

FAA Office of Civil Rights Pacific Conf:



Federal Aviation
Administration

Overview of Obligations for Ensuring Disability Access Compliance in Airport Programs

Office Of Civil Rights

ACHIEVING SAFETY
THROUGH DIVERSITY

Date: December 3, 2019



Purpose and Learning Objectives

- **Objectives:**

- FAA's approach to civil rights oversight
- Key requirements under disability civil rights protections
 - Contract and lease issues
 - Facility design
 - Ground transportation
 - Reasonable modification
 - Service animals
 - Other regulatory requirements
- Best practices and common issues to be aware of to ensure airport compliance
- Resources available to assist airports in achieving compliance

FAA Office of Civil Rights

Office of Civil Rights

- Assistant Administrator for Civil Rights
- Washington, DC

National External Operations Program

- Director, National External Operations Program (NEOP)
- Los Angeles, CA

Airport Disability Compliance Program

- Airport Disability Compliance Program (ADCP)
- Chicago, IL
- Los Angeles, CA
- New York, NY

FAA Office of Civil Rights – NEOP

Activity	Process
Compliance Reviews	<ul style="list-style-type: none">• Full Reviews• Mini-Reviews• Online Assessments• Enforce regulations and executive orders
Complaint Investigations	<ul style="list-style-type: none">• Investigate complaints received• Assist recipients with complaints they receive
Education	<ul style="list-style-type: none">• Technical assistance• Consultations• Webinars• On-site training• Conferences• Tools and resources
FAA Civil Rights Connect: https://faa.civilrightsconnect.com/FAA/login.asp	

Disability Access Requirements Overview

- Section 504 of the Rehabilitation Act (Sec. 504)
- Americans with Disabilities Act (ADA)
- Air Carrier Access Act (ACAA)



Disability Access Requirements Overview (cont.)

- Various implementing regulations:
 - ADA: 28 CFR Parts 35, 36; 49 CFR Parts 37, 38
 - Sec. 504: 49 CFR Part 27
 - ACAA: 14 CFR Part 382
- Tenants and contractors are covered too.
 - Ensuring their compliance is an airport responsibility.
 - Airports can establish additional requirements.

Disability Access Requirements Overview (cont.)

- DOJ has primary authority for ADA/Sec. 504 requirements.
 - FAA has delegated authority for airports.
 - FTA has delegated authority for public transit providers.
 - DOJ regulations set generally-applicable requirements.
 - EEOC has general authority for employment requirements.
- DOT Aviation Consumer Protection Div. (ACPD) has authority for air carriers, under the ACAA.
- TSA/CBP have authority for agent and security check areas.

Disability Access Requirements Overview (cont.)

FEDERAL TRANSIT ADMINISTRATION

- Local Public Transit Service to/from Airport



STARTING POINT



DEPARTMENT OF TRANSPORTATION - Aviation Consumer Protection Division

- Airline Reservations
- Flight/Curbside Check-In
- Ground Transportation Service
- Flight Accommodations
- Wheelchair Assistance
- Onboard the Plane

FEDERAL AVIATION ADMINISTRATION

- On-Airport Parking
- Ground Transportation Service (taxi, shuttle, bus)
 - Check-In to Security Checkpoint
- End of Security Checkpoint to Departure Gate
 - Concessions and Restaurants
 - Lounges and Gate Area Accommodations
- General Airport Services (security, information)
 - On-Airport Hotels
- On-Airport Rental Car Providers



TRANSPORTATION SECURITY ADMINISTRATION

- Security Screening

U.S. CUSTOMS AND BORDER PROTECTION

- Customs for International Flights
- Passport Control



FINISH POINT

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Disability Access Requirements Overview (cont.)

Airport Role	Applicable Requirements
State/Local government entity	<ul style="list-style-type: none">• Subject to Title II (Subtitle A) of the ADA and 28 CFR Part 35
Recipient of Federal assistance	<ul style="list-style-type: none">• Subject to Sec. 504 and 49 CFR Part 27
Employer	<ul style="list-style-type: none">• Subject to Title I of the ADA
Landlord	<ul style="list-style-type: none">• Ensure tenants meet Title III requirements under the ADA
Transportation provider	<ul style="list-style-type: none">• Subject to Title II (Subtitle B) of the ADA and 49 CFR Parts 37 and 38
Air travel partner	<ul style="list-style-type: none">• Subject to Air Carrier Access Act

ADA/Sec. 504 and Title VI Contracts and Leases

Requirements passed on to contractors, tenants, and licensees.

