

Arizona Department of Transportation

Civil Rights Office

2024 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

- ADA Guidance
- Title VI Requirements and Guidelines
- Nondiscrimination and access to services





What is your favorite thing about Spring?

- A) Marshmallow Peeps**
- B) Seasonal allergies**
- C) Hiking**
- D) Outdoor/patio dining**
- E) Wildflowers**

FTA / ADOT Coordination

Federal Transit Administration

- Providing Stewardship and Oversight of FTA Programs
- Reviewing Title VI Program Plans
- Conducting State Management Reviews
- Providing Policy/Technical Training
- Conducting Complaint Investigations

ADOT (Primary Recipient)

- Monitoring Subrecipients for ADA and Title VI compliance
- Reviewing Title VI Program Plans
- Conducting Compliance Reviews
- Conducting Complaint Investigations
- Submitting Title VI Program Plan to FTA, every three years

FTA ADA Circular 4710.1

- Provides guidance to recipients and subrecipients on implementing 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

Section 504 of the Rehabilitation Act of 1973

Prohibits discrimination against individuals with disabilities by agencies receiving Federal funds (49 CFR Part 27)



Americans with Disabilities Act of 1990

Prohibits discrimination and ensures equal opportunity and access for persons with disabilities.

The ADA applies to almost all providers of transportation service, whether private or public, and whether or not an entity receives Federal financial assistance.



ADOT FTA Subrecipients

- Ensure nondiscrimination in connection with the provisions of transportation service
- Make reasonable modifications in policies, practices, or procedures when such accommodations are necessary to avoid discrimination on the basis of disability

ADOT FTA Subrecipients

ADA: Accessibility Features

Transit providers must maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. Features include but no limited to:

- Lifts and ramps
- Securement devices
- Signage
- Communication systems

ADOT FTA Subrecipients

Reasonable Modification of Policy Examples

- Allowing a passenger with medical condition to eat/drink to avoid adverse health concerns
- Adjust the boarding location to allow boarding from an accessible location
- Picking up at a hard to maneuver spots

ADOT FTA Subrecipients

ADA Policies and Procedures

- Implementation of formal operating policies and procedures
- Training employees on the policies and procedures
- Templates for reference can be found at <https://azdot.gov/business/civil-rightsexternal-eeo-contractor-compliance/adasection-504-program/fta-links>

ADOT FTA Subrecipients

ADA: Service Animals

Individually trained to work or perform tasks for an individual with a disability. Personnel can ask two questions:

- 1. Is the animal a service animal required because of a disability?*
- 2. What work or task has the animal been trained to perform?*

Service Animals need to be under the owner's control



ADOT FTA Subrecipients

ADA: Lift Ramp and Securement Use

Transit providers must carry the wheelchair and occupant if the lift and vehicle can accommodate the wheelchair and occupant.

- Boarding separately from wheelchair
 - No requirements to assist with boarding
- Legitimate safety requirements do not apply to securement
 - No limitations
 - No denials

ADOT FTA Subrecipients

ADA: Lift Ramp and Securement Use

Bus and van securement areas must have passenger seat belt and shoulder harness.

- No mandates for wheelchairs users unless mandated by all passengers
- Wheelchairs must be secured separately with a securement system
- Seat belt and shoulder harness policies

ADOT FTA Subrecipients

ADA: Lift Ramp and Securement Use

Transit providers may recommend to a user of a wheelchair that the individual transfer to a vehicle seat.

- Recommendations only
- No requirements
- Final decision up to the passenger
- Rider requests

ADOT FTA Subrecipients

ADA: Service Denial

Transit providers can refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct, or that individual constitutes a direct threat to others.

