



# American with Disabilities Act Transition Plan

2017



Greg Thomas, Secretary

Jamir Davis, Executive Director

Office for Civil Rights and Small Business Development

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**Matthew G. Bevin**  
Governor

**COMMONWEALTH OF KENTUCKY**  
**TRANSPORTATION CABINET**  
Frankfort, Kentucky 40622  
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**Greg Thomas**  
Secretary

Dear Citizens of the Commonwealth of Kentucky:

The Kentucky Transportation Cabinet (KYTC) works to ensure nondiscriminatory transportation in support of our mission: "To provide a safe, efficient, environmentally sound, fiscally responsible transportation system that delivers economic opportunity and enhances the quality of life in Kentucky."

The Americans with Disabilities Act (ADA) Transition Plan details the KYTC's ongoing dedication to meeting and exceeding accessibility needs in new highway projects. KYTC will make every effort to bring existing roads and facilities to ADA accessibility standards; however, some may be deemed technically infeasible, which means that bringing the facility or road up to ADA accessibility standards cannot be achieved. KYTC is in the process of conducting a self-evaluation which will identify barriers associated with sidewalks, transit stops, and intersections (curb ramps, detectable warnings, crosswalks, and pedestrian signals) adjacent to state-maintained roadways. Once the data has been collected the next phase will be to analyze the data in order to prioritize the essential accessibility enhancement projects. An estimated project schedule is outlined within this Plan.

As KYTC makes these improvements, our goal is to maintain and establish partnerships with the public and our partner state agencies. These partnerships are important to the success of our highway projects. KYTC would like to extend an invitation to the public to provide feedback and insight in order to assist in the improvement of transportation accessibility. KYTC will also share detailed accessibility information through public notices, public meetings, outreach, and online website resources, such as through KYTC's social media pages. KYTC is happy to assist transit agencies in providing local transit services in Kentucky's various communities to support those with limited mobility for their transportation needs.

As the Secretary of the Transportation Cabinet, I am pleased to share with you the ADA Transition Plan for KYTC as it presents our vision and continued efforts to make Kentucky's transportation system accessible, safe, efficient, environmentally sound, and fiscally responsible.

Sincerely,

A handwritten signature in blue ink, appearing to read "Greg Thomas".

Greg Thomas, Secretary  
Kentucky Transportation Cabinet



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# Introduction and Overview

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## **Kentucky Transportation Cabinet's Mission**

To provide a safe, efficient, environmentally sound and fiscally responsible transportation system that delivers economic opportunity and enhances the quality of life in the Commonwealth of Kentucky.

## **Overview**

The KYTC is an executive branch agency responsible for overseeing the development and maintenance of a safe, efficient multi-modal transportation system throughout the Commonwealth. The KYTC manages more than 27,000 highways, including roughly 20,500 miles of secondary roads, 3,600 miles of primary roads, and more than 1,400 interstate and parkway miles. The KYTC also provides direction for 230 licensed airports and heliports and oversees all motor vehicle and driver's licensure for more than three million drivers in the Commonwealth.

## **Transition Plan Need and Purpose**

Effective in July of 1990 the Americans with Disabilities Act of 1990 (ADA) is a Civil Rights directive requiring equal opportunity for persons with disabilities. The ADA prevents a public entity from discriminating against individuals with disabilities in regards to access to facilities and services which are provided by the public entity. There are five separate Titles of the ADA discussing protections against potential discrimination:

- Employment
- Public Services and Transportation
- Public Accommodations and Services
- Telecommunications
- Miscellaneous Provisions

Title II of the ADA relates to programs, activities, and services provided by public entities. As provider of public transportation services and programs KYTC has to comply with this section of the ADA, as it directly relates to the state public service agencies and state transportation agencies. Title II states "...no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity" (28 C.F.R. Part 35).

The U.S. Department of Justice (DOJ) regulations state, that state and local governments are required to perform a self-evaluation of their services, programs, policies, and practices, as well as, identify barriers which may potentially limit accessibility for persons with disabilities. Also, state and local governments are required to develop a transition plan detailing how they will address and remedy barriers that have been identified.

With regard to the KYTC as well as, organizations receiving funding from KYTC, these entities are mandated to comply with Title II of the ADA, 28 C.F.R. Part 35 Sec. 35. 105 and Sec. 35. 150. Per the Act a transition plan is required meaning that a self-evaluation of KYTC's services, programs, policies and practices is to be conducted in order to identify impediments that may potentially limit accessibility for people with disabilities. The plan will also provide remedies explaining how KYTC plans to address the identified barriers.

The KYTC's ADA Transition Plan provides information about the condition of the KYTC pedestrian network and the next steps under the ADA of 1990 to make all KYTC facilities accessible by individuals with disabilities.

This Plan is only intended for transportation facilities owned or operated by KYTC. KYTC recognizes that a significant portion of the curb barriers, non-compliant curb ramps, and inaccessible pedestrian corridors are geographically located within the jurisdiction of cities, municipalities, and other local governments. Although such locations are beyond the responsibility of KYTC, KYTC strongly recommends local communities develop and adhere to their own transition plan as required by Title II of the ADA. FHWA-KY Division, KYTC, Area Developmental Districts (ADDs), and Metropolitan Planning Organizations (MPOs) may offer technical support to local government in developing their own transition plans as a guide for all projects, not just Federal-aid Highway Projects.

### **Transition Plan Management**

KYTC's Transition Plan is a living document which will undergo routine updates and revisions as needed. The update schedule is subject to change at the discretion of KYTC based on changes in guidance from the United States Access Board, Federal policy, and/or KYTC policy. KYTC's Transition Plan is available for continual public view via KYTC's Website.

### **ADA and its Relationship to Other Laws**

Title II of the ADA is one of three Federal statutes which regulate facility and program accessibility to all individuals. The Architectural Barriers Act of 1968 is a Federal law which states that facilities designed, built, altered, or leased with Federal funds are required to be accessible. Section 504 of the Rehabilitation Act of 1973 is a Federal law which provides protection to qualified individuals from discrimination based on their disability. Within the law there are

requirements which outline non-discrimination in regards to employers and organizations receiving financial assistance from any Federal department or agency. Title II of the ADA has expanded this coverage to include all state and local government entities, regardless of whether they receive Federal funding or not.

There are several guidelines and standards that are available which specify the requirements of accessibility under the previously mentioned laws. The ADA and Architectural Barriers Act Accessibility Guidelines (ADAAG) prepared and published by the U.S. Access Board offers guidance for the design and construction of facilities in order to adhere to compliance requirements of the ADA. Federal agency standards are generally updated in accordance to the ADAAG guidelines. In the event a Federal agency adopts guidelines, they are then considered standards and bound in Federal law. ADAAG was first adopted in 1991, and later updated and adopted in 2004.

The Department of Justice (DOJ) and the U.S. Department of Transportation (USDOT) currently manage the ADA standards which are based on ADAAG; the standards are applied based on the type of facility:

- State and Local Government Facilities (except transportation facilities)
  - DOJ regulations issued under Title II of the ADA use DOJ's 2010 standards which became mandatory on March 15, 2012).
- Transportation Facilities
  - Transportation facilities such as bus stops and station and rail stations are applicable to USDOT's ADA standards and regulations. The facilities are required to adhere to USDOT's updated plan based on the 2004 ADAAG.

