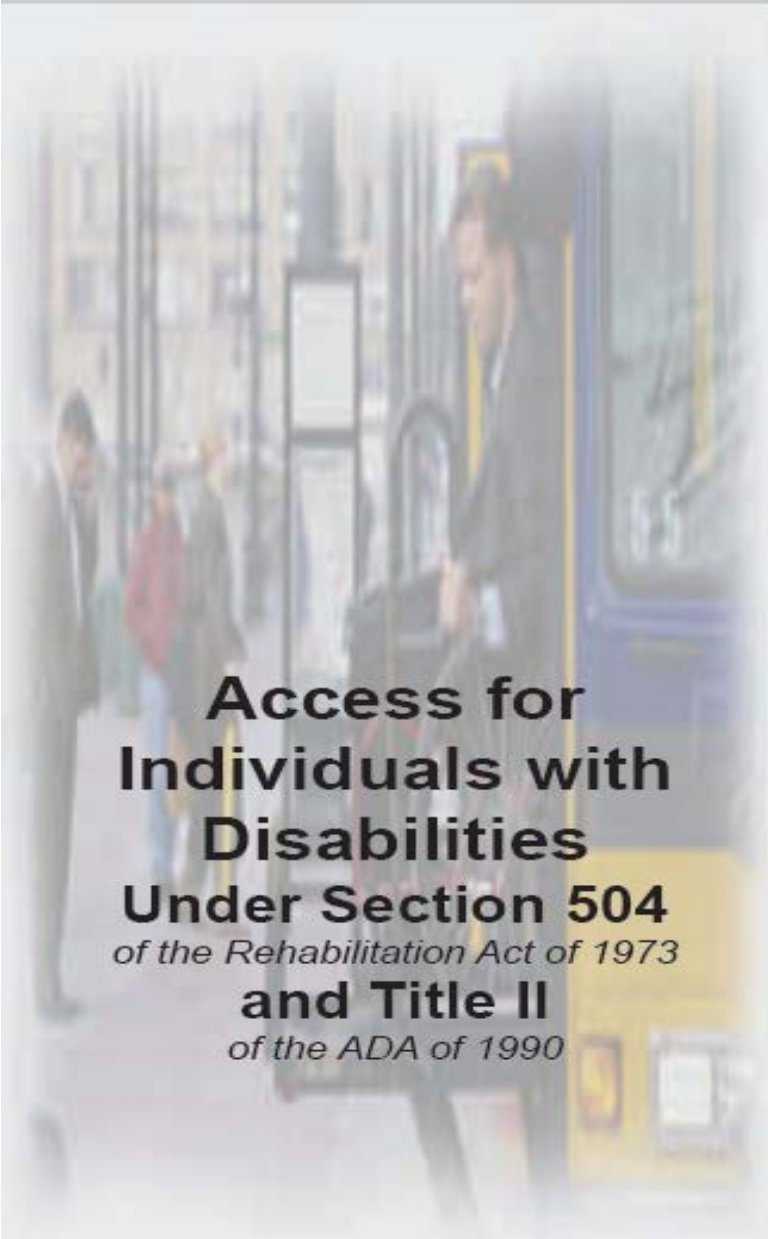


PROVIDING ACCESSIBILITY

SELF-EVALUATIONS & TRANSITION PLANS

2012 WVDOT/MPO/FHWA

Transportation Planning & Programming Conference
Shepherdstown, West Virginia



**Access for
Individuals with
Disabilities
Under Section 504
of the Rehabilitation Act of 1973
and Title II
of the ADA of 1990**

AMERICANS WITH DISABILITIES ACT (ADA)

FHWA is responsible for implementation of the requirements of the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) with recipients of FHWA Federal aid and other state and local government agencies who have responsibilities over roads, highways and pedestrian facilities. Because of its role in the planning, design and construction of roads, highways and other transportation facilities, FHWA plays a vital role in the implementation of pedestrian access requirements under these regulations.

What is Section 504 and Title II of the ADA?

Section 504 (49 CFR Part 27) is a component of the Rehabilitation Act of 1973 (Public Law 93-112) which prohibits discrimination against on the basis of disability in programs, activities and services that receive Federal financial assistance. Title II (28 CFR Part 35) is a section of the Americans with Disabilities Act of 1990 (Public Law 101-336), the landmark Federal law that prohibits discrimination on the basis of disability in State and local government services regardless of whether the public entity received Federal financial assistance.

What authority does FHWA have to ensure compliance by recipients and public entities with Section 504 and Title II of the ADA?

Section 504 provides that all operating administrations of the U.S. Department of Transportation (USDOT) including the FHWA have the authority to ensure that recipients of Federal Financial Assistance from FHWA comply with Section 504. Under Subpart G of Title II ADA, the FHWA also has the authority as a USDOT agency to ensure that State and local governments and their agencies that have responsibility for roads, highways and pedestrian facilities comply with Title II of the ADA.

Which organizations and agencies must comply with Section 504 and Title II of the ADA?

