

Arizona Department of Transportation Civil Rights Office

October 2022

Title VI and ADA Compliance Implementation for ADOT FTA Subrecipients



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

Learning Objectives

- ☐ Understand the basics of ADA and Title VI
- ☐ ADA and Title VI implementation, subrecipient requirements
- ☐ ADA and Title VI policies and resources
- ☐ Training
- ☐ Required Reporting
- ☐ Complaints

ADA Laws & Regulations

Section 504 of the Rehabilitation Act of 1973

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

Title II of the Americans with Disabilities Act (ADA) of 1990

- The ADA applies to state and local governments and the programs, services and activities they provide, regardless of the source of funding. The ADA prohibits the denial of services or benefits on specified discriminatory grounds.



ADOT FTA Subrecipient Responsibilities

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


ADA Policies

- Written policies, procedures, or information regarding the following ADA requirements:
 - Wheelchair Ramps or 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



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

- 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.
- CANCELLATION.** This is a new circular. It does not cancel any existing directive.
- 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.
- AUTHORITIES.**
 - Americans with Disabilities Act of 1990
 - Section 504 of the Rehabilitation Act of 1973, as amended
 - 49 CFR Parts 27, 37, 38, and 39
 - Federal Transit Laws, 49 U.S.C. 5301 et seq.
- WAIVER.** FTA reserves the right to waive any requirements of this circular to the extent permitted by law.
- 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 development of the circular.
- AMENDMENTS TO THE CIRCULAR.** FTA reserves the right to update this circular to reflect changes in other revised or new guidance and regulations that undergo notice and comment, without further notice and comment on this circular. FTA will post updates on our website at www.fta.dot.gov. The website allows the public to register for notification when FTA issues *Federal Register* notices or new guidance. Please visit the website and click on "sign up for e-mail updates" for more information.
- 49 CFR § 37.15 REVIEW.** The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR Parts 27, 37, 38, and/or 39, as applicable.
- ACCESSIBLE FORMATS.** This document is available in accessible formats upon request. To obtain paper copies of this circular as well as information regarding these accessible formats, call FTA's Administrative Services Help Desk, at 202-366-4865. Individuals with hearing impairments may contact the Federal Relay Service at 1-800-877-8339 for assistance with the call.

ADA: Top Issues

- According to the FTA, the highest issues are:

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

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

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 then resume service

See FTA ADA Circular 4710.1 Section 2.2

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



FTA ADA Circular 4710.1 Section 2.4, 2.5

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: Reasonable Public Accommodation

- Individuals with disabilities should be provided “reasonable accommodations” when needed to avoid discrimination on the basis of disability
- The words “ADA” or “reasonable accommodation” do not need to be said to treat a statement as a request

ADA Training

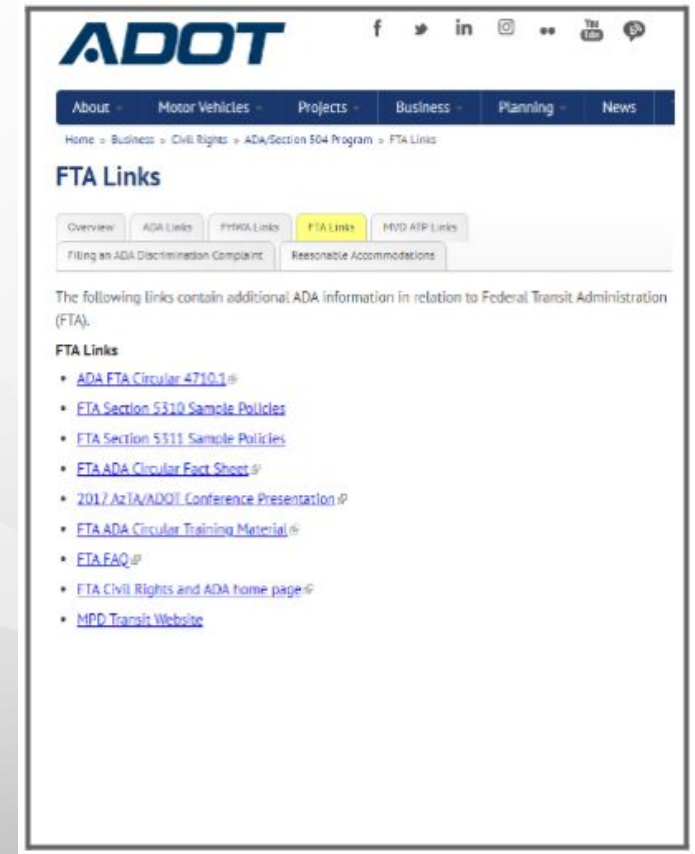
- A transit agency must provide training that is appropriate to the duties of each employee. The training must also address both technical tasks and human relations.
- Different Types of Training to ensure ADA implementation
 - Drivers
 - Vehicle Mechanics
 - Customer Service Agents
 - Vehicle Dispatchers
 - Managers and supervisors



