# **How You Can Get Accessible Pedestrian Signals in Your Community**

# **2024 Legislative Seminar, Accessible Pedestrian Signal Workshop**

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# **I. Introduction**

Accessible Pedestrian Signals (APS) are critical to the blindness community because safely crossing a busy-multi-lane street today is an even riskier activity for blind pedestrians than it was before. Background noise, quiet cars, E-bikes, left and right turn on red, and unfamiliar street designs make crossing a busy street a hazardous endeavor for the blindness community. Moreover, unnecessary, additional risk to blind pedestrians is created by the growing use of Leading Pedestrian Intervals at pedestrian signalized crossings, an FHWA promoted safety counter measure, which benefits the sighted but risks harm to people who are blind.

ACB’s Pedestrian Safety Handbook (<https://www.acb.org/content/pedestrian-safety-handbook>) provides helpful guidance on navigating different street designs, the increasing use of computerized traffic signals and suggestions for advocating for APS In addition, the Pedestrian Environmental Access Committee page has a variety of documents and podcasts regarding APS [Pedestrian Environmental Access Committee | American Council of the Blind (acb.org)](https://www.acb.org/PEAC).

The good news is that APS is finally a hot item for discussion in many local transportation Departments. There are three reasons for this increased interest in APS:

1. The U.S. Access Board issued its final “Public Right-of-Way Accessibility Guidelines (PROWAG) which requires, for the first time, the installation of APS under some circumstances.
2. ACB affiliates and members have successfully sued New York and Chicago to require APS installation on their pedestrian signalized networks.
3. The Infrastructure Investment and Jobs Act (IIJA), passed in 2021, permits reimbursement of local agencies for the cost of APS if they seek such financing.

# **II. Understanding Pedestrian Signals and Warning Lights**

It is important to know the terminology and uses of several types of pedestrian signals and warning lights to enable you to speak to and understand traffic engineers and other transportation managers. Traffic engineers must follow federal regulations when deciding whether to install a pedestrian signal or other devices to promote safe pedestrian access. The Federal Highway Administration (FHWA), part of the U.S. Department of Transportation, recently issued the 11th edition of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), <https://mutcd.fhwa.dot.gov/kno_11th_Edition.htm>. States have two years to bring their traffic control devices into compliance with this new edition.

The 11th edition details specifications a traffic engineer must follow when using many different forms of traffic control mechanisms. The MUTCD is primarily intended to provide nationwide uniformity in traffic control devices, aid the efficient flow of traffic, and promote safety. It is not, however, focused on pedestrian safety. Each MUTCD Section is broken into different subparts. The term “Standard” is the mandatory requirement which traffic engineers “shall” follow. A “Guidance” heading means the statement “should” be followed based on judgment of the traffic engineer. An “Option” heading provides choices which are neither recommended nor not recommended. (See MUTC Section 1C: <https://mutcd.fhwa.dot.gov/pdfs/11th_Edition/part1.pdf>.)

ACB has worked for decades to promote the safety of pedestrians who are blind or visually impaired.

Traffic engineers have their own technical names for different types of pedestrian signals and warning lights with which you should become familiar. Here are the key terms and requirements for pedestrian devices you may hear about from traffic engineers:

## **Pedestrian Signals**

Many street crossings lack pedestrian signals. Our right to APS requires that a visual only pedestrian signal or network of visual only pedestrian signals already exist at intersections in order for there to be a right to an APS. A visual-only pedestrian signal refers to a pedestrian signal which visually displays a pictograph of a green or white walking person symbolizing “Walk,” and a steady red upraised hand symbolizing “Don’t Walk.” (See MUTCD Section 4A.06.01 <https://mutcd.fhwa.dot.gov/pdfs/11th_Edition/part4.pdf>.) To a person who is blind, a visual-only pedestrian signal does not exist. Only a sighted pedestrian can benefit from such a signal.

### **Accessible Pedestrian Signals**

An APS augments a visual only pedestrian signal by emitting a clicking sound when the Walk interval begins. In addition, the button which must be pushed to activate the signal has a tactile arrow pointing in the direction of the crossing. When the Walk interval begins, the tactile arrow also vibrates enabling a person who is deafblind to know that the Walk sign is on. In addition to these features, an APS emits a locater tone which enables a pedestrian who is blind to locate the APS. MUTCD Section 4K <https://mutcd.fhwa.dot.gov/pdfs/11th_Edition/part4.pdf>

### **Warning Lights (called “Beacons”)**

The MUTCD also permits the use of warning lights referred to as “beacons.” Beacons are **flashing lights** intended to draw a driver's attention toward an associated traffic control such as a pedestrian warning sign.

