

 DEPARTMENTAL POLICY State of Tennessee Department of Transportation	Policy Number: 301-03 Effective Date: July 26, 2015
Approved By: 	Supersedes: N/A
SUBJECT: ADA Title II Disability Discrimination Policy	

RESPONSIBLE OFFICES: ADA/Section 504 Coordinator

AUTHORITY: Section 504 of the Rehabilitation Act of 1973. The Americans with Disabilities Act of 1990, as amended. T.C.A. § 4-3-2303. Federal ADA Title II regulations regarding public entities defined in 28 CFR Part 35. If any portion of this policy conflicts with applicable state or federal laws or regulations, that portion shall be considered void. The remainder of this policy shall not be affected thereby and shall remain in full force and effect.

PURPOSE: The purpose of this policy is to state the Department's plan of non-discrimination on the basis of disability of individuals¹ for participation in or for receiving the benefits of services, programs, or activities, or for access to or use of facilities owned or controlled by the Department. The Department also seeks to make available to individuals who may desire relief under this policy notice of the procedures through which they may request a reasonable accommodation or, in the alternative, request a remedy for discrimination as defined by Title II of the Americans with Disabilities Act.

APPLICATION: All qualified individuals with a disability seeking and meeting the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Department, or access to or use of facilities under the ownership or control of the Department.

DEFINITIONS: "Qualified Individual" means an individual who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Department, or for access to or use of facilities under the ownership or control of the Department.

POLICY: It is the policy of the Tennessee Department of Transportation to prohibit discrimination against any qualified individual on the basis of disability in regards to the admission or access to, or treatment in, its programs, services or activities, or accessibility to facilities within its ownership or control. The Department shall comply with applicable requirements of Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with

¹ The prohibition of discrimination based on disability under Title I of the Americans with Disabilities Act with regard to employment decisions and employee relations falls under TDOT Policy Nos. 105-01 and 105-02 under the authority of the Civil Rights Office.

Disabilities Act, Title 28 of the Code of Federal Regulations Part 35, "Nondiscrimination on the Basis of Disability in State and Local Government Services," as well as any other applicable law pertaining to disability non-discrimination.²

It is the policy of the Department to operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by qualified individuals with disabilities. Furthermore, it is the policy of the Department that no qualified individual with a disability, because facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of the Department, or be subjected to discrimination.

PROCEDURE: The Tennessee Department of Transportation hereby adopts the attached "ADA TITLE II/SECTION 504 COMPLAINT FORM," the attached "ADA TITLE II/SECTION 504 ACCOMMODATION REQUEST FORM," as well as the following request and complaint reporting procedures.

HOW TO REQUEST ADA ACCOMMODATION

A qualified individual with a disability may request reasonable accommodations in circumstances where accommodations do not currently allow the individual the same opportunity for participation in or receipt of the benefits of services, programs, or activities, or access to or use of facilities provided to individuals without disabilities. Qualified individuals with a disability (or a person acting on behalf of such qualified individuals) may make requests for reasonable accommodations or accessibility by contacting the ADA/Section 504 Coordinator listed below or by completing the attached "ADA TITLE II/SECTION 504 ACCOMMODATION REQUEST FORM" and submitting it to:

Margaret Z. Mahler, ADA/Section 504 Coordinator
4th Floor, James K. Polk Building
505 Deaderick Street
Nashville, TN 37243
Telephone 615-741-4984 or V/TTY 615-253-8311, Fax 615-532-5995
margaret.z.mahler@tn.gov

HOW TO REPORT DISABILITY DISCRIMINATION INCIDENTS

If a qualified individual with a disability believes he/she has been subjected to conduct that violates this policy, he/she must report those incidents as soon as possible after the event occurs but no later than 180 calendar days of the alleged occurrence. Qualified individuals with a disability (or a person acting on behalf of such qualified individuals) may file a complaint by contacting or by completing the attached "ADA TITLE II/SECTION 504 COMPLAINT FORM" and submitting it to the ADA/Section 504 Coordinator listed in the previous section.

² Note: While the Department is committed to the principles embodied in this policy, the policy itself is not intended to state contractual terms and does not constitute a contract between the State and individuals seeking receipt of services or participation in programs or activities provided by the State. This policy supersedes all policies that conflict with the terms of this policy. Furthermore, this document and its contents constitute ONLY the policy of the State of Tennessee Department of Transportation. A finding of a violation of this policy does not mean that the conduct violates state and/or federal civil rights laws.

Upon receipt of the complaint, the ADA/Section 504 Coordinator will determine its acceptability and need for additional information, as well as investigate the merit of the complaint. In order to be accepted, a complaint must meet the following criteria:

- a. The complaint must be filed within 180 calendar days of the alleged occurrence or when the alleged occurrence became known to the complainant.
- b. The allegation(s) must involve a program, service, activity, or facility of the Tennessee Department of Transportation.

A complaint may be dismissed for the following reasons:

- a. The complaint was not timely filed under this policy.
- b. The complainant requests the withdrawal of the complaint.
- c. The complainant fails to respond to repeated requests for additional information needed to process the complaint.
- d. The complainant cannot be located after reasonable attempts.

HOW COMPLAINTS ARE INVESTIGATED AND RESOLVED

Generally, an investigation of a complaint will include an interview with the complainant to determine if there is a violation of this policy. Once the TDOT ADA/Section 504 Coordinator decides to accept the complaint for investigation, he/she will conduct a thorough and neutral investigation of all reported complaints of disability discrimination or Title II violations under the meaning and authority of this policy as soon as practicable. At the conclusion of an investigation, recommendations will be made to the administration to remedy any confirmed violation of this policy.

The TDOT ADA/Section 504 Coordinator will send a copy of the original complaint filed and a letter concerning the findings and remedy chosen, if applicable, to the complainant(s) within sixty (60) calendar days of the acceptance of the complaint.