



ADA Essentials for Transit Board Members

Fundamentals of the Americans with Disabilities Act
and Transit Public Policy



**Americans with Disabilities Act of 1990,
Public Law 336 of the 101st Congress**

July 26, 1990

It is the purpose of this Act:

1. to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
2. to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;
3. to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and
4. to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce in order to address the major areas of discrimination faced day-to-day by people with disabilities.



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This document is disseminated under sponsorship of Easter Seals Project ACTION and the American Public Transportation Association in the interest of information exchange. The ADA aims to ensure non-discrimination for individuals with disabilities, and the application of ADA law is complex. Readers are invited to use this handbook as a summary of the main points of legislation and regulations, rather than as an interpretation of the law. Neither Easter Seals Project ACTION, the American Public Transportation Association, the U.S. Department of Transportation, nor the Federal Transit Administration assumes liability for its content or use of this material.

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Foreword

Why an ADA Handbook?

Nearly ten years ago, I was appointed to serve on the transit board in my home community, where I depend upon our local public transit system for everything, from my writing and editing work to medical appointments to shopping and recreation. I knew the ADA (or so I thought). After my first board meeting, however, I realized I had some homework to do.

While I understood the ADA from a user's perspective and what it fundamentally covered, as a newly appointed transit board member I had no clue how the marriage between a user's point of view and a public transit system's responsibilities under the ADA meshed. My research revealed a wealth of information on accessibility of public

transit in general and paratransit in specific. But none focused on the ADA for the non-practitioners. By reading and asking a lot of people a multitude of questions, bit by bit I began to understand it all. At the back of my mind I often thought, "There must be a better way..."

Two years later, on an elevator at an APTA Transit Board Members Seminar, current APTA Chair M.P. Carter, who at the time was the incoming APTA Transit Board Members Committee Chair, entered my life. Little did I know that that night's elevator ride would change my world and, perhaps, that of all transit board members who desired ADA information that was understandable and geared toward their policymaking role. M.P. Carter envisioned an ADA subcommittee to help board members gain an

understanding of matters, “...related to those aspects of the ADA that are new, different or on the cutting edge.” Later that year, M.P. created the ADA subcommittee and appointed me as its first chair. Both APTA and the small group of transit board members who came together to form this subcommittee were committed to our mission.

Since the ADA subcommittee’s inception, we have met regularly and produced several ADA and public transit accessibility-related professional development workshops and webinars for transit board members. We recognized, however, that board members needed a better starting point from which to learn about the ADA. We set out to write a white paper titled *What Transit Board Members Need to Know About the ADA*. As we accumulated research and ideas, it became clear that in addition to providing a resource guide on the letter of the law, it was also necessary to provide a window into the *spirit* of the law.

Thus this handbook, which evolved from a brief white paper to a 68-page book, includes more than a simple listing of the key public transportation tenets of the ADA. *ADA Essentials for Transit Board Members* also provides a historical context within which the disability civil rights movement and the Americans with Disabilities

Act—truly an American civil rights law—was rooted. The ADA held as its primary goal the end of civil rights discrimination against people with disabilities.

After 25 years as a disability-rights advocate and nearly ten years as a transit board member, I have witnessed many changes in both the public transportation industry and the world at large. Now, we all have the option to be customers of a public transportation system that is one of the most essential guarantors of the basic rights we share with all Americans—freedom to pursue our lives as we wish. I hope that through this handbook, you as a transit board member will both learn and be inspired to help ensure that *all* Americans have access to public transportation with which to pursue their lives. As we have stated in these pages, transit board members have a unique opportunity to help ensure that the ADA is not only followed in principle and letter but also in spirit. We have an opportunity to help create more accessible, livable communities for us all. It is to you that we dedicate this work.

This handbook has been a labor of love born through long hours of researching content and writing, editing, and reviewing its pages. I would like to offer my sincere thanks to the many people who have worked so diligently and collaboratively in

the development of this project: The American Public Transportation Association (APTA), and in particular my mentor and friend, M.P. Carter, for their vision and outstanding support of the ADA subcommittee and the publication of this handbook. Lynne Morsen, APTA's senior program Manager and advisor to the Transit Board Members ADA subcommittee, for her excellent guidance and patient oversight. Mary Leary, who as senior director of Easter Seals Project ACTION, recognized the broader long-term significance of the white paper and eagerly adopted it for publication. Easter Seals Project ACTION staff members: C. Marie Maus, director of marketing & communications, and Rachel Beyerle, resource & publications manager, for their outstanding work in turning the concept into reality through their talented writing, editing, and creative skills. ADA subcommittee members, present and past, and Project ACTION's National Steering Committee members, whose outstanding work and feedback were invaluable. LAKETRAN general manager Ray Jurkowski, whose encouragement and exceptional

support of my work with APTA made it all possible. It has been an honor and a privilege not only to chair this subcommittee for APTA and to drive the development of this handbook, but also to work with so many outstanding people who have dedicated themselves to furthering accessible public transportation throughout the public transit industry. It has been a journey I will forever cherish and be grateful to have experienced with all of you.

**Donna P. McNamee, chair, APTA
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Donna P. McNamee is the chair of APTA's Transit Board Members ADA Subcommittee; the chair of the ESPA National Steering Committee, a member and past president of the LAKETRAN Board of Trustees; a member of the Ohio Department of Transportation's 21st Century Transportation Priorities Task Force; a board member of the Ohio-based TransportationMATTERS; a transit-dependent freelance writer and editor; and a national disability rights advocate who has worked for 25 years in support of civil rights for people with disabilities.

Notes



Introduction

The Americans with Disabilities Act of 1990 [Public Law 101-336], recognized as one of the most significant federal civil rights laws enacted in the 20th century, set the foundation for guaranteeing equal opportunity for people with disabilities in employment; public transportation; public accommodations, such as stores, shopping malls, restaurants, and hotels; government services; and telecommunications. Under the ADA, all programs, activities, and services provided by state and local government, including public transportation, are prohibited from discriminating on the basis of disability, regardless of whether the entities receive federal financial assistance.

Since its enactment, the ADA has opened doors to people with disabilities by changing the nation's built environ-

ment and by enabling people with disabilities to independently travel, work, learn, and enjoy leisure time in their communities. In addition, the ADA has increased public awareness of how accessibility to employment, transportation, public accommodations, and communication systems is important to everyone, not just those with disabilities.

Easter Seals Project ACTION and the American Public Transportation Association have developed this handbook, *ADA Essentials for Transit Board Members*, as a resource guide on the history of the Americans with Disabilities Act, the basic requirements of the ADA law as it pertains to public transit operations, and how the ADA is implemented locally by public transportation systems.

Transit board members have an integral policy and decision-making

role in ADA implementation in their communities.

This handbook was created for public transit system board members to enhance their knowledge of the ADA as public policy and how the ADA affects public transit vehicle and facilities design as well as public transit service delivery. Board members will also gain an understanding of the federal role in administering the ADA. Finally, the handbook addresses the evolution of the ADA and the nationwide movement toward coordinated transportation planning, mobility management, and universal design.

Vehicle accessibility is just one piece of providing accessible public transit service. The accessibility of public meetings, availability of accessible pathways, the ADA compliance process, paratransit service and eligibility, and sensitivity to customers with disabilities are additional areas that board members must consider.

This handbook serves as a starting point for understanding the connection between the ADA and public transportation. By understanding what makes transit vehicles and facilities accessible, board members should achieve a greater understanding of the service needs of the community as well as how ADA implementation affects the annual financial and operational decisions of a public transportation system.

This handbook includes four major sections. The first provides a **historical perspective and timeline** of legislation leading up to the passage of the ADA, the second part briefly outlines the **ADA law**, what each title of the law addresses, as well as its administration and oversight. The handbook also explains **how the ADA is implemented** by public transportation operators and provides an overview of more **recent initiatives**—health and human service coordination, mobility management, and universal design—which, while not a part of the law, have been spurred by the spirit of the ADA. In addition, the handbook includes a **resource list** for ADA-related public law, Web sites, and training and technical assistance. The handbook contains public transportation terms that may be new for board members. To assist the reader, a **glossary** is included in Appendix A.

Although the ADA clearly provides minimum standards addressing discrimination against individuals with disabilities, the application of ADA law is complex. It would be impossible to capture all facets of the ADA in this brief handbook. Readers should consult additional resources and access legal expertise when making ADA-related decisions.



