Americans with Disabilities Act Transition Plan

2021

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COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET
transportation.ky.gov

Andy Beshear
GOVERNOR

Jim Gray
SECRETARY

May 19, 2020

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 that 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 with 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.

Cordially,

Jim Gray, Secretary
Kentucky Transportation Cabinet

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Introduction and Overview

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 Kentucky.

Overview

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

Transition Plan Need and Purpose

The Americans with Disabilities Act of 1990 (ADA) is a Civil Rights directive that requires people with disabilities receive the same opportunities and be afforded the same chance to fully participate in society as their non-disabled counterparts. The law prohibits a public entity from discriminating against individuals with disabilities by intentionally or unintentionally denying them access to facilities and services provided by that public entity. The ADA's five Titles each addresses discrimination in different areas of public life:

- Title I: Employment
- Title II: Public Services and Transportation
- Title III: Public Accommodations and Services
- Title IV: Telecommunications
- Title V: Miscellaneous Provisions

Title II covers programs, activities, and services provided by public entities. As provider of public transportation services and programs KYTC must comply with this section of the ADA, because it relates directly to 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).

U.S. Department of Justice (USDOJ) regulations require that state and local governments perform a self-evaluation of their services, programs, policies, and practices to verify compliance with the ADA. These governments must also identify barriers which may potentially limit accessibility for people with disabilities. State and local governments must also develop a Transition Plan that details how they plan to address and remedy barriers that have been identified. Both KYTC and organizations that receive funding from KYTC must comply with Title II of the ADA, 28 C.F.R. Part 35 Sec. 35. 105 and Sec. 35. 150. The Cabinet must perform the aforementioned self-evaluation and prepare a Transition plan.

KYTC's ADA Transition Plan contains information on the condition of KYTC's pedestrian network and steps that will be taken in accordance with the ADA of 1990 to ensure all Cabinet facilities are accessible to individuals with disabilities.

This Transition Plan is only intended for transportation facilities owned or operated by KYTC. The Cabinet recognizes that a significant portion of curb barriers, non-compliant curb ramps, and inaccessible pedestrian corridors are located within the jurisdiction of cities, municipalities, and other local governments. Although these locations lie beyond KYTC's responsibility, the Cabinet strongly recommends that local communities develop and adhere to their own Transition Plans as required by Title II of the ADA. The Kentucky Division of the Federal Highway Administration (FHWA), KYTC, Area Developmental Districts (ADDs), and Metropolitan Planning Organizations (MPOs) may offer technical assistance to local governments developing their own Transition Plans, which can be used to guide ADA compliance on all projects, not just Federal-aid highway projects.

Transition Plan Management

As a living document, KYTC's Transition Plan will be updated and revised each year. The Cabinet retains the authority to modify or update the schedule based on changes in guidance from the U.S. Access Board, Federal policy, and/or KYTC policy. The public can view KYTC's Transition Plan on the Cabinet's Website.

ADA and its Relationship to Other Laws

Title II of the ADA is one of three Federal statutes which regulate the accessibility of facilities and programs to all people. The Architectural Barriers Act of 1968 states that facilities designed, built, altered, or leased with Federal funds must be accessible. Section 504 of the Rehabilitation Act of 1973 protects qualified individuals from discrimination based on their disability. The law includes requirements related to non-discrimination practices that employers and organizations receiving financial assistance from any Federal department or agency must follow. Title II of the ADA expanded this coverage to include all state and local government entities, regardless of whether they receive Federal funding or not.

Several guidelines and standards specify accessibility requirements 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 designing and constructing facilities that comply with ADA requirements. ADAAG was first adopted in 1991; an updated version was adopted in 2005. Federal agency standards are generally updated in accordance with ADAAG guidelines. If a Federal agency adopts guidelines, they are treated as standards and bound in Federal law.

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

- State and Local Government Facilities (except transportation facilities)
    - DOJ regulations issued under Title II of the ADA use USDOJ's 2010 standards (which became mandatory on March 15, 2012).
- Transportation Facilities
    - Transportation facilities, such as bus stops and rail stations, are covered by 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 supplemental guidelines to assist in establishing the standards that may not address features in specific detail. PROWAG was first drafted in 2005 and revised in 2011. With respect to accessibility needs and requirements, ADA and Title VI do not supersede or preempt state or local laws which offer equivalent or greater protections.

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

- Operate its programs so that, when viewed in their entirety, programs are accessible to and useable by individuals with disabilities (25 C.F.R. Sec. 35. 150).
- It may not deny a person with a disability the ability to participate in a service, program, or activity simply because they have a disability (25 C.F.R. Sec. 35. 130(a)).

- It should make reasonable modifications in policies, practices, and procedures to 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)).

- It may not provide services or benefits to individuals with disabilities through programs that are separate from those provided to others unless different measures are necessary to ensure that benefits and services offered are equally effective (28 C.F.R. Sec. 35. 130(b) (IV) & (d)).

- It should take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with non-disabled populations (29 C.F.R. Sec. 35. 160(a)).

- It must 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. KYTC must furnish the ADA Coordinator's name, office address, and telephone number to interested individuals (28 C.F.R. Sec. 35. 107(a)).

- Provide 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 identify 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 for promptly and equitably resolving 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.

ADA Program Information

KYTC ADA Responsibilities and Contacts

Jim Gray, Secretary of KYTC, is the official responsible for implementing the Cabinet's ADA Transition Plan. The Office for Civil Rights & Small Business Development and the Department of Highways (hereafter, *Department*) provide support for implementation.

KYTC has designated an ADA/504 Coordinator/Liaison to coordinate the implementation of ADA requirements and Section 504 of the Rehabilitation Act. In consultation with the FHWA and the Cabinet's Office of Legal Services, the Cabinet's ADA/504 Coordinator/Liaison 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:

Tiffany Squire
KYTC ADA/504 Coordinator
Office for Civil Rights & Small Business Development
200 Mero Street, 6th Floor
Frankfort, KY 40622
Phone: (502) 564-3601
Facsimile: (502) 564-2114
Tiffany.Squire@ky.gov

KYTC is committed to complying with ADA requirements and provides resources to improve accessibility throughout Kentucky.

