

**West Virginia
Department of Transportation
Division of Highways**

**AMERICANS WITH
DISABILITIES ACT (ADA)**

**Revised Transition Plan
January 12, 2016**



**WEST VIRGINIA
DEPARTMENT OF TRANSPORTATION
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December 16, 2015

**WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
TITLE VI AND NONDISCRIMINATION POLICY STATEMENT**

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in all federally assisted programs. The Federal-aid Highway Act(s) and other related statutes prohibit discrimination on the basis of handicap/disability, sex (gender), age, low income, and minorities. Title VI was amended by the Civil Rights Restoration Act of 1987 expanding the definition of the terms "programs or activities" to include all of the operations of government entities receiving federal funds if any one operation receives federal funds.

It is the policy of the West Virginia Department of Transportation (WVDOT) to ensure compliance with Title VI of the Civil Rights Act of 1964 and other pertinent regulations and directives in all programs and activities.

The Secretary of the West Virginia Department of Transportation is personally committed to and in support of taking steps to ensure that no person or groups of persons shall, on the grounds of race, color, national origin, sex, age, disability/handicap, or income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by WVDOT, its recipients, sub recipients, and contractors. In addition, the Department will take reasonable steps to provide meaningful access to services for persons with limited English proficiency.

The WVDOT Equal Opportunity Division Director serves as the Title VI Liaison Officer and is granted the authority to administer and monitor the Title VI and Nondiscrimination Program. The Title VI Liaison Officer will provide assistance as needed.

Division Directors and District Engineer/Managers are responsible for implementing established procedures and guidelines to adequately monitor and administer their programs in a nondiscriminatory manner.

A handwritten signature in blue ink that reads "Paul A. Mattox, Jr." with a stylized flourish at the end.

**Paul Mattox, Jr., P. E.
Secretary of Transportation/
Commissioner of Highways**

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1. INTRODUCTION

This Revised Transition Plan is intended to serve as a revised document of the original 1992 “Action” Plan. The purpose of this document is to fulfill the requirements of Section 504 of the Rehabilitation Act of 1973 and [Title II of the ADA of 1990](#). The ADA Transition Plan serves as an informational document for state and local partners, the citizens of West Virginia, and those who visit West Virginia. The West Virginia Department of Transportation (WVDOT) intends this to be a living document. In this document the WVDOT looks backward to assess what it has accomplished. It also looks forward to develop greater means of accessibility for persons with disabilities throughout the state. The WVDOT's vision is to consider accessibility features in the planning, design, construction, and maintenance of all projects, with the goal of using taxpayer dollars wisely and judiciously, and finding technically feasible and creative solutions to provide accessibility for all individuals to the maximum extent feasible. It is the mission of the WVDOT to create and maintain for the people of West Virginia, the United States, and the world, a multi-modal and inter-modal transportation system that supports the safe, effective and efficient movement of people, information, and

goods that enhances the opportunity for people and communities to enjoy environmentally sensitive and economically sound development.

1.1. BACKGROUND

[Section 504 \(49 CFR Part 27\) of the Rehabilitation Act of 1973](#) is a national law which prohibits discrimination on the basis of disability in programs, activities and services that receive Federal financial assistance. The nondiscrimination requirements of the law apply to employers and organizations that receive financial assistance from any Federal department or agency. The WVDOT's assurance to its federal funding sources that WVDOT's programs, services, facilities or activities will meet ADA compliance standards, also applies to the programs and activities of each entity that receives funds from the WVDOT. The requirements of the [Rehabilitation Act of 1973](#) apply not only to programs and activities provided and controlled directly by the WVDOT, but also to programs or activities of entities that receive federal funds through the WVDOT, even though the WVDOT does not control them directly.

For the WVDOT, the programs, services, facilities, or activities are any that are transportation related. These can include but are not limited to: roadways, contiguous walkways, intersections, rest areas, welcome centers, public transportation, public meetings, notices of the meetings and literature related to any of these.

[The ADA of 1990 \(revised with the advent of the 2008 ADA Amendments Act\)](#) is a federal civil rights statute that prohibits discrimination against people who have disabilities. There are five (5) separate titles of the ADA relating to different aspects of potential discrimination, as listed below.

- Title I – Employment
- Title II – State and Local Government
- Title III – Public Accommodations
- Title IV – Telecommunications
- Title V – Miscellaneous

Title II of the ADA specifically addresses the subject of making public services and public transportation accessible to those with

disabilities. With the advent of the ADA, designing and constructing facilities for public use that are not accessible by people with disabilities constitutes discrimination. Title II of the ADA prohibits discrimination on the basis of disability by state and local governments by making all programs, services, facilities, and activities accessible to persons with disabilities.

