

ARIZONA DEPARTMENT OF TRANSPORTATION POLICIES AND PROCEDURES

PER-18.01 TITLE VI EXTERNAL NONDISCRIMINATION AND OPEN MEETING POLICY

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Responsible Office: Civil Rights (602) 712-8946

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1.1 PURPOSE

This policy implements the requirements of Title VI of the Civil Rights Act of 1964 (Title VI), and the U.S. Department of Transportation's implementing regulations 49 CFR Part 21. This policy also describes ADOT's policy on nondiscrimination in its programs, services and activities as well as open meeting requirements

1.2 SCOPE

This policy is applicable to all ADOT employees and their program areas, participants, sub-recipients, contractors and beneficiaries of ADOT's programs, services and activities.

1.3 AUTHORITY

Title VI of the Civil Rights Act of 1964
Age Discrimination Act of 1975
Airport and Airway Improvement Act of 1982
Americans with Disabilities Act of 1990
Arizona's Open Meeting Law, A.R.S. §§ 38-431 through 431.09
Executive Order 12898 (Environmental Justice)
Executive Order 13166 (Limited-English Proficiency)
The Civil Rights Restoration Act of 1987
The Federal-Aid Highway Act of 1973
Title II of the ADA
Section 504 of the Rehabilitation Act of 1973
USDOT Order 1050.2A
49 CFR Part 21
Title IX of the Education Amendments Act of 1972

1.4 DEFINITIONS

Accessible Public Buildings	Buildings that meet the Uniform Federal Accessibility Standards (UFAS) or Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) standards.
ADA	Americans with Disabilities Act.
ADOT	Arizona Department of Transportation.
Assurances	A written statement of contractual agreement signed by an authorized official in which the recipient agrees to administer federally assisted programs in accordance with civil rights laws and regulations.
Auxiliary Services	Include the following: <ol style="list-style-type: none">1. Qualified interpreters, note takers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decodes, open and closed captioning, telecommunication devices for the deaf (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments.2. Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments.3. Acquisition or modification of equipment or devices.4. Other similar services and actions.
Beneficiaries	A person or group of persons (other than states) entitled to receive benefits, directly or indirectly, from any Federally assisted program, i.e., relocates, impacted public, communities, etc.
COG	Council of Governments (considered a sub-recipient).
CRO	Civil Rights Office.
Discrimination	Making any distinction between one person or group of

persons and others, either intentionally, by neglect, or by the effect of actions or lack of actions based solely on race, color, national origin (Limited English Proficiency), sex, age, or disability.

Federal assistance	Any funding, property, or aid provided for the purpose of assisting a beneficiary.
FAA	Federal Aviation Administration.
FHWA	Federal Highway Administration.
FMCSA	Federal Motor Carrier Safety Administration.
FTA	Federal Transit Administration.
LPA	Local Public Agency - a legal entity (e.g., cities, counties, towns, tribal, etc.) to which a funding sub-award is made by the Recipient (ADOT) and is accountable to the Recipient (ADOT) for the use of the fund (may also be referred as sub-recipient).
Limited English Proficient	Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be limited English proficient, or "LEP." These individuals may be entitled language assistance with respect to a particular type or service, benefit, or encounter.
MPO	Metropolitan Planning Organization (considered a sub-recipient).
MVD	Motor Vehicle Division.
NHTSA	National Highway Traffic Safety Administration.
Public Meeting	Any meeting convened and hosted by ADOT in which members of the public, non-ADOT employees, are in attendance. Public meetings must meet the requirements of A.R.S. §§ 38-431 through 38-431.09.
Public Meeting Notice	Any type of invitation sent out by ADOT to convene or host a meeting in which members of the public, non-ADOT employees, will be in attendance. Public meeting notices must meet the requirements of A.R.S. § 38-431.02.
Reasonable Accommodation	A requirement to provide equally effective communication or other program/policy modifications necessary to enable

individuals with disabilities and Limited English Proficiency to benefit equally from the services/benefits provided.

Recipient	Any state, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any state, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term recipient does not include any ultimate beneficiary under any such program.
Sub-recipient	A legal entity, such as a Local Public Agency (LPA), to which a funding sub-award is made by the Recipient (Arizona Department of Transportation – [ADOT]) and which is accountable to the Recipient (ADOT) for the use of the fund.
Title II of the ADA	Public law that prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities.