Roles and Responsibilities at KYTC

Outside of the Office for Civil Rights and Small Business Development, several areas within the Cabinet are directly involved in assuring the department's facilities and rights of way comply with ADA requirements.

The Office of Project Development

The Office of Project Development in conjunction with KYTC's 12 Highway District Offices design and develop contract plans for the Department, including ADA compliant-designs for new roadway construction and significant roadway alteration projects. Project designs follow KYTC's Standard Drawings, which are updated (as appropriate) to comply with current ADA standards as outlined in the 2011 Proposed Guidelines for Pedestrian Facilities in the Public Right of Way (PROWAG) and the 2013 supplement.

District Project Delivery and Preservation

KYTC's District Project Delivery and Preservation staff report to the ADA Coordinator/Liaison any ADA feature compliance issues identified at Cabinet facilities and along the agency's rights of way as they are made aware of them.

When District Project Delivery and Preservation staff prepare a contract for resurfacing or altering the roadway, they ensure that the contract stipulates KYTC's responsibility for incorporating 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 monitor ADA compliance during construction activities. They also perform post-construction inspection to verify ADA compliance on applicable projects.

District Engineering Support

District Engineering Support staff monitor ADA compliance on permit applications and improvements. When District Engineering Support staff prepare a contract for altering the roadway, they ensure that the contract stipulates KYTC's responsibility for incorporating appropriate ADA improvements into the project. If project scope alters or impacts pedestrian accessibility elements, they will be addressed accordingly, unless they are deemed technically infeasible.

Division of Maintenance

When KYTC's Division of Maintenance staff prepare a contract for resurfacing or altering the roadway, they ensure that the contract stipulates KYTC's responsibility for incorporating 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 Traffic Operations

The KYTC Division of Traffic Operations incorporates ADA improvements into contract plans as appropriate, including consultant-generated contract plans. It also supplies plans to the Roadway Design Standards Compliance section for review to ensure compliance with ADA requirements.

Project Management

KYTC Project Managers incorporate ADA improvements into contract plans as appropriate, including consultant-generated contract plans.

Office of Facilities Support

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

Grievance/Complaint Procedure

Pursuant to Title II of the ADA, people who use KYTC facilities and services have the right to file a grievance or complaint if they believe the Cabinet has not provided reasonable accommodations. 28 C.F.R. Part 35.107 provides detailed information on filing a complaint. Per the Grievance Complaint Procedure, a formal complaint must be filed within 180 calendar days of the alleged occurrence.

KYTC has adopted an internal complaint procedure to promptly and equitably resolve complaints alleging an action prohibited by federal regulations contained in Title II of the ADA.

Any person with a disability, their designee, or a parent or guardian who represents a minor with a disability who believes that they have suffered disability-related discrimination due to being denied access to facilities, programs or services, may file a complaint. Grievable offenses include but are not limited to: denial of a requested accommodation, being provided with an inadequate accommodation, finding a program or activity inaccessible due to disability, or discrimination based on disability.

KYTC will respond to or act on complaints made through the grievance or complaint process as detailed in the following sections. All complaints should be addressed to the ADA/504 Coordinator/Liaison that coordinates KYTC's ADA compliance efforts.

Tiffany Squire
KYTC ADA/504 Coordinator
Office for Civil Rights & Small Business Development
200 Mero Street, 6th Floor
Frankfort, KY 40622
Phone: (502) 564-3601 Facsimile: (502) 564-2114
Tiffany.Squire@ky.gov

Who Can File an ADA Grievance/Complaint

If any person or any specific class of persons believes they have suffered discrimination or retaliation prohibited by Section 504 or Title II of the ADA, they may by themselves, or through a representative, organization, or business entity, 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, or
- 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 of the alleged discrimination, unless the filing period is extended for cause. Complaints received more 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 could not 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 resulting from 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 issues related to discrimination should contact their agency Human Resource Office or Human Resource Specialist.

A complaint must be signed and 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 identify the agency or organization alleged to have discriminated and propose a response or resolution that that will satisfactorily address the grievance.

To ensure prompt and equitable resolution of complaints, KYTC has multiple methods for filing disability-based discrimination complaints. These are explained in the following sections.

Online Complaint Form

A complainant may submit a complaint using KYTC's electronic *ADA/Section 504 Complaint* form (Form TC 18-8). The form is available on KYTC's website at:

https://transportation.ky.gov/Civil-Rights-and-Small-Business-Development/Pages/default.aspx

The complainant must complete the form to the fullest extent possible before submitting it.

Alternative Methods

If the complainant cannot prepare a complaint in writing, a verbal complaint or inquiry may be submitted via telephone/TTY. They may also arrange an alternative method (e.g., personal interview, large print, translators, or audio recordings). Complainants may contact the ADA/504 Coordinator/Liaison by telephone/TTY or email to request alternative methods of submitting a complaint or inquiry:

Phone: 502-564-3601
TTY: 1800-648-6056 or 711
Email: Tiffany.Squire@ky.gov.

Requests 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 identify the agency or organization alleged to have discriminated and a proposed response or resolution that will satisfactorily address the grievance.

Complaint Investigation and Resolution

An acknowledgement that the complaint has been received shall be mailed to the complainant by registered mail within five business days of its receipt. The acknowledgement will confirm details of the complaint.

Complaints are reviewed within 15 business days of its receipt. KYTC's ADA/504 Coordinator/ Liaison will review the complaint to determine whether it contains all information required for

acceptance. The ADA/504 Coordinator/Liaison may contact the complainant for clarification and/or additional information[1].

If appropriate and warranted, the Cabinet will conduct an investigation after the complaint has been filed, acknowledged, and undergone an initial review. KYTC may investigate or refer the complaint to the FHWA or another appropriate authorized agency for investigation. KYTC's investigation shall be conducted by the Cabinet's ADA Coordinator/Liaison 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, they should indicate this in the complaint.