The WVDOT is obligated to remove physical barriers to accessibility to insure access to programs, services, facilities, and activities.

The ADA does not require the WVDOT to take any action that would fundamentally alter the nature of its programs or services, or has otherwise been determined to be technically infeasible.

The WVDOT does not discriminate, on the basis of disability, in the admission of, access of, or operations of its programs, services, facilities or activities.

[The Department of Justice \(DOJ\) Regulations, Federal Register 28 CFR Part 35](#) states that, *“In the event that structural changes to facilities will be undertaken to achieve program accessibility, a*

public entity that employs 50 or more persons shall develop, within six months of January 26, 1992, a Transition Plan setting forth the steps necessary to complete such changes.” Additionally, it states that, *“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 walkways cross curbs, giving priority to walkways serving entities covered by the Act...”* The requirements of the ADA apply to all public entities or agencies, no matter the size.

The ADA applies to all facilities, including both facilities built before and after 1990. As a necessary step to a Transition Plan to provide accessibility under the ADA, state and local government, public entities or agencies are required to perform self-evaluations of their current facilities, relative to the accessibility requirements of the ADA. The agencies are then required to develop a Transition Plan to address any deficiencies.

1.2. INTERNAL OVERSIGHT

On August 1, 2014, the West Virginia Secretary of Transportation formed the ADA Policy Board. The Board consists of eight (8) members who are appointed to help advise the WVDOT on developing policies with regard to ADA implementation. The Board is comprised of individuals representing the WVDOT as a whole, and is given the authority to act on behalf of the head of the agency for board matters.

2. FIVE ADMINISTRATIVE REQUIREMENTS

2.1. SELF-EVALUATION

The first task involved in preparing a Transition Plan is conducting an inventory of existing physical barriers within the public right-of-way and listing all the barriers that limit accessibility. The WVDOT is responsible for approximately 36,000 miles of state owned highway in 55 counties throughout West Virginia.

2.1.1. DATA COLLECTION – INVENTORY

The WVDOT has determined, for the benefit of all West Virginia citizens and visitors, all existing curb ramps within the public right-of-way are to be considered reviewable. Given the current demands on the transportation infrastructure and the needs of West Virginia's citizens and visitors, the WVDOT has determined that it would not be prudent to conduct a six (6) point physical field analysis of every curb ramp across the state. This is particularly relevant considering the evolving nature of the design standards associated with accessibility, and the amount of time that has elapsed since the original ADA “Action” Plan of 1992.

The WVDOT has adopted the [*Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way, July 26, 2011 \(PROWAG\)*](#) as the standard for ADA compliance. All curb ramps within a roadway upgrade and design project will be reviewed for

necessary compliance upgrades when a roadway alteration project is approved.

The WVDOT's inventory database documents the presence or absence of curb ramps where a pedestrian crossing, whether marked or unmarked, crosses a roadway within the WVDOT's jurisdiction. The inventory database provides a foundation upon which each of the WVDOT's ten (10) Districts references.

The curb ramp inventory database is developed utilizing an electronic Roadware mapping system in the acquisition, processing and display of roadway data already being used within the WVDOT's Pavement Management System. The WVDOT utilizes an electronic data collection process to obtain point data where curb ramps in the public right-of-way exist. The work is being performed statewide on all US, West Virginia, and selected county routes in addition to other non-continuous road sections that include pedestrian access routes. The data collection includes, but is not

necessarily limited to: curb ramp location, sidewalk location, and need for general maintenance. The data collected can be found [here](#). The current methodology will provide for collection of data for a five (5) year period through the 2017 collection. With respect to infrastructure within WVDOT right-of-way, or on property owned by the WVDOT, inventories will be completed or reassessed to capture any non-compliant facilities not identified through visual inspection of right-of-ways and facilities.

The WVDOT completed a preliminary field study of Harrison and Marion Counties to collect physical sidewalk data. This data collection exercise was used to drive the data collection philosophy of this transition plan. The data collected can be found [here](#).

[Under West Virginia State Code 5](#), incorporated municipalities are responsible for the maintenance of sidewalks within their boundaries. In these instances,

the WVDOT will work with municipalities in their endeavor to have required ADA transition plans available for inspection.

2.2. TRANSITION PLAN

The WVDOT, in accordance with 28CFR 35.150 (d), developed its initial ADA “Action” Plan in 1992 with emphasis being placed on curb ramps. Since the implementation of the 1992 ADA Action Plan, increasing emphasis has been placed on accessibility of infrastructure within the public right-of-way. This revision of the 1992 ADA “Action” plan reflects the WVDOT’s intent to achieve and maintain compliant accessible programs, services, facilities, or activities on an ongoing basis.