1.5 BACKGROUND

- A. Title VI of the Civil Rights Act of 1964 regulations provides that, “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.”
 - 1. Related federal statutes and regulations require ADOT’s Title VI/Nondiscrimination Program to include nondiscrimination protection on the basis of age, creed, sex, Limited English Proficiency, low-income status, or disability in all ADOT programs, services or activities.
- B. ADOT as a recipient of Federal financial assistance from the U.S. DOT and as a condition of receiving federal funding assistance, has signed an assurance that it will comply with Title VI of the Civil Rights Act of 1964, as amended.
- C. ADOT Civil Rights Office (CRO) is responsible for monitoring Title VI nondiscrimination compliance throughout all of ADOT’s programs, services and activities to include, the monitoring of the compliance activities of sub-recipients, Local Public Agencies, contractors, consultants, grantees, Motor Vehicle Division Authorized Third Parties, and any other vendor entities that provide services on behalf of ADOT.

1.6 TITLE VI NONDISCRIMINATION POLICY

- A. It is the policy of the Arizona Department of Transportation (ADOT) that

discrimination shall not occur in connection with any of its programs or activities on the basis of race, color, national origin, age, creed, sex, Limited English Proficiency, low-income status or disability.

- B. Discrimination based on the grounds referenced above, limits the opportunity for individuals and groups to gain access to services and programs. ADOT does not permit discrimination, either directly, or through contractual or other means such as:
 - 1. Denying program services, financial aids, or other benefits.
 - 2. Providing different program services, financial aids, or other benefits, or providing them in a manner different from that provided to others.
 - 3. Segregating or separately treating individuals or groups in any manner related to the receipt of any program service or benefit.
 - 4. Restricting in any way the enjoyment of any advantage or privilege enjoyed by others receiving any program service or other benefits.
 - 5. Denying persons the opportunity to participate as a member of a planning, advisory, or similar body.
 - 6. Denying persons the opportunity to participate in the program through the provision of services, or affording the opportunity to do so differently from those afforded to others.

1.7 COMPLIANCE AND REPORTING

- A. The ADOT Director is responsible for ensuring that Title VI Nondiscrimination requirements are met. The ADOT Director may delegate functions, duties, or powers as necessary to carry out the efficient operation of the department.
- B. The CRO Administrator and Deputy Administrator have the delegated authority for implementing, monitoring, and enforcing all aspects of Title VI Nondiscrimination program compliance.
- C. The CRO Administrator and Deputy Administrator have delegated responsibility for the day-to-day- implementation of the Title VI Nondiscrimination program to the Title VI/ADA Nondiscrimination Program Coordinators.
- D. Title VI/ADA Nondiscrimination Program Coordinators shall coordinate with all ADOT divisions, including but not limited to:
 - 1. The Communications Division, Intermodal Transportation Division and its Engineering Districts, Motor Vehicle Division (MVD), Multimodal Planning Division, Administrative Services Division, the Enforcement and Compliance

Division, Arizona Highways Magazine, Grand Canyon State Logo Signs, the Business Operations Group, MVD Authorized Third Party Providers and the following sub-recipients:

- a. Managers, Supervisors, FHWA Title VI Liaisons and Team Leaders to ensure that all of ADOT programs, services and activities are compliant with Title VI nondiscrimination requirements.
- E. All ADOT staff, consultants, and contractors providing services on behalf of ADOT are required to take ADOT's Title VI Nondiscrimination computer based training (MDT1097W) on an annual basis as part of ADOT's Title VI Nondiscrimination program requirements.

1.8 DISSEMINATION OF POLICY

This policy shall be disseminated to all ADOT Divisions, sub-recipients, grantees, and Local Public Agencies (LPAs) receiving federal funds.

1.9 RECORDKEEPING:

- A. ADOT Civil Rights Office will retain all records of complaints and investigation report files in the office for three years after an investigation and recommendation is final.
- B. ADOT Civil Rights Office will maintain a log tracking all complainants by race, color, national origin (Limited English Proficiency), sex, creed, age, income status, or disability; the recipient; the nature of the complaint; the dates the complaint was filed and the investigation completed; the disposition and the date of the disposition of the complaint.
- C. ADOT Civil Rights Office will retain all records of sub-recipient and internal program area compliance reviews including the final report file in the office for three years after a review is finalized and deficiencies are addressed.

1.10 CONTRACTS

- A. Each ADOT contract shall include Appendices A and E contained in US DOT Order 1050.2A. Additionally, ADOT shall insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and Regulations made in connection to its federally assisted program, in adapted form, in all proposals for negotiated agreements regardless of funding source:
 1. "The Arizona Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 US. C.§§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