History: Movements Toward the ADA

Several landmark federal acts and rulings laid the foundation for the ADA. Milestones in the development and implementation of the ADA include the following:

Civil Rights Act of 1964

The Civil Rights Act prohibited discrimination on the basis of race, sex, religion, and national origin. The law applied to voting, public accommodations, public facilities, public education, and federally-assisted programs. Title VI of the Act addressed public transportation agencies and discrimination based on race, color, and national origin. Although it is considered the beginning of the movement that would eventually lead to the ADA, the Civil Rights Act did not protect people with disabilities.¹

Architectural Barriers Act of 1968

The ABA required that buildings constructed or altered by or on behalf of the United States government, leased by the federal government, or financed by federal grants or loans, be designed and constructed to be accessible to people with disabilities.

Rehabilitation Act of 1973

The Rehabilitation Act is considered the cornerstone piece of legislation leading to inclusion of people with disabilities in the U.S. This act noted that physical and communication accessibility is crucial to the integration of people with disabilities into every facet of society. In 1973, Congress linked access policy to civil rights and created a federal enforcement and technical assistance agency—the Architectural

and Transportation Barriers Compliance Board—commonly known as the Access Board—to establish design guidelines for facilities covered by the Architectural Barriers Act and the ADA. This act prompted public transportation officials to become even better advocates with local officials to help ensure that paths to public transit facilities are accessible.

U.S. Department of Transportation Rulings of 1979

U.S. DOT Section 504 implementing regulations required that federally funded transportation facilities and programs should be accessible to all, “regardless of handicap.”

Enactment of the ADA

In 1986, the National Council on Disability (NCD) issued a report, *Toward Independence*, recommending a comprehensive law requiring equal

opportunity for people with disabilities. The NCD drafted the first version of the Americans with Disabilities Act in 1988. The ADA passed both the Senate and House in July 1990 and was signed into law by President George H.W. Bush on July 26, 1990, in the largest such signing ceremony in history.²

When the ADA was enacted in 1990, there were approximately 43 million Americans with disabilities. Recent U.S. Census figures indicate that the number has grown to approximately 55 million people.³

ADA Amendments Act of 2008

Since its enactment in 1990, the ADA has been subject to judicial interpretation and review in the court systems. The ADA Amendments Act of 2008 overturned Supreme Court and lower appellate court decisions as to what constitutes a disability. The amendments primarily affect employment provisions in the original law.



Why the Americans with Disabilities Act was Established

The ADA was created to provide basic civil rights protections for people with disabilities and is guided by Congressional findings that physical or mental disabilities do not diminish an individual's right to fully participate in all aspects of society, and that societal isolation, segregation, and discrimination remain a serious and pervasive social problem. Among other findings, Congress states that "...the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency..." for people with disabilities.⁴

The passage of the ADA resulted from a long struggle by Americans with disabilities to gain equal protection under law in our society. Census

data, national polls, and other studies had long documented the severe social, vocational, economic, and educational disadvantages of people with disabilities.⁴ Besides widespread discrimination in employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services, people with disabilities faced the additional burden of having little or no legal recourse to redress their multidimensional exclusion.⁵

As boldly identified in the law itself, the purpose of the ADA is to provide a "clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities"; to provide "clear, strong, consistent, enforceable standards

addressing discrimination against individuals with disabilities”; to “ensure that the Federal Government plays a central role in enforcing the standards established in this Act”; and to invoke Congressional authority “in order to address the major areas of discrimination faced day-to-day by people with disabilities.”⁴ Physical barriers to employment, transportation, public accommodations, public services, and telecommunications impose economic and social costs on American society and deter efforts to provide education, work, leisure activities, and rehabilitation programs for people with disabilities.

The goal of the ADA is to allow people with disabilities the opportunity to freely participate in society and the nation’s commerce. The ADA seeks to accomplish that goal by guaranteeing equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications.⁶

As the National Council on Disability observed regarding ADA’s

progress in its 10th anniversary year publication, *Promises to Keep*, “Not only did ADA directly address discrimination in terms of its personal impact on the lives of people with disabilities, it also addressed the huge economic toll on the nation resulting from...billions of dollars in unnecessary expenses resulting from dependency and non-productivity.” These problems resulted not only from the barriers created by lack of access to education and employment. Federal policy itself perpetuated dependency through disability programs “reflect[ing] an overemphasis on income support and an under-emphasis on initiatives for equal opportunity, independence, prevention, and self-sufficiency.”⁵

The ADA’s public transportation requirements for service, vehicles, systems, buildings, and facilities; alternative formats for information; and accessible pathways are means to create integration so that individuals with disabilities can not only travel to work, school, and other activities, but can do so in a non-segregated way.



The ADA Law

The ADA's Five Titles

- I. Employment
- II. Public Services and Transportation
- III. Public Accommodations and Services Provided by Private Entities
- IV. Telecommunications
- V. Miscellaneous

Under the ADA, the U.S. Department of Justice (DOJ), the U.S. Equal Employment Opportunity Commission (EEOC), the U.S. Department of Transportation (DOT), and the Federal Communications Commission (FCC) have primary federal enforcement responsibilities as the law applies respectively to private employers, state and local governments, all facilities and programs

open to the public, and providers of telecommunications equipment and services. Other federal agencies with ADA responsibilities include the U.S. Access Board, U.S. Department of Agriculture, U.S. Department of Education, U.S. Department of Health and Human Services, U.S. Department of Housing and Urban Development, U.S. Department of the Interior, and the U.S. Department of Labor.

The transportation requirements set forth in Title II of the ADA are just one piece of the ADA law that is applicable to public transit systems. This chapter summarizes the key minimum requirements of all of the titles of the ADA and identifies requirements that do not fall directly under the purview of transportation but affect public transit employees, information, and telecommunications.⁶

In addition, this chapter provides information on federal agency roles in administering the ADA and providing ADA-related technical assistance. The last section of the chapter focuses on the Federal Transit Administration (FTA) Office of Civil Rights' responsibilities regarding the ADA.

General ADA requirements regarding transportation:

The following requirements apply to all public or private entities that must comply with U.S. DOT regulations:

- No entity may discriminate against an individual with a disability in connection with the provision of transportation service.
- An individual shall not be denied use of a transportation service provided to the general public if the individual is capable of using that service.
- An entity must not refuse to serve an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees or others.
- Special charges (other than those authorized by U.S. DOT ADA regulations) may not be imposed on individuals with disabilities, including individuals using wheelchairs, for providing

transportation services. An individual with a disability, including people using wheelchairs, shall not be charged a fee higher than the posted or applicable rate for transportation services. Fees may not be charged for the complementary paratransit service eligibility determination process.

- An individual with a disability shall not be required to be accompanied by an attendant nor be required to use designated priority seats if the individual chooses not to do so.
- An individual shall not be denied transportation service because a provider's insurance conditions, coverage, or rates are based on the absence of individuals with disabilities.

TITLE I—EMPLOYMENT

Key requirement:

- An employer, employment agency, labor organization or joint labor-management committee may not discriminate on the basis of disability in regard to job application procedures, hiring, advancement or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

Regarding transportation:

- A transportation employer may require that employees comply with standards established in U.S. DOT regulations.
- Requirements do not encourage, prohibit, restrict, or authorize the lawful exercise of transportation employers to test employees for illegal drug use or on-duty alcohol impairment nor to remove employees in safety-sensitive duties who test positive for illegal drug use or on-duty alcohol impairment.

Although the ADA does not stipulate requirements related to drug use or alcohol impairment or testing, U.S. DOT regulations *do* address these issues. Board members are encouraged to familiarize themselves with U.S. DOT and FTA Safety and Security regulations pertaining to substance abuse.

TITLE II—PUBLIC SERVICES AND TRANSPORTATION

Key requirement ensures non-discrimination on the basis of disability in receipt of services, when basic eligibility criteria are met, and in employment by public agencies:

An individual with a disability must not be excluded from participation in or be denied benefits of services, programs or

activities or subject to discrimination by a public agency.

Regarding transportation:

The ADA's requirements for public transportation providers are generally the same whether they are public agencies or private contractors.

Standards apply to facilities and vehicles, stations, and rail passenger cars and must meet the U.S. Access Board's guidelines as incorporated into U.S. DOT ADA regulations. Historic fixed-route vehicles that are operated solely on route segments that are included in the National Register of Historic Places, such as the San Francisco cable cars, are subject only to modifications that do not significantly alter their historic character.