See FTA ADA Circular 4710.1 Section 2.9

Resources

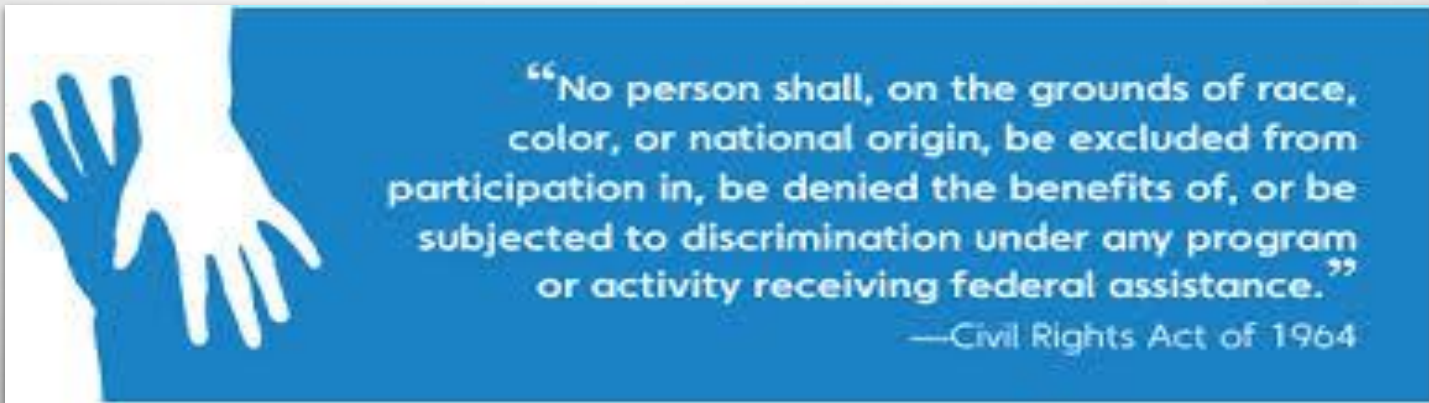
- Civil Rights Office has several resources for reference
- ADA Resources
 - [ADOT ADA FTA Resources](#)
 - [FTA ADA FAQ's](#)
- Title VI Resources
 - [ADOT Title VI FTA Resources](#)



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 states:



Executive Order 13166

Limited English Proficiency

Ensures Limited English Proficiency (LEP) Persons:

- “**Meaningful access** to services and programs” that may normally only be provided in English



ARIZONA
Spanish
Navajo
Chinese
Tagalog
Arabic
Vietnamese
Hindi
French
German
Indo-European

Execution 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)

Title VI Plan Requirements

Your Plan should include:

- An executive summary
- A record of any public transit-related Title VI/ADA investigations, complaints, or lawsuits filed with the subrecipient
- Public Participation Plan
- Limited English Proficiency (LEP) Plan
- Non-Elected Committee Membership Table
- Monitoring of Subrecipient
- Title VI Equity Analysis
- Fixed Route Analysis
- Board Approval
- Nondiscrimination Notice to the Public
- Nondiscrimination Complaint Procedures
- Discrimination Complaint Form

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

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

How do I ensure an LEP individual has access?



- ☐ Translated materials
- ☐ I-Speak cards
- ☐ Volunteer Bilingual staff
- ☐ Vendors for interpretation/translation services
- ☐ Online translating resources

I speak ...

A

Amharic
እኔ አማርኛ ነው ምናገረው.

Arabic
أنا أتحدث اللغة العربية

Armenian
Ես խոսում եմ հայերեն

B

Bengali
আমী বাংলা কথা বলতে পারী

Bosnian
Ja govorim bosanski

Bulgarian
Аз говоря български

Burmese
ကျွန်တော်/ကျွန်မ မြန်မာလို ပြောတတ်ပါတယ်

LEP Scenario

A customer comes into your office and wants to make a discrimination complaint in another language, what do you do?



Public Outreach

- ❑ Social media
- ❑ Email subscriptions
- ❑ Newsletters
- ❑ Local events
- ❑ Partnering with community groups



Public Notice Posters: Nondiscrimination Notice to the Public

- Describe ADA/Title VI Nondiscrimination Policy
- Notify the public of your agency's compliance with ADA/Title VI
- Provide contact information for your agency as well as the Civil Rights Office

The Nondiscrimination and Auxiliary Aid posters **must** be posted in areas visual to the public

Public Notice Posters:

Nondiscrimination Notice to the Public

Non Discrimination Notice to the Public

Notifying the Public of Rights Under Title VI and ADA TYPE AGENCY/TRANSIT PROVIDER NAME HERE

TYPE AGENCY/TRANSIT PROVIDER NAME HERE operates its programs and services without regard to race, color, national origin or disability in accordance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990 (ADA). Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with the TYPE AGENCY/TRANSIT PROVIDER NAME HERE.

