



ADA Transition Plans

Statewide Planning Partner Meeting

February 8, 2019



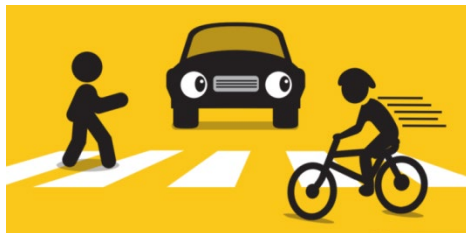
ADA Transition Plans

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ADA Transition Plans

Discussion Topics

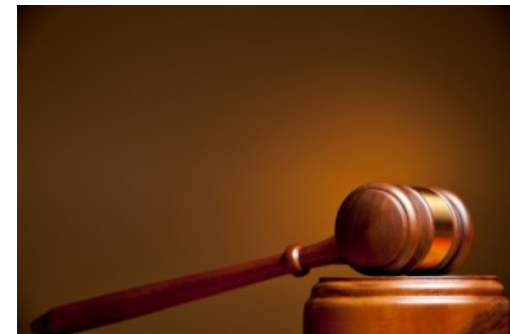
- **What is ADA?**
- **How does ADA apply to my project?**
- **What is a Self-Evaluation?**
- **What is a Transition Plan?**
- **What are some of the challenges developing a TP?**
- **LPA Projects and ADA**



ADA Transition Plans

ADA is Civil Rights Law

- **Enforced by the US Department of Justice**
 - Protection from discrimination
 - Provides access to services, programs and activities
 - Ensures Effective Communication
- **Reasonable Accommodations**
- **Removal of Barriers**



ADA Transition Plans

ADA is Civil Rights Law

- **1964 – 1990 Federal Laws**
 - ✓ 1964 Civil Rights Act
 - ✓ 1968 Architectural Barriers Act (Federal Buildings)
 - ✓ 1973 Rehabilitation Act (Sect 504 – Federal Programs)
 - ✓ 1990 Americans with Disabilities Act
 - ✓ Effective January 26, 1992
 - ✓ July 1, 1994 ADAAG
 - ✓ November 23, 2005 PROWAG
 - ✓ November 26, 2006 FHWA adopts ADA/ABA
 - ✓ September 15, 2010 NEW ADA Standards
 - ✓ New NPRM July 2011
 - ✓ 2012 PRM 2016 PROWAG Approved by DOJ ?
 - ✓ 2013 PRM 2017 PROWAG Approved by DOJ ?
 - ✓ 2014 PRM 2018 PROWAG Approved by DOJ ?
 - ✓ 2015 PRM 2019 PROWAG Approved by DOJ ?



ADA Transition Plans

ADA is Civil Rights Law

Section 504 Rehabilitation Act & Title II ADA

Program Access = Equal Opportunity

No qualified individual with a disability shall be _____ because a public entity's facilities are inaccessible or unusable,

- ✓ **Excluded from participation;**
- ✓ **Denied benefits of programs;**
- ✓ **Subjected to discrimination.**





ADA Transition Plans

ADA is Civil Rights Law

The four major goals of ADA are:

- Equal Opportunity**
- Full Participation**
- Independent Living**
- Economic Self-sufficiency**

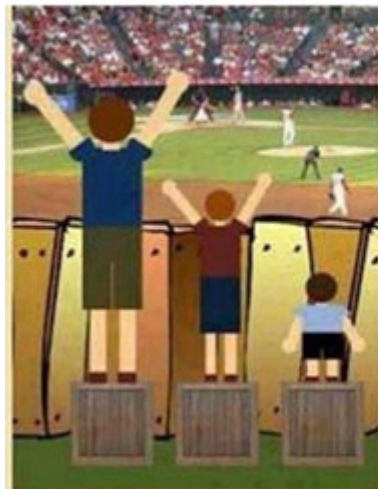


ADA Transition Plans

ADA is Civil Rights Law

Title II Agencies must ensure all programs, services, and facilities are accessible to persons with disabilities.

Equality



Equity



ADA Transition Plans

Discussion Topics

- What is ADA?
- **How does ADA apply to my project?**
- What is a Self-Evaluation?
- What is a Transition Plan?
- What are some of the challenges developing a TP?
- LPA Projects and ADA



ADA Transition Plans

Kinney v. Yerusalim

(1993)

ADA & Section 504: Alteration Projects

- When resurfacing of a street alters the usability of a street, curb ramps within scope of the alteration project must be improved to the maximum extent feasible to meet ADAAG standards (including detectable warnings) at the same time that the project occurs.
Kinney v. Yerusalim, 9 F.3d 1067, 1070, 1072 (3d Cir. 1993), *cert. denied*, 511 U.S. 1033 (1994); 28 C.F.R. § 35.151(b); ADAAG § 3.5 (alteration definition).