The Public Right-of-Way Accessibility Guide (PROWAG) is the most common form of guidance on ADA related improvements. The Access Board created these to be supplementary guidelines to assist in establishing the standards that may not address features in specific detail. Initially PROWAG was drafted in 2005, with a revision in 2011. In regards to accessibility needs and requirements ADA and Title VI do not supersede or preempt state or local laws which may offer equivalent or greater protections.

Under Title II KYTC must adhere to the following general requirements:

- Operate their programs so that, when viewed in their entirety, the programs are accessible to and useable by individuals with disabilities (25 C.F.R. Sec. 35. 150).
- May not refuse to allow a person with a disability to participate in a service, program, or activity simply because the person has disability (25 C.F.R. Sec. 35. 130(a)).
- Make reasonable modifications in any policies, practices, and procedures that may provide equal access to individuals with disabilities unless a fundamental alteration in the program would result (28 C.F.R. Sec. 35. 130(b) (7)).
- May not provide services or benefits to individuals with disabilities through programs that are separate or different measures are necessary to ensure that benefits and services are equally effective (28 C.F.R. Sec. 35. 130(b) (IV) & (d)).
- Take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others (29 C.F.R. Sec. 35. 160(a)).
- Designate at least one responsible employee to coordinate ADA compliance (29 C.F.R. Sec. 35. 107(a)). This person is often referred as the “ADA Coordinator.” The public entity must provide the ADA Coordinator’s name, office address, and telephone number to interested individuals (28 C.F.R. Sec. 35. 107(a)).
- Provided notice of ADA requirements. All public entities, regardless of size, must provide information about the rights and protections of Title II to applicants, participants, beneficiaries, employees, and other interested persons (28 C.F.R. Sec. 35. 106). The notice must include the identification of the employee serving as the ADA Coordinator and must provide this information on an ongoing basis (28 C.F.R. Sec. 35. 104.8 (a)).
- Establish a grievance procedure. Public entities must adopt public grievance procedures providing for prompt and equitable resolution of complaints (28 C.F.R. Sec. 35. 107(b)). This requirement provides for

a timely resolution of problems or conflicts related to ADA compliance before they escalate.

- No entity shall discriminate against an individual with a disability in connection with the provision of transportation services. This includes in accesses to vehicles, transportation facilities, university transportation systems, taxi services, vanpool services and rail vehicles. (37 C.F.R. Sec. 37.5).

## ADA Program Information

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### **KYTC ADA Responsibilities and Contacts**

Greg Thomas, Secretary of KYTC, is the official responsible for implementation of the ADA Transition Plan with support from the Department of Highways and the Office for Civil Rights & Small Business Development.

KYTC has designated an ADA/504 Coordinator to be responsible for coordinating the implementation of ADA requirements and Section 504 of the Rehabilitation Act. In consultation with Federal Highways Administration (FHWA) and the Cabinet's Office of Legal Services, the Cabinet's ADA/504 Coordinator shall also be responsible for interpreting the requirements of Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act. The public may submit complaints, comments and/or questions to:

Jamir Davis  
Executive Director  
Office for Civil Rights & Small Business Development  
200 Mero Street, 6<sup>th</sup> Floor  
Frankfort, KY 40622  
Phone: (502) 564-3601  
Facsimile: (502) 564-2114  
[Jamir.Davis@ky.gov](mailto:Jamir.Davis@ky.gov)

KYTC is dedicated to meeting ADA requirements and continues to provide resources to improve accessibility throughout the Commonwealth of Kentucky.

### **Roles and Responsibilities at KYTC**

There are several divisions that are directly involved with assuring ADA compliance for the department's facilities and rights-of-way.

#### ***The Office of Project Development***

The Office of Project Development in conjunction with KYTC's Highway District Offices (12 in total) are responsible for designing and developing contract plans for the Department including

ADA compliant designs for roadway new construction, as well as roadway alteration projects. All new construction will be designed to current ADA standards unless they are deemed technically infeasible.

### ***District Project Delivery and Preservation***

KYTC's District Project Delivery and Preservation staff are responsible for reporting ADA feature compliance issues regarding KYTC facilities and right-of-way to the ADA Coordinator as they are made aware of them.

When District Project Delivery and Preservation develops a contract that performs a resurfacing or "alteration" of the roadway (see "Additional Reference Information" section for Division of Maintenance ADA Maintenance list link) ; they are responsible for ensuring that the contract states KYTC's responsibility for incorporating the appropriate ADA improvements into the project. If a maintenance project scope alters or impacts pedestrian accessibility elements, they will be addressed accordingly, unless they are deemed technically infeasible.

District Project Delivery and Preservation sections are responsible for enforcing ADA compliance during construction activities and providing post construction inspection for ADA compliance on applicable projects.

### ***District Engineering Support***

The District Engineering Support staff are responsible for enforcing ADA compliance on permit applications and improvements. When District Engineering Support staff develops a contract that performs a resurfacing or "alteration" of the roadway (see "Additional Reference Information" section for Division of Maintenance ADA Maintenance list link); they are responsible for ensuring that the contract states KYTC's responsibility for incorporating the appropriate ADA improvements into the project. If a maintenance project scope alters or impacts pedestrian accessibility elements, they will be addressed accordingly, unless they are deemed technically infeasible.

### ***Division of Maintenance***

When the KYTC Division of Maintenance develops a contract that performs a resurfacing or "alteration" of the roadway (see "Additional Reference Information" section for Division of Maintenance ADA Maintenance list link); they are responsible for ensuring that the contract states KYTC's responsibility for incorporating the appropriate ADA improvements into the project. If a maintenance project scope alters or impacts pedestrian accessibility elements, they will be addressed accordingly, unless they are deemed technically infeasible.

### *Traffic Operations*

The Traffic Operations Division is responsible for incorporating ADA improvements into contract plans as appropriate; including consultant generated contract plans and provide plans to the Roadway Design Standards Compliance section for review to ensure compliance with ADA requirements.

### *Project Management*

The Project Management Division is responsible for incorporating ADA improvements into contract plans as appropriate; including consultant generated contract plans.

### *Office of Facilities Support*

The KYTC Office of Facilities Support is Responsible for designing, constructing, and inspecting ADA compliant improvements to KYTC buildings and rest areas in conjunction with the Finance Cabinet.

## Grievance/Complaint Procedure

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Title II of the ADA states users of KYTC facilities and services have the right to file a grievance or complaint if they believe KYTC has not provided reasonable accommodations. The Grievance Procedure is required by 28 C.F.R. Part 35.107, provides detailed information on how to file a complaint. Per the Grievance Complaint Procedure, a formal complaint must be filed within 180 calendar days of the alleged occurrence.

The Kentucky Transportation Cabinet (“KYTC” or “Cabinet”) has adopted an internal complaint procedure for prompt and equitable resolution of complaints alleging an action prohibited by federal regulations contained in Title II of the Americans with Disabilities Act of 1990 (ADA).

Any person with a disability or his/her designee or any parent or guardian who represents a minor person with a disability, who believes that they have been the subject of disability-related discrimination on the basis of the denial of access to facilities, programs or services, may file a complaint. Issues that are grievable include but are not limited to: denial of a requested accommodation, inadequacy of an accommodation, inaccessibility of a program or activity due to disability, or discrimination based on disability.

The KYTC will respond or act on complaints made through the grievance or complaint process as explained in the following sections.

All complaints should be addressed to the ADA/504 Coordinator who has been designated to coordinate KYTC’s ADA compliance efforts.