- Airport is responsible for ensuring compliance.
- All leases and contracts must require compliance.

Requirement	Title VI	ADA/504
Nondiscrimination clause*	<u>Required</u>	<u>Required</u>
Reverter and cancellation clauses*	<u>Required</u>	<u>Required</u>
Reference all directly applicable statutes and regulations*	<u>Required</u>	Suggested
Incorporate detailed policies and procedures to verify compliance	Suggested	Suggested
Forward discrimination complaints to airport	<u>Required</u>	<u>Required</u>
Agreement for boarding assistance and equipment	Suggested	<u>Required</u>

* See required FAA Required Contract Provisions for AIP and Obligated Sponsors at https://www.faa.gov/airports/aip/procurement/federal_contract_provisions/

ADA/Sec. 504 and Title VI Contracts and Leases

Provisions/Clauses	Dollar Threshold	Solicitation	Professional Services	Construction	Equipment	Property (Land)	Non-AIP Contracts
<u>Access to Records and Reports</u>	\$0	NIS	Required	Required	Required	Required	n/a
<u>Affirmative Action Requirement</u>	\$10,000	Required	Limited	Required	Limited	Limited	n/a
<u>Breach of Contract</u>	\$150,000	NIS	Required	Required	Required	Required	n/a
<u>Civil Rights – General</u>	\$0	NIS	Required	Required	Required	Required	Required
<u>Civil Rights - Title VI Assurances</u>	\$0	REF	Required	Required	Required	Required	Required
(1) Notice - Solicitation	\$0	Required	Required	Required	Required	Required	Required
(2) Clause - Contracts	\$0	NIS	Required	Required	Required	Required	Required
(3) Clause – Transfer of U.S. Property	\$0	NIS	n/a	n/a	n/a	Limited	Required

Facility Issues

ADA Accessibility Standards (ADAAS)

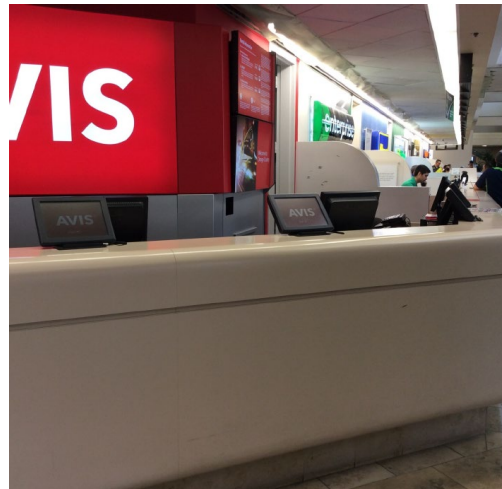
- Facility design standards from 1991 onward, with 2012 update
- Continuous path connecting all accessible elements and spaces
- No Protruding objects: $>27"$ and $<80"$ from floor; $>4"$ from wall/post