KYTC's ADA/504 Coordinator/Liaison shall issue a written report of findings on whether the complaint is valid and a proposed resolution, if any. A copy of the written report or a report in an alternative format (e.g., large print, audio cassette, TDD)) will be forwarded to the complainant no later than 60 days after receipt of the complaint. Report findings 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
- Appeal rights of the complainant

Appealing the Resolution

If a complainant is dissatisfied with the KYTC ADA/504 Coordinator/Liaison's determination, they can request a reconsideration. The Request for Reconsideration must be made within 30 days to the Secretary of KYTC or their designee. Upon receipt of a Request for Reconsideration, the Secretary of KYTC or their designee has an additional 30 days to respond. The decision made by the Secretary of KYTC or their designee is final. The complainant will receive the final response or resolution in writing (or in an alternative format) and receive information on alternate avenues of redress available to them.

A complainant is not required to exhaust the KYTC's complaint procedure before filing a complaint with the Kentucky Division of the FHWA, USDOT, or USDOJ. Any person who believes they have been discriminated against based on their disability also has the right to bring

[1] Note: If clarification and/or additional information is requested by KYTC's ADA/504 Coordinator, the complainant should make every effort to provide requested information within five business days. Failure to provide the requested information may lead to an administrative closure of the complaint.

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.

Unless disclosure is authorized or compelled by law, KYTC shall maintain the confidentiality of all files and records related to grievances. Retaliation against, coercion, intimidation, threat, interference, or harassment of a complainant under this procedure, or of an individual assisting a complainant, is prohibited.

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

Public Notice

The ADA requires that all public entities notify the public of rights granted under the ADA and the responsibility of the entity under the ADA. Providing public notice is an ongoing process. The public entity is responsible for determining the most effective method to communicate this notice (e.g., website, bulletin boards, print or radio advertisements).

Coordination with Other State and Local Plans

This Plan is only intended for transportation facilities owned or operated by KYTC. The Cabinet recognizes that a significant portion of the curb barriers, non-compliant curb ramps, and inaccessible pedestrian corridors are located within the jurisdiction of cities, municipalities, and other local governments. KYTC understands that continuous communication and coordination with other government agencies is an important and necessary practice to ensure proper implementation of accessibility features and ongoing ADA compliance. KYTC will continue to communicate and coordinate accessibility needs within the public rights of way to identify partnering opportunities. It will also work with other public agencies to improve and maintain safe and accessible facilities on Cabinet roads. KYTC strongly recommends that local communities develop and adhere to their own transition plan as required by Title II of the ADA. The FHWA's Kentucky Division, KYTC, Area Developmental Districts (ADDs), and Metropolitan Planning Organizations (MPOs) may offer technical support to local government developing their own Transition Plans, which can be used to guide ADA compliance on all projects, not just Federal-aid highway projects.

Communications

Pursuant to 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 must provide effective and quality communication to individuals with disabilities where necessary to ensure they have 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: hiring interpreters for the hearing impaired, email communications, enhancing website accessibility, and ensuring text materials that are accessible by screen readers are available to users.

Notice to the Public

KYTC is committed to issuing an ADA Notice to the Public, which informs the public of its rights as well as KYTC's responsibilities under Title II of ADA. The Cabinet will continually provide this notice and make it accessible in alternative formats whenever necessary. Providing public notice is an ongoing process. Determining the most effective way to communicate this notice is a public entity's responsibility. Methods include but are not limited to:

- Website
- Bulletin boards
- Print or radio advertisements

Training

Training all staff responsible for designing and implementing modifications to the construction of current facilities and future KYTC facilities, programs, and public rights of way will ensure the successful adoption of the ADA Transition Plan. An 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 (KTC). This training introduces participants to ADA-mandated design features of sidewalks, curb ramps, and crosswalks along the public right of way. This workshop includes discussions of the proper dimensions and slopes for pedestrian facilities, correct placement of detectable warning surfaces, and accessibility challenges posed by inflexible existing conditions. Brief overviews of the ADA, USDOT requirements pertaining to accessibility, and KYTC's accessibility program are provided as well. Attendees gain a better understanding of what needs disabled people have and learn how to design infrastructure projects that maximize accessibility for all users. Construction of pedestrian facilities is addressed, including inspection techniques and work zone accessibility. This course will be offered to KYTC employees responsible for various aspects of designing and inspecting facilities to ensure ADA compliance. It will also be offered to public employees from cities, counties, and other jurisdictions to make sure all facilities comply with the ADA.

Public Outreach

As a public agency, KYTC must continue moving towards ADA/504 compliance. An essential part of achieving compliance is gathering input from Kentucky's citizens. The Cabinet will ensure the public is made aware of the agency's efforts and give people the opportunity to provide feedback through 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.

Other potential resources that may be of interest to the public are advocacy groups, activist organizations, elected officials, or other citizens. KYTC welcomes all comments and inquiries. They may be submitted by completing forms at meetings or by contacting KYTC's Office for Civil Rights by telephone/TTY, email, or visiting the ADA/504 Coordinator/Liaison in person.

Website

Pursuant to 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 the Cabinet's website: https://transportation.ky.gov/Pages/Home.aspx

Members of the public are strongly encouraged to inform KYTC's ADA/504 Section of accessibility-related problems they encounter while traveling along public access routes. KYTC's ADA program website contains all of the information needed to submit a grievance. Contact information for the ADA/504 Section is listed on the website.