Jamir Davis  
Executive Director  
Office for Civil Rights & Small Business Development  
200 Mero Street, 6<sup>th</sup> Floor  
Frankfort, KY 40622  
Phone: (502) 564-3601  
Facsimile: (502) 564-2114  
[Jamir.Davis@ky.gov](mailto:Jamir.Davis@ky.gov)

## **Who Can File an ADA Grievance/Complaint**

Any person or any specific class of persons, by themselves or by a representative, organizations or business entities that believe they have been subjected to discrimination or retaliation prohibited by Section 504 or Title II of the ADA may file a complaint.

For purposes of ADA, a person with a disability is an individual who:

- Has a physical or mental impairment that substantially limits one or more major life activities
- Has a record or history of such an impairment
- Is perceived or regarded as having such an impairment

## **Filing an ADA/504 Grievance/Complaint**

All external ADA/ 504 complaints should be submitted to KYTC's Office for Civil Rights within 90 calendar days after the alleged discrimination, unless the time for filing is extended for cause. Complaints received later than 90 days after the alleged discrimination may be dismissed as untimely. An extension waiver of the filing deadline may be granted under any of the following circumstances:

- The complainant was unable to file a complaint because of incapacitating illness or other incapacitating circumstances during the 90 day period, and the complaint was filed within 90 days after the period of incapacitation ended
- Unique circumstances generated by KYTC or another federal, state or local entity action have adversely affected the complainant
- The discriminatory act is of a continuing nature

A complaint may be submitted in writing via email, mail, or in person, fax, or via telephone. KYTC/State employees with concerns regarding ADA or discriminatory issues should contact their agency Human Resource Office or Human Resource Specialist.

A complaint must signed and included the following:

- The complainant's name and address or phone number and email address (if applicable)
- A description of the alleged discriminatory action in sufficient detail to inform KYTC of the nature of the complaint and the date(s) of the alleged action(s)
- If applicable the complaint should also identify the agency or organization alleged to have discriminated and proposed response or resolution to the complainant's satisfaction.

To ensure prompt and equitable resolution of complaints, KYTC allows for multiple methods of filing a complaint regarding disability based discrimination, which are explained in the following sections.

### **Online Complaint Form**

A complainant may use the KYTC electronic *ADA/Section 504 Complaint* form (form number TC 18-8) to submit a complaint. The form is available on KYTC's website at <http://transportation.ky.gov/Civil-Rights-and-Small-Business-Development/Pages/CivilRightsHome.aspx>. The complainant must complete the form to the fullest extent possible before submitting.

### **Alternative Methods**

In the event the complainant is unable to prepare a complaint in writing a verbal complaint or inquiry may be submitted via telephone/TTY or arrange an alternative method, such as personal interview, large print, translators, audio recordings, etc. Request for alternative methods of submitting a complaint or inquiry by contacting the ADA/504 Coordinator by telephone/TTY or email to:

**Phone:** 502-564-3601

**TTY:** 1800-648-6056 or 711

**Email:** [Jamir.Davis@ky.gov](mailto:Jamir.Davis@ky.gov)

Request should include the following information:

- The complainant's name and address or phone number and email address (if applicable)

- A description of the alleged discriminatory action in sufficient detail to inform KYTC of the nature of the complaint and the date(s) of the alleged action(s)
- If applicable the complaint should also identify the agency or organization alleged to have discriminated and proposed response or resolution to the complainant's satisfaction.

## **Complaint Investigation and Resolution**

An acknowledgement of receipt of the complaint shall be mailed to the complainant by registered mail within five business days of receiving the complaint. Detailed within the acknowledgement will be the confirmation of the complaint details.

The complaint will be reviewed within 15 business days after receipt of the complaint. The KYTC ADA/504 Coordination will review the complaint to determine whether it contains all the necessary information required for acceptance. The ADA/504 Coordinator may contact the complainant for clarification and/or additional information<sup>1</sup>.

An investigation, as may be appropriate, will follow the filing and acknowledgement and initial review of a complaint. The KYTC may choose to investigate or refer the complaint to the Federal Highway Administration (FHWA) or other appropriate authorized agency for investigation. The KYTC's investigation shall be conducted by the KYTC's ADA Coordinator and/or staff designated by the Secretary of KYTC. The investigation shall include contact with the complainant, KYTC staff, and others as necessary. If the complainant does not wish to be contacted personally, he/she should indicate such in the complaint.

A written report of findings as to the validity of the complaint and a proposed resolution, if any, shall be issued by the KYTC's ADA/504 Coordinator. A copy of the written report (or other such method as requested (i.e. large print, audio cassette or TDD) will be forwarded to the complainant no later than 60 days after receipt of the complaint. The findings report shall include:

- A description of the complaint
- A finding of facts
- A description of how the complaint will or will not be resolved
- When the complaint will be resolved if not denied
- Responsible staff name and contact information if not denied

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<sup>1</sup> Note: If clarification and/or additional information is requested by the KYTC ADA/504 Coordinator, the complainant should make every effort to provide the information requested within five business days. A failure to provide the requested information may lead to an administrative closure of the complaint.

- Appeal rights of the complainant

### **Appealing the Resolution**

If a complainant is dissatisfied with the KYTC ADA/504 Coordinator's determination, the complainant can request reconsideration. The Request for Reconsideration must be made within 30 days to the Secretary of the KYTC or his/her designee. Upon receipt of a Request for Reconsideration, the Secretary of the KYTC or his/her designee has an additional 30 days to respond. The Secretary of the KYTC or his/her designee's decision is final. The complainant will receive the final response or resolution in writing (or other acceptable form of communications). In addition, the complainant will be informed of alternate avenues of redress available to the complainant.

A complainant is not required to exhaust the KYTC's complaint procedure before filing a complaint with the Kentucky Division of FHWA, the U.S. Department of Transportation, or the U.S. Department of Justice. Any person who believes he or she has been discriminated against based on his or her disability also has the right to bring a lawsuit to enforce their rights under Title II of the ADA and may receive the same remedies as under Section 504 of the Rehabilitation Act of 1973, including reasonable attorney's fees.

These procedures are designed to establish operating guidelines that incorporate appropriate due process standards and ensure agency compliance with Section 504 and Title II of the ADA.

The KYTC shall maintain the confidentiality of all files and records relating to grievances filed, unless disclosure is authorized or required by law. Retaliation against, coercion, intimidation, threat, interference or harassment of a complainant under this procedure or individual assisting a complainant is prohibited.

The KYTC's ADA/504 Coordinator shall maintain records of all complaints for a period of five years.

### **Public Notice**

The ADA requires all public entities to provide public notice regarding the rights of the public under the ADA and the responsibility of the entity under the ADA. Providing public notice is an ongoing process and responsibility which is left to the public entity to determine the most effective process to communicate this notice (ex. Website, bulletin boards, print or radio advertisements, etc.).

## **Coordination with Other State and Local Plans**

This Plan is only intended for transportation facilities owned or operated by KYTC. KYTC recognizes that a significant portion of the curb barriers, non-compliant curb ramps, and inaccessible pedestrian corridors are geographically located within the jurisdiction of cities, municipalities, and other local governments. KYTC understands that for instances where agreements exist with local government entities to operate and maintain pedestrian facilities on state routes or where sidewalk facilities are present along non-state owned routes, continuous communication and coordination with other government agencies is an important and necessary practice to ensure proper implementation of accessibility features and on-going maintenance of ADA compliance. KYTC will continue to communicate and coordinate accessibility needs within the public rights of way to identify partnering opportunities and working with other public agencies to improve and maintain safe and accessible facilities on KYTC roads. KYTC strongly recommends local communities develop and adhere to their own transition plan as required by Title II of the ADA. FHWA-KY Division, KYTC, Area Developmental Districts (ADDs), and Metropolitan Planning Organizations (MPOs) may offer technical support to local government in developing their own transition plans as a guide for all projects, not just Federal-aid Highway Projects.

