

Frequently Asked Questions about Caltrans ADA Infrastructure Program

1. What is ADA?

The Americans with Disabilities Act of 1990 (ADA) is a federal civil rights law. It gives federal civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age and religion. It guarantees equal opportunity for individuals with disabilities in state and local government services, public accommodations, employment, transportation, and telecommunications.

2. What is a disability?

The ADA defines disability as a mental or physical impairment that substantially limits one or more major life activities. ADA protection extends not only to individuals who currently have a disability, but also to those with a record of a mental or physical impairment.

3. What does it mean to be “an individual with a disability”?

According to the ADA, an individual with a disability is "an individual with a disability who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity."

4. Which public agencies must provide accessible pedestrian walkways for persons with disabilities?

All federal, state and local governmental agencies must provide pedestrian access for persons with disabilities in compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (ADA).

5. Does ADA require Caltrans to provide pedestrian facilities?

No. However, when Caltrans provides a pedestrian facility, it must be accessible to persons with disabilities to the extent technically feasible.

6. What are the federal regulations under which Caltrans is required to make its right-of-way accessible for persons with disabilities?

Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (ADA) are the key statutes that require Caltrans to make its right-of-way accessible for persons with disabilities.

7. Who enforces Title II of the ADA with regards to transportation?

The US Department of Justice (DOJ) is responsible for the enforcement of Title II of the ADA. The DOJ regulations designate the US Department of Transportation (DOT) as the agency responsible for overseeing public agencies' compliance with the ADA. The DOT has delegated the responsibility to ensure ADA compliance in the public right-of-way and on

projects using surface transportation funds to the Federal Highway Administration (FHWA). The FHWA has in turn delegated the responsibility for enforcement of Title II of the ADA for transportation on public right-of-way in the state of California to Caltrans.

For transportation related ADA compliance on local public right of way, the FHWA enforces Title II of the ADA through Caltrans. Caltrans is required to perform an annual audit of a few randomly selected local agencies on their compliance with ADA and report to FHWA.

8. What is the Caltrans ADA Infrastructure Program?

Within Caltrans, the ADA Infrastructure Program has been delegated the responsibility to ensure Caltrans infrastructure is in compliance with Title II of the ADA. The objective of the Caltrans ADA Infrastructure Program is to make Caltrans infrastructure equally accessible to persons with disabilities.

9. Where can I get information about the Caltrans ADA Infrastructure Program?

Information about the Caltrans ADA Infrastructure Program can be obtained from the ADA Infrastructure Program website.

(http://www.dot.ca.gov/hq/bep/ada_infrastructure_program.htm)

10. What are the requirements of Title II of the ADA?

There are several requirements of Title II of the ADA. However, there are five key administrative requirements. These are:

- Designate a person responsible for all ADA activities
- Conduct and implement a Self Evaluation
- Conduct and implement a Transition Plan
- Create and implement a Grievance Procedure
- Provide notice to the public about how ADA applies to Caltrans programs, services and activities.

11. Does Caltrans have an ADA Coordinator?

Yes. One of the administrative requirements of Title II of the ADA is to have an individual designated as a person responsible for all ADA activities, i.e. an ADA Coordinator. The Caltrans statewide ADA Coordinator can be reached at:

California Department of Transportation
ADA Infrastructure Program – MS 36
1120 N Street,
Sacramento, CA 95814
(866) 810-6346 (Toll Free)
(916) 653-4913 (Local)
711 (TTY)
ada_compliance_office@dot.ca.gov (Email)
(916) 653-3055 (Fax)

12. What is a self evaluation?

It is a review of all policies and practices that govern the administration of a public entity's programs, activities and services.

13. What is the goal of self evaluation?

The goal of self evaluation is to identify all policies, practices and procedures, assess all policies, practices and procedures to identify items that could be considered as discriminatory, and modify all policies, practices and procedures to ensure compliance.

14. What is a Transition Plan?

A Transition plan is a plan to identify physical barriers or obstacles that limit accessibility, describe the methods to be used to make the facilities accessible, provide a schedule for making the access modifications and indicate the official responsible (Statewide ADA Coordinator) for implementation of the transition plan.

15. Who needs to have a Transition Plan?

Public entities with fifty or more employees must develop a transition plan when structural changes to existing facilities are necessary in order to make a program, service or activity accessible to persons with disabilities.