For more information on the TYPE AGENCY/TRANSIT PROVIDER NAME HERE's civil rights program, and the procedures to file a complaint, contact TYPE TITLE VI CONTACT PERSON AND TITLE HERE, TITLE VI CONTACT PERSON PHONE NUMBER HERE, (TTY TYPE YOUR TTY NUMBER HERE); email TYPE TITLE VI CONTACT PERSON'S EMAIL HERE; or visit our administrative office at TYPE YOUR ADDRESS HERE. For more information, visit TYPE WEB ADDRESS HERE.

Complaints may be filed directly with the Arizona Department of Transportation (ADOT) Civil Rights Office. ATTN: Title VI Program Coordinator 206 S. 17th Ave MD 155A RM: 183 Phoenix AZ, 85007 or with the Federal Transit Administration (FTA). ATTN: Title VI Program Coordinator, 1200 New Jersey Ave., SE Washington DC 20590

If information is needed in another language, contact TYPE ALTERNATE LANGUAGE PHONE NUMBER HERE. *Para información en Español llame: TYPE NAME AND CONTACT INFORMATION HERE

Non Discrimination Notice to the Public - Spanish

Aviso Público Sobre los Derechos Bajo el Título VI Y ADA TYPE AGENCY/TRANSIT PROVIDER NAME HERE

TYPE AGENCY/TRANSIT PROVIDER NAME HERE (y sus subcontratistas, si cualquiera) asegura cumplir con el Título VI de la Ley de los Derechos Civiles de 1964, Sección 504 de la Ley de Rehabilitación de 1973 y La Ley de ciudadanos Americanos con Discapacidades de 1990 (ADA). El nivel y la calidad de servicios de transporte serán proveídos sin consideración a su raza, color, país de origen, o discapacidad.

Para obtener más información sobre el programa de Derechos Civiles de TYPE AGENCY/TRANSIT PROVIDER NAME HERE, y los procedimientos para presentar una queja, contacte TYPE TITLE VI CONTACT PERSON AND TITLE HERE TITLE VI CONTACT PERSON PHONE NUMBER HERE, (TTY TYPE YOUR TTY NUMBER HERE); o visite nuestra oficina administrativa en TYPE YOUR ADDRESS HERE. Para obtener más información, visite TYPE WEB ADDRESS HERE

Una queja puede ser presentada con la oficina de Derechos Civiles del Departamento de Transporte de Arizona (ADOT). Atención: Title VI Program Manager, 206 S. 17th Ave MD 155A Phoenix AZ, 85007 o con la Administración Federal de Transporte (FTA). Atención: Title VI Coordinator, 1200 New Jersey Ave., SE Washington DC 20590

ADA/Title VI Discrimination Complaint Process

- Filed within 180 days and signed
- Contain full contact information
- Include basis of the complaint
- Describe alleged act
- Other relevant information

3. COMPLAINT PROCEDURES

These procedures apply to all complaints filed under Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987 and the Americans with Disabilities Act of 1990 as they relate to any program or activity administered by ADOT, its subrecipients, consultants and contractors. Intimidation or retaliation as a result of a complaint is prohibited by law.

In addition to these procedures, complainants reserve the right to file formal complaints with other state or federal agencies or to seek private counsel for complaints alleging discrimination. Every effort will be made to resolve complaints informally at ADOT and the subrecipient level.

Procedures

1. Any person, specific class of persons or entity that believes they have been subjected to discrimination as prohibited by the legal provisions of Title VI on the basis of race, color, national origin, disability, income status or retaliation may file a formal complaint with ADOT's Civil Rights Office. A copy of the Complaint Form may be accessed electronically at:
<http://www.adot.gov/business/civil-rights/title-vi-nondiscrimination-program/filing-a-complaint>
2. The complaint must be filed within 180 days of the alleged discrimination, and include the date the alleged discrimination became known to the complainant or the last date of the incident.
3. The complaint must be written and signed by the complainant and shall include:
 - The Complainant(s) name, address and phone number
 - A detailed description of the alleged incident that led the complainant to believe discrimination occurred
 - The date of the alleged act of discrimination, the date when the complainant(s) became aware of the alleged discrimination, the last date of the conduct or the date or the date the conduct was discontinued
 - The names and job titles of those parties involved in the complaint
 - The facts and circumstances surrounding the alleged discrimination and the basis of the complaint (i.e., race, color, national origin, disability, or retaliation)
 - Names and contact information of persons whom the investigator can contact for additional information to support or clarify the allegations
 - The corrective action being sought by the complainant