## **Communications**

Per Section 35.160(a) of the ADA "...A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others." KYTC is required to provide effective quality communication to individuals with disabilities where necessary to ensure an equal opportunity to participate in, and reap the benefits of a program, service, or activity. Effective communication can be provided by offering alternative formats, auxiliary aid(s) and/or services upon request. These services include but are not limited to the following: interpreters being hired for the hearing impaired, email communications, website accessibility, and text materials that are accessible by screen readers are made available to users.

### ***Notice to the Public***

KYTC is committed to providing an ADA Notice to the Public about their rights and KYTC's responsibilities under Title II of ADA. KYTC will continually provide this notice and make it accessible by alternative formats whenever necessary. Providing public notice is an ongoing process and responsibility which is left to the public entity to determine the most effective process to communicate this notice, including but not limited to:

- Website
- Bulletin boards
- Print or radio advertisements
- Newsletters
- District Office and Central Office Visitor Area

## **Training**

Training of all that are responsible for the design and implementation of modifications to construction of current facilities and future KYTC facilities, programs, and public rights-of-way will ensure the successful implementation of the ADA Transition Plan. ADA training entitled, The Americans with Disabilities Act: Facilities for Public Rights-of-Way has been developed in partnership with Kentucky's Local Technical Assistance Program at the Kentucky Transportation Center. The purpose of this training is to introduce participants to the design features of sidewalks, curb ramps, and crosswalks along the public right-of-way mandated under the Americans with Disabilities Act (ADA). The workshop will include discussions of the proper dimensions and slopes for pedestrian facilities, the correct placement of detectable warning surfaces, and the accessibility challenges posed by inflexible existing conditions. Brief overviews of the ADA, U.S. Department of Transportation requirements pertaining to accessibility, and the Kentucky Transportation Cabinet's accessibility program will be provided as well. Attendees will leave the workshop with a better understanding of the needs of disabled individuals and learn how to design infrastructure projects that maximize accessibility for all users. This course will be offered to KYTC employees responsible for varying parts of designing and inspecting facilities to ensure ADA compliance. This course will also be offered to public employees from cities, counties and other jurisdictions to help aid compliance on all facilities.

## **Public Outreach**

As a public agency it is vital that KYTC continue to move towards ADA/504 compliance. An essential part of reaching compliance is the input of the citizens of the Commonwealth of Kentucky. KYTC will ensure that the public is made aware and even the opportunity to provide feedback by using newsletters, KYTC's Civil Rights webpage, or public service events. Additional comments or concerns from the public can be submitted by filing a complaint or inquiry with KYTC's Office for Civil Rights and Small Business Development.

Some other potential resources that may be of interest to the public are advocacy groups, activist organizations, elected officials, or other citizens. The KYTC will schedule visits with advocacy groups, on a tri-annual basis to encourage feedback. Comments or inquiries are always welcome and can be voiced by completing forms at meetings, KYTC's Office for Civil Rights by telephone/TTY, email, or in person with KYTC's ADA/504 Coordinator.

## **Website**

In compliance with Section 504 of the Rehabilitation Act, KYTC's External Civil Rights Division and ADA/504 Section has made their information accessible to the public via KYTC's website, <http://transportation.ky.gov/Pages/default.aspx>.

The general public is strongly encouraged to inform KYTC’s ADA/504 Section of any problems with accessibility they may encounter within their daily travel along public access routes. KYTC’s ADA program website contains all information needed to submit a grievance by the public. Contact information for the ADA/504 Section is listed on the website.

## Social Media

Social media is now a fundamental means of keeping the public informed of pertinent information regarding upcoming events, new projects, etc. KYTC’s Office of Public Affairs maintains KYTC’s social media platforms by providing regular updates to the following social media accounts:

- Facebook
- YouTube
- Twitter
- Goky.ky.gov (general transportation information such as travel and roadway information)

## Self-Assessment

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### Public Input Survey Results

A public entity that has 50 or more employees is required to obtain public input on their ADA Transition Plan. With that being said the KYTC recognizes that broad public involvement is a vital element in assuring that people affected by the Cabinet’s programs, services, and facilities understand the depth and nature of their responsibilities for establishing equal access to the public. The KYTC’s outreach efforts specifically targeted individuals and organizations representing persons with disabilities for their input to ensure KYTC is meeting the priorities of persons with disabilities; below is a list of individuals and organizations that were solicited for their input.

Organization Name	Contact Name	Contact Title
Kentucky Office of the American with Disabilities Act - State Coordinator	Jennifer Hicks	ADA Coordinator
Center for Accessible Living (CAL)	Jan Day	CEO
Center for Accessible Living (CAL) - Murray	Carrissa Johnson	
Independence Place	Dave Wickstrom	Executive Director

Kentucky Protection and Advocacy	Elizabeth Metzger	Disabilities Rights Advocate
EKU Office of Services for Individuals with Disabilities	Teresa Belluscio	ADA/504 Compliance Officer
Kentucky Commission on the Deaf and Hard of Hearing	Blake Noland	Information Coordinator
Kentucky Council on Developmental Disabilities (CCDD)	Marylee Underwood	Personal Service Contract
Guide Dog Users of Kentucky	Deb Lewis	President

A draft copy of the Plan is posted online as well as, accompanying public input survey. The survey is available statewide to interested members of public via the KYTC website . Public notifications inviting participation of the survey were made via email to the organizations listed above. The email included a draft of the Transition Plan, a draft of the Grievance Complaint Procedure, and a link to the public input survey. The organizations were asked to share the drafts of the Transition Plan and the Grievance Complaint Procedures and also the survey link with the individuals their organization serve. The email served as a form of public notification requesting voluntary completion of the survey between January 8, 2016 and January 22, 2016.

After the deadline surveys were still being accepted and the survey is still available for the public to provide comments/suggestions, the survey can be accessed via a link on the Office of Civil Rights’ webpage.

Alternative forms of the Plan and survey can be made available upon request. Request can be submitted to the contact information listed below:

Jamir Davis  
 Executive Director  
 Office for Civil Rights & Small Business Development  
 200 Mero Street, 6th Floor  
 Frankfort, KY 40622  
 Phone: (502) 564-3601  
 Facsimile: (502) 564-2114  
[Jamir.Davis@ky.gov](mailto:Jamir.Davis@ky.gov)

The public input survey consisted of questions that were dedicated to identifying general concerns regarding accessibility to the KYTC's facilities (state office buildings, rest stop areas, etc.) and seeking feedback on KYTC's drafts of the Transition Plan and Grievance Complaint Procedures. Below is a summary of the survey.

Of the survey responses received 75% of the respondents were female and 25% of the respondents were male. In regards to race 93.33% were white, 6.67% were African American or Black, 1 respondent self-identified as Appalachian, and another respondent self-identified as Native American and White. There were 93.75% of the respondents that self-identified as not Hispanic or Latino and 6.25% self-identified as Hispanic or Latino.