Facility Issues

Concessionaire and Airline Space Issues

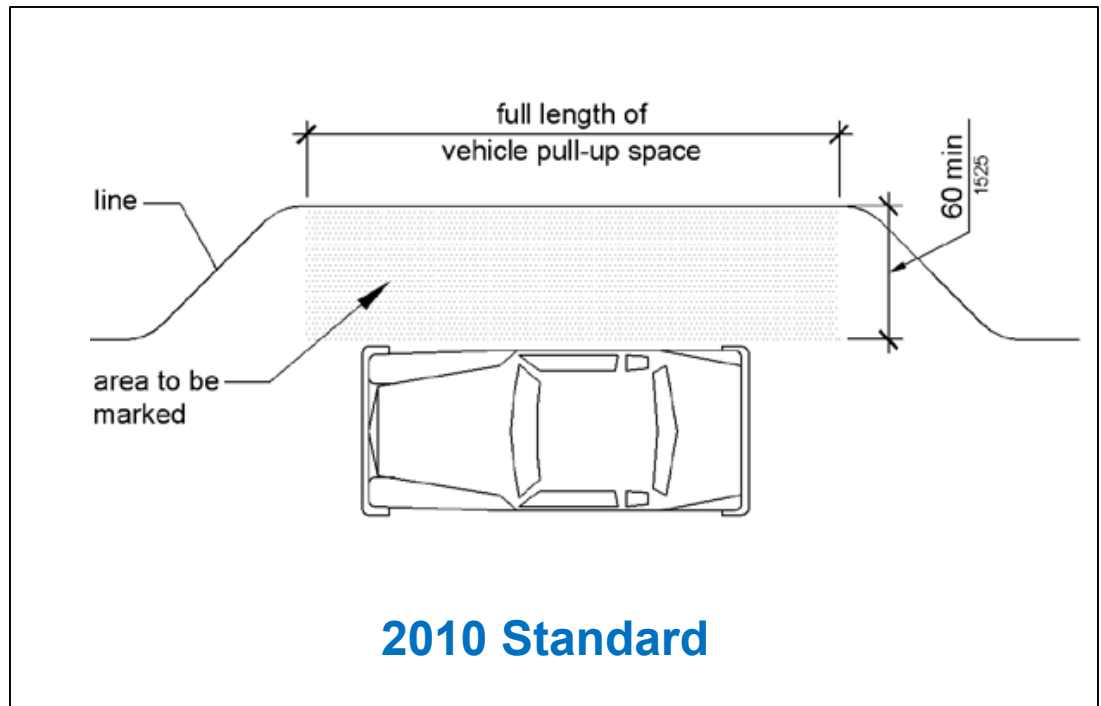
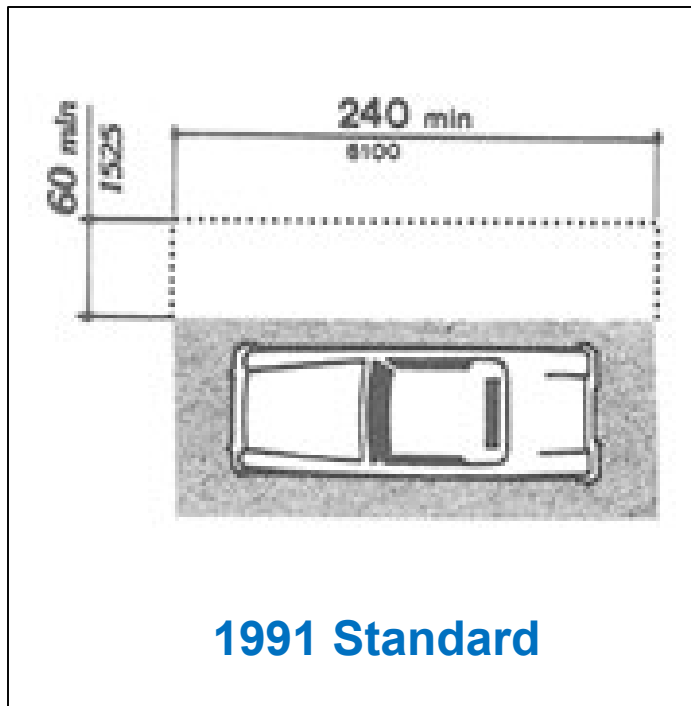
- Concessionaire spaces
 - Lowered accessible service counter space: 36 inches high
 - Accessible dining areas: 5 percent rule
- Maintenance Obligation
 - Failure to maintain = failure to comply
 - Maintenance Policies



Facility Issues

Loading Zones

- Loading Zones
 - 1991 Standard: provide signage.
 - 2010 Standard: provide street marking for aisle, every 100 feet



Facility Issues

Recent Developments

Airports > 10,000 enplanements

- Post-security service animal relief area
- Closed captioning of audio-visual displays
- Accessible kiosks



