

# Arizona Department of Transportation

## Civil Rights Office

2021 AzTA/ADOT Annual Transit Conference  
Title VI and ADA Compliance for ADOT FTA Subrecipients



ADOT Civil Rights Office – 206 S. 17th Avenue, Phoenix AZ 85007 – (602) 712-8946

# Learning Objectives

- ❑ Understand the basics of Title VI and ADA
- ❑ Title VI and ADA compliance in practice



# FTA / ADOT Coordination

## Federal Transit Administration (FTA)

- Provides stewardship and oversight
- Approves Title VI Programs
- Conducts State Management Reviews
- Provides policy/technical training

## ADOT (Primary Recipient of FTA funds)

- Performs required actions under:
  - FTA C 4710.1
  - FTA C 4702.1B
- Submits triennial Title VI Program to FTA
- Conducts external reviews
- Processes complaints against subrecipients

# Section 504, Rehabilitation Act of 1973

- Prohibits discrimination against individuals with disabilities under any program, service, activity, or benefit of a recipient/subrecipient of Federal financial assistance.



# ADA/Title II

- The Americans with Disabilities Act (ADA) of 1990 is a federal civil rights law that protects qualified individuals with disabilities from discrimination and provides for equal access. The ADA, like other civil rights statutes, prohibits the denial of services or benefits on specified discriminatory grounds.
- Title II of the ADA covers all programs, services, and activities operated by state and local governments. It applies to all state and local governments, their departments and agencies, and any other agency of state and local governments.

# ADOT FTA Subrecipients

- Must ensure their services, vehicles, and facilities are accessible to and useable by individuals with disabilities.
- Make reasonable modifications in policies, practices, or procedures when such accommodations are necessary to avoid discrimination on the basis of disability.
- Each agency is independently responsible for ADA compliance in their facilities and operations.

# ADA/504 Roles and Responsibilities

- Ensure subrecipients are informed of their responsibilities to provide reasonable modifications/accommodations and provide accessibility to their programs, services, and facilities
- Ensure subrecipients are applying appropriate accessibility standards to all transportation facilities.
- Ensure all complaints filed under Section 504 or the ADA are processed in accordance with established complaint procedures

# ADA Policies

- Written policies, procedures, or information regarding the following ADA requirements:
  - Lift vehicle availability
  - Maintenance of accessible features on vehicles
  - Adequate time for vehicles boarding and disembarking
  - Use of portable oxygen/respirator equipment
  - Service Animals
  - Personnel Training
- Civil Rights Office has created a standard template for reference.

*See FTA ADA Circular 4710.1*



# FTA ADA Circular 4710.1

- Effective November 2015
- Guidance on implementing existing ADA regulations
- Options and tools to avoid deficiencies
- Sample forms, letters, and policy templates



U.S. Department  
of Transportation

Federal Transit  
Administration

## CIRCULAR

FTA C 4710.1

November 4, 2015

Subject: AMERICANS WITH DISABILITIES ACT (ADA): GUIDANCE

1. **PURPOSE.** This circular provides guidance to recipients and subrecipients of Federal Transit Administration (FTA) financial assistance necessary to carry out provisions of the Americans with Disabilities Act (ADA) of 1990, Section 504 of the Rehabilitation Act of 1973, as amended, and the U.S. Department of Transportation's implementing regulations at 49 CFR Parts 27, 37, 38, and 39.
2. **CANCELLATION.** This is a new circular. It does not cancel any existing directive.
3. **SCOPE.** This circular applies to all assistance authorized by the Federal Transit Laws (49 U.S.C. Chapter 53) and all programs administered by FTA.
4. **AUTHORITIES.**
  - a. Americans with Disabilities Act of 1990
  - b. Section 504 of the Rehabilitation Act of 1973, as amended
  - c. 49 CFR Parts 27, 37, 38, and 39
  - d. Federal Transit Laws, 49 U.S.C. 5301 et seq.
5. **WAIVER.** FTA reserves the right to waive any requirements of this circular to the extent permitted by law.
6. **FEDERAL REGISTER NOTICE.** In conjunction with publication of this circular, FTA published a notice in the *Federal Register* on October 5, 2015, addressing comments received during

# ADA: Top Issues

- According to the FTA the highest rural issues are:

Subject	ADA Circular Chapter
Rider Conduct and Service Denial	2
Wheelchairs	2
Service Animals	2

# ADA: Service Animals

## Reminders

- Individually trained to work or perform tasks for an individual with a disability
- Transit agencies can ask:
  1. *Is the animal a service animal required because of a disability?*
  2. *What work or task has the animal been trained to perform?*
- You can require the service animal be under the owner's control.