1.11 PUBLIC MEETING REQUIREMENTS

- A. All meetings convened by ADOT and open to the public must be held in facilities that meet Uniform Federal Accessibility Standards (UFAS) or ADA Accessibility Guidelines (ADAAG). Employees, or consultants, and contractors coordinating meetings on behalf of ADOT must obtain information regarding the site's accessibility by site visit.
 - 1. This includes accessible entrances, parking spaces, access into the meeting room, rest room facilities, drinking fountains, etc. In addition all public meetings must be held in accordance with ADOT's Public Involvement Plan for public meetings and open meeting requirements detailed in A.R.S. §§ 38-431 through 38-431.09.
- B. Notice of reasonable modifications must be given for each meeting and additional notice as is reasonable and practicable. Posting of ADOT's Auxiliary Aids and Services poster shall be conspicuously displayed. All public meeting notices must meet the requirements of A.R.S. § 38-431.02
- C. Title VI demographic data collection must be conducted for all public meetings through the use of Voluntary Self-Identification cards or other data collection methods.
 - 1. For virtual meetings a link must be used to collect demographic information of meeting attendees. For additional link information and or resources on meeting Civil Rights requirements for virtual public meetings please contact the Civil Rights Office.
- D. ADOT's Title VI Nondiscrimination Notice to the Public must be displayed at all public meetings (in-person or virtually) convened by ADOT.
- E. All public meeting notices must include the following language in English and Spanish:
 - 1. Pursuant to Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA) and other nondiscrimination laws and authorities, ADOT does not discriminate on the basis of race, color, national origin, sex, age, or disability.
 - 2. Persons that require a reasonable accommodation based on language or disability should contact (INSERT NAME OF PROGRAM AREA) at (INSERT EMAIL OR PHONE NUMBER). Requests should be made as early as possible to ensure the State has an opportunity to address the accommodation.
 - 3. De acuerdo con el Título VI de la Ley de Derechos Civiles de 1964, la Ley de Estadounidenses con Discapacidades (ADA por sus siglas en inglés) y otras normas y leyes antidiscriminatorias, el Departamento de Transporte de Arizona (ADOT) no discrimina por motivos de raza, color, origen nacional, sexo, edad o discapacidad.
 - 4. Las personas que requieran asistencia (dentro de lo razonable) ya sea por el idioma o discapacidad deben ponerse en contacto con la Oficina de (NOMBRE DE PROGRAMA) en (CORREO ELECTRONICO o NUMERO DE TELEFONO). Las solicitudes deben hacerse

lo antes posible para asegurar que el Estado tenga la oportunidad de hacer los arreglos necesarios.

- F. Requests for reasonable accommodations must be honored, unless to do so would fundamentally alter the nature of the service, activity, or program, or cause undue financial and administrative hardship. For additional information on accommodation timelines please contact the Civil Rights Office.
- G. Each request is individual. This may include requests for auxiliary aids. Guidance should be sought from the Civil Rights Office prior to denying a modification request.
- H. A Title VI Post Meeting Summary Report shall be submitted to the CRO for all ADOT public meetings within two weeks of the event.

1.12 EXTERNAL COMPLAINT PROCEDURES

An ADOT supervisor, manager or employee who is made aware of allegations of discrimination or who receives a complaint alleging discrimination shall immediately refer the complaint to the ADOT Civil Rights Office- Title VI Program Manager. In addition, a complainant may also be referred to “ADOT’s Title VI Notice to the Public” or “Your Rights Under Title VI” brochure to provide customers with the direct contact information to the Civil Rights Office. ADOT’s Civil Rights Title VI Program Manager can be reached at, 206 S. 17th Avenue, Mail Drop 155A, Phoenix AZ 85007; by telephone at 602-712-8946, fax 602-239-6257 or by email at civilrightsoffice@azdot.gov.

- A. An ADOT employee may receive a written complaint from any person or specific class of persons believing they have been subjected to discrimination prohibited under ADOT’s Nondiscrimination Program to include: race, color, national origin (Limited English Proficiency), sex, age, income status, or disability. The complaint must be filed with ADOT’s Civil Rights Office (CRO). The complaint should include all information shown on the Title VI Complaint Form.
- B. The complaint must be filed within 180 days of the alleged discrimination, which is the timeframe required for filing a complaint by 49 CRF 21.11(b) or the date when the alleged discrimination became known to the complainant(s), or where there has been a continuing course of conduct, the date on which the conduct was discontinued or the latest instance of the conduct. The complaint must be immediately forwarded to the CRO.
- C. The complaint shall be in writing and signed and may be filed by mail, fax, in person, or e-mail. However, the complainant may call ADOT and provide the allegations by telephone to transcribe the allegations of the complaint as provided over the telephone and send a written complaint to the complainant for correction and signature. A complaint should contain the following information:
 - 1. A written explanation of the alleged discriminatory actions.