Social Media

Social media is now an essential tool for keeping the public apprised of upcoming events, new projects, and other critical activities. KYTC's Office of Public Affairs maintains the Cabinet's social media platforms by regularly updating the following social media accounts:

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

Self-Assessment

Public Input Survey Results

A public entity with 50 or more employees must obtain public input on its ADA Transition Plan. KYTC recognizes that broad public involvement is critical for ensuring that people affected by the Cabinet's programs, services, and facilities understand the depth and nature of the agency's responsibilities for establishing equal access to the public. When developing its Transition Plan, KYTC directed targeted outreach toward individuals and organizations representing people with disabilities. The purpose of this effort was to solicit their input to verify the Cabinet is meeting the needs and priorities of people with disabilities. The following table lists individuals and organizations KYTC asked for 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) - Murry	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 version of the Plan is posted online and accompanies the public input survey. The survey is available statewide to interested members of public via KYTC's website. Invitations to participate in the survey were distributed 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. Organizations were asked to share the Transition Plan, Grievance Complaint Procedures, and survey link with individuals served by their organization. The email requested (voluntary) completion of the survey between January 8, 2016, and January 22, 2016.

After the deadline KYTC continued to accept surveys. The survey remains available for the public to provide comments/suggestions and can be accessed via a link on the Office of Civil Rights webpage.

Upon request, KYTC can prepare copies of the Transition Plan in an alternative format. Requests can be submitted to the ADA/504 Coordinator/Liaison:

Tiffany Squire
KYTC ADA/504 Coordinator/Liaison
Office for Civil Rights & Small Business Development
200 Mero Street, 6th Floor
Frankfort, KY 40622
Phone: (502) 564-3601
Facsimile: (502) 564-2114

Questions on the public input survey sought to identify general concerns related to the accessibility of KYTC facilities (e.g., state office buildings, rest stop areas) and asked for feedback on the draft Transition Plan and Grievance Complaint Procedures. Key findings are summarized below.

Among respondents, 75% were female and 25% male. The racial composition was as follows: 93.33% white, 6.67% African American or Black, one respondent self-identified as Appalachian, and another respondent self-identified as Native American and White. Additionally, 93.75% of respondents self-identified as not Hispanic or Latino and 6.25% self-identified as Hispanic or Latino.

The survey included open-ended response questions. Some respondents provided additional comments with their answers. Open-ended responses and additional comments are summarized below.

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 respondents expressed concerns about the lack of parking spaces in close proximity to state office buildings' main entrances (including accessible parking).
- Restrooms in Transportation Building not ADA accessible.
- Sidewalks not ADA accessible (e.g., being too smooth and when the smooth surface is wet it becomes slick which can possibly lead to injury). 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, or 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.

KYTC received several general comments that provided suggestions about the draft Transition Plan and Grievance Complaint Procedure:

- Details regarding the number of days for 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.

The tables below provide summary statistics for close-ended questions.

1. **How old are you?**

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

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

Transportation Options	Responses
Car	93.75%
Bus	3.13%
Walking	0.00%
Other (please specify)	3.13%

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

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

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

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

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.**

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

Answers	Responses
Yes	78.95%
No	21.05%

Transition Plan

KYTC is responsible for ensuring that the provision of its programs, services, and activities is done without discrimination. This Transition Plan establishes a methodology to define, schedule and implement ADA-required improvements. It is a living document that provides insight into KYTC's future efforts to provide accessible transportation infrastructure. The Cabinet's vision of a transportation system that is accessible to all people, regardless of ability, is considered during the

design and construction of all projects. KYTC's goal for this plan is to achieve ADA compliance at all facilities and provide for continuity and consistency throughout its system.

KYTC's Actions for Achieving ADA Compliance

As a general practice, KYTC updates curb ramps as part of its resurfacing program and Pavement Rehabilitation Program (3R) where technically feasible. Many existing ADA barriers will be addressed via Six Year Highway Plan (SYP) projects. This Transition Plan advances KYTC's efforts by incorporating a more holistic approach into its ADA projects. KYTC will continue to address curb ramps on SYP projects and, as technically feasible, on alteration projects. ADA-specific projects will also be developed to holistically address ADA barriers along a particular stretch of roadway. These ADA projects may be completed as independent projects or combined with other projects to maximize the use of available funding and minimize impacts to the public. Refer to Appendix A – Additional Reference Information for a list of Highway Plan projects KYTC plans to deliver during this biennium which will address known barriers to accessibility.

Facility enhancement projects intended to address ADA barriers will be prioritized, with focus on addressing barriers identified in the inventory of barriers to accessibility. Future KYTC efforts will include developing a facilities improvement plan, which will identify a method for prioritizing facility deficiencies and contain a plan of projects that will be delivered over time.

Pedestrian Facilities: Methods and Schedule

An ADA Transition Plan must identify physical obstacles at a public entity's facilities that limit the accessibility of its programs or activities. During the development of KYTC's final ADA Transition Plan, the agency conducted a self-assessment of the current statewide status of the accessibility of pedestrian facilities under its jurisdiction (as per guidance found in the 2011 PROWAG and 2010 ADAAG). Not included in this Transition Plan are non-right-of-way facilities such as buildings, parking lots, and rest areas owned and operated KYTC. Additional details on to these 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 paragraphs outline the roles and responsibilities of entities that will update and revise the Transition Plan for pedestrian facilities adjacent to state-maintained roadways. They also explain KYTC's approach to the different work phases, which will culminate in future updates to the Transition Plan.

The self-assessment of KYTC owned and maintained pedestrian facilities is complete. It involved developing a statewide inventory of sidewalk locations, an intersections database and a complete

inventory of barriers. These efforts were conducted in partnership by KYTC, the Kentucky Transportation Center and a private consultant, Michael Baker International, Inc. (MBI). The sidewalk inventory was built using combination of KYTC Photolog images, commercially available aerial photos, and Google Street View photos. This imagery identified the location and extent of sidewalks along the state system. The intersection database was developed by analyzing KYTC's Highway Information System (HIS) geodatabase of state and local roads. Intersecting roads were delineated as nodes for further use later in Transition Plan development. The sidewalk inventory and intersection database established the necessary foundation for locating barriers along the statewide pedestrian network. KYTC's Division of Planning will add new facilities as they are identified and built as part of transportation projects. The Cabinet anticipates updating the intersection database each year.

The final phase of the self-assessment included statewide barrier identification through a professional services contract with a consultant as described below. KYTC will utilize this information to identify and correct high-priority barriers within the network as we work toward our goal of eliminating known barriers to accesibility.

