

The Honorable Pete Buttigieg
Secretary, U.S. Department of Transportation
1200 New Jersey Ave SE, Washington, DC 20590

RE: Request for Further Revisions to the Manual on Uniform Traffic Control Devices

Dear Mr. Secretary:

My name is Dan Spoone, and I am President of the American Council of the Blind (ACB). ACB is a national 501c(3) nonprofit member-driven advocacy organization that strives to increase the security, independence, economic opportunity, and quality of life for people who are blind and experiencing vision loss. Equal access to transportation and the ability to move freely is critical for our members and the broader disability community to live independently as engaged members of our communities. On behalf of ACB, congratulations on your appointment to the position of Secretary of Transportation. We look forward to working with you and continuing our collaboration with the Department under your leadership.

On May 14, 2021, ACB submitted comments on the Notice of Proposed Amendments to the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), issued by the Federal Highway Administration (FHWA), which was published in the Federal Register on December 14, 2020 with later revisions on December 29, 2020 and February 2, 2021.

Unfortunately, the FHWA proposed rulemaking continues to ignore the safety of pedestrians who are blind, have low vision, or are deafblind ("pedestrians who are blind"). Both the current 2009 edition and the proposed 11th edition of the MUTCD provide for pedestrian signals affording only displayed visual information, a walking person (symbolizing the WALK sign is on), or an upraised hand (symbolizing DON'T WALK sign is on).

A visual pedestrian signal effectively does not exist for a pedestrian who is blind. A person who is sighted is provided with a pedestrian signal after an engineering study determines that safety requires one to be installed, while public entities most often fail to provide to pedestrians who are blind effective non-visual communication of the pedestrian interval information, as required by the ADA. (28 C.F.R. §35.160(a)(1) ("A public entity shall take appropriate steps to ensure that communications with ...members of the public... with disabilities are as effective as communications with others.") "Effective communication" is provided to blind pedestrians through an "Accessible Pedestrian Signal" (APS). An APS is actuated by a pushbutton and communicates information about pedestrian signal timing in non-visual format such as audible tones, speech messages, and/or vibrating surfaces to a pedestrian with a vision loss indicating when it is safe to cross the street.

Lacking effective communication as to when a WALK sign is on, a pedestrian with a vision loss is in a significantly worse position than their sighted counterpart, who even without a pedestrian signal can still visually read traffic patterns. A pedestrian without vision must try to understand the traffic pattern using only hearing, a difficult enough proposition let alone an impossibility if this pedestrian is also hard of hearing or deaf. Even the pedestrian who is blind with good hearing, however, is not in a comparable position as a person with sight who can more quickly and easily visually read traffic with little or no environmental interference.

The pedestrian with a vision loss, in contrast, must cope with complex intersections, quiet cars, left and right turn on red signalization, and environmental noise pollution, which even a person with excellent hearing will have difficulty detecting. Absent a willingness to accept some greater risk of injury to cross a busy street lacking an APS, the pedestrian with a vision loss frequently feels compelled to seek workarounds of multi-lane, complex

intersections. The omission of an APS contributes to unnecessarily risky crossings, paying for taxis or shared ride vehicles a short distance to bypass a dangerous crossing, or taking lengthy and time-consuming detours, to work, shopping for groceries, or to attend community activities and social events. None of these increased risks, extra cost or additional burdens are imposed upon sighted pedestrians.

We note, in further support of our request, that the ACB of New York, a state affiliate, and several blind members filed a class action against the City of New York for its failure to install APSs. The Court held that the City of New York's failure to provide crossing information in an accessible format at more than 95% of intersections unlawfully denies blind and low vision pedestrians meaningful access to New York City's signalized pedestrian street crossings in violation of Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. *Am. Council of Blind of N.Y., Inc. v. City of New York*, 495 F. Supp. 3d 211, 232-239 (S.D.N.Y. 2020).

More recently, on April 8, 2021, the United States, represented by the U.S. Department of Justice, intervened in a class action discrimination lawsuit filed by another ACB affiliate, the American Council of the Blind of Metropolitan Chicago, and three individual plaintiffs against the Chicago Department of Transportation. The lawsuit alleges that the Chicago Department of Transportation fails to provide people who are blind, have low vision, or are deafblind with equal access to pedestrian signal information at intersections.

The Complaint in Intervention asserts that "Chicago's failure to install APSs at signalized intersections in the city endangers people who are blind by depriving them equal access to the same safe-crossing information that Chicago provides to sighted pedestrians. This is unlawful discrimination under the ADA and Section 504." For these reasons, ACB requests that you direct the FHWA to revise the MUTCD to mandate all new or reconstructed intersections with pedestrian signals to be equipped with APS during the initial construction. Also, upon their installation, APS are to be automatically activated, enabling their immediate use.

In addition, the MUTCD should require the equipping of existing visual only pedestrian signals with APS over a reasonable period by formally adopting an ADA Transition Plan (28 C.F.R. §35.150(d)).

More detailed technical specifications for the critically needed access and safety revisions as well as the factual and further legal authority for our request are provided by ACB's May 14, 2021 Comments on the MUTCD, which are included as an additional attachment with this letter.

Additionally, ACB agrees with the technical comments filed by the Association for Education and Rehabilitation of the Blind and Visually Impaired which offer additional recommendations for technical changes to the MUTCD.

Thank you for your consideration of our request. If we can provide additional information or if you or your staff would like to meet to discuss these matters further, I am available at your convenience.

Very Truly Yours,



Dan Spoone
President, American Council of the Blind

Cc: Acting Administrator, FHWA