- ✓ **Curb Ramps**
- ✓ **Sloped Areas**
- ✓ **Barriers to Access**
- ✓ **Detectable Warnings**

ADA Transition Plans

Barden v. Sacramento (2002)

Barden alleged:
Sacramento
violated Title II
ADA, Sect 504,
and various
California
Statutes
requiring access
for persons with
disabilities ...



ADA Transition Plans

Barden v. Sacramento (2002)

**Sacramento
argued saying:
sidewalks are
not a “program,
service, or
activity” so ADA
does not apply**

• • • •





ADA Transition Plans

Barden v. Sacramento (2002)

Appeals Court Opinion (June 12, 2002):
**YES. Sidewalks ARE INDEED a service,
program or activity ...**

AND

**Accordingly, sidewalks are subject to
program accessibility regulations ...**

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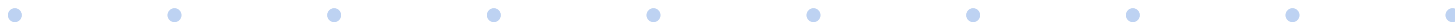


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Barden v. Sacramento (2002)

Appeals Court Opinion (June 12, 2002):

“Section 35.150’s requirement of curb ramps in all pedestrian walkways reveals a general concern for the accessibility of public sidewalks, as well as a recognition that sidewalks fall within ADA’s coverage, and **[ADA] would be meaningless if the sidewalks between the curb ramps were inaccessible.**”



ADA Transition Plans

Barden v. Sacramento (2002)





ADA Transition Plans

Barden v. Sacramento (2002)

Sacramento Settlement Agreement:

20% of its Transportation Fund

For up to 30 Years,

**or until it can show that it provides
Program Access to Pedestrian Rights of
way in the City of Sacramento.**





ADA Transition Plans

Lonberg v. City of Riverside (2006)
Case No. EDCV 97-0237-SGL (AJWx) **OPINION**

“Simply put, because of the City’s failure to construct accessible curb ramps and sidewalks, Plaintiff is being denied the ability to easily access a variety of government, commercial, and residential areas of the City, including the sidewalks themselves, and thereby is denied the ability to become a self-reliant member of the community. This is precisely the type of discrimination that the ADA and California’s accessibility laws were designed to address.”



ADA Transition Plans

Lonberg v. City of Riverside
Case No. 06-55781

California Damage Award Calculations:

- Total \$221,000.00
 - ◆ 181 locations of unsafe curb ramps/no curb ramps used once between Sept. 4, 1996 and February 12, 2007 @ \$1,000.00 ea statutory minimum damages for one offense of denied or unsafe access => **\$181,000.00**
 - ◆ 8 locations of unsafe curb ramps/no curb ramps near plaintiff's home used at least one hundred times between Sept. 4, 1996 and February 12, 2007 @ \$5,000.00 ea damages => **\$40,000.00**

ADA Transition Plans

ADA is Civil Rights Law

ADA gives Civil Rights protections to persons with disabilities and guarantees equal opportunity in public accommodations.



Mr. Lonberg



ADA Transition Plans

Protections in areas of...

- **Employment**
- **Education**
- **Housing**
- **Health Care**
- **Communications**
- **Events**
- **Transportation**
- **Buildings**
- **Right-of-Way**



ADA Transition Plans

It is time to choose.....





ADA Transition Plans

State and Local Governments

Title II & Section 504 Rehabilitation Act

Operate each service or activity so that, when viewed in its entirety, it is accessible to and usable by people with disabilities.





ADA Transition Plans

ADA Title II Compliance (28 CFR 35)

Self-Evaluation (Due Jan 26, 1993)

List of non-compliant items

Transition Plan (Due July 26, 1992)

Written Plan on how and when modifications will occur.

Physical Modifications (Due Jan 26, 1995)

Completed ASAP.



ADA Transition Plans

Self Evaluation (Due Jan 26, 1993)

Three areas of a Self Evaluation...

- Policies, Services and communications
- Buildings
- Programs (including R/W)
- FHWA Video on Self Evaluations:

<https://www.youtube.com/watch?v=-EzGax5kS7M>



ADA Transition Plans

Self Evaluation (Due Jan 26, 1993)

Simply put..