High-Priority Areas

The Cabinet, in cooperation with ADA representatives, will develop a methodology for locating high-priority areas for the disabled community. High-priority areas include government buildings, hospitals, schools, places of worship, facilities for the vision impaired, long-term care facilities, commercial districts, and heavy pedestrian locations. Locations identified through the formal complaint process will also be evaluated to determine whether they should be deemed high priority. These priorities will be further refined with input received from the public and organizations that represent the interests of people with disabilities. Some parameters that will be considered during prioritization are proximity to identified facilities, and severity of known accessibility barriers.

Statewide Barrier Identification

Through a professional services contract, KYTC has collected LiDAR data on our statewide pedestrian network to complete and publish our inventory of barriers. The results of that effort and the barriers identified are summarized below. For the initial inventory of barriers, the approach was taken to include both known barriers and areas which may represent a barrier to accessibility. Additional work is ongoing to verify, validate and refine this inventory. KYTC anticipates that this process will significantly reduce the estimated cost to eliminate barriers.

ADA Barriers

To give a sense of where work on barrier identification currently stands, the following paragraphs offer a summary and sample of the statewide ADA barrier inventory performed by MBI on behalf

of KYTC. In 2019 and 2020, MBI surveyed known sidewalk locations with mobile LiDAR to collect ADA-related pedestrian facility data. From these data, barriers were identified using the following criteria.

ADA Barrier	Condition	Instances	Estimate (k)
Detectable Warnings	Absent	9,055	$28,980
Crosswalk Width*	Less than 48 inches	9,718	$100
Curb Ramp Running Slope	Not between 5% and 8.3%	4,782	$15,300
Curb Ramp Flares	Greater than 10%	5,867	$18,800
Curb Ramp Landing Slope	Greater than 2%	7,409	$23,700
Pedestrian Push Button Height	Not between 42 and 48 inches	7,394	$1,300
Pedestrian Push Button Reach	Greater than 10 inches	4,551	$800
Sidewalk Width	Clear Width less than 48 inches	757 Miles	$129,800
Sidewalk Obstructions+	Present	13,990	$20,990

*

For each barrier type, there is a sample of the assembled data from Mount Washington, KY and an accompanying map to clarify locational data. A link to the complete statewide barrier data can be found in Appendix A.

Crosswalk Width Tabular Data:

No locations have crosswalk widths less than 48 inches in the sample data.

Detectable Warning Surface (DWS) Tabular Data:

The following locations lack a detectable warning surface.

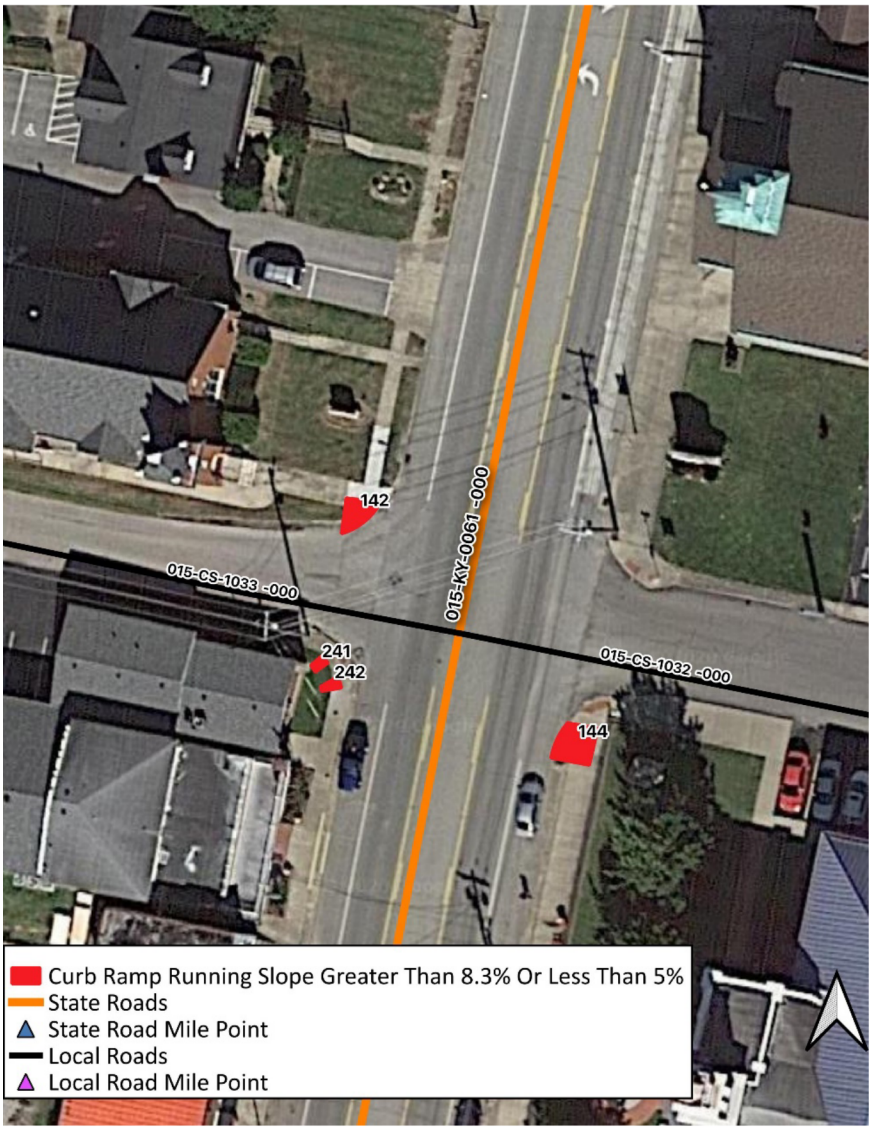
Detectable Warning ID	Route	MP	Detectable Warning Surface
30	015-KY-2673	0.4	Not Present
229	015-KY-2673	0.4	Not Present
236	015-KY-2673	0.4	Not Present
262	015-KY-2673	0.4	Not Present



Curb Ramp Running Slope Tabular Data:

At the following locations, the curb ramp running slope is either below 5% or above 8.3%.