■ Fixed-Route Bus Service

- ◆ All new vehicles—purchased or leased—must be accessible to individuals with mobility, cognitive, and sensory (hearing/sight-related) disabilities, including persons who use wheelchairs or mobility devices. Accessibility features are required to assist riders.
- ◆ All used or remanufactured vehicles must be accessible to individuals with mobility, cognitive, and sensory (hearing/sight-related) disabilities,

including persons who use wheelchairs, unless good-faith efforts (as defined by U.S. DOT ADA regulations) or an engineering study indicate that specific requirements cannot be met.

■ **ADA-Complementary Paratransit**

A fixed route system (bus or rail) must provide paratransit and other transit services with service levels (including response times, trip length, and fares) that are comparable to the public transportation services provided to people without disabilities.

■ **Demand Response Systems**

Demand response service is public transit provided by bus, van, car, or taxi at the request (demand) of the customer. While the term *paratransit* is often used to describe any type of demand-responsive service, both terms have specific individual meanings under ADA. In this context, demand response refers to general-purpose *call-a-ride* services provided to the general public. Demand response service may be available in communities that do not provide fixed-route public transit or in larger communities as an addition to fixed-route and ADA complementary paratransit service.

While the accessibility requirements for vehicles are the same whether the service is fixed-route or demand responsive, the vehicle acquisition requirements differ in a significant manner. While all fixed-route vehicles must be accessible, public entities operating a demand-responsive service for the general public may acquire an inaccessible vehicle if they can demonstrate that the level of service available to persons with disabilities (including wheelchair users) is equivalent to the level of service available to persons without disabilities. This includes response times, fares, geographic area, hours and days of service, reservations capacity, and so forth. Before an inaccessible vehicle is acquired, a certificate attesting to the equivalency of the service must be filed with the Federal Transit Administration or the appropriate state program office.

■ **Rail**

- ◆ **Stations:** All new stations must be readily accessible to and usable by persons with disabilities, including wheelchair users. Any alterations to existing stations and paths of travel to and from altered areas must

be accessible. In addition, all rail systems in existence as of July 26, 1990 were required to engage in a planning and public participation process to develop a plan to ensure that certain key stations would be made accessible by July 26, 1993, whether or not alterations were otherwise planned unless an extension was granted by the Federal Transit Administrator. Extensions were permitted through July 26, 2020.

◆ **Key stations are typically:**

- transfer stations
- major interchange points with other transportation modes
- stations serving major activity centers
- stations with passenger boardings that exceed average station boarding by at least 15 percent
- end stations

■ **Rail vehicles**

All new rail vehicles must be accessible to and usable by persons with disabilities, including wheelchair users. All used rail vehicles must be accessible unless

a good-faith effort meeting the criteria specified in U.S. DOT ADA regulations fails to identify suitable used vehicles. All remanufactured rail vehicles must be made accessible, unless an engineering analysis demonstrates that meeting a specific requirement would have a significant adverse effect on the vehicle's structural integrity.

As of July 26, 1995, each public entity operating rail service was required to ensure that at least one car on every train was accessible to and usable by persons with disabilities, including wheelchair users. If a public entity is establishing a new rail system and intends to acquire used or remanufactured rail vehicles, and suitable accessible vehicles are unavailable, a sufficient number of used or remanufactured vehicles must be modified to ensure that at least one car is accessible per train.

Historic train cars operated solely on a rail segment included on the National Register of Historic Places require only those modifications necessary per the law and only those that do not significantly alter the historic character of such vehicles.

■ **Commuter Rail**

- ◆ Commuter rail service is subject to the same provisions as light

rail and rapid rail, in terms of vehicle accessibility, acquisition, and at least one accessible car per train; facility construction and alteration; and key stations. However, because of the nature of commuter rail service there are a number of important differences.

- ◆ New commuter rail cars must be accessible to people with disabilities including people using wheelchairs, provide space to fold and store a wheelchair, and a seat to which a passenger who uses a wheelchair can transfer. If restrooms are provided for any passengers, accessible restrooms are required.

■ **Intercity Rail**

- ◆ All intercity rail stations shall be accessible for people with disabilities, including those who use wheelchairs, by July 26, 2010.
- ◆ Intercity rail transportation must provide on each train a number of wheelchair locations equal to not less than the total amount of single-level cars in the train, with no more than two such locations in any one car.

- ◆ Intercity rail transportation must also provide on each train a number of spaces to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than the total number of single-level cars in the train, with no more than two such locations in any one car.
- ◆ New intercity cars are required to be accessible.
- ◆ The ADA includes accessibility standards for single and bi-level dining cars, dining service, and rail car restrooms, as well as requirements for providing aids and services to ensure equivalent food service to persons with disabilities.

■ **New Public Transit Facilities and Alteration of Existing Facilities**

- ◆ New facilities must be accessible to and usable by people with disabilities including people who use wheelchairs.
- ◆ To the maximum extent feasible, when existing facilities are altered, the altered portions must be readily accessible upon completion.

- ◆ When alterations are made that affect a primary function area, the path of travel to the area, bathrooms, telephones, and drinking fountains must also be made readily accessible to and usable by people with disabilities, including those who use wheelchairs, unless it would be disproportionate to do so.
- ◆ The terms, “to the maximum extent feasible,” “primary function,” and “disproportionate” have specific meanings under U.S. DOT ADA regulations; see Code of Federal Regulations Title 49, Part 37.43 (49 CFR Part 37.43).

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

Public accommodations (e.g., lodging, restaurants, theaters, professional and personal services, public gathering places, schools, community centers, and recreation facilities)

Key requirements prevent discrimination on the basis of disability in services and accommodations:

- Individuals with disabilities shall not be discriminated against on the

basis of disability in the services, facilities, privileges, advantages, or accommodations of any place of public accommodation. Eligibility criteria that tend to exclude those with disabilities may not be used.

- People with disabilities shall receive goods, services, and accommodations in the most integrated setting appropriate.
- Reasonable modifications shall be made to policies, practices, and procedures to provide services to people with disabilities.
- Architectural and structural communication barriers in existing facilities shall be removed where possible. Such existing structures may include but are not limited to telephones, drinking fountains, and paper towel dispensers mounted at a height inaccessible to people using wheelchairs, deep pile carpeting or unpaved ground surfaces. Examples of structural communication barriers include signage that is inaccessible to people with visual impairments or audible alarm systems that are inaccessible to people with auditory impairments.

ADA transportation regulations for Title III entities are incorporated into 49 CFR Part 37 and 38, including specific requirements for vehicles and facilities,

new acquisitions, and alterations. There are specific provisions for motorcoach operators, taxi operators, airport shuttles, and vanpools.

TITLE IV—WIRE OR RADIO COMMUNICATION

Telecommunications services for individuals with hearing or speech impairments

Key requirements mandate accessible telecommunications to the extent possible:

- The Federal Communications Commission (FCC) shall ensure that interstate and intrastate telecommunications relay services are available to the extent possible, and in the most efficient manner, to those individuals in the U.S. with hearing and speech impairments.
- FCC regulations:
 - ◆ set functional requirements, guidelines, and operations procedures for telecommunications relay services
 - ◆ set minimum standards
 - ◆ require telecommunications relay services to operate 24 hours a day, 7 days per week for FCC-mandated relay services
 - ◆ state that telecommunication device for the deaf (TDD) users pay rates not greater than rates paid for equivalent communication services taking into account the time of day, and distance
 - ◆ prohibit TDD operators from refusing calls or limiting the length of calls
 - ◆ prohibit relay operators from disclosing the content of any calls
 - ◆ prohibit relay operators from intentionally altering a relayed conversation.
- Any television public service announcement produced or funded in whole or part by a federal agency shall include closed captioning of the verbal content of the announcement.
- A broadcast station licensee shall not be held responsible for closed captioning if the announcement fails to include it.

Regarding transportation:

Public transportation operators must make communications and information available in accessible formats and technology, including TDD technology for people who are deaf or hard of hearing.

TITLE V—MISCELLANEOUS PROVISIONS

Key requirements:

- No individual with a disability is required to accept an accommodation, aid, service, opportunity or benefit that the individual chooses not to accept.
- States are not immune from an action in federal or state court for a violation of federal requirements.
- Retaliation or coercion is prohibited against a person who has opposed an act or practice made unlawful by the ADA, filed a charge regarding such a practice, or testified, assisted with, or otherwise participated in an investigation of such a practice.