- Evaluate all current programs, services, activities, policies, and construction projects
- Identify Deficiencies and Discriminatory Actions
- Get public comments
- Create a comprehensive to-do-list





ADA Transition Plans

Self Evaluation (Due Jan 26, 1993)

CFR 35.105

- (a) A public entity shall, within one year of the effective date of this part, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.
- (b) A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.
- (c) A public entity that employs 50 or more persons shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:
 - (1) A list of the interested persons consulted;
 - (2) A description of areas examined and any problems identified; and
 - (3) A description of any modifications made.
- (d) If a public entity has already complied with the self-evaluation requirement of a regulation implementing section 504 of the Rehabilitation Act of 1973, then the requirements of this section shall apply only to those policies and practices that were not included in the previous self-evaluation.

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Self Evaluation (Due Jan 26, 1993)

Required of All Entities...

- Identify barriers in programs & activities that prevent persons with disabilities from accessing
- Include review of Policies and Practices to ensure non-discrimination
- Public Involvement & Comments
- Effective Communications Plan
- Employee Training

Goal is to provide equal access to the maximum extent feasible



ADA Transition Plans

Self Evaluation (Due Jan 26, 1993)

Identifying barriers within the Public R/W

- Curbs
- Sidewalks
- Pedestrian Crossings
- Pedestrian Signals
- Shared Use Trails
- Parking Lots
- Bus Stops
- Parks



→ **ALSO Barriers within Facilities...**

ADA Transition Plans

Self Evaluation (Due Jan 26, 1993)

ADA Compliance:

- 2, 5, 8.33
- Cross Slope – Width
- Curb Ramps
- Detectable Warnings
- Approach Space & Buttons
- 0 Inch, ¼ Inch, ½ Inch, >½ Inch
- Roadway Grade Exception
- 15 Foot Rule
- Pedestrian Crossings/Signals



ADA Transition Plans

Self Evaluation (Due Jan 26, 1993)



ADA Transition Plans

Self Evaluation (Due Jan 26, 1993)

Public Input.

- A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.



ADA Transition Plans

Transition Plan (Due July 26, 1992)

Takes the Self Evaluation findings and public comments ...

- Identify physical obstacles
- Describes the methods planned to address each item
- Prioritizes the needs
- Publishes a schedule for the modifications
- Estimates costs to make the modifications
- Reports on progress over time
- Identify the Officials responsible for implementation of the Transition Plan
- Includes required ADA statements





ADA Transition Plans

Transition Plan (Due July 26, 1992)

MoDOT Transition Plan is to cover all facilities under its control. Includes all R/W and buildings such as district offices, welcome centers, maintenance buildings, rest stops and other buildings owned and operated by the DOT.



ADA Transition Plans

Transition Plan (Due July 26, 1992)

Important things to remember

- Transition Plan is a living document – ever evolving with planning, modifications, reporting, ...
- As boundaries grow, need to incorporate new facilities in the Self Evaluation and Transition Plan process
- Address Special Requests and Complaints
- Modify the Transition Plan as modifications are completed and new items are discovered
- Alterations = Max Ext Feasible
- New Construction = 100% Compliance
- FHWA Video on TP

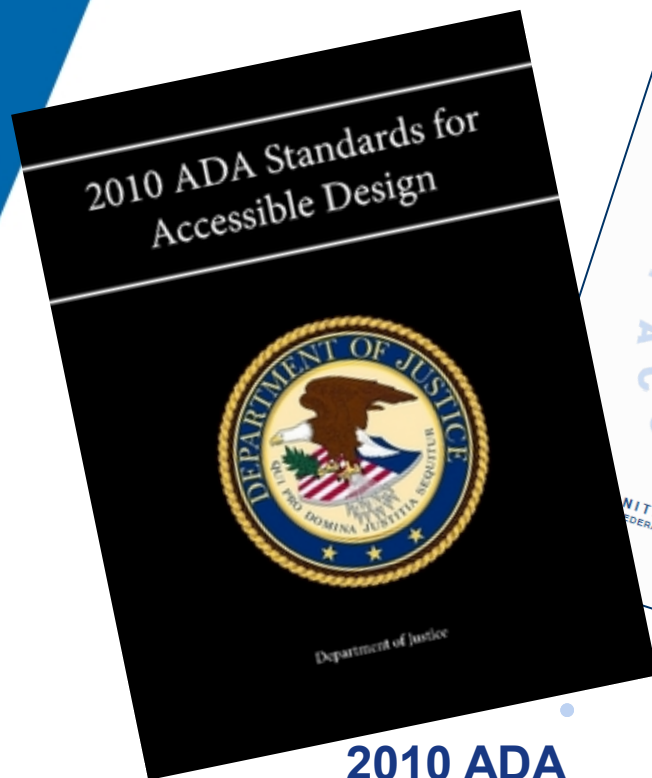
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Transition Plan (Due July 26, 1992)