See FTA ADA Circular 4710.1 Section 2.6

# ADA: Wheelchairs

**Definition of a Wheelchair is:** “a mobility aid belonging to any class of three- or more-wheeled devices, usable indoors, designed or modified for and used by individuals with mobility impairments, whether operated manually or powered.”

## Reminders:

- If the device fits and meets the definition in § 37.3, you must transport
- No requiring “cleanliness,” footplates or other features
- Provide a reasonable level of assistance
- Allowing standees on lifts

*See CFR 49 Part 37.3 and  
FTA ADA Circular 4710.1 Section 2.4, 2.5*



# ADA: Service Denial for Conduct

- May refuse service to individuals with disabilities who engage in:
  - Violent
  - Seriously disruptive
  - Illegal conduct, or
  - Are a direct threat to others
- Any situation that disrupts the provision of service should be based on reasonable judgment
  - High threshold for the behavior needs to be more than offensive

*See CFR 49 Part 37.7(h) and  
FTA ADA Circular 4710.1 Section 2.2*

# ADA: Service Denial for Conduct

## Reminders

- The focus is on due process
- Document internally how thresholds were met
- Reasonable judgement
- No permanent bans
  - Riders must have opportunity to demonstrate the issue is fixed and resume service

*See FTA ADA Circular 4710.1 Section 2.2*

# ADA Complaint Process

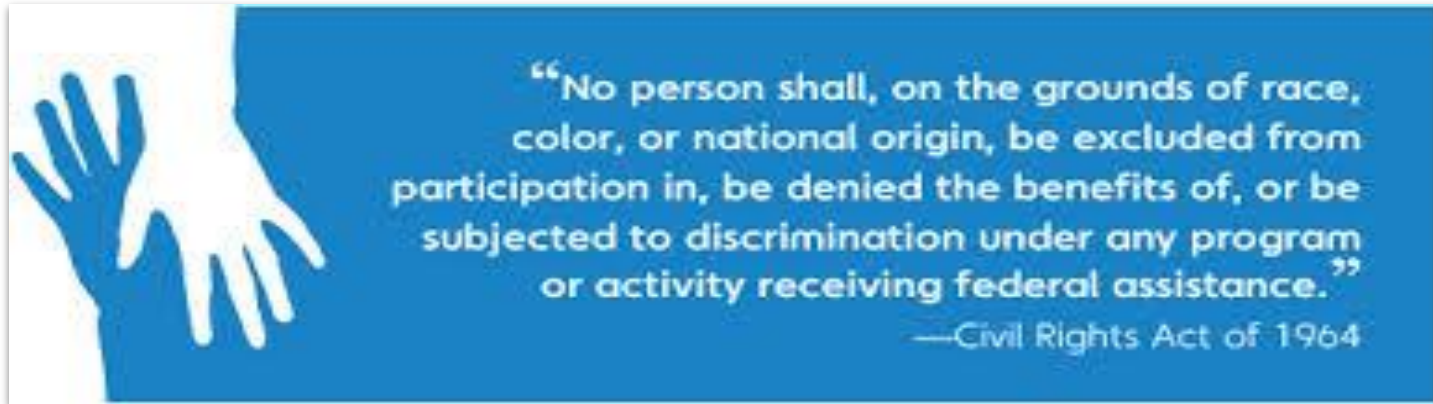
- Complaints
  - Advertised to the public how to file a complaint
  - Accessible format of complaint procedures accessible to and usable by individuals with disabilities
- Combining ADA and Title VI Complaint Procedures
  - ADA complaints must be categorized distinctly from Title VI complaints
  - Discrimination Complaint Form (Standard template created for reference)
  - Nondiscrimination Complaint Procedures (Standard template created for reference)
- Recordkeeping

*See FTA ADA Circular 4710.1 Section 12.7 for your options*

# What is Title VI?

Title VI is a federal law that prohibits discrimination on the basis of race, color, or national origin in federally assisted programs & activities.

