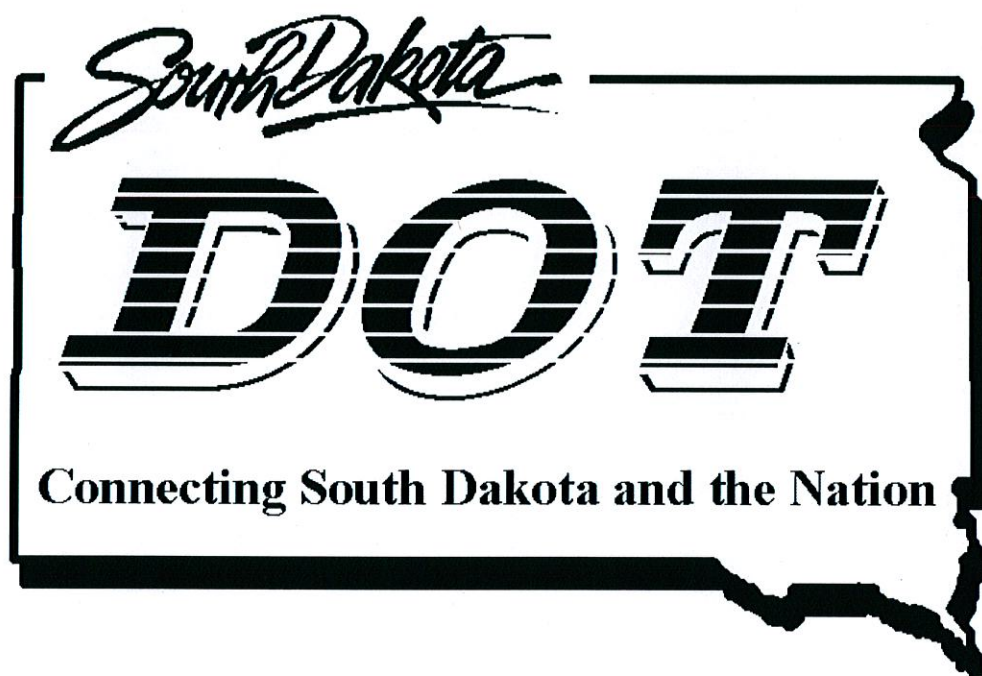


# Americans with Disabilities Act (ADA) Title II

## Self-Evaluation and Transition Plan

### Public Right-of-Way Section



2009 Update

Department of Transportation  
700 East Broadway Avenue  
Pierre, South Dakota 57501

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## **I. Background and Purpose**

In 1990, The U.S. Congress passed the Americans with Disabilities Act (ADA). The statute prohibits discrimination against disabled persons in public facilities and public access areas. Title II of the ADA requires public entities that employ more than 50 people to adopt a transition plan and to evaluate their compliance with ADA. This involves identifying physical barriers to accessibility for disabled persons, describing the methods to be used to make facilities accessible, providing a schedule for making access modifications, and identifying the public officials responsible for implementation of the plan.

The U.S. Access Board, which is responsible for developing ADA standards, issued original ADA Accessibility Guidelines in 1991 and updates them periodically. The U.S. Department of Justice adopts and enforces these guidelines, and the Federal Highway Administration under the U.S. Department of Transportation implements ADA compliance procedures through state agencies.

As of the adoption of this Plan, the ADA Accessibility Guidelines were available at <http://www.access-board.gov/gs.htm>

The SDDOT is dedicated to complying with Title II of the Americans with Disabilities Act and to conforming to any other state or federal regulations directed at ensuring that public programs and services are accessible to persons with disabilities.

## **II. ADA Self-Evaluation and Transition Plan**

This transition plan is based on a self-evaluation process. The purpose of the self-evaluation is to document any physical obstacles that may limit accessibility of facilities to individuals with disabilities. The self-evaluation involved the collection of data concerning state highway right-of-way, with a particular emphasis on segments of

highway that pass through communities. Following an assessment of compliance with ADA Accessibility Guidelines, the SDDOT identified necessary modifications and prioritized projects based on various factors, including citizen recommendations or concerns, the types of barriers to accessibility, proximity to public access areas, timeline of construction, and amount and style of traffic. As highway projects are completed, the SDDOT will update the ADA Transition Plan to account for completed projects.

### **III. ADA Coordinator**

Title II of the ADA requires that agencies with more than 50 employees assign an individual to be responsible for coordinating compliance efforts (28 CFR 35.107). The SDDOT has an ADA Coordinator who oversees the completion of SDDOT's self-evaluation and the implementation of its Transition Plan.

The SDDOT's ADA Coordinator will maintain the ADA Transition Plan on file and make it available for public inspection. The ADA Transition Plan should be available in alternate formats if requested.