- Individualized assessments
- Presuming certain conduct will occur not appropriate
- Written warning before denial
- No permanent bans



ADOT FTA Subrecipients

ADA: Complaint Process

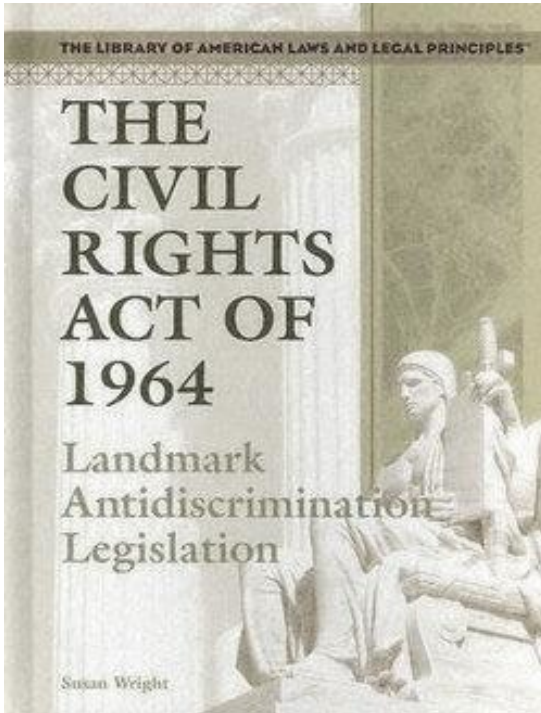
Transit providers can use the same process for accepting and investigating ADA and Title VI complaints, ADA Complaints must be categorized distinctly from Title VI complaints.

- Designated person to coordinate compliance
- Advertised to the public
- Accessible to and usable by individuals with disabilities
- Prompt communication
- Recordkeeping



Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964



What is Title VI?

“No person in the United States shall, on the grounds of **race, color, or national origin**, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial assistance.”

Authority of Title VI of the Civil Rights Act of 1964

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

ADOT 5310-5311 FTA Subrecipients

Roles and Responsibilities

- Title VI Program creation and implementation - FTA Circular 4702.1B
- Following Executive Orders (EO):
 - EO 13166, Limited English Proficiency (LEP)
 - EO 12898, Environmental Justice being minority and low-income populations
- Improving current Title VI/ADA Implementation Plan
- Regularly reviewed by ADOT

Title VI Requirements

A Title VI Program for submission shall include:

- A record of any public transit-related Title VI/ADA investigations, complaints, or lawsuits filed with the subrecipient
- Nondiscrimination Notice to the Public
- Nondiscrimination Complaint Procedures
- Discrimination Complaint Form

Title VI Requirements

A Title VI Program for submission shall include:

- Public Participation Plan – summary of past and future outreach efforts meant to engage minority and Limited English Proficient (LEP) individuals
- *If applicable*, a table depicting the membership of **non-elected committees** and councils broken down by race, as well as a 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 affected population
- Program and/or service under consideration
- The resources available to the agency

Public Participation Plan

Efforts to involve minority and LEP populations in public participation activities such as:

- 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 (LEP) Plan

Compliance with EO 13166, LEP

LEP Plan Criteria:

- Four Factor Analysis
- Means of providing language assistance
- Employee training to provide timely and reasonable language assistance
- Outreach to LEP persons about the availability of language assistance
- Monitoring, evaluating and updating 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 to LEP individuals' lives
4. Resources available to the recipient and cost analysis of these resources

Limited English Proficiency Plan

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

States that:

- a. The subrecipient 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.
- 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.

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

Title VI Roles and Responsibilities

A Title VI Program for submission shall include:

- A process and schedule for reviewing subrecipients (should you have any)
- Title VI equity analysis if the subrecipient has plans to construct a facility
- Copy of board meeting minutes, resolution, or other appropriate documentation showing board approval or governing entity responsible for policy decisions

Utilize Resources

The Civil Rights Office is here to help and guide you with any complaints, questions, or concerns regarding ADA/Title VI matters.

- ADOT Civil Rights Office Website: <https://azdot.gov/business/civil-rights>
- ADOT Title VI FTA Webpage: <https://azdot.gov/business/civil-rightsexternal-eeo-contractor-compliance/title-vi-nondiscrimination-program/fta>
- ADOT ADA FTA Webpage: <https://azdot.gov/business/civil-rightsexternal-eeo-contractor-compliance/adasection-504-program/fta-links>
- FTA Civil Rights/ADA Homepage: <https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/civil-rightsada>

Questions?



Contact Us

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