ADA/Title VI Complaints

FTA Subrecipient Responsibilities include:

- Designated employee, as the point of contact
- Accessible format of complaint procedures accessible to and usable by individuals with disabilities or Limited English Proficiency
- Advertise how to file a complaint
- Promptly communicate your responses to the complainant

See FTA ADA Circular 4710.1 Section 12.7

Discrimination ADA/Title VI Complaint Form

| | | |
|---|--------------------------------------|--|
| Section I: | | |
| Name: | | |
| Address: | | |
| Telephone (Home): | Telephone (Work): | |
| Electronic Mail Address: | | |
| Accessible Format Requirements? | <input type="checkbox"/> Large Print | <input type="checkbox"/> Audio Tape |
| | <input type="checkbox"/> TDD | <input type="checkbox"/> Other |
| Section II: | | |
| Are you filing this complaint on your own behalf? | <input type="checkbox"/> Yes* | <input type="checkbox"/> No |
| <i>*If you answered "yes" to this question, go to Section III.</i> | | |
| If not, please supply the name and relationship of the person for whom you are complaining. | | |
| Please explain why you have filed for a third party: | | |
| Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Section III: | | |
| I believe the discrimination I experienced was based on (check all that apply): | | |
| <input type="checkbox"/> Race | <input type="checkbox"/> Color | <input type="checkbox"/> National Origin |
| <input type="checkbox"/> Disability | | |
| Date of Alleged Discrimination (Month, Day, Year): _____ | | |
| Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known) as well as names and contact information of any witnesses. If more space is needed, please use the back of this form. | | |
| <div></div> <div></div> <div></div> <div></div> | | |
| Section VI: | | |
| Have you previously filed a Discrimination Complaint with this agency? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

| |
|---|
| If yes, please provide any reference information regarding your previous complaint. |
| |
| |
| Section V: |
| Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court? |
| <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If yes, check all that apply: |
| <input type="checkbox"/> Federal Agency: _____ |
| <input type="checkbox"/> Federal Court: _____ <input type="checkbox"/> State Agency: _____ |
| <input type="checkbox"/> State Court : _____ <input type="checkbox"/> Local Agency: _____ |
| Please provide information about a contact person at the agency/court where the complaint was filed. |
| Name: _____ |
| Title: _____ |
| Agency: _____ |
| Address: _____ |
| Telephone: _____ |
| Section VI: |
| Name of agency complaint is against: _____ |
| Name of person complaint is against: _____ |
| Title: _____ |
| Location: _____ |
| Telephone Number (if available): _____ |
| You may attach any written materials or other information that you think is relevant to your complaint. <input type="checkbox"/> |
| Your signature and date are required below: |
| Signature _____ Date _____ |
| Please submit this form in person at the address below, or mail this form to: |
| TYPE AGENCY/TRANSIT PROVIDER NAME HERE |
| TYPE TITLE VI CONTACT PERSON AND TITLE HERE |
| TYPE YOUR ADDRESS HERE |
| TITLE VI CONTACT PERSON PHONE NUMBER HERE |
| TYPE TITLE VI CONTACT PERSON'S EMAIL HERE |
| A copy of this form can be found online at TYPE WEB ADDRESS HERE |
| <small>If information is needed in another language, contact TYPE ALTERNATE LANGUAGE PHONE NUMBER HERE. *Para información en Español, llame: TYPE NAME AND CONTACT INFORMATION HERE</small> |

See FTA ADA Circular 4710.1 Section 12.7

Complaint Reporting/Recordkeeping

- Report complaints alleging discrimination to ADOT within 72 hours
- All complaints of noncompliance must be logged and kept for 5 years; complaint files must be kept on record for at least 1 year

Discrimination ADA/Title VI Investigations, Complaints, and Lawsuits

If no investigations, lawsuits, or complaints were filed select the option below.

☐ TYPE AGENCY/TRANSIT PROVIDER NAME HERE has not had any ADA nor Title VI Discrimination complaints, investigations, or lawsuits in TYPE PREVIOUS YEAR HERE.

| Complainant | Date (Month, Day, Year) | Basis of Complaint (Race, Color, National Origin or Disability) | Summary of Allegation | Status | Action(s) Taken | Final Findings? |
|-----------------------|----------------------------------|---|-----------------------------|--------|--------------------|--------------------|
| Investigations | | | | | | |
| 1) | | | | | | |
| 2) | | | | | | |
| Lawsuits | | | | | | |
| 1) | | | | | | |
| 2) | | | | | | |
| Complaints | | | | | | |
| 1) | | | | | | |
| 2) | | | | | | |

See FTA ADA Circular 4710.1 Section 12.7

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>

Questions & Comments?



Contact Us

ADOT Civil Rights Office

206 S. 17th Ave., Room 183

Phoenix, AZ 85007

602.712.8946

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