The SDDOT's designated ADA Coordinator is June Hansen. Interested parties may request more information from the ADA Coordinator through email, phone, mail, or fax at:

Office of Legal Counsel  
South Dakota Department of Transportation  
700 East Broadway Avenue  
Pierre, SD 57501-2586  
Telephone: 605-773-3540  
Fax: 605-773-3921 or 605-773-4442  
Telecommunication Device for the Deaf: 1-800-877-1113  
Email: [June.Hansen@state.sd.us](mailto:June.Hansen@state.sd.us)

#### **IV. Public Right-of-Way Features**

The public right-of-way within the state highway system includes features such as curb ramps, sidewalks, and push buttons. If pedestrian facilities exist within the public right-of-way, they must be made accessible to individuals with disabilities. Examples of accessible features may include continuous, unobstructed sidewalks, curb cuts with detectable warnings at highway and street crossings, and accessible push buttons. The SDDOT will consider inaccessible pedestrian facilities in the Transition Plan unless the ADA recognizes an exception to the accessibility requirement.

As of the date of adoption of this transition plan, the ADA guidelines for accessible features in the public right-of-way could be found at <http://www.access-board.gov/adaag/html/adaag.htm>. A new proposed draft of ADA public right-of-way accessibility guidelines is under consideration by the U.S. Department of Justice and the U.S. Department of Transportation. As of the date of adoption of this transition plan, these proposed guidelines could be found at <http://www.access-board.gov/prowac/draft.htm>.

#### **V. Current Priorities**

This section of the SDDOT's ADA Transition Plan addresses the public right-of-way on the state highway system. The SDDOT assessed sidewalks, curb ramps, and intersections along state controlled right-of-way within urban areas. The SDDOT conducted various task force and stakeholder meetings to assist with the completion of the self-evaluation and the development of a transition plan. The SDDOT identified and prioritized eight primary areas of concern:

1. Installation of curb ramps where none currently exists and are necessary to provide access to existing walkways or pedestrian crosswalks.
2. Modification or installation of new pedestrian push buttons at existing pedestrian crossings where push buttons exist but are not currently accessible to disabled persons (i.e. height/distance barriers or lack of a traversable path to access the push button).
3. The removal of barriers in the public right-of-way or the modification/addition to the traversable area around obstructions.
4. Replacement or repair of walkways or sections of walkways that are no longer traversable due to structural deficiencies. A structural deficiency is a surface that is broken up, rough, or heaved, with changes in elevation of greater than a quarter of an inch.
5. Modification of existing non-compliant curb ramps.
6. Replacement of existing sidewalk in the public right-of-way that may still be traversable but is currently not ADA compliant.
7. Installation of walkways in the public right-of-way to provide access to state/local government offices and facilities, transportation, places of public accommodation, employers, and connections to walkways serving other areas.
8. Installation of detectable warning devices (truncated domes) to existing curb ramps that are structurally compliant.

## **VI. Grievance Policy and Procedures**

The SDDOT has a grievance procedure to allow individuals to express concerns about SDDOT's compliance with Section 504 of the Rehabilitation Act of 1973, as amended, and Title II of the ADA. Anyone alleging he or she has been discriminated against, based on disability, in obtaining access to services, programs, activities, and facilities provided by the SDDOT may file a grievance.

Grievances should be submitted to the SDDOT in writing and contain detailed information concerning the alleged discrimination. The SDDOT will accept grievances that are not in writing if necessary to accommodate a disability. The following information should be provided when filing a grievance:

- Name
- Address
- Phone number and e-mail address, if any
- Location
- Description of any alleged incident
- Description of any physical barriers to accessibility
- Suggested changes or improvements to achieve accessibility

Below are the grievance procedures for the SDDOT.

1. The grievant or the grievant's representative should submit the grievance within thirty (30) calendar days of the alleged violation to the ADA Coordinator at the address set forth below.
2. The ADA Coordinator will review and respond to the grievance in writing (or by another format if necessary to accommodate a disability).

If the grievant disagrees with the decision of the ADA Coordinator, the grievant has the right to file a formal complaint to the South Dakota Division of the Federal Highway Administration by contacting:

Federal Highway Administration  
116 East Dakota Ave, Suite A  
Pierre, SD 57501  
Telephone: 605-224-8033 or 1-800-597-7719  
Fax: 605-224-1766  
Email: [southdakota.fhwa@dot.gov](mailto:southdakota.fhwa@dot.gov)

Grievants also have the right to file a formal complaint to the United States Department of Justice by contacting:

U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, NW  
Disability Rights - NYAV  
Washington, D.C. 20530  
Telephone: 1-800-514-0301  
Telecommunication Device for the Deaf: 1-800-514-0383

The grievance form can be found in Appendix A of this document. Grievance forms can also be obtained from the SDDOT's website ([www.sddot.com/ada.asp](http://www.sddot.com/ada.asp)) or by contacting:

Office of Legal Counsel  
South Dakota Department of Transportation  
700 East Broadway Avenue  
Pierre, SD 57501  
Telephone: 605-773-3540  
Fax: 605-773-3921 or 605-773-4442  
Telecommunication Device for the Deaf: 1-800-877-1113  
Email: June.Hansen@state.sd.us

The SDDOT encourages citizens to express concerns without alleging discrimination by submitting a form for the Request for Special Accommodation, located at [www.sddot.com/ada.asp](http://www.sddot.com/ada.asp) or in Appendix B.