Running Slope ID	Route	MP	Running Slope
142	015-KY-0061	14.3	4.1%
144	015-KY-0061	14.3	1.5%
241	015-KY-0061	14.3	12.3%
242	015-KY-0061	14.3	1.5%



Curb Ramp Flares Tabular Data:

At the following locations, the curb ramp flare exceeds 10%.

Ramp Flare ID	Route	MP	Running Slope
27	015-US-0031EX	0.68	12.1%
49	015-US-0031EX	0.68	10.2%



Curb Ramp Landing Slope:

At the following locations, the curb ramp landing slope exceeds 2%.

Landing Slope ID	Route	MP	Landing Slope
96	015-KY-434	1.8	4.5%
103	015-KY-434	1.8	8.4%



Pedestrian Push Button Height:

At the following locations, the pedestrian push button height is not between 42 and 48 inches.

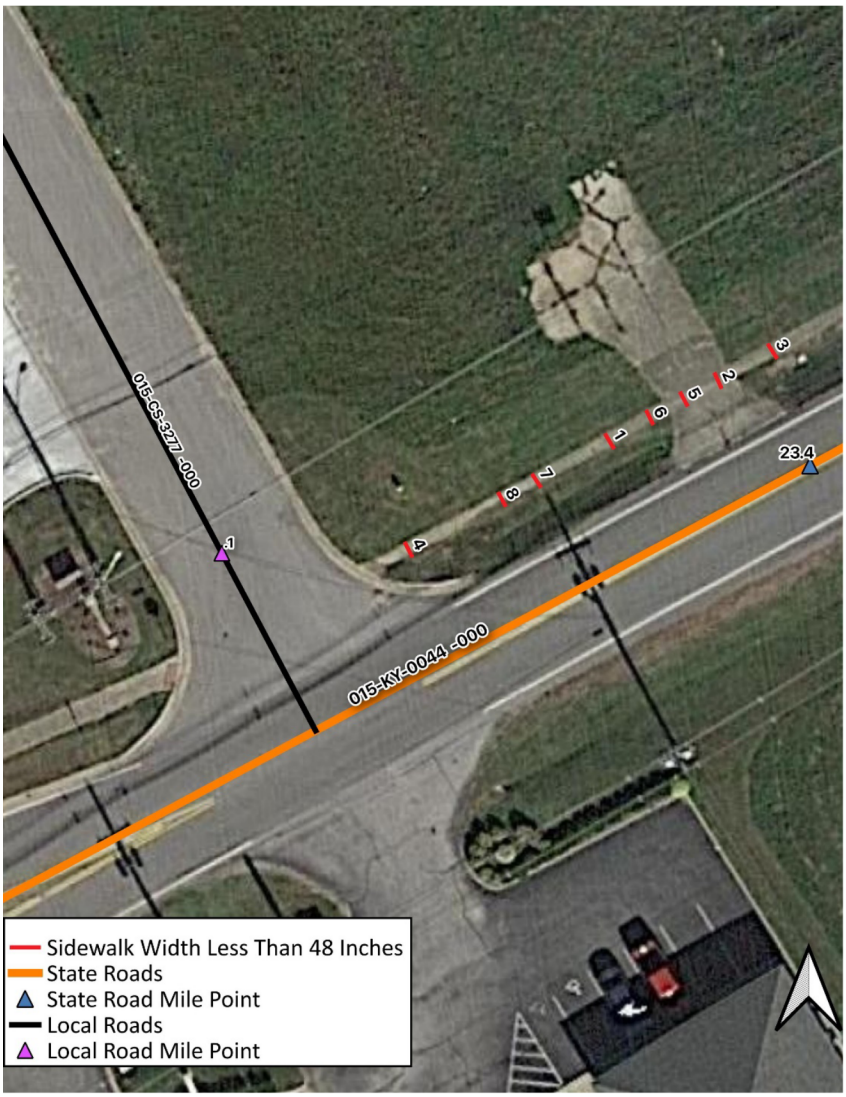
Ped. Button ID	Route	MP	Button Height
1	015-US-31EX	1.6	36.2
2	015-US-31EX	1.6	32.7



Sidewalk Width:

At the following locations, sidewalk width is less than 48 inches.