On the survey there were questions which required an open-ended response and there were also some respondents that provided additional comments with their answers, below is a summary of the open-ended responses and additional comments.

1. What are some of the major challenges you experience as a pedestrian accessing Kentucky Transportation Cabinet facilities (state office buildings, rest stop areas, etc.)? Use space below to answer.
  - Many of the respondents expressed concerns regarding lack of parking spaces that are in close proximity to state office buildings main entrances (this includes accessible parking).
  - Restrooms in Transportation Building not being ADA accessible.
  - Sidewalks not being ADA accessible; such as being too smooth and when the smooth surface is wet it becomes slick which can possibly lead to injury. Also not all streets have sidewalks.
  - Not enough safe walking trails.
  - Safety and respect concerns regarding persons with disabilities who use cabs as form of transportation.
  - Not enough rest areas, park benches, and a "people-mover" in these locations.
2. Was the draft of the Policy Statement and ADA Complaint Process easy to comprehend? Please provide any comments regarding the Policy Statement draft and ADA Complaint Process. Additional Comments:
  - The Policy Statement and ADA Complaint Process should not contain a lot of legal jargon.
  - There were not any attachments accompanying the email.

- More sidewalks in Pulaski County, specifically along Highway 27.

The following are general comments providing suggestions regarding the draft of the Transition Plan, a draft of the Grievance Complaint Procedure.

- Details regarding the number of days regarding filing an ADA complaint, requesting additional information regarding a complaint being filed, and reopening a case due to new information.
- Suggestion regarding ADA appropriate language.
- Suggestion regarding the necessity of a question.

Below are summaries of the survey questions which did not require an open-ended response.

**1. How old are you?**

<b>Age Range</b>	<b>Response %</b>
<b>16 years old or younger</b>	<b>0.00%</b>
<b>25 to 34 years old</b>	<b>6.25%</b>
<b>35 to 44 years old</b>	<b>28.13%</b>
<b>45 to 54 years old</b>	<b>31.25%</b>
<b>55 to 59 years old</b>	<b>15.63%</b>
<b>60 to 64 years old</b>	<b>12.50%</b>
<b>65 to 74 years old</b>	<b>6.25%</b>
<b>Over 75 years old</b>	<b>0.00%</b>

**2. What is your primary source of transportation?**

<b>Transportation Options</b>	<b>Responses</b>
<b>Car</b>	<b>93.75%</b>
<b>Bus</b>	<b>3.13%</b>
<b>Walking</b>	<b>0.00%</b>
<b>Other (please specify)</b>	<b>3.13%</b>

**3. Do you have any of the following disabilities which affect your mobility when traveling on sidewalks? (Please check all that apply)**

<b>Disabilities</b>	<b>Responses</b>
<b>Visually Impaired</b>	<b>3.13%</b>
<b>Mobility Impaired</b>	<b>9.38%</b>
<b>Hearing Impaired</b>	<b>3.13%</b>
<b>None</b>	<b>84.38%</b>
<b>Other (please specify)</b>	<b>6.25%</b>

**4. What is the usual reason for your walking trip? (Please check all that apply)**

<b>Choices</b>	<b>Responses</b>
<b>Pleasure/Exercise/Health</b>	<b>93.75%</b>
<b>To access goods or services (groceries, errands, etc.)</b>	<b>37.50%</b>
<b>School/Church/Civic Events</b>	<b>18.75</b>
<b>Other (please specify)</b>	<b>3.13%</b>

**5. What are some of the major challenges you experience as a pedestrian accessing Kentucky Transportation Cabinet facilities (state office buildings, rest stop areas, etc.)? Use space below to answer.**

- Please rank the following types of ADA improvements necessary to achieve greater accessibility, with 1 being top priority and 6 being lowest priority.

<b>Improvements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>N/A</b>	<b>Total</b>
<b>Install/improve curb ramps</b>	35.00%	25.00%	20.00%	0.00%	15.00%	0.00%	5.00%	20
<b>Improve sidewalks/walkways</b>	35.00%	30.00%	20.00%	0.00%	5.00%	5.00%	5.00%	20
<b>Improve sidewalks at driveways</b>	4.55%	22.73%	50.00%	13.64%	4.55%	0.00%	4.55%	22
<b>Improve median refuge</b>	12.50%	4.17%	8.33%	20.83%	8.33%	41.67%	4.17%	24
<b>Improve pedestrian signals</b>	13.04%	4.35%	8.70%	30.43%	17.39%	17.39%	8.70%	23
<b>Install/improve crosswalk markings</b>	4.00%	20.00%	8.00%	20.00%	36.00%	8.00%	4.00%	25

**6. Was the draft of the Policy Statement and ADA Complaint Process easy to comprehend? Please provide any comments regarding the Policy Statement draft and ADA Complaint Process.**

<b>Answers</b>	<b>Responses</b>
<b>Yes</b>	<b>78.95%</b>
<b>No</b>	<b>21.05%</b>

## Transition Plan

KYTC is responsible for ensuring that its programs, services, and activities are provide without discrimination. This Transition Plan is a requirement of the ADA and provides KYTC with a methodology to define, schedule and implement ADA required improvements. This plan is a living document that provides insight into KYTC’s future developments for an accessible transportation infrastructure. KYTC’s vision of a transportation system that is accessible to all people, regardless of ability, is considered in the design and construction of all projects. With this

plan, KYTC's goal is to bring its facilities into compliance, and provide for continuity and consistency throughout its system.

## KYTC's Actions for Achieving ADA Compliance

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As a general practice, KYTC updates curb ramps as part of its Pavement Rehabilitation Program (3R), where right-of-way and funding allow. Capacity projects also include updating curb ramps as part of the scope of the project. It is the intent of this Transition Plan to further KYTC's efforts by incorporating a holistic approach to its ADA projects and not focus solely on curb ramps. KYTC will continue to address curb ramps on capacity projects and, as technically feasible, on alteration projects. ADA specific projects will also be developed to address ADA issues holistically over a particular stretch of roadway. These ADA projects may be completed as independent projects or may be combined with other projects to maximize the use of the available funding and minimize impacts to the public. ADA Six Year Plan of Projects for a list of ADA improvement projects KYTC is planning on delivering over the next Six years<sup>2</sup>.

Planned KYTC facilities enhancement projects will be prioritized with the focus of addressing any accessibility deficiencies identified from the inventory of barriers to accessibility. Future KYTC efforts will include the development of a facilities improvement Master Plan which will identify a prioritization for facility deficiencies and a plan of projects to be delivered over time.

## Pedestrian Facilities: Methods and Schedule

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ADA regulations require that the ADA Transition Plan identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities.

The first step in developing KYTC's final ADA Transition Plan will be to conduct a self-assessment of the current state-wide status of accessibility based on the guidance in the 2011 PROWAG and 2010 ADAAG as appropriate of the pedestrian facilities under KYTC's jurisdiction. Not included in this Transition Plan are non-Right of Way facilities such as buildings, parking lots, and rest areas which are owned and operated by Kentucky Transportation Cabinet. Additional details pertaining to those facilities can be obtained by contacting the Office of Support Services, 1219 Wilkinson Blvd, Frankfort, KY 40601 or by contacting the KYTC ADA / 504 Coordinator.