## **VII. Comments**

Following the completion of this transition plan, the SDDOT distributed it to stakeholders, internal personnel, and other public entities to solicit public comment. At the end of the public comment period, the SDDOT compiled the comments for consideration in revising the Transition Plan.

The SDDOT's internal personnel primarily commented on the list of priorities. Some projects had moved to a different time on the schedule, and the Transition Plan demanded changes. The extent of some projects also changed. Some projects now



planned to include more ADA updates; some projects became stand-alone ADA projects; and other projects removed plans to do ADA updates. The updated Transition Plan reflected these alterations.

The South Dakota Division of the Federal Highway Administration (FHWA) provided input on the ADA Transition Plan. The FHWA sought more detail in the Transition Plan and asked the SDDOT to expand the description of many projects and to clarify the considerations in prioritizing projects.

The SDDOT also received comments from stakeholders. Stakeholders were satisfied with the Transition Plan and SDDOT's efforts. Some stakeholders also offered to give the perspective of a person with a disability when SDDOT is scoping and planning projects.

APPENDIX A



State of South Dakota  
Department of Transportation

Americans with  
Disabilities Act  
Public Right-of-Way

GRIEVANCE FORM

Personal Information

NAME: \_\_\_\_\_  
Last First MI  
 ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ STATE: \_\_\_\_\_  
 ZIP: \_\_\_\_\_ PHONE: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_ EMAIL: \_\_\_\_\_

Organization (if any)

NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ STATE: \_\_\_\_\_  
 ZIP: \_\_\_\_\_ PHONE: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_ EMAIL: \_\_\_\_\_

Location of Physical Barriers

CITY: \_\_\_\_\_ HIGHWAY / INTERSTATE #: \_\_\_\_\_  
 STREET INTERSECTION: \_\_\_\_\_  
 NEARBY LANDMARKS OR BUSINESSES: \_\_\_\_\_

Report of Incident of Discrimination under the ADA (if applicable)

DATE: \_\_\_ / \_\_\_ / \_\_\_\_\_ PERSON(S) INVOLVED: \_\_\_\_\_  
 WITNESSES: \_\_\_\_\_ PHONE: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_  
 Please describe any alleged incidents of discrimination: \_\_\_\_\_  
 \_\_\_\_\_

Requests

Please list any suggested changes or improvements to achieve accessibility: \_\_\_\_\_  
 \_\_\_\_\_

Mail to: Department of Transportation  
Office of Legal Counsel  
700 East Broadway Avenue  
Pierre, SD 57501-2586

Telephone: 605-773-3540  
Telecommunication Device for the Deaf: 1-800-877-1113  
Fax: 605-773-4442  
Email: [june.hansen@state.sd.us](mailto:june.hansen@state.sd.us)

APPENDIX B



State of South Dakota  
Department of Transportation

Americans with  
Disabilities Act  
Public Right-of-Way

REQUEST FOR SPECIAL ACCOMMODATION  
REMOVAL OF PHYSICAL BARRIERS TO ACCESSIBILITY

Personal Information

NAME: _____	_____	_____	_____
	Last	First	MI
ADDRESS: _____	CITY: _____	STATE: _____	
ZIP: _____	PHONE: ( _____ ) _____ - _____	EMAIL: _____	

Organization (if any)

NAME: _____			
ADDRESS: _____	CITY: _____	STATE: _____	
ZIP: _____	PHONE: ( _____ ) _____ - _____	EMAIL: _____	

Location of Physical Barriers

CITY: _____	HIGHWAY / INTERSTATE #: _____
STREET INTERSECTION: _____	
NEARBY LANDMARKS OR BUSINESSES: _____	

Concern

Recommendations

Please describe any physical barriers to accessibility: _____ _____ _____ _____	Please recommend any accommodations: _____ _____ _____
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Mail to: Department of Transportation  
Office of Legal Counsel  
700 East Broadway Avenue  
Pierre, SD 57501-2586

Telephone: 605-773-3540  
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Fax: 605-773-4442  
Email: [june.hansen@state.sd.us](mailto:june.hansen@state.sd.us)