



#24-07: ADA/Section 504 Program Updates

Purpose

To be consistent with the federal laws and regulations as it pertains to the Americans with Disabilities Act of 1990 (ADA)/Section 504 of the Rehabilitation Act of 1973 (Section 504) program requirements, Section 9.3 of the Local Assistance Procedures Manual (LAPM) is updated to provide better guidance and clarity to Local Public Agencies (LPAs) receiving funds through Caltrans from the U.S. Department of Transportation (USDOT) / Federal Highway Administration (FHWA).

Policy Update

Updates to Section 9.3 will help LPAs develop better programs for their agencies to be compliant with the federal laws and regulations. The updates will require LPAs to re-evaluate their ADA/Section 504 programs, whether to have more requirements or clarify what is needed or not needed as part of their programs. The updates include roles and responsibilities for FHWA, Caltrans, and LPAs.

In addition, LPAs must adhere to the new section 9.3.3: Caltrans DLA ADA Section 504 Program Assessment, including completing the DLA ADA Section 504 Program Assessment Online Form biennially (by June 30 every odd year or when requested).

Publication Changes

The following table lists the changes to the January 2024 LAPM. LAPM chapter changes noted below supersede the existing 2024 LAPM publication and will be hard-coded in the January 2025 version.

LAPM Chapter 9	Changes that Supersede Current Publication
Section 9.3	<p>Accessibility: Rehabilitation Act of 1973/Americans with Disabilities Act and Section 504 of the Rehabilitation Act</p> <p>As part of FHWA regulatory requirements under Title II of the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504), Caltrans ensures that subrecipients LPAs of receiving federal and state funds do not discriminate on the basis of disability in any highway transportation program, activity, service, or benefit they provide to the general public. The subrecipients LPAs must ensure that people with disabilities have equitable opportunities to use the public rights-of-way system.</p> <p>Per Section 504 of the Rehabilitation Act of 1973 (codified as 29 U.S.C.791 et seq.) requires that any entity LPAs receiving federal financial assistance must ensure that persons with</p>



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	<p>disabilities are not discriminated against in any and all aspects of employment or be denied access to the goods or services that these federal fund recipients LPAs provide.</p> <p>The intent of the Americans with Disabilities Act of 1990 ADA (Public Law 101-336, codified as 42 U.S.C.12101 et seq.) is to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities. This law extended the protections offered for persons with disabilities.</p>
<p>Section 9.3.1</p>	<p>Legal Authorities</p> <p>28 CFR 35 requires that facilities constructed on behalf of, or for the use of, a public entity shall be designed and constructed so that the facility is accessible to and usable by persons with disabilities.</p> <p>49 CFR 27 requires nondiscrimination on the basis of disability in programs and activities receiving or benefiting from federal financial assistance. The State of California has also adopted regulations in Section 54 of the California Civil Code that specifies all buildings, structures, sidewalks, curbs, and related facilities constructed in California by the use of state, county or municipal funds, or the funds of any political subdivision of the state, shall be accessible to and usable by persons with disabilities.</p> <p>Americans with Disabilities Act (ADA) Assurances Administering agencies LPAs sign ADA assurances as part of their Master Agreement with Caltrans (see Exhibit 4-C). The Program Supplement Agreement (PSA) for each project includes the administering agency's LPA's reaffirmation of the nondiscrimination assurances contained in the Master Agreement.</p>
<p>Section 9.3.2</p>	<p>ADA/Section 504 Program Roles and Responsibilities</p> <p>FHWA</p> <ul style="list-style-type: none"> • Ensure public entities, recipients, and LPAs are informed of their responsibilities to provide accessibility in their transportation programs, activities, and facilities. • Ensure public entities, recipients, and LPAs are applying accessibility standards to all transportation facilities. <p>Caltrans</p> <p><u>Office of Civil Rights (OCR)</u></p> <ul style="list-style-type: none"> • Process and forward local grievance complaints to the LPA's ADA Coordinator and DLA. <p><u>Division of Local Assistance (DLA)</u></p>