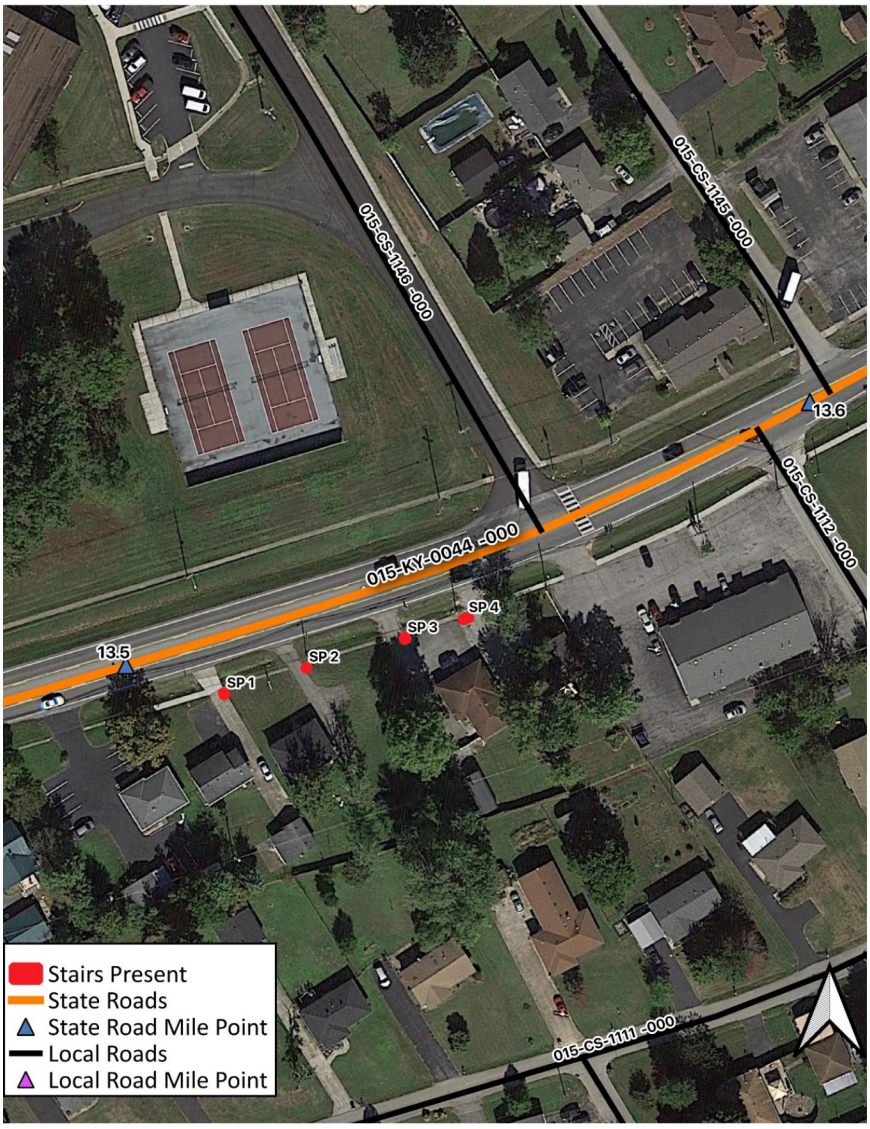
SW Width ID	Route	MP	Width (in)
4	015-KY-0044	23.4	33.4
3	015-KY-0044	23.4	34.6
5	015-KY-0044	23.4	32.0
1	015-KY-0044	23.4	35.2
2	015-KY-0044	23.4	34.7
7	015-KY-0044	23.4	31.6
6	015-KY-0044	23.4	32.0
8	015-KY-0044	23.4	31.6



Sidewalk Obstructions:

The following locations have a sidewalk obstruction due to stairs along the sidewalk.

SW Stairs ID	Route	MP	Obstruction
2	015-KY-0044	13.5	Stairs
3	015-KY-0044	13.5	Stairs
4	015-KY-0044	13.5	Stairs
1	015-KY-0044	13.5	Stairs



Improvement Strategy/Programming/Schedule

Kentucky's Statewide Transportation Improvement Program (STIP) contains projects which, when implemented, will eliminate barriers to ADA accessibility. KYTC is working in partnership with the FHWA to deliver these projects. While the primary purposes and needs of these projects vary, each project will address ADA facilities as appropriate. Since state fiscal year 2016, the Kentucky Six Year Highway Plan (SYP) has identified $1,000,000 per year to be utilized to fund activities to eliminate barriers to accessibility. Based on the completed inventory and prioritization process outlined in this plan, each year KYTC will identify projects to address barriers to ADA accessibility. KYTC is committed to eliminating barriers to accessibility and will be recommending increased funding in future SYPs. This funding source is anticipated to remain in future SYP as federally funded until known technically feasible accessibility barriers have been eliminated.

ADA barriers found on state-owned and maintained roads will continue to be addressed through dedicated ADA project funding, SYP Projects (see Appendix A for a link to FY20 SYP Projects with Potential ADA Improvements), resurfacing projects (see Appendix A for a link to Potential FY22 Resurfacing Projects anticipated to address known barriers), and 3R projects. Dedicated ADA project funding (described above) will go toward the strategic and purposeful correction of ADA barriers on the statewide pedestrian network. Many existing ADA barriers will be addressed via SYP projects. KYTC has a strong commitment toward prioritizing curb ramps for pedestrian facilities serving entities covered by the ADA. In general, only curb ramps, detectible warnings, and crosswalks will be addressed through KYTC's resurfacing program, and the 3R Program will additionally include pedestrian signal accommodations. Through these outlets KYTC expects to evaluate and address technically feasible identified barriers within the scope of projects statewide during a 15-20 year cycle. Other barriers, such as sidewalk width and obstructions will need to be addressed by way of SYP projects (including the ADA dedicated funding projects).

Utilizing all of the mechanisms which we currently have available, KYTC estimates that all currently known barriers to accessibility, could be addressed within the next 30 years. To achieve this, KYTC will prioritize investing an average of approximately $6M annually toward the elimination of barriers through a combination of dedicated ADA projects, SYP projects, Metropolitan Planning Organization (MPO) projects, and Transportation Alternatives Program (TAP) projects.

In accordance with agreements between local agencies and KYTC, many local agencies are responsible for maintaining sidewalks along state-owned roadways. To ensure that barriers to accessibility are identified and addressed, the Cabinet will notify all local agencies with which it has a Maintenance and Traffic Agreement of their ADA requirements and responsibilities. Local agencies not required to have their own ADA Transition Plan per Title II of the ADA will be

required to submit information to KYTC for removing barriers to accessibility on all pedestrian facilities adjacent to state-maintained highways which are maintained by the local entity as well as an estimated schedule. Eliminating identified barriers to accessibility will be the local agency's responsibility. Barriers not eliminated by the local agency, or which are not included in a plan from the local agency, will be evaluated and prioritized by KYTC; all associated costs for eliminating those barriers are the local agency's responsibility. Federal funding sources available to local entities (such as MPO funds and / or TAP funds) could be used for eligible activities toward the elimination of these barriers as well.

KYTC will develop an overall strategy for data maintenance and provide future updates to the ADA Coordinator for inclusion in the ADA Transition Plan. Annually, the Cabinet will also track projects already programmed for ADA improvements such as resurfacing projects, 3R Program, Transportation Enhancement projects, or other transportation projects. Reports will be generated to monitor compliance, progress, project accomplishments, and public input or comment.