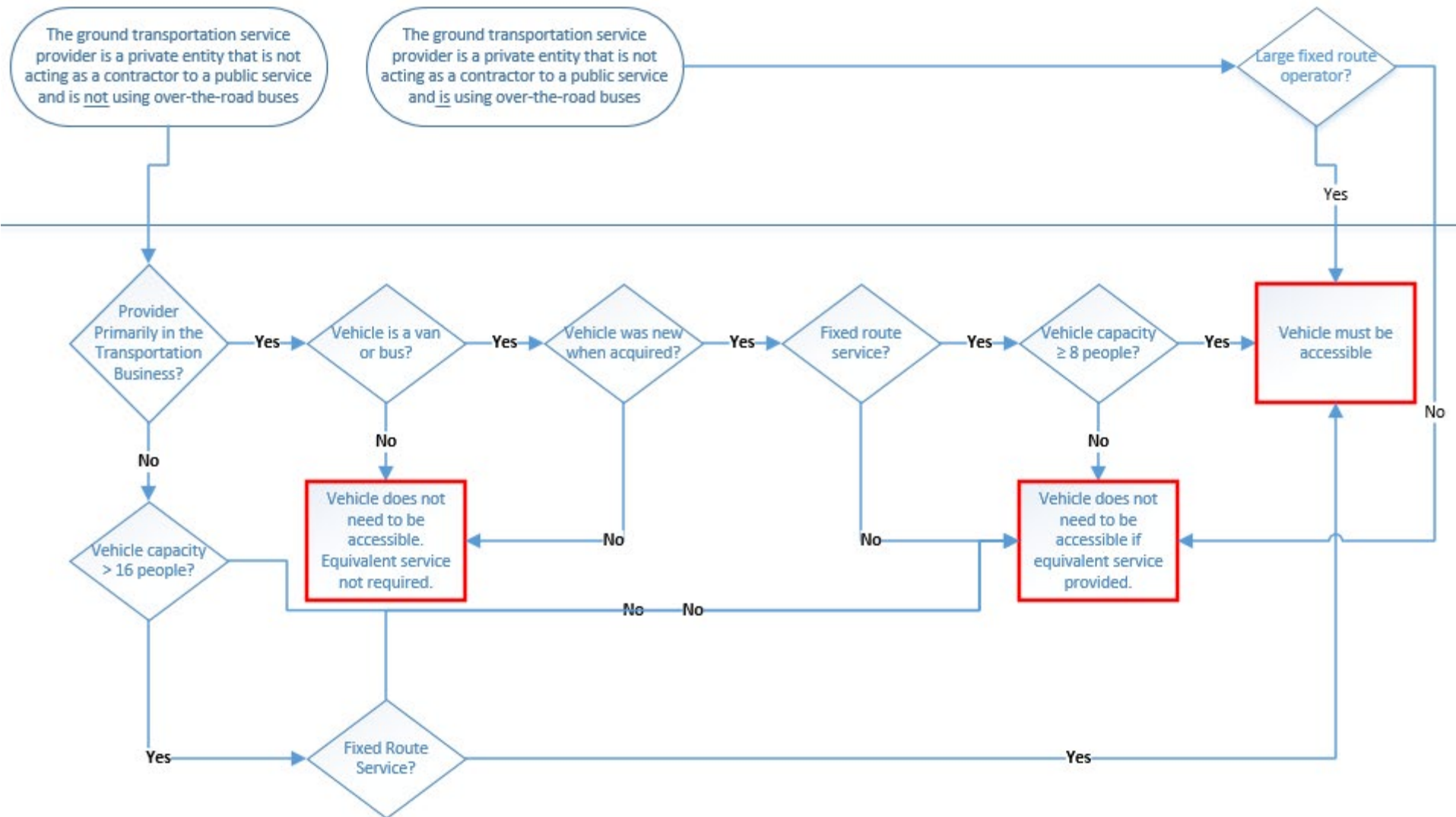
Ground Transportation

- **Public Transportation**
- **Private Transportation Licensees**

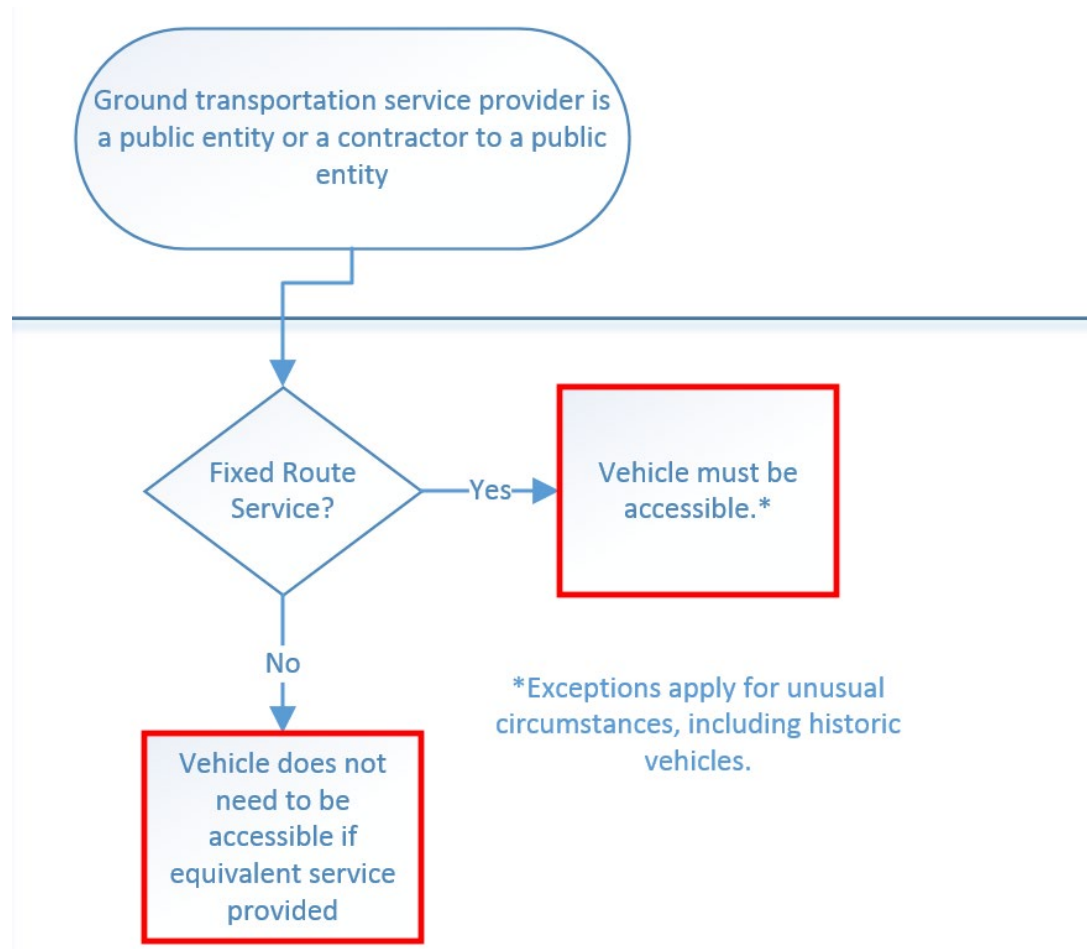


- Primarily in the transportation business: taxi's, TNC's, airport shuttle services
- Not primarily in the transportation business: Hotel, rental car center, and offsite parking shuttles
- **Obligations**
 - Accessible vehicles or equivalent service, as applicable (see next slide)
 - Route and stop announcements
 - Use of lifts/ramps and securement devices
 - Maintain accessibility features
 - Personnel (including drivers and schedulers) trained to proficiency

Ground Transportation - Private Operators



Ground Transportation - Public Operators



Break

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Reasonable Modification

- Reasonable modifications are general obligations.
 - They are in addition to other detailed obligations.
 - They are required under ADA, Sec. 504, and ACAA regulations: reasonable modification applies in all areas of the airport.
 - They apply to tenants and contractors.
- Reasonable modifications are required for people with disabilities, except in cases of:
 - Undue burden,
 - Fundamental alteration, or
 - Direct threat.

Reasonable Modification (cont.)

- FAA requires processes, not particular outcomes.
 - Contracts and airport policies should clarify how to address requests.
 - Public information should clarify how people can make requests.
 - Best practice: address foreseeable issues through clear policies.
- Reasonable modifications are required for people with disabilities with service animals.

ADA/Sec. 504 Service Animals

- Potential Service animals:
 - Dogs
 - Miniature horses
- Service animals must be trained to perform a task.
 - Service animals must assist with a disability.
 - Security animals are not service animals.
 - Emotional support animals are not service animals, under ADA/Sec. 504.
- No additional qualification requirements are permitted.
 - No written documentation requirements
 - No breed or size restrictions



ADA/Sec. 504 Service Animals (cont.)

- Privacy Concerns - only 2 permitted questions:
 1. Is that a service animal that is required because of a disability?
 - Do not ask for personal information.
 - Do not challenge the person.
 2. What task/work has it been trained to perform?
 - Do not ask for certificates.
 - Do not ask how the animal was trained.
- Penalties for misrepresentation are local matter.
- Document decisions.



ADA/Sec. 504 Service Animals (cont.)