Under Section 504, an FHWA recipient is defined "as any State, territory, possession, political subdivision, instrumentality, public or private agency, organization, entity or individual to whom FHWA assistance is extended either directly or through another recipient. An FHWA recipient includes any successor, assignee, or transferee, but not the ultimate

beneficiary of a program or activity." This definition includes not only primary recipients, but also sub-recipients who receive Federal financial assistance from the primary recipient.

Under Title II ADA, it is "public entities" that must comply with this regulation. Public entities are defined as "Any State or local government, as well as any department, agency, special purpose district, or other instrumentality of a State (or States) or local government."

All State Departments of Transportation in the United States are both recipients and public entities within the meaning of Section 504 and title II ADA respectively. Sub-recipients include but are not limited to other entities, such as: Metropolitan Planning Organizations (MPOs), county and municipal governments, and any other State and local government entities that receive FHWA Federal financial assistance. Local governments that are responsible for roads, highways and pedestrian facilities in the public right-of-way and do not receive Federal financial assistance from FHWA comply with Title II of the ADA.

How does FHWA ensure that recipients and public entities are complying with Section 504 and Title II ADA?

This is accomplished through the following approaches:

- Program oversight and steward over all Federal, State, and local governmental agencies that build and maintain highways and roadways, whether or not they use Federal funds such as the conducting of program, process or compliance reviews and the provision of training and technical assistance to recipients and public entities.
- Project oversight over Federal-aid highway construction activities. The FHWA ensures that public entity's project planning, design, and construction programs adequately address access for persons with disabilities.
- Investigation of Title II ADA/Section 504 formal complaints and any projects or locations where the FHWA has reason to believe accessibility problems exist.

What are the responsibilities of recipients and public entities in making programs, services, activities, and facilities accessible for individuals with disabilities?

Both recipients of Federal Financial Assistance from FHWA and public entities are required to take these steps to be in compliance with Section 504 and Title II ADA:

- Notify public of ADA/504 obligations.
- Designate an ADA/504 Coordinator.
- Adopt and implement complaint/grievance procedure for ADA/504 complaints received by the recipient or public entity.
- Conduct a self-evaluation of programs and services for accessibility.
- Develop and implement a transition plan to make structural modifications to facilities in order to achieve program accessibility. For FHWA recipients and public entities with responsibilities over roads, highways and pedestrian facilities, the transition plan must include a curb ramp installation schedule.
- Provide assurances to the FHWA when receiving Federal financial assistance that the recipient will not discriminate on the basis of disability in any of its programs, services, activities.
- Conduct programs, services and activities in accessible facilities or provide alternative means of accessibility.
- New and altered buildings and facilities must be made accessible in accordance with accessibility guidelines.
- Provide effective communications through the use of auxiliary aids (sign language interpreters, large print or Braille text) to ensure that individuals with hearing, visual, sensory or cognitive impairments have access to programs, services and activities.



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Program Oversight



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Project Oversight

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Investigations

- Investigation of Title II ADA/Section 504 formal complaints and any projects or locations where the FHWA has reason to believe accessibility problems exist.

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- Provide effective communications through the use of auxiliary aids (sign language interpreters, large print or Braille text) to ensure that individuals with hearing, visual, sensory or cognitive impairments have access to programs, services and activities.



Notice

ADA Coordinator

Grievance Procedure

Self-Evaluation

Transition Plan

Nondiscrimination

Accessible Facilities

New/Altered Facilities

Auxiliary Aids

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Must all facilities of an FHWA recipient or public entity be made accessible?

Title II ADA and Section 504 require that the following facilities must be made accessible: newly constructed facilities and existing facilities that are being altered.

What accessibility standard must be used to make facilities accessible to individuals with disabilities?

Section 504 requires that FHWA recipients follow the Americans with Disabilities Act Accessibility Guidelines (ADAAG) when constructing new facilities and altering existing facilities. Title II ADA provides public entities, who do not receive FHWA Federal financial assistance, the choice of using ADAAG or the Uniform Federal Accessibility Standards (UFAS) when making facilities accessible. The FHWA recommends using ADAAG since UFAS will eventually be phased out when the revised ADAAG (known as the ADA/ABA Guidelines) is adopted by the USDOT and the U.S. Department of Justice (USDOT) as regulation. The ADAAG also achieve a greater level of accessibility in some instances than the UFAS. The Architectural and Transportation Barriers Compliance Board (Access Board) published revised draft accessibility guidelines for public rights-of-way (PROWAG) in the *Federal Register* on November 23, 2005. The Draft Guidelines are available at <http://www.access-board.gov/prowag/index.htm>. They cover pedestrian access to sidewalks and streets, including crosswalks, curb ramps, street furnishings, pedestrian signals, parking, and other components of public rights-of-way.

