

United States Senate

WASHINGTON, DC 20510

May 16, 2023

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

Dear Secretary Buttigieg,

We are writing today to express the importance of finally bringing our pedestrian infrastructure into the 21st century. One overdue piece of this mission is the Public Rights-of-Way Accessibility Guidelines (PROWAG), which set standards for accessibility in sidewalks, crosswalks, and other rights-of-way. It is critical that the Department of Transportation (DOT), in coordination with the Department of Justice (DOJ), move quickly to finalize and implement these guidelines. We also urge DOT to use this opportunity to take stock of our roadways and ensure that all Americans can move safely throughout their communities.

As established by the Americans with Disabilities Act and the Architectural Barriers Act, the final PROWAG will establish the design standards for accessibility in sidewalks, streets, crosswalks, curb ramps, pedestrian signals, on-street parking, and other parts of the public right-of-way. However, despite the evident need for clear standards, the guidelines have sat in draft form for more than 20 years, with public comments closed since 2013. According to transportation and disability policy experts, some state departments of transportation have knowingly built roads that do not comply with PROWAG draft standards, citing the draft status of the guidelines as insufficient to affirmatively require compliance.

These design guidelines have real-world implications for pedestrians. For example, in marked street crossings where a pedestrian must engage the push button to activate the walk sign, and where a walk sign must be on in order for a pedestrian to legally cross the street (rather than cross illegally), inaccessible push buttons essentially force people with disabilities to break the law and endanger their safety. Pennsylvanians are more than aware of the consequences of inadequate design standards for accessibility. In Pennsylvania, sidewalk closures in Philadelphia have presented significant barriers to people with disabilities, and constituents in Erie have shared images of unnavigable sidewalks. In New Hampshire, the New Hampshire Department of Transportation's ADA Title II transition plan currently relies on the draft guidance, and the lack of final guidance creates the potential for misaligned requirements for accessible construction. Inconsistency between state and federal requirements creates uncertainty and increases future costs, which are serious concerns for smaller localities and states.

Implementation of the Infrastructure Investment and Jobs Act (IIJA) means that streets across the country will finally receive the attention that they have sorely needed, but we should not invest taxpayer dollars into roads and other infrastructure that fail to meet the needs of all Americans.

As the Departments evaluate the regulations needed to finalize PROWAG, we urge you to consider the full scope of what must be done to achieve public right-of-way accessibility. The

goal of PROWAG implementation should be real accessibility for all people, and finalizing these guidelines should give the public the best possible standard to reference. For example, construction zones should not just install detours when sidewalks are closed, but also ensure that those detours are not unduly long and do not place people with disabilities in unsafe situations. State and local departments of transportation make significant efforts to avoid forcing motorists to take a 20-minute detour, and pedestrians, seniors, and those with disabilities should receive the same dignity.


DOT and the Federal Highway Administration (FHWA) should also take the opportunity to evaluate what actions will be needed to bring existing infrastructure into compliance with PROWAG, especially as *Infrastructure Investment and Jobs Act* funds go out. Transportation and disability experts have noted that federally-funded projects have not consistently produced accessible facilities. Therefore, this moment presents an opportunity to take stock of ADA compliance by state departments of transportation and ensure that federal funds do not support routes that do not align with our country's basic promise of accessibility. To that end, please respond to the following questions by June 5, 2023:

1. What is the timeline for DOT and DOJ to finalize PROWAG?
2. How will DOT ensure compliance with PROWAG as discretionary grants continue to flow out of the department?
3. How does DOT enforce the Stewardship Agreement it negotiates with each state department of transportation?
4. Will the Stewardship Agreement that every state department of transportation signs encompass PROWAG when it is made final?
5. How will DOT and DOJ work with states to ensure that existing transition plans and design standards are made compliant with PROWAG?
 - a. What guidance FHWA provided for states on transition plans, particularly regarding the inventory of pedestrian push buttons, snow management, and work zone compliance? Please provide that guidance, and any clarifications sought by, and provided to, state departments of transportation?
 - b. In some situations, non-compliant sidewalks, push buttons, curb ramps, and crosswalks are within the state departments of transportation's right of way, but the maintenance has been passed to cities with a management agreement. How will DOT enforce the courts' determinations that the agency with the right of way is ultimately responsible for ensuring that facilities are compliant?
6. Has FHWA's current system, which is premised on investigating individual complaints, given the agency an adequate understanding of the extent of this problem?

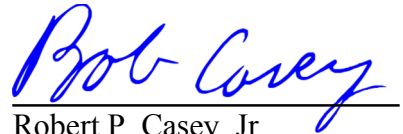
7. Do FHWA division offices have the authority or resources to look into accessibility on a systemic level, including both final products and in the construction zone phase?
8. When FHWA receives a complaint about inaccessibility in a state, are any other roads in the state evaluated for accessibility? Does FHWA examine the state DOTs standards or practices for road design?
9. Will FHWA update the Manual for Uniform Traffic Control Devices to reflect the finalized PROWAG? If so, when will that update take place?

We appreciate your work on this issue, and hope to continue to partner on efforts to improve transportation accessibility.

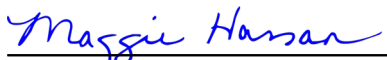
Sincerely,



John Fetterman
United States Senator



Robert P. Casey, Jr.
United States Senator



Margaret Wood Hassan
United States Senator

CC: Attorney General Garland