



Approved by: \_\_\_\_\_  
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Deputy Secretary

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## **Equitable Access for Persons With Disabilities**

### **I. Introduction**

#### **A. Purpose**

The purpose of this Agency Policy is to affirm the Washington State Department of Transportation's (WSDOT's) commitment to provide equitable access in its programs, services, and activities for persons with disabilities.

#### **B. Supersession**

This Agency Policy supersedes and replaces Secretary's Executive Order E 1069.02 titled *Equal Access for Persons With Disabilities*, dated August 12, 2021. All references to the superseded E 1069.02 now reference P 1069.03.

#### **C. What Has Changed**

This Agency Policy makes the following changes from E 1069.02:

- It replaces references to equal access with references to equitable access.
- It replaces references to the Office of Equal Opportunity with references to the Office of Equity and Civil Rights.
- In Section II, it rephrases some of the existing language to clarify it. It also adds language about addressing Americans with Disabilities Act (ADA) complaints from the public.
- In Section III, it adds a definition of local agency. It also makes minor changes to clarify some of the existing language.
- In Subsection IV.A, it replaces references to the Deputy Director of the Office of Equal Opportunity with references to the ADA Compliance and External Workforce Development Manager. It adds clarifying language and notes activities that this position oversees. It moves language about day-to-day activities to Subsection IV.C.
- In Subsection IV.C, it adds division, region, and office responsibilities.
- In Section V, it updates the contact information and adds language about filing a complaint.
- In Subsection VI.A, it adds and updates references to federal regulations.
- In Subsection VI.B, it adds text in the heading and adds references to Revised Code of Washington (RCW) 47.04.035 and Washington Technology Solutions Policy USER-01 *Accessibility*.
- In Subsection VI.C, it updates the list of department manuals and publications.

- In Subsection VI.D, it adds and updates references. This includes adding a reference to the finalized *Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way* (PROWAG) to replace a reference to the proposed guidelines. It also adds a reference to the *WSDOT Grievance and ADA Nondiscrimination Procedure*. It adds notes for publications that require an account for access.
- In Section VII, it replaces a reference to the Secretary of Transportation with a reference to the Deputy Secretary.

## II. Policy

WSDOT employees are directed to provide equitable access and nondiscrimination in all of WSDOT's programs, services, and activities. No individual with a disability shall, solely on the basis of the disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any of the department's programs, services, or activities, in accordance with:

- The Americans with Disabilities Act of 1990 (ADA), as amended.
- Sections 504 and 508 of the Rehabilitation Act of 1973, as amended.
- Revised Code of Washington (RCW) 49.60 *Discrimination—Human rights commission*.

ADA compliance applies to all WSDOT regions, divisions, programs, services, public use facilities, pedestrian facilities, and platforms for communicating to and with the public, regardless of the funding source. In the case of existing pedestrian facilities, WSDOT and its subrecipients will provide accessibility to the maximum extent feasible. For existing public use facilities, WSDOT shall make its programs accessible to people with disabilities, though not necessarily each facility or all parts of a facility.

When communicating with the public, WSDOT will make every effort to use effective communication methods through its written, verbal, and electronic platforms. WSDOT communicators within each region or division will implement effective communication standards and manage them in consultation with the WSDOT ADA Compliance Team.

The WSDOT ADA Compliance Team and individual divisional employees will address all other equitable access provisions. The WSDOT ADA Compliance Team will address ADA complaints from the public using the [WSDOT Grievance and ADA Nondiscrimination Procedure](#).

## III. Definitions

**Alteration** – A change to a facility that affects or could affect the usability of the facility or any part of it. Alterations include, but are not limited to, renovation, rehabilitation, reconstruction, historic restoration, resurfacing of circulation paths or vehicular ways, and changes or rearrangement of structural parts or elements of a facility.

**Auxiliary Aids and Services** – Devices or services that enable effective communication for people with disabilities. This can include, but is not limited to, qualified interpreters, screen readers, computer-aided real-time transcription (CART), written materials, assistive listening devices, hearing aid-compatible telephones, speech synthesizers, text telephones (TTYs), closed caption decoders, open or closed captioning, video interpreting services, description of visually presented materials, video relay, email, text messaging, instant

messaging, qualified readers, assistance filling out forms, Brailled materials, and large print materials.

