

Airport Disability Compliance – Public Providers of Ground Transportation



**Federal Aviation
Administration**

Office Of Civil Rights

**ACHIEVING SAFETY
THROUGH DIVERSITY**

Presented to: National Training Conference

Date: September 8, 2016



Training Objective

Raise participants' awareness and understanding:

- Americans with Disabilities Act (ADA) and Sec. 504 of the Rehabilitation Act Requirements for Ground Transportation
- FAA Recipient Responsibilities
- Accommodation requirements for public transit providers

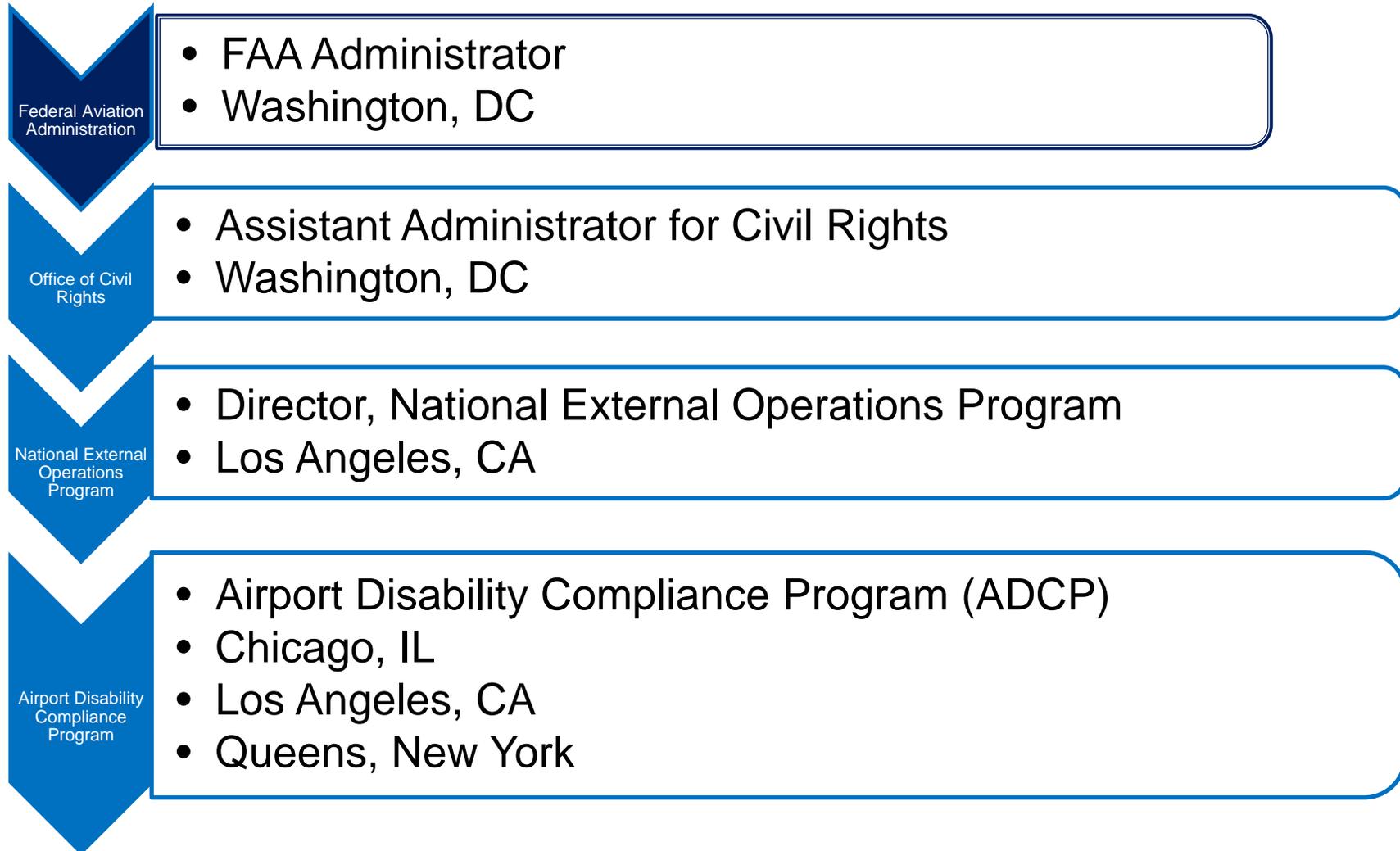
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FAA ADCP Service Delivery Model



Applicable Statutes

- Americans with Disabilities Act of 1990 (ADA)
- Sec. 504 of the Rehabilitation Act of 1973 (Sec. 504)



ADA 25
AMERICANS WITH
DISABILITIES ACT 1990-2015

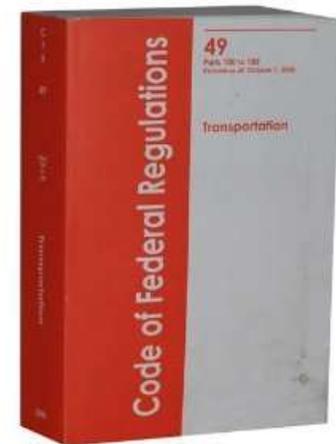
Regulatory Requirements

- Various implementing regulations
 - DOJ ADA Regulations: 28 CFR 35
 - DOT ADA Regulations: 49 CFR 37 and 38
 - DOT Sec. 504 Regulations: 49 CFR 27
- Guidance
 - Circulars
 - Letters of Finding
 - Compliance Reviews
 - Technical Assistance