The present standards to be followed are the ADA Accessibility Guidelines (ADAAG) standards. However, PROWAG are the currently recommended best practices, and can be considered the state of the practice that could be followed for areas not fully addressed by the present ADAAG standards because the FHWA has determined that they are consistent with the ADA's requirement that all new facilities (and altered facilities to the maximum extent feasible) be designed and constructed to be accessible to and useable by people with disabilities. Note that PROWAG is in draft stage and that the Access Board could change these guidelines before they become final.

What are the required elements of a Transition Plan?

Title II ADA requires at a minimum, the following elements:


- Identify existing facilities that limit access for persons with disabilities.
- Describe in detail methods to be used to make facilities accessible.
- Specify schedule for improving facilities by prioritizing needs of persons with disabilities in existing facilities.
- If a public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by Title II, including State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas
- Indicate official responsible for implementation of plan.
- Provide opportunity to interested persons and groups to participate in self-evaluation leading to transition plan.
- Make self-evaluation and plan available for public inspection.
- Specific completion milestones for each year of the transition plan.

In addition to a curb ramp installation schedule, a recipient or public entity can also include schedules for the completion of other accessible features and facilities such as sidewalks and accessible pedestrian signals

Other than through a transition plan, when must curb ramps be installed?

Curb ramps must be installed under Section 504 when the FHWA Federal aid is used to construct highway projects that include pedestrian facilities. Under Title II ADA, newly constructed or altered roadways must contain curb ramps at any intersection having curbs or other barriers to entry from a street level pedestrian walkway. Newly constructed or altered street level pedestrian walkways must contain curb ramps at intersections to roadways.

FHWA Publication No.:
FHWA-HCR-06-008



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Identify Facilities

Methods

Specify Schedule

Curb Ramp Schedule

Implementation POC

Public Participation

Public Inspection

Milestones

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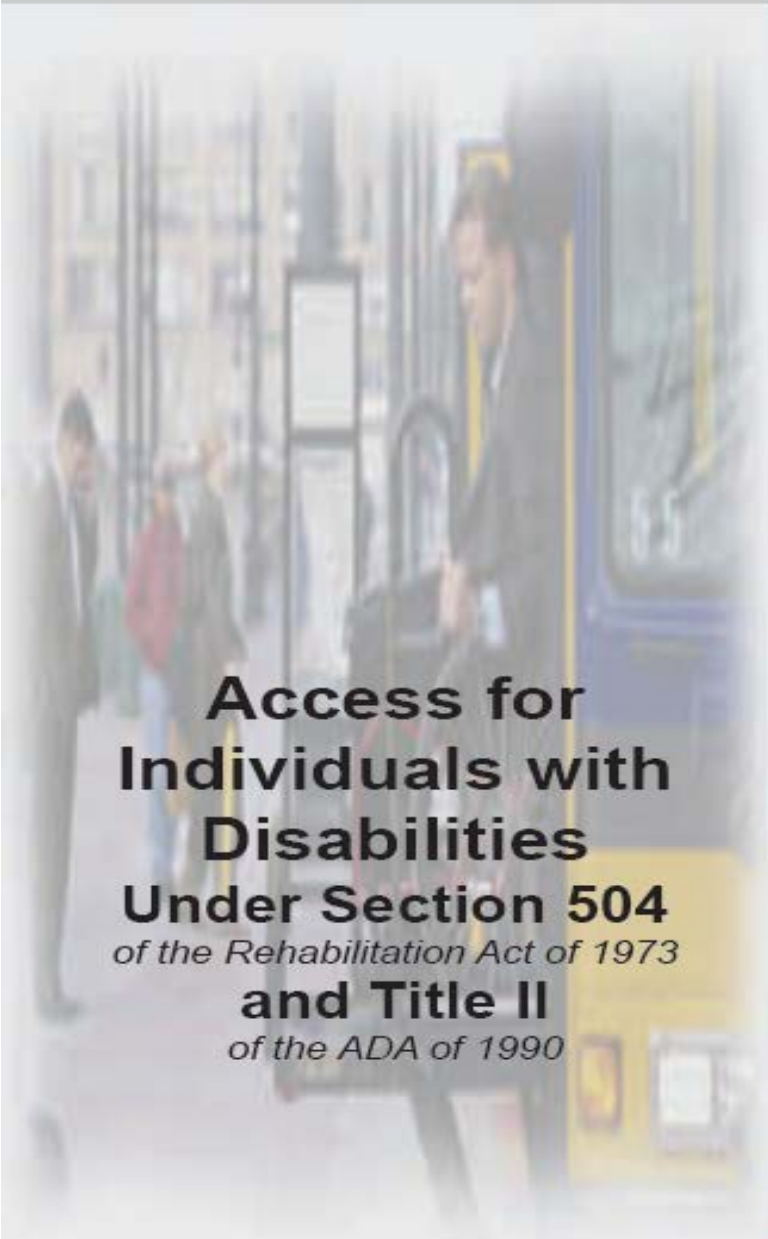
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Next Steps

Schedule a Conference
Call to discuss progress
within the next 90 days

Thank You

The End



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