As will be described more fully below, beacons can be used as an alternative to pedestrian signals including APS in some circumstances.

### **Pedestrian Hybrid Beacon**

The FHWA defines the pedestrian hybrid beacon (PHB) [as] “a traffic control device designed to help pedestrians safely cross higher-speed roadways at midblock crossings and uncontrolled intersections. The beacon head consists of two red lenses above a single yellow lens. The lenses remain “dark” until a pedestrian desiring to cross the street pushes the call button to activate the beacon, which then initiates a yellow to red lighting sequence consisting of flashing and steady lights that directs motorists to slow and come to a stop, and provides the right-of-way to the pedestrian to safely cross the roadway before going dark again.” (<https://highways.dot.gov/safety/proven-safety-countermeasures/pedestrian-hybrid-beacons>) An APS may be installed on a PHB.

### **Rectangular Rapidly Flashing Beacon (RRFB)**

A Rectangular Rapidly Flashing Beacon (RRFB) is used in conjunction with a pedestrian warning sign on multi-lane streets with relatively low vehicle speeds. (See MUTCD Section 4K, <https://mutcd.fhwa.dot.gov/htm/2003r1/part4/part4k.htm#:~:text=A%20Flashing%20Beacon%20is%20a,or%20warning%20in%20alternative%20uses>.) When a pedestrian pushes the button for activation, lights rapidly flash yellow, informing motorists that a pedestrian wishes to cross a multilane street. An audible message that “Warning lights are flashing” is repeated twice. Motorists yield to the pedestrian up to 98% of the time according to the FHWA. (See MUTCD Section 4l, to the pedestrian, <https://highways.dot.gov/sites/fhwa.dot.gov/files/RRFB_508_0.pdf>.) Importantly, an RRFB does not provide pedestrians with a right-of-way to cross the street. An APS can be installed on an RRFNB.

### **Leading Pedestrian Interval**

Leading Pedestrian Interval (LPI) gives an early Walk signal, enabling sighted pedestrians to begin crossing and be more visible to drivers before vehiclesare released to cross an intersection. Unaware of the early “Walk” signal, however, a blind walker is trained to listen for a parallel traffic surge, before beginning to cross. This may cause the blind pedestrian to begin their crossing just as traffic begins to turn across the intersection, right when drivers are not expecting to find a pedestrian in the street crossing.

# **III. Access Board Final Public Right-of-Way Accessibility Guidelines (PROWAG)**

The U.S. Access Board issued its final “Public Right-of-way Accessibility Guidelines (PROWAG)88 FR 53604, on August 8, 2023, and effective on September 8, 2023. The PROWAG provisions address how to make public pedestrian facilities, such as sidewalks, crosswalks, shared use paths, and on-street parking, accessible to people with disabilities including blind pedestrians. In order for PROWAG to become enforceable ADA Legal Standards, they must be reviewed and may be modified by rulemaking by both the U.S. Department of Justice and the U.S. Department of Transportation. We are currently awaiting the publication by both agencieson PROWAG-related Notices of Proposed Rulemakings.

PROWAG is significant because, for the first time, its accessibility standards require equipping pedestrian signals with APS in new construction and when a signal is altered PROWAG, however, does not apply to existing facilities’ that are neither new or altered. An existing visual only pedestrian signal does not have to be equipped with an APS until it is replaced or altered or a pedestrian signal is installed where none existed before.

Within these constraints, PROWAG provides:

Section [R201.1](https://www.access-board.gov/prowag/scoping.html#r2011-scope) of PROWAG has the broad requirement that all newly constructed pedestrian facilities and altered portions of existing pedestrian facilities for pedestrian circulation and use located in the public right-of-way must comply with the Public Right-of-Way Accessibility Guidelines. Section [R206](https://www.access-board.gov/prowag/scoping.html#r206-pedestrian-signal-heads-and-pedestrian-activated-warning-devices) specifically requires that if new pedestrian signal heads or pedestrian warning devices are provided, they must provide accessibility features that make them accessible pedestrian signals, and the general requirement in §R201.1 and the requirement in [§202.3](https://www.access-board.gov/prowag/scoping.html#r2023-existing-physical-constraints) require that if pedestrian signal heads or pedestrian warning devices are altered, whatever is altered on them that has requirements in R206 must comply with those requirements to the maximum extent feasible.