16. Does Caltrans have a Transition Plan?

Yes. Caltrans has one of the most innovative transitions plans, which is still under development. The Caltrans transition plan can be viewed on the Caltrans ADA Infrastructure Program website (http://www.dot.ca.gov/hq/bep/ada_infrastructure_program.htm). The current version of the transition plan does not include a schedule for making the access modifications. Items on the transition plan are continuously being updated.

17. What is a grievance procedure?

Grievance procedure is a mechanism that allows a person with disability or a class of individuals with disabilities or their representatives to file an access request or grievance alleging discrimination on the basis of disability.

18. What is the difference between a request and a grievance?

A request is an informal way of notifying about the existence of a barrier and asking for the removal of a barrier. A grievance is a formal way of asking for the removal of barrier. A specific timeline is associated with the response to a grievance.

19. Does a grievance get a higher priority than a request?

No. At this time Caltrans treats all requests and grievances with the same urgency and priority.

20. Who can submit a request or grievance to Caltrans?

Any member of the public can bring to attention a barrier on Caltrans' infrastructure through the Caltrans ADA grievance procedure. However, when an person with disability or an individual representing a person with disability submits a request or grievance, a resolution has to be provided within a specific time in accordance with ADA. If an individual is submitting a request or grievance on behalf of a qualified individual (i.e. person with

disability), then that individual must provide the contact information of the qualified individual so that if needed additional details on the barrier can be obtained.

21. If a person with a disability has a complaint about Caltrans, is the person required to file a complaint with Caltrans first before filing a complaint with the federal government?

No. The law does not require people who want to file an ADA complaint against Caltrans with the federal government to file a complaint with Caltrans first. However, people are encouraged to bring their issue to Caltrans' attention first before going to the federal government so that it can be resolved at the local level.

22. How can I submit a request or grievance to Caltrans?

A request or grievance can be submitted to Caltrans through the Caltrans homepage (www.dot.ca.gov). On the right side of the Caltrans homepage, there is a "Caltrans ADA Access Request" icon. Clicking on the icon will bring up the "ADA Access Request Form". A request or grievance can also be submitted by phone at (855) 259-1825 (Toll Free).

23. What happens to my request after it is submitted to Caltrans?

Once a request is submitted, it will be addressed through the Caltrans ADA grievance procedure. An individual representing Caltrans will contact the individual identified in the ADA Access Request form via phone, letter, email or other alternative format (an example of an alternative format would be a Braille letter). An investigation of the request location will be conducted and a resolution to the request will be developed. The resolution will then be discussed with the individual submitting the request. Throughout the grievance procedure the individual submitting the request will be informed about the actions being taken on the request.

24. Who is ADA Accrediting & Consulting and what do they do?

Caltrans has hired ADA Accrediting & Consulting (ADAAC) to assist with its ADA grievance procedure. ADAAC is an industry leader in providing technical information regarding the understanding and application of the ADA. ADAAC has over 20 years of experience in implementing effective grievance procedures, creating innovative and practical transition plans and conducting comprehensive self-evaluations for multiple government entities and organizations around the nation.

25. Why is Caltrans using ADAAC to handle their grievances and access requests?

Caltrans hired ADAAC to streamline the ADA grievance procedure and to develop a web-based automated grievance intake and handling system. Once web-based grievance handling system has been established, these responsibilities will be transferred back to Caltrans personnel.

26. How long will it take Caltrans to resolve an access request?

Caltrans is committed to resolving all requests within 180 days of receipt. However, in many instances the request or grievances can be resolved in a much shorter time. The time to implement the resolution, i.e. remove the identified barrier, could vary significantly from location to location.

27. How long does it take to remove an identified access barrier?

The time taken to remove an access barrier will vary and depend on the severity of the barrier. Simple routine maintenance, such as trimming back bushes, can be done rather quickly. Other barriers such as installing new curb ramp at an intersection or installing a series of curb ramps in a highway corridor will require much longer time because of the need to initiate a capital improvement project that may involve procuring additional right of way or perform environmental mitigation.

28. What type of request will be addressed through the Caltrans ADA Grievance Procedure?

The Caltrans ADA Grievance Process will address access requests that pertain specifically to Caltrans infrastructure (physical structures) such as sidewalks, curb ramps, signals, etc. Requests that do not pertain to roadways under Caltrans' jurisdiction will be forwarded to the appropriate agency. You will also be notified with a letter including the contact information for the responsible agency.

