



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

BEVERLY E. PERDUE  
GOVERNOR

EUGENE A. CONTI, JR.  
SECRETARY

September 15, 2009

MEMORANDUM

**To:** Division Engineers  
Mobility and Safety Field Operations Engineers

**From:** J. G. (Jon) Nance, P.E.,  
Chief Engineer – Operations

J. K. (Kevin) Lacy, P.E.,  
State Traffic Engineer

**Subject:** Requests for Reasonable Accommodations by Disabled Pedestrians under ADA

Attached is the standard practice for addressing requests for reasonable accommodations by disabled pedestrians under the Americans with Disabilities Act (ADA). This standard practice is effective as of the date of this memo.

This standard practice has been previously reviewed by several business units in the Department including Division staff, Regional staff, and the ADA manager, and has also been reviewed by local Federal Highway Administration staff. These issues were first discussed at the July 17-19, 2007 DTE/RTE roundtable in Shelby, an initial draft was presented at the October 9-10, 2007 DTE/RTE roundtable in Garner, and additional comments were solicited on December 16, 2008. An operations review was performed between February 4, 2009, and March 6, 2009, and a re-review by operations staff was performed between April 22, 2009, and May 22, 2009.

Please distribute this information to all applicable personnel within your business unit. If you have any questions regarding this standard practice, please contact Kevin Lacy or Terry Hopkins in the Transportation Mobility and Safety Division.

JKL/JGN/rjj

Attachment

cc w/attachment: Division Traffic Engineers  
Regional Traffic Engineers  
T. M. Hopkins, P.E.  
B. K. Mayhew, P.E.  
R. J. Jaeger, P.E.

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**North Carolina Department of Transportation  
Division of Highways  
Transportation Mobility and Safety Division**

**Standard Practice**

For

**Pedestrian Reasonable Access Requests from Pedestrians with Qualifying  
Disabilities under the Americans with Disabilities Act**

**Purpose:**

The purpose of this standard practice is to provide guidance and consistency to regional and division staff on addressing requests for reasonable accommodations by disabled pedestrians under the Americans with Disabilities Act (ADA). Federal law does not require the Department to accommodate every ADA request received. Currently, Department staff does not have clear guidelines on what constitutes an ADA request and what processes they need to follow to address these types of requests.

**Objectives:**

The objectives of this standard practice are to identify what constitutes a valid ADA request for reasonable access, what constitutes an appropriate response to the request, how long records related to these requests should be maintained, and to ensure the Department is following applicable laws. It is not the intent to deny reasonable access for any users of the transportation system but only to clarify the legal requirements.

All customers are entitled to have their concerns addressed. Requests that do not meet ADA guidelines will be investigated and responded to through our current Departmental processes.

**Guidelines:**

The division office is responsible for investigating and responding to pedestrian requests within their respective divisions. However, a different process is applied when the pedestrian request involves ADA reasonable access issues. We only make the distinction between the two types of requests if the requestor initiates the ADA issue.

A written request from a disabled pedestrian requesting reasonable access should be forwarded to the State Traffic Safety Engineer. Written documentation from a physician stating that the pedestrian has a qualifying disability under 28 CFR Part 35, and 49 CFR 27, of the United States Code of Federal Regulations must be received prior to conducting any investigation. Written documentation from a physician is required to classify this request as one for reasonable accommodation by a disabled individual as opposed to a general request for transportation network improvements.

Once a request for reasonable access has been received from a pedestrian with a qualifying disability, the appropriate Mobility and Safety Field Operations Engineers shall be responsible for coordinating with the appropriate division and conducting a field investigation (including a site inventory and pictures) to ascertain the presence, type, and location of pedestrian facilities.

If pedestrian facilities exist at the location then the regional Mobility and Safety Field Operations Engineer shall determine what accommodations will be required to provide reasonable access and obtain a cost estimate. If providing accommodations for reasonable access is both feasible and economically viable then a project shall be developed. A letter shall be sent to the requestor notifying them of the decision and proposed enhancements.

If the regional Mobility and Safety Field Operations Engineer determines through engineering judgment that the accommodations are infeasible and/or place an undue financial burden on the Department, then they will meet with State Traffic Safety Engineer to validate the infeasibility and/or undue financial burden issues. Based on the outcome of that meeting, a letter to the requestor shall be sent notifying them of the decision.

If no pedestrian facilities are currently provided, then the request is denied, as no facilities are present to make an accommodation. A letter shall be sent to the disabled pedestrian stating denial of the request from an ADA perspective.

The isolated presence of curb cuts/curb ramps that are installed as a matter of policy when installing curb and gutter but are not connected to any pedestrian network are not considered pedestrian facilities. Also, the presence of worn paths that indicate pedestrian traffic but are not installed or maintained by the NCDOT or municipalities or other public agencies are not considered pedestrian facilities.

All denied requests from an ADA perspective due to the lack of existing facilities shall still be considered for enhancements through our current Departmental processes.

All final correspondence shall provide contact information for the United State Department of Justice on appealing any decisions made by the Department concerning ADA accommodations.

#### **Requirements:**

Once the requestor has been notified of the decisions by the Mobility and Safety Field Operations Engineer, a copy of the entire request package shall be sent to the State Traffic Safety Engineer, Division Engineer, FHWA, and the NCDOT ADA Coordinator. The request package should consist of the request letter, physician letter, investigation results, pictures, accommodation proposal (if any), cost estimates, and any correspondence.

The State Traffic Safety Engineer shall maintain a file on each request for reasonable access for a duration equal to that of legal requests within the Traffic Safety Unit's "Program Records Retention and Disposition Schedule" (item 47810).