- Service animals need to be able to work
 - No pet carrier requirements.
 - No restrictions in where the service animal can go, in public areas.
 - No advance notice requirements.
- Service animal requirements apply to tenant and contractor controlled areas.
- Exceptions to service animal rules:
 - Direct threat,
 - Animal is out of control / not housebroken, or
 - Fundamental alteration.
- Document decisions.



ADA/Sec. 504 Service Animals (cont.)

- Emotional support animals are protected under ACAA.
 - Not necessarily trained to perform tasks related to a person's disability.
 - Not necessarily dogs or miniature horses.
 - See ACPD guidance for more information.
- Federal Register Notices related to ACAA requirements published in May 2018 and August 2019.



ADA/Sec. 504 Service Animals (cont.)

- Emotional support animals will pass through airport facilities.
 - Best practice: following the most permissive standard.
 - ACAA Preamble anticipates emotional support animals in airports.
 - Pet container requirements / other restrictions.
- Other passengers' rights:
 - Service animals are part of the airport.
 - May require additional modifications.

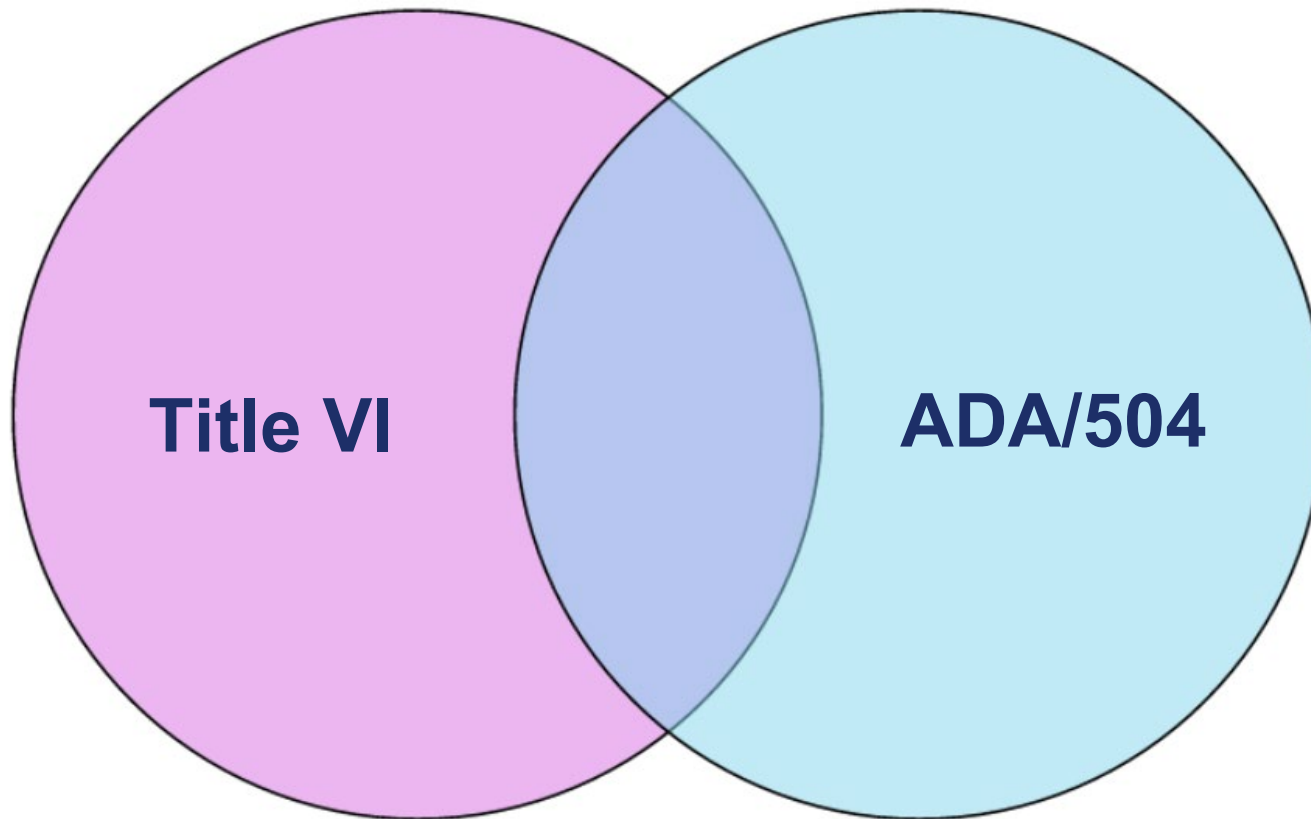


ADA/Sec. 504 Service Animals (cont.)