The following outlines the roles and responsibilities of various entities who will conduct the self-assessment and revise the transition plan for pedestrian facilities adjacent to state maintained

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<sup>2</sup> This information will be available online at a later date

roadways and will explain how KYTC will undertake the various phases which will ultimately culminate in the completion of the KYTC transition plan. The self-evaluation will identify barriers associated with sidewalks, transit stops, and intersections (including curb ramps, detectable warnings, crosswalks, and pedestrian signals) adjacent to state maintained roadways. The summary will categorize the methodology in three phases: completed, ongoing, and upcoming.

The initial phase of the self-assessment has been completed and involved developing a statewide inventory of sidewalk locations and a database of intersections. Both of these efforts were conducted by KYTC's university partner, the Kentucky Transportation Center. The statewide inventory of sidewalk locations uses a combination of KYTC Photolog images, commercially available aerial photos, and Google Street View photos to identify the location and extent along the state system where sidewalks are present. The intersection database has been developed using an analysis of KYTC's Highway Information System (HIS) geodatabase of state and local roads. Intersecting roads have been captured as nodes for further use later in the Transition Plan development. The sidewalk inventory and the intersection database form the foundation by which the statewide pedestrian network can be assessed to identify and locate barriers. It is KYTC's intent the Division of Planning would add new facilities as they are identified and built by way of transportation projects. KYTC anticipates an annual update of the intersection database.

The currently ongoing phase of the self-assessment involves Quality Assurance (QA) efforts of completed activities, as well as inventory of pedestrian signal locations, collection of transit stop locations, and inventory of curb ramps, detectable warnings, and crosswalks. With the initial data collection of the sidewalk inventory and intersection database the next step is to more thoroughly spot check the data to ensure it is sufficient for the analyses to come. KYTC in cooperation with our regional planning partners, the Area Development Districts (ADD), will compare KTC's data collection to some recent, localized bicycle and pedestrian data as a quality check. In addition KYTC is comparing the intersection database to KYTC's traffic signal inventory to determine areas of potential pedestrian facilities, i.e. signals with pedestrian phasing. Transit stop locations are being gathered through coordination with Metropolitan Planning Organizations (MPOs), ADDs, KYTC's Office of Transportation Delivery, and Federal Transit Administration's National Transit Database. Finally, KTC is using similar methodologies to the sidewalk data collection, identifying location and types of curb ramps at intersections and mid-block crossings. This data collection phase is expected to be substantively complete by June 30, 2017.

The final phase consists of combining the data collection elements to develop the state pedestrian system and begin steps to identify and correct high priority barriers within the network. The initial portion of this phase will be devoted to QA of the data currently being collected by ADDs and KTC. The remaining steps are best categorized as determination of High Priority Areas, Statewide Barrier Identification, and Improvement Strategy.

## **High Priority Areas**

Simultaneously, KYTC and Kentucky Transportation Center (KTC), in cooperation with ADA representatives, will develop a methodology for determining high priority areas for the disabled community. Amongst the locations to be considered as high priority areas are government buildings, hospitals, schools, churches, facilities for the vision impaired, nursing/retirement homes, commercial districts, heavy pedestrian locations and areas with unresolved complaints from the public for reasonable accommodations. Locations identified through the formal complaint process will also be evaluated to determine whether they should fall into this priority grouping. In order to best allocate limited resources, KYTC will then engage KTC, Area Development Districts or another entity (yet to be identified) to conduct field visits in these high priority areas, identify sidewalk, transit, or intersection barriers, and make feasibility determinations. KYTC also plans to investigate the cost effectiveness of technological means (such as LiDAR or similar) as an alternative to manual data collection. These areas will be further prioritized with input from the public and organizations that represent the interests of persons with disabilities. Some parameters for consideration during this prioritization are proximity to identified facilities, the volume of pedestrian traffic, and severity of accessibility barriers. The identification of barriers in high priority areas is expected to be completed in FY 2019.<sup>3</sup>

## **Statewide Barrier Identification**

Once the high priority area barriers have been determined, KYTC will expand the barrier identification to the balance of the statewide pedestrian network. The statewide identification of barriers for the balance of the statewide pedestrian network is expected to be completed in FY 2020.

## **Improvement Strategy/Programming**

Contained within the Statewide Transportation Improvement Program (STIP) are projects containing ADA accessibility improvements which KYTC is working with the FHWA to deliver. These projects vary in primary purpose and need, however, each project will address ADA facilities as appropriate. In addition, the Kentucky General Assembly has programmed an item in the 2018 Six Year Highway Plan (SYP) in the amount of \$1,000,000 / year of federal funds to include yet to be identified ADA improvement/correction projects, which result from the sidewalk and curb ramp inventory, assessment, and prioritization. It is anticipated that this funding source will be in future SYPs as federally funded and will continue to be available until such time as all known accessibility barriers have been eliminated.

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<sup>3</sup> See Appendix A “Additional Reference Information” for list of barriers.

On an annual basis, based on the inventory and prioritization process outlined in this strategic plan, projects will be identified to address barriers to access for individuals with disabilities. Also annually, KYTC will track those projects already programmed for ADA improvements/corrections through other projects such as its resurfacing projects, 3R Program, Transportation Enhancement projects, or other transportation projects.

Four ongoing paths will continually address the list of identified ADA barriers on state owned and maintained roads: dedicated ADA funding, SYP Projects, 3R projects, and resurfacing projects. The dedicated ADA funding will consist of a strategic, purposeful correction of ADA barriers on the statewide pedestrian network. Many existing ADA deficiencies are addressed via SYP projects. The 3R Program additionally would include pedestrian signal accommodations. Generally speaking the barriers which will be addressed via KYTC's resurfacing program are to curb ramps, detectable warnings, and crosswalks.

Each year KYTC funds pavement preservation projects from the annual Resurfacing Program. Recently, this Program has been funded at nearly \$100 million annually. For over a decade KYTC has addressed barriers to accessibility on these projects with existing pedestrian facilities by evaluating pedestrian curb ramps and, when necessary and technically feasible, installing new curb ramps which include detectable warnings. In FY 2016, over 700 curb ramps were installed through these projects. This program continues this practice to evaluate these types of barriers and address them when needed and technically feasible. Recently completed projects which had an impact on accessibility features can be found [here](#). Through these means KYTC expects to evaluate and address identified barriers within the scope of projects statewide roadways during a 15 year cycles. Once the entire inventory of barriers is completed, a more defined schedule will be developed to correct access barriers.

In accordance with agreements between KYTC and local agencies, maintenance of sidewalks along state owned roadways is the responsibility of the local agency. In order to ensure that any barriers to accessibility are identified and addressed, KYTC will provide notification of ADA requirements and responsibilities to all local agencies with whom KYTC has a Maintenance and Traffic Agreement. Local agencies who are not required to have their own ADA Transition Plan per Title II of the ADA will be required to submit to KYTC an plan identifying ADA barriers and an estimated schedule for addressing those barriers all pedestrian facilities adjacent to state maintained highways. At the request of a local public agency KYTC will also initiate a contract to collect sidewalk inventory and identify barriers for those agencies who wish to utilize such a contract as well as for those who aren't responsive to KYTC's request for them to collect this data. Costs associated with this contract will be the responsibility of the local public agency. Elimination of barriers identified will be the responsibility of the local agency. Barriers which are not addressed by the local agency or are not included in a plan from the local agency will be

evaluated and prioritized by KYTC, with all associated costs being the responsibility of the local agency.