FAA Enforcement of Part 37

- **Part 37 applies to public providers of transportation.**
- §37.1: The purpose of this part is to implement the transportation and related provisions of titles II and III of the Americans with Disabilities Act of 1990.
- Subpart A: General, including Nondiscrimination
- Subpart D: Acquisition of Accessible Vehicles by Public Entities
- Subpart F: Paratransit as a Complement to Fixed Route Service
- Subpart G: Provision of Service



FAA Enforcement of Part 37

- **Part 37 applies to public airport authorities.**
- Public Entities
 - ADA Title II applies to public entities
 - U.S. DOT is designated agency for ADA Title II regulations
- Recipients of Federal Financial Assistance
 - DOT Sec. 504 regulations apply to recipients of financial assistance (49 CFR 27)
 - DOT Sec. 504 regulations require compliance with DOT ADA regulations for ground transportation (49 CFR 37 and 38)
- FAA Grant Recipients
 - Grant conditions prohibit discrimination based on disability
 - Grant conditions require compliance with ADA and Sec. 504

Airport Responsibilities

- Airport authorities are responsible for compliance of ground transportation that they provide at the airport, using airport staff or contractors.



Airport Responsibilities

- Airport authority is responsible for compliant transit facilities at the airport.



Airport Responsibilities

- Local public transit providers and airports have shared responsibility for making reasonable modifications.



Airport Responsibilities

- Contract Clauses for Airport Inter-Terminal and Parking Shuttles
 - Include Sec. 504 and ADA compliance
 - Include termination clause for non-compliance
 - Cite to Part 37 and Part 38 obligations
 - Best practice: specify vehicle requirements
- Oversight
 - Technical assistance
 - Monitor



Airport Responsibilities

- Self Evaluations (DOJ ADA & DOT Sec. 504 regulations)
 - Review facilities/structures, services, policies, and practices
 - Plan to address deficiencies
 - Establish system for periodical review



Contact Information



Airport Disability Compliance Program

2300 E. Devon Avenue, Suite 440

Des Plaines, IL 60018

Phone: (847) 294-7209

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

Jonathan Klein (Jonathan.Klein@faa.gov)

Team Lead, Specialist for Alaskan and Western-Pacific regions

Elisha Luyeho (Elisha.Luyeho@faa.gov)

Specialist for Southwest and Southern regions

Sophia Soler (Sophia.Soler@faa.gov)

Specialist for New England and Northeast regions

Ty Thomas (Tyrone.Thomas@faa.gov)

Specialist for Great Lakes, Central, and Northwest Mountain regions

DOT ADA Regulations – 49 CFR Part 37

- **§ 37.23 Service under contract.**
 - (a) When a public entity enters into a contractual or other arrangement (including, but not limited to, a grant, subgrant, or cooperative agreement) or relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity if the public entity itself provided the service.

DOT Sec. 504 Regulations – 49 CFR Part 27

- **§ 27.19 Compliance with Americans with Disabilities Act requirements and FTA policy.**
 - (a) Recipients subject to this part (whether public or private entities as defined in 49 CFR part 37) shall comply with all applicable requirements of the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101-12213) including the Department's ADA regulations (49 CFR parts 37 and 38), the regulations of the Department of Justice implementing titles II and III of the ADA (28 CFR parts 35 and 36), and the regulations of the Equal Employment Opportunity Commission (EEOC)...Compliance with all these regulations is a condition of receiving Federal financial assistance from the Department of Transportation. Any recipient not in compliance with this requirement shall be subject to enforcement action under subpart C of this part.

DOT Sec. 504 Regulations – 49 CFR Part 27

- **§ 27.71 Airport facilities.**
 - (a) This section applies to all terminal facilities and services owned, leased, or operated on any basis by a recipient of DOT financial assistance at a commercial service airport, including parking and ground transportation facilities.
 - (b) Airport operators shall ensure that the terminal facilities and services subject to this section shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Airport operators shall be deemed to comply with this section 504 obligation if they meet requirements applying to state and local government programs or activities and facilities under Department of Justice (DOJ) regulations implementing Title II of the Americans with Disabilities Act (ADA).

DOJ ADA Regulations – 49 CFR Part 35

- **§ 35.130 General prohibitions against discrimination**

(b) (1) A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability

(i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service;

Appendix B to Part 35: ...to the extent that the public transportation services, programs, and activities of public entities are covered by subtitle B of title II of the Act, they are subject to the regulation of the Department of Transportation (DOT) at 49 CFR part 37, and are not covered by this part.

Conditions of Federal Financial Assistance

- **Airport Improvement Program Grant Assurances:** upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.
 - **30. Civil Rights:** [the recipient] will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.
 - Cites to 49 CFR 27, 37, 38 and 28 CFR 35