**Disability** – The presence of a sensory, mental, or physical impairment that (1) is medically cognizable or diagnosable, (2) exists as a record or history, or (3) is perceived to exist whether or not it exists in fact. A disability exists whether it is temporary or permanent, common or uncommon, or mitigated or unmitigated.

**Effective Communication** – Written and verbal communication needs to be as clear and understandable to people with disabilities as it is for people who do not have disabilities.

**Equitable Access** – The opportunity to fully participate in or benefit from goods, programs, services, facilities, privileges, advantages, or accommodations.

**Local Agency** – A public entity receiving United States Department of Transportation (USDOT) funds through WSDOT for projects/programs/activities administered by the public entity.

**Maximum Extent Feasible** – The occasional case where the nature of an existing pedestrian facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration shall provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible shall be made accessible.

#### **IV. Information to Carry Out This Policy**

##### **A. ADA Compliance and External Workforce Development Manager Responsibilities**

The ADA Compliance and External Workforce Development Manager in the Office of Equity and Civil Rights (OECR) is responsible for managing the department's external ADA Title II and Section 504 Compliance Program. This program is also known as the external ADA compliance program. This program's activities include, but are not limited to:

- Receiving, tracking, and resolving public complaints regarding ADA Title II and Sections 504 and 508 of the Rehabilitation Act.
- Reviewing maximum extent feasible documentation when alterations cannot be made within ADA specifications.
- Contributing to the development of agencywide ADA training.
- Receiving and providing feedback on local agency ADA transition plans.

##### **B. Executive and Senior Manager Responsibilities**

Each executive and senior manager needs to participate in the external ADA compliance program. This includes providing necessary input and resources for carrying out the agency's ADA/504 transition plan. Executives and senior managers are directed to participate in ADA compliance activities in accordance with this Agency Policy and the external ADA Title II and Section 504 Compliance Program.

## C. Division, Region, and Office Responsibilities

Each organization within WSDOT will individually handle many of the day-to-day activities regarding external ADA compliance. WSDOT divisions, regions, and offices shall:

1. Create a culture/environment that values people with disabilities.
2. Administer WSDOT's external ADA compliance program in accordance with applicable laws and regulations.
3. Work with industry partners and OECR to create opportunities to increase accessibility for people with disabilities by improving communication and providing opportunities for public outreach.
4. Provide reports and information to OECR as required to meet the external ADA compliance program requirements.
5. Work with OECR and headquarters divisions and offices to resolve ADA complaints.

## V. Contact for More Information

For questions or concerns about this Agency Policy, contact the ADA Compliance Team by email at [wsdotada@wsdot.wa.gov](mailto:wsdotada@wsdot.wa.gov) or by phone at 855-362-4ADA, or visit the [WSDOT Disability Access Concerns - ADA webpage](#).

Any person who believes their ADA protection has been violated may file a complaint with WSDOT's Office of Equity and Civil Rights using the contact information shown above. Complaints will be resolved using the [WSDOT Grievance and ADA Nondiscrimination Procedure](#).

## VI. References

### A. Federal Statutes and Regulations

- [Americans with Disabilities Act of 1990](#), as amended (42 United States Code [USC] 12101 et seq.; see specifically 42 USC 12131-12134 covering Public Entities [Title II])
- Section 504 of the Rehabilitation Act of 1973 ([29 USC 794](#)), as amended
- Section 508 of the Rehabilitation Act of 1973 ([29 USC 794d](#)), as amended by the Workforce Investment Act of 1998 (Public Law 105-220), August 7, 1998
- U.S. Department of Justice [Americans with Disabilities Act Title II Regulations webpage](#), including the text of 28 Code of Federal Regulations (CFR) Part 35 *Nondiscrimination on the Basis of Disability in State and Local Government Services*
- [28 CFR Part 36, Appendix A](#) *Guidance on Revisions to ADA Regulation on Nondiscrimination on the Basis of Disability by Public Accommodations and Commercial Facilities*
- [36 CFR Part 1194](#) *Information and Communication Technology Standards and Guidelines*
- [49 CFR Part 27](#) *Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance*

- [49 CFR Part 37](#) *Transportation Services for Individuals with Disabilities (ADA)*
- [49 CFR Part 38](#) *Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles*
- [49 CFR Part 39](#) *Transportation for Individuals with Disabilities: Passenger Vessels*