2. The complainant's contact information, including, if available: full name, postal address, phone number, and email address.
 3. The basis of the complaint (e.g., race, color, national origin (Limited English Proficiency), disability, low-income status, sex, age).
 4. The names of specific persons and respondents (e.g., agencies/organizations) alleged to have discriminated.
 5. Sufficient information to understand the facts that led the complainant to believe that discrimination occurred in a program or activity that receives Federal financial assistance.
 6. The date(s) of the alleged discriminatory act(s) and whether the alleged discrimination is on-going.
 7. The corrective action being sought after by the complainant.
- D. Complaints may be filed by one of the following methods:
1. Completing and signing the Complaint Form and delivering it in person or by mail.
 2. Emailing or faxing the Complaint Form and sending the signed original to the CRO.
 3. Calling the CRO where information obtained will be used to complete the Complaint Form and, subsequently, forwarded to the complainant for review and signature.
 4. Electronically submitting and digitally signing the Complaint Form
- E. All complaints against ADOT in FHWA-funded programs and activities will be referred to FHWA Division Office for processing.
1. All other complaints filed against ADOT programs not funded by FHWA fall under ADOT's authority and jurisdiction for investigation.
 2. Upon receipt of the complaint, the CRO will determine its jurisdiction, acceptability, or need for additional information before initiating its investigation.
 3. For acceptance, a complaint must be:
 - a. In writing
 - b. Timely filed
 - c. Involve a covered basis (i.e., race, color, national origin, disability, or retaliation)

d. Within ADOT's authority

F. Acknowledgment and processing of complaints:

1. Within 5 calendar days of receipt of the complaint, the CRO will acknowledge its receipt to the parties as well as the course of action on the complaint.
2. The course of action may include acceptance of the complaint for investigation, request for additional information, or rejection of the complaint.
3. The complaint will receive a case number and be logged in the CRO's records identifying its bases, alleged harm, i.e. the race, color, national origin, and disability of the complainant(s).

G. Complaints may be dismissed if the complainant:

1. Requests the withdrawal of the complaint.
2. Fails to respond to repeated requests for additional information.
3. Fails to cooperate in the investigation.
4. Cannot be located after reasonable attempts to reach the complainant have been made.

H. In cases where ADOT assumes the investigation of the complaint, the CRO will provide the respondent with the opportunity to respond to the allegations in writing.

1. The respondent will have 10 calendar days from the date of the CRO's written notification of acceptance of the complaint to furnish his/her response to the allegations.
 - a. If more information is needed to resolve a case CRO may contact the complainant who will then have 10 calendar days to provide additional information.
2. Within 45 days of accepting a complaint, an ADOT Investigator will:
 - a. Gather all relevant information in a fair and impartial manner.
 - b. Conduct interviews of all concerned parties.
 - c. Prepare a final investigative report with a recommended disposition.
3. Upon final determination, one of two letters will be issued to the complainant:

- a. A closure letter summarizing the allegations stating that there was no Title VI and or discriminatory violation and that the case will be closed.
 - b. A Letter of Finding summarizing the allegations and the interviews regarding the alleged incident and explaining whether any additional action, additional training of the staff or other action will occur.
- I. ADOT CRO will maintain a confidential log of all accepted and/or forwarded Title VI Complaints which will include:
1. Name of complainant(s)
 2. Date the complaint was received
 3. Date of the allegation
 4. Description of the alleged discrimination
 5. Other relevant information, as needed
 6. Report date
 7. Recommendations
 8. Outcome/Disposition
- J. All allegations of discrimination will be taken seriously and every effort will be made to provide a fair and unbiased determination. Complainants may file a complaint directly with the USDOT agencies listed below:
1. US Department of Transportation, Federal Highway Administration, Arizona Division 4000 North Central Avenue, Suite 1500, Phoenix, AZ 85012
 2. US Department of Transportation, Federal Aviation Administration, 800 Independence Ave. SW, Washington, DC 20591
 3. US Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE, Washington, DC 20590
 4. US Department of Transportation, Federal Transit Administration FTA Office of Civil Rights, 1200 New Jersey Ave. SE, Washington, DC 20590
 5. US Department of Transportation, National Highway Traffic Safety Administration 1200 New Jersey Ave. SE, Washington, DC 20590

- K. No person shall intimidate or retaliate against an individual or group for the purpose of interfering, threatening, coercing, or discriminating against any individual for filing a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing.
 - 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of the investigation, hearing or judicial proceeding arising there under.
- L. Exhaustion of the Complaint Resolution Procedure is not a prerequisite to filing a complaint with either a federal agency or a court.
- M. Any discussion regarding the Complaint Procedure should be restricted to those individuals responsible for responding to the complaint and those having knowledge pertinent to the investigation, resolution and/or response.
- N. No person shall directly or indirectly use any official authority or influence in any manner to discourage the use of this procedure nor shall any employee suffer reprisal or retaliation in any form as a result of using this procedure.

1.13 CORRESPONDING POLICIES

PER-2.02 AMERICANS WITH DISABILITIES POLICY
PER-9.02 NONDISCRIMINATION POLICY