This Revised Transition Plan sets forth in a comprehensive document the steps the WVDOT will take, working together with its federal, state, and local partners, as well as non-profit groups and citizens, to provide accessibility to persons with disabilities in WVDOT transportation projects and services throughout the state.

The Transition Plan is a living document and will be updated and revised ongoing until all accessibility barriers are removed. The Transition plan covers all pedestrian facilities within WVDOT right-of-way outside the boundaries of an incorporated municipality. The accessibility of pedestrian facilities in the public right-of-way is only one aspect for providing equal access to state government programs, services, facilities, and activities, but it is an aspect that affects many citizens in their daily activities.

The focus of the transition plan is program access including, but not limited to: sidewalks, pedestrian paths, curb ramps, street crossings, driveway crossings, crosswalks, median crossings and pedestrian activated signal systems within the public right-of-way.

Additionally, all WVDOT buildings which are open and made available to the public are to be accessible. The ADA requires public accommodations to provide services to people with disabilities on an equal basis with the rest of the public. State and local government entities are to remove architectural

barriers when it is readily achievable to do so. Barriers are defined and measured against the [2010 ADA Standards for Accessible Design](#) which has been adopted and enforced by the DOJ effective March 15, 2012.

The WVDOT plans to initiate the architectural barrier review by 2016. The results and subsequent plan to address any deficiencies will be added to the WVDOT Transition Plan as deemed necessary by the ADA Policy Board.

2.2.1. METHODS TO PROVIDE ACCESSIBILITY

The WVDOT makes the accommodation of persons with disabilities a routine and integral part of its planning, design, and construction process.

The WVDOT currently implements necessary ADA compliance upgrades within all existing pedestrian facilities that are altered as part of new construction projects and alteration projects such as resurfacing. New construction must be designed and constructed in

accordance with the most current accessibility standards.

Alterations to existing facilities, within the scope or limits of a project, must provide usability by persons with disabilities to the maximum extent feasible. Existing location constraints effecting feasibility include, but are not limited to, underlying terrain, right-of-way availability, underground structures, adjacent developed facilities, drainage, or the presence of a notable natural or historic feature. Where existing physical constraints make it infeasible for altered elements, spaces, or facilities to fully comply with new construction requirements, compliance is required to the maximum extent feasible within the scope of the project.

2.2.2. SCHEDULE OF WORK

The WVDOT has adopted guidance in response to the [DOJ/Federal Highway Administration Joint Technical](#)

[Assistance briefing memorandum on Title II of the ADA requirements](#) to provide curb ramps when streets, roads, or highways are altered through resurfacing. The WVDOT issued a [memorandum on Sidewalk Guidelines dated September 27, 2012](#), which requires all existing curb ramps within an alteration project to comply with current ADA standards. In addition to the curb ramps, the memorandum requires consideration to be given to incorporating any non-compliant adjacent sidewalks within the project limits into the resurfacing project. The WVDOT continually evaluates policies and standards and makes revisions as appropriate.

Sites in need of an ADA accessibility upgrade within the public right-of-way will be upgraded as part of regularly scheduled resurfacing, alteration and new construction projects. As part of the rolling Six-Year Plan, pedestrian accessibility upgrades within the public right-of-way will be scoped with proposed roadway improvements. ADA

accessibility is a routine part of all project design, development and construction.

The current list of scheduled resurfacing projects and grant projects within the public right-of-way can be found [here](#).

2.3. ADA COORDINATOR

The WVDOT ADA Coordinator has been designated by the Commissioner of Highways as the person responsible for the development and implementation of the ADA Transition Plan.

Contact Information for the WVDOT ADA Coordinator is as follows:

West Virginia Department of Transportation
Equal Employment Opportunity Division
1900 Kanawha Boulevard, East
Building 5, Room 303
Charleston, West Virginia 25305
Telephone: (304) 558-3931

District ADA Coordinators and ADA Reviewers have been designated for each district and division within the WVDOT.

2.3.1. TRAINING

The WVDOT appointed ADA Coordinators throughout each of its Districts to assure ADA compliance on all applicable projects. The memorandum on sidewalk guidelines dated September 27, 2012 states the PROWAG should be considered as the minimum criteria for the design of new sidewalks or the replacement of an existing sidewalk.

As part of the adoption of PROWAG as the minimum criteria, the WVDOT ADA Coordinator has conducted multiple agency wide ADA training opportunities on both design and policy. ADA education and training will be ongoing as agency staff fluctuates and federal and state regulations advance.