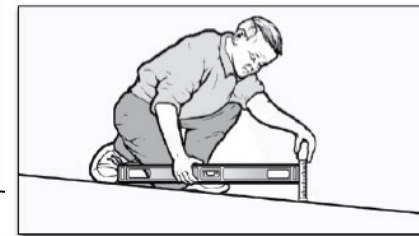
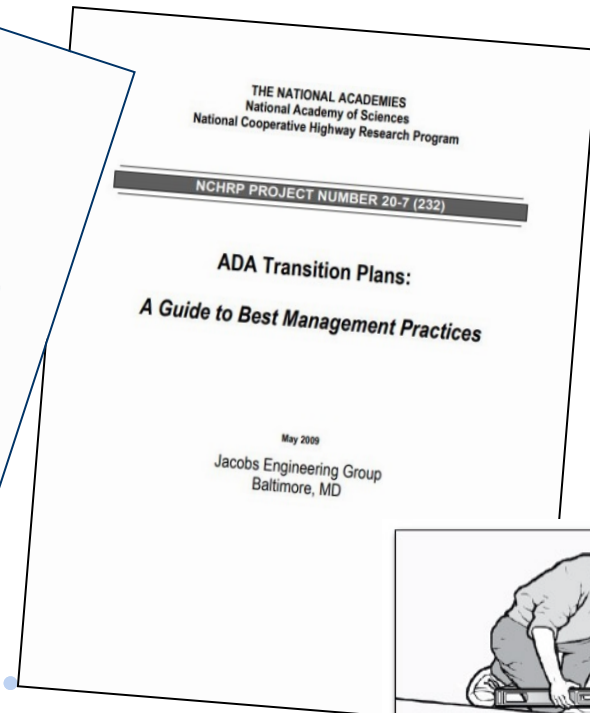
Publications to help LPAs with Transition Plans.



2010 ADA



2005 PROWAG



ADA Transition Plans

Discussion Topics

- What is ADA?
- Does it apply to my project?
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- **What are some of the challenges developing a TP?**
- LPA Projects and ADA



ADA Transition Plans

Challenges with developing TPs

- **Self Evaluation, Inventory & Data Collection**
 - Paper, App/GIS, Automated, Data Storage,
- **ADA Standards Training**
 - Knowledge Base
- **Resources**
 - Time, Money, People
- **Scheduling TP Modifications**
- **Estimating Project Costs**
- **“Organizational Denial”**



ADA Transition Plans

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ADA Transition Plans

Impacts on LPA Projects?

**When there is an “Alteration”,
facilities are to be brought into
compliance with ADA standards.**

---US Department of Justice



2010 ADA Standards for
Accessible Design



Department of Justice



ADA Transition Plans

DOJ-DOT Joint TA Memo, 2013

Pavement Treatment Types (Maintenance vs. Alteration)

MAINTENANCE

Chip Seals	Fog Seals	Scrub Sealing
Crack Filling and Sealing	Joint Crack Seals	Slurry Seals
Diamond Grinding	Joint repairs	Spot High-Friction Treatments
Dowel Bar Retrofit	Pavement Patching	Surface Sealing

ALTERATION

Addition of New Layer of Asphalt	Mill & Fill / Mill & Overlay
Cape Seals	New Construction
Hot In-Place Recycling	Open-graded Surface Course
Microsurfacing / Thin-Lift Overlay	Rehabilitation and Reconstruction



ADA Transition Plans

Impacts on LPA Projects?

What are some challenges to developing a Transition Plan?



ADA Transition Plans

Curb Ramps



ADA Transition Plans

Truncated Domes



ADA Transition Plans

Sidewalks



ADA Transition Plans

Faulted Sidewalk Joints



ADA Transition Plans

Urban Shoulders – Sidewalks?