PROWAG also contains requirements for signalized crossings at multi-lane roundabouts. R306.4.2requires that such a crossing contain **“**one or more of the following: a traffic control signal with a pedestriansignal head*;* a pedestrian hybrid beacon*; a*pedestrian actuated rectangular rapid flashing beacon; or a raised crossing.” See [R3: Technical Requirements (access-board.gov)](https://www.access-board.gov/prowag/technical.html) This is an unfortunate change from the proposed PROWAG provision which required installation of an APS.

# **IV. ACB Affiliates and Members have successfully sued cities and compelled the installation of APS.**

A. Even before PROWAG was adopted by the Access Board, multiple federal courts had recognized a current right to “meaningful access” to a Public Entity’s pedestrian Signalized network, thereby Requiring “Effective Communication” through the installation of APS. ACB Affiliates, Chapters, and individual members have successfully sued cities in New York and the City of Chicago to compel them to install APS pursuant to Title II of the ADA and Section 504 of the Rehabilitation Act. Scharff v. City. of Nassau, No. 10 CV 4208 DRH AKT, 2014 WL 2454639, at \*7 (E.D.N.Y. June 2, 2014) (“[t]he act of installing and maintaining pedestrian crossing signals at crosswalks is a normal function of the County, and therefore falls within the scope of Title II and the Rehabilitation Act.”); ACB of Metropolitan Chicago v. City of Chicago, 2023 WL 2744596 (N.D. Ill, Mar. 31, 2023); ACB of New York v. City of New York, 495 F.Supp.3d 211 (S.D.N.Y. 2020). The latter Court subsequently ordered New York City to install 10,000 APS’s at signalized intersections within ten years and to complete installation of APS at its approximately 13,000 signalized intersections within fifteen years. American Council of the Blind of New York v. City of New York,579 F.Supp.3d 539 (S.D.N.Y. 2022).

Moreover, the United States intervened as a Plaintiff in the ACB of Metropolitan Chicago v. City of Chicago litigation and prevailed in its APS-related claims against that City.

B. The Infrastructure Investment and Jobs Act (IIJA) makes federal funding available to offset the cost of APS to Public Agencies.

IIJA provides a significant increase of federal funding by reauthorizing surface transportation programs for five years and investing $110 billion in additional funding to repair our roads and bridges and support major, transformational projects.  The IIJA also creates discretionary, competitive grants which a public entity may apply for, directly to the FHWA or indirectly, through its State DOT or its Metropolitan Planning Organization, to reimburse it for APS-related costs.

# **V. Enforcing Your Rights**

If you, your affiliate or chapter have been seeking APS but your efforts have not been successful, you have several options.

1. Negotiate

Motivating your local transportation agency to install APS involves politics. Elected city officials want to keep their constituents happy so making APS a political issue can produce dividends. This may involve individual residents requesting APS at neighborhood intersections and/or bringing together a number of like-minded organizations to pressure an agency to act. Many times, negotiations will result in a schedule for installing APS over time, i.e., an ADA Transition Plan.

1. Administrative Enforcement

Title II and Section 504 of the Rehabilitation Act give us a legal right to APS. A complaint alleging a denial of APS in violation of Title II of the ADA and §504can be filed with either DOJ [File a Complaint | ADA.gov](https://www.ada.gov/file-a-complaint/) and the FHWA [ADA Complaint | FHWA (dot.gov)](https://highways.dot.gov/civil-rights/ada-complaint#main). Administrative complaints may be filed without charge. However, it will probably take several years for you to see a result.

1. Lawsuit

Litigation is the other option for ADA/Litigation is the other option for ADA/§504 enforcement. Having a knowledgeable attorney to represent you is very important. One source of free legal representation for a disability rights lawsuit is your state’s Protection and Advocacy Agency. very state has a Protection and Advocacy Agency [List of state protection and advocacy agencies by state - Search (bing.com)](https://www.bing.com/search?q=List+of+state+protection+and+advocacy+agenciesby+state&cvid=138620a041a647bb97dea6306f09360b&gs_lcrp=EgZjaHJvbWUyBggAEEUYOdIBCTE5NTU0ajBqNKgCALACAA&FORM=ANAB01&PC=DCTS)

# **VI. Conclusion**

Now is the time to request the installation of APS in your community. The publication of PROWAG, ACB’s successful litigation in Chicago and New York City and the expanded funding made available under the IIJA to reimburse public agencies for the cost of APS means the time is right to seek APS where you live.