- Best practice: focus on strict enforcement of behavior requirements:
 - Under control / house broken, and
 - Not posing a direct threat.
- Make reasonable modifications



Overlapping and Similar Requirements for ADA/504 and Title VI Programs



ADA/Sec. 504 & Title VI Administrative Obligations

Requirement	Title VI	ADA/504
Airport-appointed coordinator for compliance issues and complaints	Suggested	<u>Required</u>
Airport retains records of complaints	Suggested	<u>Required</u>
Publicize airport process for investigating and responding to complaints, contact information on website	Suggested	<u>Required</u>
Airport process for transmitting complaints received to FAA	<u>Required</u>	Not Required
Conspicuously display notice of nondiscrimination poster *	<u>Required</u>	<u>Required</u>
Onsite Materials – applicable regulations are publicly available (49 CFR Part 21)	<u>Required</u>	Not Required
Airport process to receive and address accommodations/modification requests	Suggested**	<u>Required</u>
Conduct periodic self-evaluations of programs and activities	Suggested**	<u>Required</u>

* See following slide

** Effectively required for LEP issues

ADA/Sec. 504 & Title VI Admin. Obligations (cont.)

- **Notice of Nondiscrimination**
 - Provide notice (DOJ ADA regulations).
 - Notice includes coordinator information (DOT Sec. 504 & Title VI regulations).

Unlawful Discrimination

It is unlawful for airport operators and their lessees, tenants, concessionaires and contractors to discriminate against any person because of race, color, national origin, sex, creed, or disability in public services and employment opportunities. Allegations of discrimination should be promptly reported to the Airport Manager or:

Federal Aviation Administration
Office of Civil Rights, ACR-1
800 Independence Avenue, S.W.
Washington, D.C. 20591

Federal regulations on unlawful discrimination are available for review in the Airport Manager's Office.

Coordinator:
Phone:
Address:


Discriminación Ilegal

Se prohíbe a los operadores de aeropuertos y a sus arrendatarios, inquilinos, concesionarios y contratistas discriminar contra cualquier persona por motivo de raza, color, nacionalidad de origen, sexo, creencias religiosas, impedimento físico o discapacidad en lo que respecta a servicios públicos y oportunidades de empleo. Las alegaciones de discriminación deberán ser dirigidas inmediatamente al Administrador del Aeropuerto o a:

Federal Aviation Administration
Office of Civil Rights, ACR-1
800 Independence Avenue, S.W.
Washington, D.C. 20591

Los reglamentos sobre discriminación ilegal están a la disposición de los interesados para su examen en la oficina del Administrador del Aeropuerto.

Coordinador:
Teléfono:
Dirección:



U.S. Department of Transportation
Federal Aviation Administration

14C 1078B

Notice of Nondiscrimination Language

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Case Scenarios - #1



Case Scenarios - #2

Big City Airport (BCA) is a large public airport. BCA has parking lot shuttles that are operated by a contractor, Bob's Transportation Services. The parking lot is a short distance away, and many people choose to walk to the airport terminal rather than wait for the shuttle.

Barry gets on the shuttle, followed by his service animal, Beauregard, who is off leash. Barry sits down on the seat and Beauregard jumps up and sits next to him. The driver turns around and sees Beauregard and says "bad dog, get off that seat!" Barry says "wait a minute, Beauregard is my service animal." The driver responds, "no dogs are allowed on seats except for emotional support animals on leashes!" Beauregard does not like loud voices, and viciously lunges at the driver.

Barry and Beauregard are kicked off the bus, and Barry misses his flight.

Case Scenarios - #3

Big City Airport (BCA) is a large public airport. It is served by parking lot shuttles that are operated by Bob's Transportation Services. The parking lot is not on airport property, but Bob's Transportation has a license issued by the airport to pick-up and drop-off passengers at the terminal curbside area.

Barbara is the airport's ADA / Sec. 504 Coordinator. She is conducting a self-evaluation on behalf of the airport.

She asks Bob, the owner of Bob's Transportation Service, whether his service includes accessible vehicles. He says he does not have to answer because the parking service is off site and because he is not an airport employee, contractor, or concessionaire.