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Crosswalks



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Pedestrian Signals



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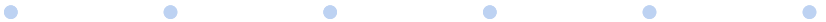
Maintenance = Snow Removal





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Complex Situations



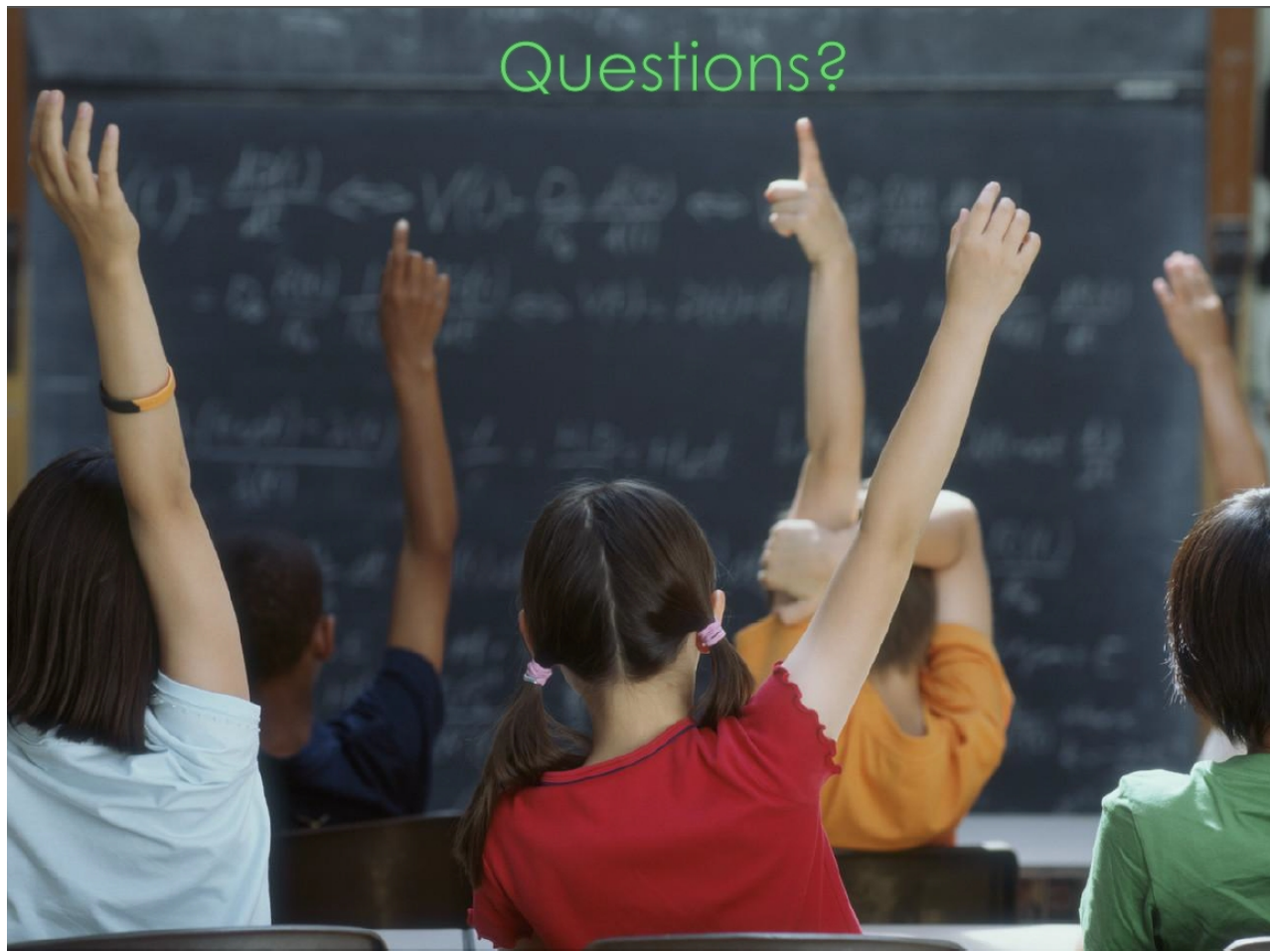
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Work Zones



ADA Transition Plans

Questions?





ADA Transition Plans

ADA is Pass or Fail!

IF IT'S IMPORTANT,
YOU'LL FIND A WAY.

IF IT ISN'T,
YOU'LL FIND AN EXCUSE.

ADA Transition Plans

ADA is Pass or Fail!





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