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	<ul style="list-style-type: none"> • Provide technical assistance and training to LPAs. • Monitor LPA compliance with ADA/Section 504 program requirements by mandated program assessments. • Monitor and track grievance complaints received from OCR, and ensure LPAs are following up with the complaints/complainants. <p><u>District Local Assistance Engineer (DLAE)</u></p> <ul style="list-style-type: none"> • Ensure LPAs who are currently receiving and requesting federal funds must provide a completed <u>Exhibit 9-C: Local Agency ADA Annual Certification Form</u> by June 30 of each year for the following federal fiscal year (October 1 to September 30). The form must be received prior to submitting a Request for Authorization to proceed with a federal-aid project. • Monitor LPA compliance with ADA program requirements by participating in ADA program assessments and meeting with LPAs.
<p>Section 9.3.3</p>	<p>ADA/Section 504 Program Requirements</p> <ol style="list-style-type: none"> 1. <u>Designation of an ADA Coordinator</u> <p>The LPAs that employ 50 or more persons are required to designate an ADA Coordinator who is responsible for coordinating the efforts of the LPA to comply with ADA requirements, including investigation of complaints. The LPA must make available to the public the name and contact information (mailing address, telephone number, e-mail address, etc.) of its designated ADA Coordinator 28 CFR 35.107(a).</p> 2. <u>Adoption of Grievance Procedures</u> <p>The (a) LPAs that employ 50 or more persons are required to adopt and publish procedures for resolving grievances arising under Title II of the ADA (28 CFR 35.107(b)). Pursuant to 28 CFR 35.170, any individual who believes that he or she or a specific class of individuals has been subjected to discrimination on the basis of disability by a public entity may file a complaint within 180 days of the date of the alleged discrimination, unless the time for filing is extended by an LPA for good cause. The LPA must designate at least one person to coordinate its efforts to comply with the adoption of complaint procedures per 49 CFR 27.13.</p> <p>Grievance procedures set out a system for resolving complaints of disability discrimination in a prompt and fair manner. The grievance procedure must include:</p> <ul style="list-style-type: none"> • A description of how and where a complaint under Title II of the ADA may be filed with the LPA.



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	<ul style="list-style-type: none"> • A statement notifying potential complainants that alternative means of filing a complaint, other than in writing, will be made available to individuals with disabilities. • A description of the time frames and processes to be followed by the complainant and the LPA. • Information on how to appeal an adverse decision. • A statement of how long complaint files will be retained. <p>(b) Adoption of complaint procedures. A recipient must adopt procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part and 49 CFR parts 37, 38, and 39. The procedures must meet the following requirements:</p> <ol style="list-style-type: none"> i. The process for filing a complaint, including the name, address, telephone number, and email address of the employee designated under paragraph (a) of this section, must be sufficiently advertised to the public, such as on the recipient's website; ii. The procedures must be accessible to and usable by individuals with disabilities; iii. The recipient must promptly communicate its response to the complaint allegations, including its reasons for the response, to the complainant by a means that will result in documentation of the response. <p>3. <u>Notice of ADA Nondiscrimination Policy</u></p> <p>All public entities must provide information to the public, program participants, program beneficiaries, applicants, and employees about the ADA and how it applies to the public entity. LPAs must make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the services, programs, or activities of the LPA, and make such information available to them in such manner as the head of the LPA finds necessary to apprise such persons of the protections against discrimination assured them by ADA and 28 CFR 35.106.</p> <p>Here are some methods that public entities have used LPAs can use:</p> <ul style="list-style-type: none"> • Put the notice on the public entity's LPA's website. • Include the notice in social media such as Twitter and Facebook. • Post the notice at facilities. • Publish the notice in local newspapers.