**The law specifically states:**





# Execution of Title VI of the Civil Rights Act of 1964

- 49 Code of Federal Regulations Part 21 (Nondiscrimination in Federally-Assisted programs of DOT)
- FTA Circular 4702.1B (Title VI Requirements and Guidelines)

# Title VI Roles and Responsibilities

## ADOT 5310-5311 FTA Subrecipients

- Title VI Program
- FTA Circular 4702.1B
- Executive Order (EO) guidance for Limited English Proficiency (LEP) (E.O. 13166) and minority and low-income populations (E.O.12898), Environmental Justice (EJ)
- Improved Title VI/ADA Implementation Plan
- Reviewed by primary recipient on a schedule

# Title VI Roles and Responsibilities

## A Title VI Program for submission shall include:

- Nondiscrimination notice to the public
- Nondiscrimination complaint procedures
- Discrimination complaint form
- A record of any public transit-related Title VI/ADA investigations, complaints, or lawsuits filed with the subrecipient

# Title VI Roles and Responsibilities

## A Title VI Program for submission shall include:

- Public Participation Plan – Outreach/summary of past and future efforts to engage minority and Limited English Proficient (LEP) individuals
- *If applicable* table depicting the membership of non-elected committees and councils, membership which is selected by the subrecipient, broken down by race, and description of the process the agency uses to encourage the participation of minorities on such committees.

# Public Participation Plan

Recipients have wide latitude to determine how, when, and how often specific public participation activities should take place, and which specific measures are most appropriate based on:

- Demographic analysis of the population affected
- Program and/or service under consideration
- The resources available to the agency

# Public Participation Plan

Efforts to involve minority and Limited English Proficient (LEP) populations in public participation activities:

- Placement of public notices or handouts at all transit stations, stops, and vehicles
- Coordination with community and faith-based organizations, educational institutions, and other organizations to implement public engagement strategies that reach out specifically to minority and/or LEP communities
- Public interaction and announcements through Agency websites

# Limited English Proficiency Plan or Language Assistance Plan

## Compliance with Executive Order 13166 LEP

Recipients have considerable flexibility in developing a LEP Plan:

- Four Factor Analysis
- Provides language assistance
- Trains employees to provide timely and reasonable language assistance
- Provides notice to LEP persons about the availability of language assistance
- Monitors, evaluates and updates the language access plan

# Limited English Proficiency Plan

## The Four Factor Analysis:

1. Number or proportion of LEP individuals eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee.
2. Frequency with which LEP individuals come in contact with the program.
3. Nature and importance of the program, activity, or service provided by the subrecipient to LEP individuals' lives.
4. Resources available to the recipient and costs.



# Limited English Proficiency Plan

## Vital Documents

After completing the Four Factor Analysis, a recipient may determine that an effective LEP plan includes translation of vital documents.

### **Vital documents include, but are not limited to:**

- Consent and complaint forms
- Written notices of rights
- Decreases in benefits or services
- Notices advising LEP individuals of free language assistance services
- Other documents that provide access to essential services your agency provides

# Limited English Proficiency Plan

The DOT LEP guidelines offer “Safe Harbor” for written translations only

**States that:**

- a. The recipient provides written translation of vital documents for each eligible LEP language group that constitutes 5% or 1,000, whichever is less of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
- b. If there are fewer than 50 persons in a language group that reaches the 5% trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

# Title VI Roles and Responsibilities

## A Title VI Program for submission shall include:

- How they monitor any subrecipients, *if any* for compliance with Title VI and schedule of subrecipients Title VI Program submissions.
- Title VI equity analysis if the subrecipient has plans to construct a facility, such as a vehicle storage facility, maintenance facility, operation center, etc.
- Copy of board meeting minutes, resolution, or other appropriate documentation showing board approval or governing entity responsible for policy decisions.

# Questions & Comments?



# Contact Us

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