KYTC will develop an overall strategy for data maintenance and provide updates to the ADA Coordinator in the future for inclusion in the ADA transition plan. Reports will be generated to monitor compliance, progress, and project accomplishments, as well as any public input or comment.

KYTC Division of Maintenance from its 3R Program has identified the following state road resurfacing project locations that include ADA improvements. The projects identified below are resurfacing projects scheduled for award for FY16 that KYTC anticipates will include ADA improvements.

Below is the link to a report detailing the resurfacing projects which also include ADA improvements, this list will be updated annually as new projects are completed.

Division of Maintenance ADA Maintenance link - [GIS](#)

## Monitoring Compliance Progress

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### **Annual Performance**

This Transition Plan is a living document and will be updated annually to reflect ADA program project and process updates as well as report on the progress of the Department's statewide ADA compliance for its facilities and rights-of-way.

## Definitions

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**Americans with Disabilities Act** - (Pub. L. 101–336, 104 Stat. 327, 42 U.S.C. 12101–12213 and 47 U.S.C. 225 and 611) Subject to the provisions of Title II of the ADA, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

**Americans with Disabilities Act Accessibility Guidelines (ADAAG)** - Provide scoping and technical specifications for new constructions and alterations undertaken by entities covered by the ADA.

**ADA Title II, Nondiscrimination on the Basis of State and Local Government Services** - Protects people with disabilities from discrimination in services, programs or activities of all State and local governments.

**ADA/504 Coordinator** – Employee of the State Transportation Agency (KYTC) who has been designated to coordinate the KYTC’s activities and efforts with respect to Title II ADA and Section 504 compliance.

**Alteration** - Modification made to an existing building or facility that goes beyond normal maintenance activities and affects or could affect usability.

**Auxiliary aids and services includes—**

- 1) Qualified interpreters, note takers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments
- 2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments
- 3) Acquisition or modification of equipment or devices
- 4) Other similar services and actions

**CFR (Code of Federal Regulations)** - The Code of Federal Regulations is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government.

**Changes in level** - Vertical height transitions between adjacent surfaces or along the surface of a path. Small changes in level are often caused by cracks in the surfacing material. Changes in level may also result when the expansion joints between elements such as curb ramps and gutters are not constructed at the same time. On trails, ruts caused by weather erosion, tree roots, and rocks protruding from the trail surface are common sources of changes in level.

**Cross slope** - The slope measured perpendicular to the direction of travel.

**Curb ramp** - A combined ramp and landing to accomplish a change in level at a curb. This element provides street and sidewalk access to pedestrians using wheelchairs.

**Customer** - Any person who applies for, receives, or participates in a KYTC program, services, or activity.

**Designated Agency, (23 CFR Subpart G, 35.190)** - The USDOT is one of the designated Federal executive agencies with oversight/enforcement responsibilities for the Title II of the Americans with Disabilities Act. The USDOT is required to oversee transportation compliance activities of State and local governments. In turn, the various modes within DOT have certain responsibilities for their respective program areas. FHWA is responsible for pedestrian access as pertains to highways, roadways and walkways within the public right-of-way.

**Detectable Warning** - A surface feature built in or applied to walking surfaces or other elements to advise of an upcoming change from a pedestrian to a vehicular way. (PROWAG R405.5)

**Disability** - In respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

- 1) The phrase physical or mental impairment means—
  - a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, disorder such as mental retardation, organic brain hemic and lymphatic, skin, and endocrine;

- b) Any mental or psychological syndrome, emotional or mental illness, and specific learning disabilities.
  - i) The phrase physical or mental impairment includes, but is not limited to, such contagious and non-contagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.
  - ii) The phrase physical or mental impairment does not include homosexuality or bisexuality.
- 2) The phrase major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- 3) The phrase has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- 4) The phrase is regarded as having an impairment means —
  - i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a public entity as constituting such a limitation;
  - ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
  - iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public entity as having such an impairment.
- 5) The term disability does not include—
  - i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
  - ii) Compulsive gambling, kleptomania, or pyromania; or
  - iii) Psychoactive substance use disorders resulting from current illegal use of drugs.

**Facility** - Means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

**Maintenance** - Activities that serve solely to seal and protect the road surface, improve friction and control splash and spray are considered to be maintenance because they do not significantly affect the public's access to or usability of the road. Some examples of the types of treatments that would normally be considered maintenance are: painting or striping lanes, crack filling and sealing, surface sealing, chip seals, slurry seals, fog seals, scrub sealing, joint crack seals, joint repairs, dowel bar retrofit, spot high-friction treatments, diamond grinding, and pavement patching.

**Metropolitan Planning Organization (MPO)** - An urban regional body for areas with populations larger than 50,000, that makes transportation policy and planning decisions as mandated in Federal transportation legislation.

**Pedestrian** - A person who travels on foot or who uses assistive devices, such as a wheelchair, for mobility.

**Pedestrian Access Route** - A continuous and unobstructed walkway within a pedestrian circulation path that provides accessibility. (PROWAG R105.5)

**Places of public accommodation** - Facilities operated by private entities that fall within the following 12 broad categories defined by Congress: places of lodging, food establishments, entertainment houses, public gathering centers, sales establishments, service establishments, transportation stations, places of recreation, museums and zoos, social service establishments, and places of education.

**Private entity** - An individual or organization not employed, owned, or operated by the government.

**Program** - Means an administrative area within KYTC including areas designated as “programs” and any program, service, or activity administered by or operated by KYTC’s contractors, consultants, grantees, etc.

**Programs, Services, or Activities** - Are collectively referred to as “program” or “programs”. Used in this policy, include any KYTC program, service, or activity whether within KYTC or administered or operated by a contractor, consultant, grantee, etc.

**Public entity** means—

- (1) Any State or local government;

- (2) Any department, agency, special purpose district, or other instrumentality of a State or States or local government; and
- (3) The National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

**Qualified individual with a disability** - Means an individual with a disability who, with or without reasonable modifications 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.

**Qualified interpreter** - Means an interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.

**Reasonable accommodation** - Is any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equal to those of employees without disabilities.

**Reasonable Modification** - Means that KYTC shall make reasonable changes in the policies, practices, or procedures of a program, service, or activity when the modifications are necessary to avoid discrimination based on disability unless the modification would fundamentally alter the nature of the program, service, or activity. A modification of policies, practice or procedures made to a program, service, or activity is one that allows an individual with a disability the opportunity to participate equally in the program, service, or activity or benefit from the service.

**Right-of-Way** - The rights, title, and interest in real property necessary for the construction and maintenance of the project. Private property rights may be acquired by donation or acquisition and may be fee-simple, easement, or other form of use agreement acceptable to the parties. The property rights must be of sufficient duration to match the design life of the project, and in a form that can be recorded on the land records.

**Recipient** - As defined by Section 504, it means any State, territory, possession, the District of Columbia, or Puerto Rico, or any political subdivision thereof, or instrumentality thereof, any public or private agency, institution, organization, or other entity, or any individual in any State, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal financial assistance from the Department is extended directly or through another recipient, for any Federal program, including any successor, assignee, or transferee thereof, but such term does not include

any ultimate beneficiary under any such program. This definition includes primary STA FHWA recipients such as State departments of transportation (STAs) and STA sub recipients such as metropolitan planning organizations (MPOs), local governments, and other State and local government agencies that receive Federal financial assistance through the STA.

**Section 504** - Means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended prohibits discrimination on the basis of disability in any program service, activity, or benefit of a recipient/sub-recipient of Federal financial assistance.