Notes



Federal Agency Responsibilities

The U.S. DOT and the Federal Transit Administration (FTA) provide oversight, ensure compliance, and offer technical assistance related to the ADA's public transportation requirements. U.S. DOT conducts these activities pursuant to the Code of Federal Regulations Title 49 Parts 27, 37, and 38, which address transportation services, facilities construction, vehicles, complementary paratransit, equipment maintenance, training, and passenger information.⁷

The United States Access Board, a federal agency, is charged with establishing minimum guidelines to ensure that the ADA requirements are applied to buildings and facilities, passenger rail cars, and vehicles. The guidelines include accessibility requirements for architecture and design, historic buildings,

transportation, and communication; they do not directly apply to the public, but serve as the minimum requirements for standards adopted by other federal agencies, including the U.S. Department of Justice and the U.S. DOT—the two agencies responsible for the enforcement of the ADA's Title II and III. Although the U.S. DOJ and U.S. DOT may establish standards that exceed the Access Board guidelines, the standards must be consistent with the Access Board's minimum guidelines.⁸

The federal agencies responsible for implementing the ADA are required to provide technical assistance to individuals and entities on the rights and responsibilities under the ADA. The agencies provide grants to fund the development and dissemination of technical assistance. Federal agencies responsible for administering, enforcing,

or providing technical assistance on the ADA include:⁶

1. Federal Communications Commission (FCC)

Title IV laws on telephone relay service www.fcc.gov/cgb/dro/trs.html and closed captioning

2. U.S. Access Board

Accessibility standards for vehicles and facilities. www.access-board.gov.

3. U.S. Department of Agriculture (USDA)

Assistant Secretary for Civil Rights—Title II complaints regarding federally funded USDA programs and services. www.ascr.usda.gov/

4. U.S. Department of Education (ED)

Office for Civil Rights—Title II discrimination laws regarding public services funded through the U.S. ED, including resolving complaints and providing technical assistance. www.ed.gov/about/offices/list/ocr/index.html

5. U.S. Department of Health and Human Services (HHS)

Office for Civil Rights—Title II laws and discrimination complaints related to state and local government health and social services agencies. www.hhs.gov/ocr/civilrights/index.html

6. U.S. Department of Housing and Urban Development (HUD)

Fair Housing and Equal Opportunity—Title II laws as relates to state and local public housing, housing assistance, and housing referrals. www.hud.gov/offices/fheo/FHLaws/index.cfm

7. U.S. Department of the Interior (DOI)

Public Civil Rights—Title II complaints about parks and recreation-related services and education program discrimination. www.doi.gov/diversity/civil_rights.html

8. U.S. Department of Justice (DOJ)

www.ada.gov

9. U.S. Department of Labor (DOL)

www.dol.gov

10. U.S. Department of Transportation (DOT)

- ◆ The **Office of the Secretary of Transportation (OST)** is responsible for developing and issuing ADA regulations concerning transportation.

- ◆ The **Federal Highway Administration** (FHWA), part of U.S. DOT, ensures ADA compliance in the public right-of-way (roadway travel lanes, medians, planting strips, sidewalks) and on projects using federal surface transportation funding. www.fhwa.dot.gov
- ◆ The **Federal Railroad Administration** (FRA), part of U.S. DOT, administers intercity and commuter rail compliance with ADA and Title VI requirements. Part of FRA's mission is to ensure non-discriminatory, equitable, accessible, and safe intercity rail transportation. www.fra.dot.gov
- ◆ The **Federal Transit Administration** (FTA) Office of Civil Rights administers Title II public transportation laws relative to public transportation services and facilities for those with disabilities. www.fta.dot.gov/civilrights

FTA's Office of Civil Rights

The Federal Transit Administration is responsible for civil rights compliance and monitoring implementation to ensure the non-discriminatory provision of public transit services for

all Americans.⁹ FTA's mission includes ensuring "equitable, accessible, and safe public transportation (thereby) enhancing the social and economic quality of life for people with disabilities." In addition to public transportation, FTA's role in ADA compliance concerns equal employment opportunity and the disadvantaged business enterprise program. The Office of Civil Rights is empowered to provide ADA technical assistance and conduct compliance reviews.

FTA's Office of Civil Rights Responsibilities

Provide ADA technical assistance through:

- Civil rights workshops
- Dissemination of U.S. DOT disability law guidance
- FTA bulletins
- Toll-free assistance line for questions regarding public transportation for persons with disabilities
- ADA courses through the National Transit Institute (NTI) www.ntionline.com
- Transit Cooperative Research Program (TCRP) projects www.tcrponline.org

Administer ADA compliance by:

- Collaborating with other federal agencies such as the U.S. DOJ
- Conducting periodic reviews of public transit agencies' fixed-route and ADA-complementary paratransit services to ensure ADA compliance and investigating individual complaints of discrimination

ADA Compliance Reviews

Compliance reviews conducted by the Office of Civil Rights assist the public transit agency and FTA in determining whether the service provided is delivered in a manner consistent with the U.S. DOT ADA regulations. The ADA fixed route and paratransit reviews include examining policies and standards regarding service statistics, service records, and operating documents. The reviews also include observing aspects of service delivery. Input is gathered from local disability organizations and customers, including riders who have filed ADA complaints with FTA. Technical assistance is provided for the public transit operator to monitor services for ADA compliance.

The types of ADA compliance reviews are:

1. Fixed-route, onboard stop announcements and route identification
2. Fixed-route lift maintenance and operation
3. Key and new rail station reviews
4. ADA complementary paratransit service focusing on the ADA-complementary paratransit service criteria, eligibility process, and service delivery to determine whether the service is free of capacity constraints.

Capacity constraints are prohibited limitations on service. Examples include:

- Restrictions on the number of trips
- Waiting lists for trip requests or stand-by lists for trip cancellations
- Any operational patterns or practices that significantly limit availability of service, such as patterns or practices of untimely pickups, trip denials, missed trips or excessive trip lengths
- Untimely drop-offs and telephone/reservation access problems (long hold times and busy signals) as capacity constraints¹⁰

The paratransit eligibility process and eligibility criteria are discussed in further detail in the next section on ADA regulations.

The FTA Office of Civil Rights makes every effort to give public transportation agencies 45 days' notice of lift and paratransit reviews to allow adequate time for the agency to collect the data needed prior to the review team's on site visit.

ADA compliance review final reports and transmittal letters for lifts, stops, and paratransit reviews may be found on the FTA web site at *www.fta.dot.gov/ada*.

FRA's Office of Civil Rights

The Federal Railroad Administration Office of Civil Rights works to ensure the non-discriminatory use of federal funds by recipients of FRA's assistance, including their sub-recipients and contractors. Compliance, review, and assessment areas include meeting Title VI requirements of the 1964 Civil Rights Act, an Equal Employment Opportunity program, Disadvantaged Business Enterprise (DBE), and ADA for intercity rail services. FRA does not have statutory authority to administer a DBE program, however, FRA supports objectives of DBE programs and DBE objectives of all FRA grantees.

Notes



ADA Regulations and ADAAG Guidelines Affecting Operations, Customer Service, Vehicles & Facilities

Public transportation systems implement the ADA by providing accessible services, vehicles and rail cars; allowing service animals on board; providing information in alternative formats for individuals with visual, auditory, or cognitive impairments; providing accessible facilities, stations, pathways, and stops; and complying with other requirements such as announcing stops. These create integration so that individuals with disabilities travel in a non-segregated way. In addition, the requirements support customer service.

Under the ADA, all activities provided or funded by state and local governments must not discriminate on

the basis of disability, whether or not the entities receive federal funding. Please refer to the ADA Law chapter for the general summary of Titles I-V of the ADA. Compliance with U.S. DOT ADA regulations is also required under the Code of Federal Regulations Title 49, Part 27 (49 CFR Part 27) as a condition of eligibility for recipients of federal funding.

This chapter summarizes 49 CFR Part 37 on transportation services and facilities (e.g. buildings, stations and bus stops), and Part 38 on vehicles and systems. Compliance with these ADA requirements is also a basic condition of eligibility for federal funding. The ADA Accessibility Guidelines (ADAAG)

developed by the U.S. Access Board for stations, bus stops, and paths of travel are included in this summary.