2.4. ADA ACCESSIBILITY COMPLAINT PROCEDURE

The ADA of 1990 and the Rehabilitation Act of 1973 prohibit a public entity from discriminating against qualified persons with disabilities in access to facilities and services that the public entity provides.

For the WVDOT and organizations that receive funds from the WVDOT, the services, facilities or activities are any that are related to the planning, design, construction, maintenance, and operation of transportation systems. This can include but is not limited to: public buildings, meeting rooms, roadways, contiguous walkways, intersections, welcome centers, rest areas, public transportation, enhancement projects, and related literature and other communication pertaining to any of these facilities or services.

Any person who believes that they have been the subject of disability related discrimination may file a complaint [here](#).

2.5. NOTICE TO THE PUBLIC

In accordance with the requirements of Title II of the ADA, the WVDOT will not discriminate against qualified individuals with disabilities on the basis of a disability in its services, programs, facilities or activities.

- Employment: The WVDOT does not discriminate on the basis of a disability in its hiring or employment practices and complies with all regulations promulgated by the US Equal Employment Opportunity Commission under Title I of the ADA.
- Effective Communication: The WVDOT will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the WVDOT's programs, services and activities. Reasonable accommodations will be made as needed to make communications accessible to people with disabilities.

- Modifications to Policies and Procedures: The WVDOT will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities.
- Citizen Participation: Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service or activity of the WVDOT, should contact the ADA Coordinator as soon as possible but no later than 48 hours before the scheduled event.
- Public Comment: The public may give input and comment on matters related to ADA compliance through either the ADA Coordinator or they may file a complaint using the WVDOT Title VI complaint procedure.
- Complaints: Complaints that a program, service or activity of the WVDOT is not accessible to persons with disabilities should be directed to the ADA Coordinator.

3. COMMUNICATIONS

In accordance with the ADA the WVDOT will assess its information technology system. If deficiencies are found, the WVDOT will develop and implement a plan to provide persons who are blind, visually impaired or have hearing difficulty effective access to information stored electronically by the WVDOT.

The WVDOT takes appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities, and companions of persons with disabilities, are as effective as communications with others.

4. TRANSITION PLAN UPDATES

4.1. UPDATES IN 2013

- The WVDOT has assigned an agency ADA Coordinator.

- The WVDOT has designated District ADA Coordinators and ADA Reviewers.
- The WVDOT has developed the [DD-811 ADA exceptions justification report](#) to document technical infeasibility.
- The WVDOT has developed and implemented the [revised standard detail, PVT 7](#), providing guidance on new standards for curb ramps and detectible warnings.

4.2. UPDATES IN 2014

- The Equal Employment Opportunity Division Director and WVDOT ADA Coordinator began attending the weekly Budget and Project Review Committee Meetings to advise the WVDOT on ADA compliance issues.
- On August 1, 2014, the WVDOT established the internal ADA Policy Board.

- The WVDOT ADA Coordinator conducted agency wide ADA compliance training during the following scheduled conferences: 1) Contract Administration/Materials Conference; 2) Maintenance Conference; 3) Planning Conference; 4) Preconstruction Engineering Seminar; 5) Designers Conference; and, 6) West Virginia Division of Public Transit Training and Education Forum.
- The WVDOT ADA Coordinator provided guidance to local Metropolitan Planning Organizations (MPO) during a scheduled West Virginia MPO Association Meeting addressing Self Evaluations and Transition Plans.

4.3. FUTURE ACTIONS ANTICIPATED

Ongoing:

- WVDOT ADA Transition Plan update.

- The WVDOT ADA Coordinator will maintain certification through the University of Missouri ADA Coordinators' Training Certification Program.
- The WVDOT will educate local agencies on their ADA requirement to have a Transition Plan, and partner with the [West Virginia Local Technical Assistance Program \(LTAP\)](#) to provide relevant training opportunities.

In progress:

- Statewide Curb Ramp and Sidewalk Inventory data collection.
- The curb ramp inventory data gathered from the Roadware mapping system survey is available to the WVDOT District ADA Coordinators and Reviewers to assist in developing the plans for installation and upgrades of needed accessibility features within the public right-of-way.

Annual:

- The WVDOT ADA Coordinator will conduct specific training with the designated district ADA Coordinators and district ADA Reviewers and their subordinates.
- In order to be effective, the Transition Plan needs to be utilized in the planning of all projects and funding decisions and will require ongoing review for compliance and validity. The Transition Plan will be viewed as a “living document” and updated regularly to reflect changes in real world conditions and to address any access barriers. Ongoing updates to the plan will also result in monitoring compliance and the effectiveness of priorities set in the Plan itself.