**Self-Evaluation** - State and local governments are required to evaluate existing services (this includes transportation and pedestrian facilities), policies, and practices for discrimination practices and barriers, under 28 CFR 35.105. This is a prerequisite for developing the Transition Plan.

**State** - Means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

**State Department of Transportation (STA)** - Means, for the purposes of this policy, an agency whose primary mission is the planning, construction, operation and maintenance of transportation projects, programs, including roads and highways and is the primary recipient or sub-recipient of Federal financial Assistance.

**Transition Plan** - Under 28 CFR 35.150, a written plan that identifies the barriers to be removed, the timetable for completion and funding sources for removing information and physical barriers and the installation of curb ramps. Work included in the Transition Plan is an ongoing process requiring periodic updates.

**Truncated Domes** - Small domes with truncated tops that are detectable warnings used at transit platforms, curb ramps, and hazardous vehicular ways.

**United States Code (USC)** - The United States Code is the codification by subject matter of the general and permanent laws of the United States. It is divided by broad subjects into 50 titles and published by the Office of the Law Revision Counsel of the U.S. House of Representatives.

## Appendix A

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### Additional Reference Information

The following links provide additional points of reference for information regarding ADA

- U.S. Access Board Proposed Guidelines for Pedestrian Facilities in the Public Rights-of-Way  
<https://www.access-board.gov/guidelines-and-standards/streets-sidewalks/public-rights-of-way>
- Glossary of Terms for DOJ/FHWA Joint Technical Assistance on the ADA Title II Requirements to Provide Curb Ramps When Streets Roads or Highways are Altered through Resurfacing  
[http://www.fhwa.dot.gov/civilrights/programs/doj\\_fhwa\\_ta\\_glossary.cfm](http://www.fhwa.dot.gov/civilrights/programs/doj_fhwa_ta_glossary.cfm)
- Department of Justice/Department of Transportation Joint Technical Assistance<sup>4</sup> on the Title II of the Americans with Disabilities Act Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing  
[http://www.fhwa.dot.gov/civilrights/programs/doj\\_fhwa\\_ta.cfm](http://www.fhwa.dot.gov/civilrights/programs/doj_fhwa_ta.cfm)
- FHWA's Accessibility Resources Library  
<http://www.fhwa.dot.gov/accessibility/index.cfm>
- Federal Regulations containing ADA standards  
<https://www.gpo.gov/fdsys/pkg/CFR-2012-title49-vol1/pdf/CFR-2012-title49-vol1-part37.pdf>
- FHWA's Q&A about ADA/Section 504  
[http://www.fhwa.dot.gov/civilrights/programs/ada\\_sect504qa.cfm](http://www.fhwa.dot.gov/civilrights/programs/ada_sect504qa.cfm)
- Division of Maintenance ADA Maintenance list  
[GIS](#)
- KYTC Bicycle and Pedestrian Facilities (Below is an example of the map zoomed)  
<http://maps.kytc.ky.gov/photolog/?config=BikePedPlan>

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<sup>4</sup> The Department of Justice is the federal agency with responsibility for issuing regulations implementing the requirements of title II of the ADA and for coordinating federal agency compliance activities with respect to those requirements. Title II applies to the programs and activities of state and local governmental entities. The Department of Justice and the Department of Transportation share responsibility for enforcing the requirements of title II of the ADA with respect to the public right of way, including streets, roads, and highways.



# Appendix B

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ADA Grievance/Complaint For



## ADA/SECTION 504 PROGRAM COMPLAINT

### INFORMATION & INSTRUCTIONS

ADA/Section 504 of the Rehabilitation Act of 1973 forbids denying qualified individuals with disabilities to participate in any programs receiving federal financial assistance. The complaint process is designed for members of the public to resolve conflicts with the Kentucky Transportation Cabinet (KYTC) involving allegations of discrimination in access to KYTC programs, services, and activities for persons with disabilities pursuant to the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973.

### SECTION 1: COMPLAINANT INFORMATION

NAME <i>(first, mi, last)</i>			MAILING ADDRESS		
CITY		STATE	ZIP	PREFERRED METHOD OF CONTACT	
				<input type="checkbox"/> Home phone _____	
				<input type="checkbox"/> Email Address _____	
TYPE OF DISABILITY					
<input type="checkbox"/> Speech	<input type="checkbox"/> Mobility	<input type="checkbox"/> Hearing	<input type="checkbox"/> Alt/Cell		
<input type="checkbox"/> Mental/Emotional	<input type="checkbox"/> Visual	<input type="checkbox"/> Other			

### ATTORNEY REPRESENTATION FOR THIS COMPLAINT *(if any)*

NAME <i>(first, mi, last)</i>			FIRM NAME		
ADDRESS		CITY	STATE	ZIP	
PHONE			EMAIL		

### SECTION 2: INCIDENT DETAILS

Select each of the following that is applicable to the denied access of complainant:

- Public Rights-of-Way     Program     Service     Activity

Provide a detailed explanation of the denied accessibility incident. **Provide dates, location, and time.** If there are witnesses, provide names, addresses, and phone numbers for each witness.



**ADA/SECTION 504 PROGRAM COMPLAINT**

**SECTION 2: INCIDENT DETAILS** *(cont.)*

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**SECTION 3: GOVERNMENT, ORGANIZATION, OR INSTITUTION BELIEVED TO HAVE DISCRIMINATED**

<b>COMPANY NAME</b>		<b>STREET ADDRESS</b>	
<b>MAILING ADDRESS</b> <i>(if different from street address)</i>		<b>CITY</b>	<b>STATE</b>   <b>ZIP</b>
<b>PHONE</b>	<b>PERSON COMPLAINANT SPOKE WITH</b>	<b>TITLE</b> <i>(if known)</i>	

**PROPOSED RESOLUTION OR ACCOMMODATION** *(What remedy is being requested?)(Be specific.)*

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Have you filed this complaint with any other federal, state, or local agency or with any federal or state court?

Yes     No

<b>AGENCY NAME</b>	<b>DATE</b>
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<b>PERSON/TITLE COMPLAINT DIRECTED TO</b>
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### ADA/SECTION 504 PROGRAM COMPLAINT

#### SECTION 4: SIGNATURE AUTHORIZATION & ADDITIONAL INSTRUCTIONS

By giving my signature below, I acknowledge that the information provided on this form is true and accurate to the best of my knowledge, and I accept that I may be contacted by a KYTC Office for Civil Rights and Small Business Development official in regards to this complaint.

**SIGNATURE**

**DATE**

Return this form to:

ADA/Section 504 Coordinator  
Office for Civil Rights and Small Business Development  
200 Mero Street, 6<sup>th</sup> Floor West  
Frankfort, KY 40622

The Kentucky Transportation Cabinet (KYTC) does not discriminate on the basis of disability in admission of its programs, services, or activities; in access to them, in treatment of individuals with disabilities, or in any aspect of their operations. KYTC also does not discriminate on the basis of disability in its hiring or employment practices.

This notice is provided as required by Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. Questions, complaints, or requests for additional information regarding the ADA and Section 504 may be addressed to:

ADA/Section 504 Coordinator  
Office for Civil Rights and Small Business Development  
200 Mero Street, 6<sup>th</sup> Floor West  
Frankfort, KY 40622  
(502) 564-3601

This notice is available in large print, on audio tape, and in Braille upon request to the ADA Coordinator.