IMPROVEMENTS SINCE THE PASSAGE OF THE ADA: ONE EXAMPLE

An example of progress since the 1990 enactment of the ADA law is vehicle accessibility. In 1991—the baseline year—43 percent of buses were accessible. By 2009, the nation’s bus fleet was 98 percent accessible; 99 percent of heavy rail, 83 percent of commuter rail, and 77 percent of light rail vehicles were accessible.¹¹

Overall operational requirements

- **Public and private organizations must meet the ADA:** A public agency entering into a contract or other arrangement with a private entity to operate services must ensure that the private entity meets all ADA requirements for the public entity.
- **Rider information must be accessible:** A public transportation system must provide adequate information on services in accessible formats and technology (e.g., timetables in braille or audio formats and telecommunication device for the deaf (TDD) services).
- **Assistance equipment and amenities must be in operating condition:** Equipment and facilities, such as lifts, wheelchair securement devices, elevators, signage, and other communication systems, should be in operating condition. If a feature is out of order, it must be repaired promptly. In the meantime, the provider shall take reasonable steps to accommodate individuals with disabilities.
- **Public transit staff must use assistance equipment:** Vehicle operators and staff must make use of the accessible features.
- **Allow time to board:** Public transit operators must allow adequate time for individuals with disabilities to board and alight from vehicles.
- **Service animals allowed:** Service animals may accompany individuals with disabilities in vehicles and facilities.

- **Priority seating and signs:** Fixed-route and rail systems must have signs designating priority seating for those with disabilities. Contrast and type size are specified. On fixed-route buses, at least one set of forward-facing seats must be marked as priority seating.
- **Operator training:** Operators must receive training to proficiency, as appropriate to their duties, to operate vehicles and equipment safely, and properly assist individuals with disabilities in a respectful and courteous way, and provide appropriate attention to the differences among individuals with disabilities.
- **Accessible formats:** Public transit operators must make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

Fixed-route bus service requirements

- **Stop announcements:** For all fixed-route services, stops shall be announced at transfer points, major intersections, destination points, and other points sufficient to permit people with visual impairments to orient themselves to their location. In addition, the operator must announce any stop at the request of a rider with a disability. For buses over 22 ft., a public address system is needed. (Most standard coaches are 35 or 40 ft. long.) The public address system allows driver or voice annunciator (recorded speech messages) stop announcements and messages to be heard throughout the vehicle.
- **Destination information on vehicles:** Vehicles shall have destination and route information on the front and boarding side of a vehicle. There are size requirements for the numbers and letters on the route information signs.
- **Fixed-route riders with visual impairments:** There must be a means by which a rider with a visual impairment can identify the proper vehicle or be identified to the operator as a person seeking a ride on a particular route.
- **Lifts/ramps:** Vehicles need a boarding device (e.g., lift or ramp) so a wheelchair or mobility-device user can reach a securement location onboard. The wheelchair lift platform must be at least 30"

wide by at least 48" long and designed to accommodate at least 600 lbs. The lift platform must be clear of obstructions, and must have barriers to prevent wheeled mobility devices from rolling off the platform during operation. Ramps must be at least 30" wide with the least slope possible, equipped with edge barriers at least 2" high to prevent mobility device wheels from slipping over the side, and capable of accommodating at least 600 lbs.

- **Illumination, contrast, and slip-resistant surfaces:** Stepwells and doorways must be illuminated. Doors and steps need slip-resistant surfaces. Ramp boarding edges need a contrasting band of color.
- **Farebox:** Fareboxes must be as far forward as possible, not obstructing passenger flow.
- **Turning room, handrails, and pull cords for wheelchairs:** There must be sufficient turning and maneuvering space for wheelchairs. Handrails and stanchions (vertical rails) in the vehicle must be accessible. Overhead handrails are needed on buses longer than 22 ft. Stop controls, such as pull cords within reach of wheelchair securement locations, are needed on the larger vehicles.

- **Bus Rapid Transit systems:** BRT follows fixed-route service requirements.

ADA-complementary paratransit service requirements

- **Must provide paratransit within $\frac{3}{4}$ mile of fixed-route corridor and during the same hours of operation as a fixed-route service:** ADA-complementary paratransit service must be provided where fixed-route service exists. The hours of service must be the same and it must be offered within $\frac{3}{4}$ mile on both sides of the fixed route, which is considered the maximum distance that the majority of bus riders travel to a fixed-route stop.
- **For rail, paratransit provided from origins within a $\frac{3}{4}$ -mile radius of stations to destinations within a $\frac{3}{4}$ -mile radius of any other station, during the same hours of service:** For rail, the same hours rule applies, and the $\frac{3}{4}$ -mile requirement pertains to radii around stations (based on local circumstances, the rail paratransit service area can be expanded to a radius of up to 1½ miles around end stations). Only trips between points within the service areas surrounding different rail stations are required to

be provided; trips between points within the service area of a single station would be analogous to a trip in which the rider boards and disembarks from the train within the same station (though in many cases such a trip would be within the service area required for bus routes serving such stations).

- **Paratransit service:** Service should be from the user's point of origin to his or her destination point.¹² In addition, eligibility is determined based on the paratransit applicant's trip origin and destination rather than place of residence. U.S. DOT guidance on the origin-to-destination nature of paratransit service is available on the FTA ADA Web site at www.fta.dot.gov/ada.
 - ◆ Paratransit rides must be provided no more than an hour before or after a requested departure time if the reservation was made the previous day. Pick-up times may be negotiated.
 - ◆ Service may be suspended for riders who establish a pattern or practice of missing scheduled rides (but not for reasons beyond the customer's control, such as scheduling problems, late pickups, and operational problems on the part of the transit provider or a family emergency or sudden turn for the worse in a variable medical condition).
- ◆ A rider's personal care attendant (PCA) cannot be charged for complementary paratransit service (49 CFR Part 37.131(c)(3)).
- ◆ One other individual accompanying the rider must be provided service, and may be charged the same fare as the rider. If the rider is accompanied by a PCA, service must be provided to one other individual in addition to the PCA.
- ◆ Additional individuals accompanying the customer may travel if there is space in the vehicle and if the inclusion of these individuals will not result in denial of service to another ADA-eligible paratransit customer.
- ◆ In order to be considered as "accompanying" the rider, the other individual(s) must have the same origin and destination as the customer.

ADA-complementary paratransit eligibility requirements

- **Who may be eligible?** The following individuals are eligible for ADA complementary paratransit service, whether their disability is permanent or temporary:
 - ◆ Any individual with a disability who is unable to independently use the fixed-route service because of a physical or mental impairment (wheelchair lifts and operator assistance can be expected).
 - ◆ Any individual with an impairment-related condition that affects their ability to navigate natural or architectural barriers when traveling to/from a bus stop or station.
 - ◆ Any individual with a disability who requires an accessible bus or train when one is not available.
 - ◆ Visitors who present documentation that they are eligible for paratransit in the jurisdiction where they live or who otherwise certify that they are unable to independently use fixed-route transit. Visitors are eligible for any combination of 21 days during any 365-day period.
- Public providers of ADA complementary paratransit must establish a process for determining eligibility for paratransit service. Required elements are:
 - ◆ The process must strictly limit eligibility to individuals included in the categories listed in 49 CFR Part 37.123.
 - ◆ All materials in the process must be in accessible formats upon request.
 - ◆ If the eligibility determination process goes on longer than 21 days, applicants are presumed eligible and must receive service (until/unless the applicant is later found to be ineligible).
 - ◆ The determination of eligibility, including specific reasons for denial, must be in writing.
 - ◆ Each eligible individual must receive documentation from the paratransit provider that states he or she is ADA paratransit eligible.
 - ◆ For those determined to be ineligible or conditionally eligible (e.g., unable to use fixed-route service for some trips due to weather or variable health conditions) there must be an appeal process.

- Optional elements in the eligibility process may include:
 - ◆ In-person interviews and/or functional assessments, or some form of medical or professional verification, provided these are not overly burdensome to the applicant.
 - ◆ Requiring individuals to be periodically recertified for ADA paratransit eligibility at reasonable intervals.

Recommended reference publications on ADA complementary paratransit service and the eligibility process include Easter Seals Project ACTION's *Determining ADA Paratransit Eligibility: An Approach, Guidance and Training Materials*.

ADA-complementary paratransit planning requirements

- **Development of a paratransit plan:** Fixed-route service providers must develop a paratransit plan with a description of paratransit service and an estimate of demand, an analysis of current service versus demand, service modifications proposed (with an implementation timetable), no-show and suspension policies, and a five-year operating and capital budget.