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	<ul style="list-style-type: none"> • Broadcast the notice in public service announcements on local radio and television stations. • Include the notice in program announcements and applications. <p>The information must be provided in “alternative” formats so that it is accessible to people with hearing and vision disabilities. Examples of alternative formats:</p> <ul style="list-style-type: none"> • Captioned public service announcements on television • Large print (recommend sans-serif typeface such as Helvetica or Arial, 18 point size; if an individual requests a specific point size, provide notice in that size) • Braille • Text file on a thumb disk or emailed to the person • HTML format on an accessible website • Audio recording • Radio announcement <p>Public entities must provide the information not just once, but on an ongoing basis. For example when there's a new ADA Coordinator the ADA Nondiscrimination Policy should be updated.</p> <p>4. <u>Self-Evaluation</u></p> <p>The LPAs are is required to ensure accessibility for individuals with disabilities through the self-evaluation complete a self-evaluation of its current programs, policies, and practices to identify barriers for people with disabilities pursuant to 28 CFR 35.105, 49 CFR 27.11(c)(2), and Section 504 of the Rehabilitation Act of 1973. The scope of the self-evaluation includes both architectural and administrative barriers. The LPA must provide an opportunity for interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments. In the interest of transparency, keep a copy of the self-evaluation available in the files for public review. As a public entity, it is the LPA's responsibility to ensure that individuals with disabilities can participate in all aspect of their civic, social, and personal life within the community. Consider the completed self-evaluation a “living” document, to be revisited and updated regularly. This will ensure the LPA's communities, programs, services, and activities remain accessible.</p> <p>Critical areas to evaluate as part of a self-evaluation must accomplish the following, but are not limited to:</p> <ul style="list-style-type: none"> • Identify all programs (including public right-of-way facilities), activities, and services and their locations.



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	<ul style="list-style-type: none"> • Determine whether employees and officials are familiar with the public entity's ADA obligations, including the requirement to make reasonable modifications to policies, practices, and procedures. • Determine whether employees and officials know how to arrange for auxiliary aids and services, such as sign language interpreters, material in Braille, and assistive listening systems; to ensure that communication with people with disabilities is as effective as others. • Review service, activity and program's policies and procedures to determine whether they ensure an equal opportunity for people with disabilities to participate and benefit. • Survey facilities and determine whether there are physical barriers to access programs. If non-structural changes, such as moving programs, should be made, include them in the self-evaluation. If structural changes are needed, include them in the transition plan. <p>All public entities are required to complete a self-evaluation. However, only those that employ 50 or more persons are required to maintain the self-evaluation on file and make it available for public inspection for at least three years pursuant to 28 CFR 35.105(c). Other public entities are not required to retain their self-evaluations but are encouraged to do so because these document evidence of a public entity's good faith efforts to comply with ADA requirements.</p> <p>NOTE: LPAs must implement a system for periodically reviewing and updating self-evaluations and, if applicable, transition plans per 49 CFR 27.11(c)(2)(v). As a best practice, an updated self-evaluation is recommended every three (3) years prior to updating the agency's Transportation Improvement Program.</p> <p>5. <u>Transition Plan</u></p> <p>Following completion of a self-evaluation, LPAs with 50 or more employees is required to develop a transition plan to prioritize removal of structural barriers for accessibility purposes pursuant to 28 CFR 35.150(d). Although public entities LPAs with fewer than 50 employees are not required to develop a transition plan, it may be useful in setting priorities when structural changes are required to bring the organization into compliance.</p> <p>The transition plan must accomplish the following, but are not limited to:</p> <ul style="list-style-type: none"> • Identify physical obstacles in the public agency LPA's facilities that limit the accessibility of its programs or activities to individuals with disabilities; • Describe in detail the methods that will be used to make the facilities accessible;