## B. State Law, Regulations, and Policies

- [RCW 35.68](#) *Sidewalks, gutters, curbs, and driveways—All cities and towns*
- [RCW 35.78](#) *Streets—Classification and design standards*
- [RCW 46.04.160](#) *Crosswalk*
- [RCW 46.61.235](#) *Crosswalks*
- [RCW 46.61.240](#) *Crossing at other than crosswalks*
- [RCW 46.61.261](#) *Sidewalks, crosswalks—Pedestrians, bicycles, personal delivery devices*
- [RCW 47.04.035](#) *Street access—Principles of complete streets—Requirements*
- [RCW 47.24.010](#) *Designation—Construction, maintenance—Return to city or town*
- [RCW 47.24.020](#) *Jurisdiction, control—Exception*
- [RCW 47.30.030](#) *Facilities for nonmotorized traffic—Expenditure of available funds*
- [RCW 47.30.050](#) *Expenditures for paths and trails—Minimum amount*
- [RCW 49.60](#) *Discrimination—Human rights commission*
- [WAC 51-50](#) *State building code adoption and amendment of the 2021 edition of the international building code*
- Washington Technology Solutions ([WaTech](#)) [Policy USER-01](#) *Accessibility*

## C. Department Manuals and Publications

- [Design Manual](#) M 22-01
- [Manual on Uniform Traffic Control Devices](#)
- [Roadside Manual](#) M 25-30
- [Standard Plans](#) M 21-01
- [Traffic Manual](#) M 51-02

## D. Guidance

- [Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way](#) (PROWAG), Architectural and Transportation Barriers Compliance Board (also known as the United States Access Board), August 8, 2023
- [Accommodating Bicycle and Pedestrian Travel: A Recommended Approach](#), Federal Highway Administration (FHWA)
- [ADA Best Practices Tool Kit for State and Local Governments, Chapter 3](#), “General Effective Communication Requirements Under Title II of the ADA”
- [Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines](#) (ADAAG), United States Access Board, July 23, 2004

- [\*Bicycle and Pedestrian Planning, Program, and Project Development\*](#), FHWA, May 19, 2023
- [\*Design Standards, FAST Act and Infrastructure Investment and Jobs Act Provisions memorandum\*](#), FHWA, November 16, 2023
- [\*Designing Sidewalks and Trails for Access, Part I of II: Review of Existing Guidelines and Practices\*](#), FHWA, 1999
- [\*Designing Sidewalks and Trails for Access, Part II of II: Best Practices Design Guide\*](#), FHWA, 2001
- *Guide for the Planning, Design, and Operation of Pedestrian Facilities*, 2nd edition, American Association of State Highway and Transportation Officials (AASHTO), 2021. For access, see the [WSDOT Library's page for AASHTO publications](#) on insideDOT.
- *Highway Capacity Manual*, Transportation Research Board (TRB). For access, see the [TRB's webpage for publications](#).
- [\*Pedestrian Facilities Users Guide — Providing Safety and Mobility\*](#), FHWA, 2002
- *A Policy on Geometric Design of Highways and Streets (Green Book)*, AASHTO. For access, see the [WSDOT Library's page for AASHTO publications](#) on insideDOT.
- [\*Proposed Passenger Vessels Accessibility Guidelines \(PVAG\)\*](#), United States Access Board, June 25, 2013
- [\*Special Report: Accessible Public Rights-of-Way—Planning and Designing for Alterations\*](#), Public Rights-of-Way Access Advisory Committee, 2007
- [\*2010 ADA Standards for Accessible Design\*](#), U.S. Department of Justice, Civil Rights Division
- [\*WSDOT Grievance and ADA Nondiscrimination Procedure\*](#)

## VII. Review and Update Requirements

When changes are necessary to update this document, inform the Deputy Director of the Office of Equity and Civil Rights. The Deputy Director of the Office of Equity and Civil Rights reviews this document periodically and proposes updates for leadership review and approval by the Deputy Secretary.

### **Americans with Disabilities Act (ADA) Information**

This material can be made available in an alternate format by emailing the Office of Equity and Civil Rights at [wsdotada@wsdot.wa.gov](mailto:wsdotada@wsdot.wa.gov) or by calling toll free, 855-362-4ADA(4232). Persons who are deaf or hard of hearing may make a request by calling the Washington State Relay at 711.