Monitoring Compliance Progress

Annual Performance

This Transition Plan is a living document updated each year to 1) reflect changes in the ADA program project and process, and 2) report on the progress of the Department's efforts to achieve statewide ADA compliance for its facilities and rights of way.

Definitions

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 form 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) — Provides scoping and technical specifications for new construction 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 — KYTC employee designated to coordinate the Cabinet's activities and efforts related 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, assess and mobility.

Auxiliary Aids and Services Include —

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, Brailed 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) — Codifies 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 expansion joints between elements (e.g., curb ramps and gutters) are not constructed concurrently. On trails, ruts caused by 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 that provides a transition where there is a change in level at a curb. It provides street and sidewalk access to pedestrians using wheelchairs.

Customer — Any person who applies for, receives, or participates in a KYTC program, service, 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 ADA. The USDOT oversees 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 around 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 that alert users of an upcoming change from a pedestrian to a vehicular way. (PROWAG R405.5)

Disability — With respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities; having 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* encompasses 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 — 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 maintenance because they do not significantly affect the public's access to or the road's usability. Examples of treatments normally 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 surface treatments, diamond grinding, and pavement patching.

Metropolitan Planning Organization (MPO) — A Federally mandated and designated transportation policymaking organization that is responsible for transportation planning processes. One is required for all urbanized areas with populations larger than 50,000.

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 the U.S. 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 — An administrative area within KYTC, including areas designated as *programs* and any program, service, or activity administered by or operated by the Cabinet's contractors, consultants, or grantees.

Programs, Services, or Activities — Collectively referred to as *program* or *programs*, in this policy, they include any KYTC program, service, or activity whether within the Cabinet or administered or operated by a contractor, consultant, or grantee.

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 — 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 receiving services or participating in programs or activities provided by a public entity.

Qualified Interpreter — An interpreter who is able to interpret effectively, accurately, and impartially, as well as both receptively and expressively, using any necessary specialized vocabulary.

Reasonable Accommodation — Any modification or adjustment to a job or the work environment that enables a qualified applicant or employee with a disability to participate in the application process or perform essential job functions. Reasonable accommodation also includes adjustments to make sure that a qualified individual with a disability has rights and privileges in employment equal to those of employees without disabilities.

Reasonable Modification — KYTC shall make reasonable changes in the policies, practices, or procedures of a program, service, or activity when modifications are necessary to avoid discrimination based on disability, unless the modification would fundamentally alter the nature of the program, service, or activity. Modifying policies, the practice or procedures of a program, a service, or an activity is done to give 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 constructing and maintaining the project. Private property rights may be acquired by donation or acquisition and may be fee-simple, easement, or another form of use agreement acceptable to the parties. Property rights must be of sufficient duration to align with the project's design life, and in a form that can be recorded on land records.

Recipient — As defined by Section 504, 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 MPOs, local governments, and other State and local government agencies that receive Federal financial assistance through the STA.

Section 504 — 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 (including transportation and pedestrian facilities), policies, and practices for discriminatory practices and barriers, under 28 CFR 35.105. This is a prerequisite for developing the Transition Plan.

State — 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) — For the purposes of this policy, an agency whose primary mission is the planning, construction, operation and maintenance of transportation projects and programs, including roads and highways and which is the primary recipient or sub-recipient of Federal financial assistance.

Transition Plan — Under 28 CFR 35.150, a written plan that identifies 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 and requires 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) — Codifies by subject matter 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

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

- Department of Justice/Department of Transportation Joint Technical Assistance[2] 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

- 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

- KYTC ADA Transition Plan Strategies
  https://transportation.ky.gov/Planning/Pages/ADA-Transition-Strategies.aspx
    - Inventory of Barriers
    - Potential FY 2021 Resurfacing Projects with Potential to Impact ADA Facilities
    - 2020 SYP – Federal Projects with Potential to Impact ADA Facilities

[2] 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

ADA Grievance/Complaint Form

KENTUCKY TRANSPORTATION CABINET
Office for Civil Rights and Small Business Development

TC 18-8
Rev. 06/2016
Page 1 of 3

ADA/SECTION 504 PROGRAM COMPLAINT

INFORMATION & INSTRUCTIONS

Title II of the Civil Rights Act of 1964 prohibits discrimination because of race, color, religion, or national origin in certain places of public accommodation. ADA/Section 504 of the Rehabilitation Act of 1973 forbids denying qualified individuals with disabilities and equal opportunity 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 *(first, mi, last)*			**MAILING ADDRESS**
CITY	**STATE**	**ZIP**	**PREFERRED METHOD OF CONTACT**
			☐ Home phone
TYPE OF DISABILITY			☐ Email Address
☐ Speech	☐ Mobility	☐ Hearing	☐ Alt/Cell
☐ Mental/Emotional	☐ Visual	☐ Other	
☐ I do not have a disability.			

ATTORNEY REPRESENTATION FOR THIS COMPLAINT *(if any)*

NAME *(first, mi, last)*			**FIRM NAME**
ADDRESS			**CITY** / **STATE** / **ZIP**
PHONE			

SECTION 2: DISCRIMINATION DETAILS

Explain in detail the reasons why you believe discrimination has occurred. **Provide dates, location, and time of discrimination.** If there are witnesses, provide names, addresses, and phone numbers for each witness.

ADA/SECTION 504 PROGRAM COMPLAINT

SECTION 2: DISCRIMINATION DETAILS *(cont.)*

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

COMPANY NAME	**STREET ADDRESS**		
MAILING ADDRESS *(if different from street address)*	**CITY**	**STATE**	**ZIP**

PHONE	**PERSON COMPLAINANT SPOKE WITH**	**TITLE** *(if known)*

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

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

☐ Yes ☐ No

AGENCY NAME	**DATE**

ADA/SECTION 504 PROGRAM COMPLAINT

SECTION 4: SIGNATURE AUTHORIZATION & ADDITIONAL INSTRUCTIONS

SIGNATURE **DATE**

Return this form to:

ADA/Section 504 Coordinator
Office for Civil Rights and Small Business Development
200 Mero Street, 6th 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, 6th 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.