29. What if I have a disability but my request is not infrastructure related?

The request will be investigated and if the request is related to Caltrans, the appropriate division with Caltrans will be notified to take the necessary action.

30. What if it is determined that my request location is not within Caltrans' jurisdiction?

Caltrans will conduct an investigation to determine who has jurisdiction over the requested location. Once the appropriate agency is identified, Caltrans will forward the request to that agency along with the necessary contact information.

31. Who can I contact if I have questions regarding my request?

You can contact ADAAC, Monday through Friday between the hours of 9:00am – 5:00pm at one of the following numbers:

(855) 259-1825 (Toll Free)

916-259-1825 (Local)

711 (TTY)

Or, you can also contact the Caltrans Statewide ADA Coordinator.

32. Will Caltrans provide accessible facilities only when identified by a request or grievance?

No. Caltrans has been and will continue to make its infrastructure accessible through projects that involve pedestrian facilities. Caltrans regularly conducts self assessment to identify any new barriers for persons with disabilities on its infrastructure.

33. Does Caltrans have to retrofit its every existing infrastructure in order to meet the accessibility requirements of the ADA?

No. Title II of the ADA requires that a public entity make its programs accessible to people with disabilities, not necessarily each facility or part of a facility. Program accessibility may be achieved by a number of methods. While in many situations providing access to facilities through structural methods, such as alteration of existing facilities and acquisition or

construction of additional facilities, may be the most efficient method of providing program accessibility, the public entity may pursue alternatives to structural changes in order to achieve program accessibility. For example, Caltrans may move a public hearing from an inaccessible building to a building that is readily accessible. When choosing among available methods of providing program accessibility, a public entity must give priority to those methods that offer services, programs and activities in the most integrated setting appropriate.

34. If Caltrans opts to make structural changes in providing program accessibility, is Caltrans required to follow a particular design standard in making those changes?

Yes. When making structural changes to achieve program accessibility, Caltrans must make those changes in accordance with the federal and State ADA standards for new construction and alterations.

35. Are there any limitations on the program accessibility requirement?

Yes. A public entity does not have to take any action if it can demonstrate that the action would result in a fundamental alteration in the nature of its program or activity or result in undue financial and administrative burdens. This determination can only be made by the head of the public entity or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. The determination that undue burdens would result must be based on all resources available for use in the program. If an action would result in such an alteration or burden, the public entity must take any other action that would not result in such an alteration or burden but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity.

36. Does Caltrans have to provide curb ramps at every intersection on existing streets?

No. To promote both efficiency and accessibility, public entities may choose to construct curb ramps at every point where a pedestrian walkway intersects a curb, but they are not required to do so. Alternative routes to buildings that make use of existing curb ramps may be acceptable under the concept of program accessibility in the limited circumstances where individuals with disabilities need only travel a marginally longer route. In addition, the fundamental alteration and undue burden limitations may limit the number of curb ramps required.

To achieve or maintain program accessibility, it may be appropriate to establish an ongoing procedure for installing curb ramps upon request in areas frequented by persons with disabilities as residents, employees, or visitors.

However, when highways are newly built or altered, they must have ramps wherever there are curbs or other barriers to entry from a sidewalk or path. Likewise, when new sidewalks or paths are built or altered, they must contain curb ramps wherever they intersect with streets, roads, or highways. Filling potholes is considered to be normal maintenance. Resurfacing beyond normal maintenance is an alteration.

37. Do Caltrans maintenance activities require simultaneous improvements of the facility to meet ADA standards?

No. Maintenance activities do not require simultaneous improvements to pedestrian accessibility under the ADA or Section 504. However, any accessibility needs identified during the development of the maintenance activities should be incorporated into the transition plan.

38. Is Caltrans required to modify its policies whenever requested in order to accommodate individuals with disabilities?

No. Caltrans must make only "reasonable modifications" in its policies, practices, or procedures to avoid discrimination. If Caltrans can demonstrate that a modification would fundamentally alter the nature of its service, program, or activity, it is not required to make the modification.

If you have any additional questions related to Caltrans compliance with the ADA, please contact the Caltrans Statewide ADA Coordinator (ada_compliance_office@dot.ca.gov).