Case Scenarios - #4

Elizabeth, a disability advocate in XYZ city, has been trying to reach your airport ADA/504 Coordinator. She wants to discuss some pressing issues that have been brought to her attention by individuals in the Deaf community.

Every time she contacts the general line number listed on the airport website, she is transferred to your Human Resources (HR) manager. Her messages on the HR manager's voicemail have not been returned. Elizabeth is frustrated with the situation and is contemplating filing a complaint with FAA.

Case Scenarios - #5

While waiting at the airport, Pam visited a fast food restaurant. She requested a printed paper menu. The cashier responded “why, do you have a disability – what is it?” Pam answered that she could not see the overhead display. The cashier suggested that she go to a sit-down restaurant.

Pam asked for the restaurant manager, and was told to wait. After waiting a long time, Pam asked to speak with the airport ADA/504 Coordinator. No one at the restaurant knew who that was or where to direct Pam.

Trying to find an information desk, Pam walked through the terminal and hit a fire extinguisher that was protruding from the wall, hurting her leg.

A janitor nearby assisted Pam to the information desk. He told her that the airport has complaint forms at the desk, and she could fill one and drop it in the complaint box. There was no one at the information desk. Ann was able to locate the complaint box but not the forms. Ann founded no information for who to contact.

Case Scenarios - #6

Mike and Lee, who are wheelchair users, arrive at your airport. They had prior arrangements for an accessible taxicab, through Nova Taxis, Inc., a local taxi operator. ABC airport curbside staff approach the cab and stop Mike and Lee from boarding. The ABC staff say that Nova does not have a permit to access ABC airport, and only permitted cabs can board passengers.

Curbside staff place Mike and Lee in a lounge and call for an accessible taxicab. After 2 hours of waiting, Mike calls a relative who comes and picks them up.

Case Scenarios - #7

Mary was at the curbside boarding area at Terminal Y. She hailed a taxi, which stopped in front of her. There was no nearby curbcut, so other travelers lifted her scooter off the curb, carried it into the street, and then placed it into a waiting taxi sedan. Later, she filed a complaint with FAA.

With her complaint, she submitted copies of previous correspondence with the airline, indicating that their ADA expert had reviewed the curb area and determined it was compliant.

Additional Resources

Description	Website Link
ADA regulations	www.ecfr.gov for 28 CFR 35, 36 and 49 CFR 37, 38
Sec. 504 regulations	www.ecfr.gov for 49 CFR 27
Standards for Accessible Design	www.access-board.gov for Buildings & Sites and Transportation
DOJ ADA website	www.ada.gov
FAA Advisory Circulars	www.faa.gov/regulations_policies/advisory_circulars for AC 150/5220-21C, AC 150/5360-12F, and AC 150/5360-14
FTA Guidance	www.transit.dot.gov/ada for ground transportation

FAA ADA/Sec. 504 Program Staff

Team Email: 9-AGL-ADA-504@faa.gov

Name	Address	Contact
Airport Disability Compliance Program Team		
Jonathan Klein <i>Team Lead; Specialist for FAA Alaskan and Western-Pacific Regions (Southern California, Hawaii, Pacific Islands)</i>	FAA Western-Pacific Regional Office Office of Civil Rights 777 S. Aviation Blvd., Suite #150 El Segundo, CA 90245	424-405-7202 Jonathan.Klein@faa.gov
Elisha Luyeho <i>Specialist for FAA Southwest, Southern, and Western-Pacific (Northern California, Arizona) Regions</i>	FAA Great Lakes Regional Office Office of Civil Rights, AGL-9 2300 E. Devon Ave. Des Plaines, IL 60018	847-294-7238 Elisha.Luyeho@faa.gov
Sophia Soler <i>Specialist for FAA New England and Eastern Regions</i>	FAA Eastern Regional Office Office of Civil Rights, Room 217 159-30 Rockaway Blvd. Jamaica, NY 11434	718-553-3443 Sophia.Soler@faa.gov
Ty Thomas <i>Specialist for FAA Great Lakes, Central, Northwest Mountain, and Western-Pacific (Nevada) Regions</i>	FAA Great Lakes Regional Office Office of Civil Rights, AGL-9 2300 E. Devon Ave. Des Plaines, IL 60018	847-294-7180 Tyrone.Thomas@faa.gov

Questions