- **Required in developing the plan:** Plans must include a survey of existing resources including people with disabilities (e.g., outreach, consultation, information in accessible formats, public hearings and opportunity for public comment, summaries of significant issues raised during public comment periods, and ongoing efforts to involve the disability community in planning).
 - ◆ Plans must be submitted to the FTA regional office or state administering agency for review.
 - ◆ Providers that have met and continue to meet all U.S. DOT requirements for complementary paratransit service may submit an annual certification of continued compliance in lieu of a plan update.
 - ◆ Providers that have submitted a certification must notify FTA if they fall short of meeting requirements due to a change in circumstances and must file a plan update.
 - ◆ Plan updates must address items contained in the initial plan, must contain current information on fixed-route and paratransit services, new information on paratransit

services, status of service implementation, and a description of how on-going public participation has been met.¹⁰

■ **No-Show and Suspension Policies**

- ◆ Agencies are permitted to adopt administrative policies to suspend paratransit service for a reasonable period of time to eligible individuals who establish a pattern or practice of missing scheduled trips.
- ◆ Pattern or practice involves intentional, repeated or regular actions. Length of suspension is locally determined, but any suspension must be for a reasonable period of time and not overly punitive. No-show policies do not apply in cases where trips are missed for reasons beyond the rider's control (e.g., scheduling problems, late pickups, and operational problems on the part of the transit provider or a family emergency or sudden turn for the worse in a variable medical condition).

- ◆ Trips missed by the transit provider due to operational problems or issues cannot be counted against the rider.
- ◆ People with disabilities should be involved in the development of no-show policies.
- ◆ Prior to suspension of service, the rider must be notified in writing. Notification must include basis of suspension, sanctions to be imposed, and explanation of the appeal process. Customers must be given an opportunity to present an appeal.¹⁰

Overall rail vehicle requirements

Common accessibility guidelines and requirements for light rail, heavy rail, and commuter rail vehicles address:

- Doorway widths and maneuverability of wheelchair and mobility devices
- Priority seating signs and areas
- Handrails, stanchions, and the flow of passengers inside vehicles
- Floor surfaces and floor/stairwell coloring
- Public address systems for station announcements and other passenger information

- **International symbol of accessibility:** If not all cars are accessible, the exterior of the accessible cars should have the international symbol of accessibility by the accessible door.
- **Between-car barriers:** The open space between rail cars represents a safety hazard because passengers with visual impairments may mistakenly identify this space as a doorway. Platform screens are acceptable to block passengers from the open space. The regulation provides examples of such methods to prevent, deter or warn passengers, such as chains, extendible gates, motion detectors or similar devices.

Heavy/rapid rail vehicle requirements

- Vehicles must be coordinated with station platform heights.
- The doorway width of vehicles is prescribed.
- Passengers must be alerted to closing doors with auditory and visual signals.
- Other regulations address priority seating signs, accessible handrails and stanchions (for safe boarding, circulation, standing, seating, and alighting), floor surfaces,

maneuverability of wheelchairs and mobility aids, and public address systems inside the cars to announce stations and provide other public information. If stations serve more than one line, there must be an external public address system to announce train, route or line identification information.

Light rail vehicle requirements

- The overall and heavy rail requirements (above) apply.
- If not operating at lighted stations, vehicles need outside lights to illuminate the platform or street.
- All light rail vehicles other than level-entry vehicles shall provide a boarding device and sufficient clearances to permit users of mobility devices to board. Systems where level boarding is provided at some but not all stops must also comply with the boarding device and clearance requirement.
- If lifts or ramps are provided on platforms or other stops, lift devices are not required on vehicles.
- Specific details on requirements for vehicles, lifts, platforms and operations can be found in 49 CFR Parts 37 and 38.

- Between-car barriers are required in a high-platform, level-boarding mode.

Commuter rail vehicle requirements

- Commuter rail operations must comply with the requirements for other rail modes regarding between-car barriers; public announcement systems; rails and stanchions; warnings for closing doors; lighting and non-skid surfaces with contrasting edge colors and other floor, step, and threshold requirements; priority signage; the international accessibility symbol by accessible doors (unless all are accessible); maneuvering space for wheelchairs; and more.
- Horizontal and vertical gaps (train-to-platform) must be minimized.
- New rail cars shall have at least two wheelchair or mobility device seating locations.

Public transit facilities requirements

Transit facilities, intermodal centers, rail stations, and platforms are subject to the accessibility standards established by ADAAG as incorporated into U.S. DOT ADA regulations. These requirements

apply to all new construction, as well as any alterations made to existing facilities to the extent feasible as defined by U.S. DOT regulations. Where alterations are made to an area that serves a primary function of the facility, such as the passenger boarding area of a rail station, additional alterations are required to make the path of travel to and from the altered area accessible as well. Examples of facilities include major metropolitan train stations, intermodal transfer centers, Bus Rapid Transit roadway median platforms, and a bus shelter on the side of the road.

- The **key items** covered by facilities requirements include but are not limited to: accessible path surface and width; boarding ramps and bridge plates; bus stop and shelters; curb cuts; doors; elevators; emergency alarms; escalators; fare collection; gates and turnstiles; grade crossings; lifts and ramps; parking; passenger drop-off areas; platform edges; rescue assistance areas; restrooms; signs; stairs; telephones; water fountains; wheelchair spaces; and more.
- **Accessible route:** In general, the accessible path of travel must coincide with the general circulation path, and the distance that wheelchair users must travel is minimized compared to the

general public. This means that such elements as ramps, elevators, fare vending or ticketing areas, fare collection areas, accessible boarding locations, entrances and other important facility elements must be located so as to minimize the distance persons with disabilities must travel to use them.

- **Level boarding:** In general, this refers to coordination between the platform and the railcar door and entry point such that the horizontal and vertical gaps are minimized. The resulting gap must be small enough that ambulatory passengers can step across without difficulty and easily spanned by a short bridge plate when necessary for persons with disabilities.

U.S. DOT ADA regulations specify a maximum horizontal gap of three inches and a vertical gap within +/- 5/8 inches under 50 percent passenger load. If it is not structurally or operationally feasible to meet these requirements, the regulations permit the use of alternatives such as mini-high platforms, car-borne or platform-based lifts, ramps, bridge plates or similar manually-deployed devices.

While the U.S. DOT ADA regulations do not specify a preference among these alternatives, they do not provide the same level

of accessibility to passengers with disabilities. Under U.S. DOT regulations implementing Section 504 (49 CFR Part 27.7), services must not only be accessible but also be provided in the most integrated setting reasonably achievable.¹³

For this reason, if the required gap cannot be achieved, the next-most-accessible alternative is a larger gap that can be spanned by a short bridgeplate. If this approach is infeasible, then another solution permitting access to all cars of the train should be employed (e.g., car-borne or station-based lifts serving each accessible car). This approach, while less desirable operationally and as a matter of passenger service, still permits fully integrated service to the train.

- **Key Stations:** Rail transit systems that existed prior to 1990 were required to identify certain key stations that would be made accessible by July 26, 1993, whether or not the transit system was otherwise planning to make any alterations (entities could apply for an extension until July 26, 2020 where extraordinarily expensive structural changes to or replacement of specific stations would be required). This provision, together with the one-car-per-train deadline, was intended to ensure that existing

systems provided some degree of basic usability by persons with disabilities, including wheelchair users, within the near-term. It is important that the planning and budgeting processes account for any remaining unfinished key station work to ensure that it is completed by the deadline (or immediately, if deadlines have already passed).

It is also important to stress that in addition to any key stations, all new stations must be accessible, and all alterations to any other existing stations must also be accessible. Subsequent alterations to key stations must meet the requirements for alterations to existing facilities, and newly-constructed stations replacing existing key stations must meet the requirements for new construction.

ADAAG guidelines identify standards for accessible entrance, accessible fare collection and maximum vertical gap between platform and vehicle. In addition, new direct connections to residential, retail, and commercial facilities should, to the maximum extent feasible, have accessible connecting routes to transportation facilities.

- **Intercity Rail Stations (Amtrak):** The ADA requires all intercity rail stations to be made readily accessible to and usable by persons with disabilities, including wheelchair users, by no later than July 26, 2010. The Federal Railroad Administration (FRA) has jurisdiction over Amtrak, intercity rail, and railroad facilities, but many Amtrak stations are also eligible for FTA funding as *intermodal terminals*. It is important to ensure that the requirements for both agencies are met.
- **Local building codes:** Local building codes may not reflect the accessibility standards required under U.S. DOT ADA regulations; reliance upon local processes for building inspections and occupancy permits may not be sufficient to ensure compliance. Because eligibility for federal funding is contingent upon ADA compliance, it is important to ensure that ADA requirements are followed. ADAAG (as adopted by U.S. DOT) represents the minimum requirement for facilities; local requirements may be followed when they provide for greater accessibility, but not where they would provide less.