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	<ul style="list-style-type: none">• Specify the schedule for taking steps necessary to upgrade pedestrian access to meet Section 504 and/or ADA requirements in each year following the transition plan; and• Indicate the official responsible for implementation of the plan; 28 CFR 35.150(d)(3). <p>NOTE: LPAs must implement a system for periodically reviewing and updating self-evaluations and, if applicable, transition plans per 49 CFR 27.11(c)(2)(v). As a best practice an updated transition plan is recommended every three (3) to five (5) years following adoption of the updated self-evaluation.</p> <p>6. Caltrans DLA ADA Section 504 Program Assessment LPA's ADA Section 504 Program Assessment is to be submitted electronically.</p> <p>Caltrans monitors LPA compliance with ADA program requirements by conducting mandated program assessments. The district is invited to participate in LPA program assessment onsite visits. A biennial assessment is used to conduct LPA ADA Program Assessments to ensure LPAs comply with FHWA ADA requirements.</p> <p>LPAs must be prepared to submit all information in one sitting, which covers this sample assessment: Sample Questions of the ADA Section 504 Program Assessment (PDF).</p> <p>Use this form link to submit an ADA Section 504 Program Assessment. LPAs are required to complete the DLA ADA Section 504 Program Assessment Online Form biennially (by June 30 every odd year when requested). Updates can be made after submittal by requesting an update link to dla.ada@dot.ca.gov.</p> <p>Note: The Caltrans DLA ADA Section 504 Program Assessment does not replace the Exhibit 9-C: Local Agency ADA Annual Certification Form.</p> <p>7. Design State and local governments, regardless of whether they receive federal financial assistance, are required to comply with federal 2010 ADA Standards, Title 24 of the California Code of Regulations (which contains California building regulations), or local code, whichever provides the greatest access. Private-funded improvements within the public Right of Way are also required to comply with the federal 2010 ADA Standards or with Title 24, whichever code offers the greatest access or protection to individuals with disabilities. All new and altered pedestrian facilities such as, but not limited to, highway rest area facilities, sidewalks, crosswalks, pedestrian overpasses, underpasses, and ramps must be made accessible to persons with disabilities in</p>



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	<p>accordance with federal and state accessibility standards on all LPA federal-aid projects. Facility maintenance does not constitute an alteration (see LAPM Chapter 11: Design Guidance for what constitutes an alteration triggering accessibility requirements).</p> <p><u>Certification</u></p> <p>LPA's certify compliance with federal, state, and local ADA regulations, laws, and codes in Exhibit 12-D: PS&E Checklist.</p> <p>8. <u>ADA Monitoring Certification</u></p> <p>LPA's <u>who are currently receiving and requesting federal funds</u> must provide the Caltrans DLAE with a completed Exhibit 9-C: Local Agency ADA Annual Certification Form by June 30 of each year for the following federal fiscal year (October 1 to September 30). The form must be received prior to submitting a Request for Authorization to proceed with a federal-aid project.</p> <p>Exhibit 9-C includes:</p> <ol style="list-style-type: none">1. Designated ADA Coordinator information (name, address, phone number, and e-mail address).2. Certification that the LPA has an updated self-evaluation and transition plan, if applicable. If the LPA does not have an updated self-evaluation and transition plan, then the LPA provides an estimated date that they will have one, and may be subject to a desk or onsite program review.3. Certification of the adoption of a grievance procedure. If the LPA does not have a grievance procedure, then the LPA provides an estimated date that they will have one. <p>9. <u>ADA Monitoring</u></p> <p>During the field review, an agreement is reached among all interested parties (LPA, DLAE, FHWA) on the general design features and exceptions for the project. ADA deficiencies are discussed and agreed upon at this time (see LAPM Chapter 7: Field Review).</p> <p>10. <u>Plans, Specifications & Estimate</u></p> <p>LPA's certify that their project's Plans, Specifications & Estimate (PS&E) complies with all applicable federal and state regulations and codes (see LAPM 3-A: Project Authorization/Adjustment Request and Exhibit 12-D: PS&E Checklist, and LAPM Chapter 12: Plans, Specifications & Estimate).</p>



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	<p>11. <u>Final Inspection</u></p> <p>The LPA conducts the final inspection and certifies on the Exhibit 17-C: Final Inspection Form that the project was constructed in accordance with the scope and description of the project authorization document and that all federal and state requirements have been met. If the DLAE reviews the job site and cannot verify completion of required ADA accessible components (as certified in Exhibit 17-C), the LPA may be subject to sanctions as identified in LAPM Chapter 20: Audits & Corrective Actions.</p>

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