Part 27 Requirements

Part 27 of Title 49 of the Code of Federal Regulations (49 CFR Part 27) is the U.S. DOT regulation implementing Section 504 of the Rehabilitation Act of 1973 (as amended). Its purpose is to ensure that no otherwise qualified individual with a disability in the United States is excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance, solely by reason of his or her disability. It applies to each recipient of federal financial assistance from the U.S. DOT and to each program or activity that receives such assistance. Most importantly, while the ADA applies whether federal funding is involved or not, 49 CFR Part 27 requires compliance with U.S. DOT ADA requirements in order to be eligible to receive federal funding, and establishes procedures under which federal funding may be terminated on the basis of noncompliance.

49 CFR Part 27 requires recipients that employ 15 or more people to:

- Designate of at least one person who is responsible for coordinating compliance with these requirements.
- Adopt complaint procedures, incorporating due process standards that provide for the prompt and equitable resolution of discrimination complaints.
- Maintain a copy of all complaints of ADA and/or Section 504 noncompliance for one year.
- Maintain a record (summary) of all complaints of ADA and/or Section 504 noncompliance for five years.
- Permit access by responsible U.S. DOT officials to books, records, accounts and other sources of information, and to facilities pertinent to compliance, during normal business hours
- Make available information to participants, beneficiaries, and other interested persons information regarding the provisions of 49 CFR Part 27 and its application to the Federally-funded program or activity, and apprising them of the protections against discrimination it provides.

Planning and public participation requirement

Events held for programs or projects receiving federal funds must be made accessible to those with disabilities. Public transit meetings open to the public (e.g., board meetings, advisory committee meetings, and special events held as part of a planning process) fall in this category. Examples of accessibility include: materials in alternative accessible formats upon request (e.g., braille), accessible meeting facilities, and sign language interpreters for people with hearing impairments.

In addition, U.S. DOT ADA regulations specifically require transit operators to establish an ongoing mechanism for the participation of individuals with disabilities in the continued development and assessment of services to persons with disabilities. There are also specific requirements for public hearings and notice-and-comment periods whenever a transit agency changes its paratransit reservations system or intends to seek a determination of equivalent facilitation to depart from the required accessibility standards for facilities, vehicles, or systems.

Beyond minimum requirements, public agencies may consider additional ways to actively engage community members with disabilities. For example,

encouraging individuals to serve on transit boards, transportation committees, or project advisory groups.

The U.S. DOT's report, *Public Involvement Techniques for Transportation Decision-Making*, includes a section on ADA-related public participation.¹⁴

Minimum requirements identified by U.S. DOT include:

- The meeting location must be accessible by public transit, including paratransit.
- Primary entrances and doorways used for the meeting must be accessible, barrier free, and usable by persons with disabilities, including wheelchair users.
- There should be circulation space for wheelchairs throughout and at the front of the meeting space.
- Microphones should be adjustable to wheelchair height.
- Path of travel signs for an accessible route to the meeting room should be posted.
- Meeting materials should be available in alternative formats prior to the meeting.
- Sign language interpreters should be available if requested.



Beyond the ADA

Over the last 20 years, policymakers, transportation providers, and human service providers have learned that many aspects of implementing the ADA go beyond legislation, vehicle design, and minimum requirements. Demand for transportation and a need for flexible mobility options have resulted in efforts to coordinate resources, funding streams, and vehicles and equipment.

In the decade following enactment of the ADA, demand for accessible transportation and flexible options continued to increase, and policymakers and public transit managers began to analyze how paratransit services were being used and how specialized transportation was funded.

They recognized that accessible transportation is critical for reaching employment, medical care, education,

and community services and that options beyond the ADA were needed. At the federal level, a memorandum of understanding existed between the U.S. Department of Transportation and the U.S. Department of Health and Human Services; however the number of programs funding transportation and the rules applicable to each program limited coordination efforts. In addition, other federal agencies that funded transportation programs, such as the U. S. Departments of Labor and Education, were not included.

The release of a 2003 U.S. Government Accountability Office report: *Transportation-Disadvantaged Populations: Some Coordination Efforts Among Programs Providing Transportation Services, but Obstacles Persist* prompted a Congressional recommendation to expand the existing

U.S. DOT and U.S. HHS Coordinating Council on Access and Mobility (CCAM) to include other federal departments. The report heightened legislative and executive branch awareness of the demand for accessible transportation.

Federal Initiatives

As a result, in an effort to improve transportation access, two federal initiatives and the most recent surface transportation authorization focus on coordinating human service transportation at the state and local levels for older adults, individuals with disabilities, and people with low incomes.

- **Federal Executive Order on Human Services Transportation Coordination**

The Interagency Transportation Coordinating Council on Access and Mobility (CCAM) was created in 2004 by an executive order signed by President George W. Bush to coordinate the 64 federal programs that provide funding for transportation focused on access to healthcare, education, workforce development, older adults, and accessible transportation for people with disabilities.¹⁵

The CCAM has representation from 11 federal agencies that fund human services transportation programs: the U.S. Departments of Transportation, Health and Human Services, Labor, Education, Housing and Urban Affairs, Agriculture, Justice, Interior, the Veterans Administration, Social Security Administration, and the National Council on Disabilities.

The purpose is to simplify access to transportation, reduce service duplication, and create cost-effective services with existing resources. Federal departments now are required to identify useful practices in human services transportation coordination, identify duplicative federal laws and regulations that restrict efficient transportation operation, and provide progress reports.

- **United We Ride**

United We Ride is the interagency federal initiative launched by the CCAM. UWR created a tool for use at community and state levels to begin the dialog to improve coordinated services titled *Framework for Action: Building the Fully Coordinated Transportation System*.

UWR supports the development of coordinated transportation systems to better serve all destinations, with a focus on human service trips for older adults, people with disabilities, and people with lower incomes. UWR helps with coordinating transportation planning, funding, and physical resources (e.g., vehicles); bringing non-transportation partners to the planning table; providing technical assistance, training, useful practices and resources, and supports a regional ambassador program to address state and local questions.¹⁵ Please visit www.unitedwv.gov for further information.

■ **SAFETEA-LU**

Signed into law in 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) funded surface transportation programs for five years and launched new programs to enhance human services transportation coordination for older adults, people with disabilities, people with low incomes, and public transportation riders.

SAFETEA-LU required local communities to develop a coordinated human services transportation plan; provided funding for technical assistance and

planning; and allowed the use of non-transportation federal funds (e.g., Medicaid or Temporary Assistance for Needy Families) as local match.¹⁶ SAFETEA-LU converted the Section 5316 Job Access and Reverse Commute (JARC) program to a formula program and introduced the Section 5317 New Freedom program.

New Freedom provides capital and operating expenses for new public transportation services beyond those required by the ADA and alternatives to assist people with disabilities in accessing transportation. Eligible activities include: enhancing paratransit beyond the minimum ADA requirements (e.g., going beyond the $\frac{3}{4}$ mile from the fixed route service); providing feeder service to commuter and intercity rail and bus stations; creating accessibility improvements to key intermodal and public transit systems; and offering travel training.

New public transportation alternatives include accessible vehicle purchases; voucher programs for human services transportation providers; volunteer driver programs; and mobility management/coordination programs for both transportation and human services providers.

Section 5310, a federal grant program for the elderly and persons with disabilities, the JARC program, and the New Freedom program require that recipients prepare a coordinated public transit-human service transportation plan.¹⁷ Federal circulars provide guidance on lead roles in the planning process, as well as tools and strategies for developing a coordinated plan.

Other Accessible Transportation Initiatives

Additional accessible transportation initiatives include mobility management, universal design, and complete streets development.

■ **Mobility Management**

The focus of mobility management is on the individual and employing all the transportation options and providers to meet one's needs. Characteristics of mobility management include:

- ◆ Providing a family of transportation services, including fixed-route and flexible-route public transit, taxis, hourly rental cars, bicycles, and ridesharing, carpooling, and volunteer driver programs.
- ◆ Promoting the importance of customer service in improving public transportation management and delivery.
- ◆ Coordinating services and providers to achieve more efficient transportation delivery and potential cost savings through elimination of duplication of services.
- ◆ Providing travel training, a one-call center, and acquisition of intelligent transportation systems technology for operating a coordinated system.
- ◆ Inventorying available services; identifying customer needs; developing strategies to meet needs; coordinating financial and other resources; using transportation brokerages to improve coordination; training staff and volunteers; using technology to improve customer service; and developing customer information and trip planning systems.
- ◆ Measuring progress of mobility management efforts.¹⁸

Mobility management efforts are typically coordinated at the community or regional level by a mobility manager. A mobility manager can oversee the coordination of human

services transportation; be a service broker and a travel navigator with one-stop trip planning; provide travel training and rider information; and be a policy maker in the transportation planning process. The manager might be a staff member at a human services agency, planning organization, public transportation agency, or an educational or medical facility.

■ **Universal Design**

Universal Design incorporates accessibility features into the built environment and improves access for everyone at pedestrian facilities, public transit stops and stations, on public transit vehicles, in accessible taxis, and more. Seven principles of UD are copyrighted by North Carolina State University's Center for Universal Design:¹⁹

- 1. Equitable Use:** The design is useful and appealing to people with diverse abilities. It provides the same means for all users.
- 2. Flexibility in Use:** The design accommodates a wide range of individual preferences and abilities, providing choices in methods of use (e.g., right- or left-handed), facilitating the user's accuracy, and adapting to the user's pace.
- 3. Simple and Intuitive:** Use of the design is easy to understand, regardless of the user's experience, knowledge, language skills, or current concentration level. The arrangement of information is consistent with its importance and unnecessary complexity is eliminated. Prompting and feedback is offered.
- 4. Perceptible Information:** Essential information is easy to understand, easy to find in any environment, and for any user with any sensory ability (e.g., adequate contrast between the information and its surroundings; different modes used-pictorial, verbal, tactile).
- 5. Tolerance for Error:** The design minimizes and warns of hazards and the potential for error; the most used elements are most accessible.
- 6. Low Physical Effort:** The design can be used efficiently and comfortably with a minimum of fatigue. It allows users to maintain a neutral body position, use reasonable operating force, and minimizes repetitive actions or sustained physical effort.

7. **Size and Space for Approach and Use:**

Appropriate size and space is provided for approach, reach, manipulation, and use regardless of the user's body size, posture (seated or standing), or mobility. UD provides a clear line of sight to important elements for all; makes reaching all components comfortable for all; accommodates variations in hand and grip size; and provides adequate space for the use of devices or personal assistance.

Examples of Universal Design for Transportation Services

- ◆ Transit stop features that protect against cold, heat, and wind
- ◆ Shelters with adequate internal clearances for mobility devices
- ◆ Lifts and ramps on every vehicle
- ◆ Bridge plates to eliminate gaps between trains and platforms/boarding surfaces
- ◆ Accessible Web sites
- ◆ Wider fare gates, accessible turnstiles, contactless fare payment, universal fare cards
- ◆ More time for fare payment and opening of turnstiles

- ◆ More elevators at stations
- ◆ Taxis with low floors, high ceilings, and wide door openings
- ◆ Visual and audible pedestrian signals with time for those who cannot move fast

As universal design concepts become integrated into America's built environment, the landscape will continue to evolve. Ultimately, citizens of all ages and abilities—whether they are pushing a stroller, using a wheelchair, cane or walker—will be assured of an environment accessible and beneficial to all.

■ **Complete Streets**

The Complete Streets concept complements universal design. Complete streets is a movement where streets are designed for safe access by all users, including pedestrians, bicyclists, motorists, and public transportation riders. Planners and engineers incorporate sidewalks, bike lanes or wide shoulders, bus lanes, accessible public transit stops, crosswalks, median refuges, and accessible signals into roadway design. This concept supports safe access and livability.²⁰



ADA: Changing the Face of the Nation

For many members of the community, particularly older adults and people with disabilities who depend on public transit to reach work, medical, school, shopping, and recreation facilities, accessible transportation is the vital link to their ability to participate fully in everyday life.

Increased mobility for people with disabilities coupled with an aging society means that reliance on accessible public transportation continues to grow. In years past, the primary destination for a paratransit rider with a disability was simply to medical facilities or other basic services. Now, destinations are as varied as those of public transit riders without disabilities.

With the passage of the ADA, for the first time in our nation's history there was comprehensive federal legislation bestowing not only legal rights but also fundamental fairness

and dignity for millions of people with disabilities. Disability knows no socioeconomic boundaries. It affects people of all ages and income levels. President George H.W. Bush, upon signing the law on July 26, 1990, noted, *"We are keeping faith with the spirit of our...forefathers who wrote 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights.' This Act is powerful in its simplicity. It will ensure that people with disabilities are given the basic guarantees... (of) freedom of choice, control of their lives, the opportunity to blend fully and equally into the...mosaic of the American mainstream."*²¹

As a direct result of the ADA, countless people with disabilities have successfully made the transition to living independently in their own homes or have remained self-sufficient in their

homes longer than in years past. Overall, society benefits from the significant contributions these individuals make to the economic vitality of communities across the country.

While full accessibility in our communities has not yet been achieved, in less than a generation tremendous strides toward full inclusion have been realized. Thanks to advances in technology, expansion of accessible public transit services and broader thinking in public transportation policy are possible. Public transit riders with disabilities have enjoyed new vistas of freedom, choice, mobility, and independence through universal design, mobility management, and health and human service coordination initiatives. A generation earlier, these riders would have been prevented from participating in many of the opportunities available to other Americans.

At the 20th anniversary of the ADA, public interest, new technologies, and an even greater emphasis on mobility and livability in our communities continue to advance mobility options for people both *with and without disabilities*. Many of these options go above and beyond the ADA but reflect the original scope and spirit of the law.

Public transit board members, administrators, and operators of public transit systems are—and will continue to be—responsible for community accessibility every day. Their continued leadership is vital in creating accessible public transportation in their home communities and in helping to establish livable communities that offer economic opportunity and are environmentally sustainable for the benefit of all our citizens.



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Appendix A: Glossary of Terms

ADA Complementary Paratransit

A system of demand-responsive services for people whose disabilities prevent them from using the regular fixed-route bus or rail service. ADA paratransit must provide a level of service that is comparable to that provided by the regular fixed-route system in terms of service area, hours and days of service, response times, fares, and other criteria specified in U.S. DOT ADA regulations. In this manner, paratransit functions as a *safety net* for persons whose disabilities prevent them from using the fixed-route system; it is not intended as a means to meet all of the transportation needs for all persons with disabilities.

Bus Rapid Transit

Limited-stop bus service that relies on technology to speed service. BRT can operate on exclusive transitways, high-

occupancy vehicle lanes, expressways or streets. BRT uses intelligent transportation systems technology, priority for transit, rapid fare collection, and integration with land use to substantially upgrade bus system performance.

Commuter Rail

A railway for urban passenger service consisting of local short distance travel operating on the general system of railroads between a central city and adjacent suburbs. Service is operated on a regular basis and is characterized by multi-trip tickets, specific station to station fares, and typically one or two stations in the central business district.

Demand Response Service

Cars, vans, buses or taxis that operate in response to calls from passengers. A

transit operator or agent dispatches a vehicle to pick up the passengers. Vehicles do not operate over a fixed route or on a fixed schedule. While the term *paratransit* is often used as a synonym for any kind of demand-responsive service, it has a distinct meaning under the ADA, and the two should not be confused.

Ferry Service

Ferry service is a transit mode composed of vessels carrying passengers and/or vehicles over a body of water. Ferryboats may allow vehicles and passengers or passengers only.

Fixed Route

Transportation that runs along a prescribed route according to a fixed schedule. Urban bus and rail systems are the most typical examples of fixed-route service.

Heavy Rail

Also referred to as metro, subway or rapid rail, heavy rail is an electric railway with the capacity for a heavy volume of traffic. Heavy rail passenger cars operate as single or multi-car trains on fixed-rails with separate rights of way.

Intercity Rail

Defined under 49 CFR Part 37.3 as “transportation provided by Amtrak.” Long-distance train service that connects

major U.S. cities. Frequency depends on demand for service. Typically two to three trains run per day between major cities.

Key Station

Existing rail transit stations that were required to be made accessible to and usable by persons with disabilities, including wheelchair users, by July 26, 1993. Key stations were identified as such through local public processes involving transit operators and the disability community, according to considerations established by U.S. DOT ADA regulations.

Light Rail

Lightweight passenger rail cars operating singly or in short trains on fixed-rail right-of-way. Light rail vehicles are typically run on electricity with power drawn from overhead electrical lines.

TTY/TDD

Telephone Typewriter or Text Telephone/Telecommunication Device for the Deaf

Universal Design

Design of products and environments to be usable by all people, to the extent possible, without the need for adaption or specialized design. (Source: North Carolina State University Center for Universal Design)



Appendix B: Frequently Asked Questions about ADA Compliance

The following questions were suggested and compiled by Tina Myles, then associate legal counsel at Greater Cleveland Regional Transit Authority for the ADA subcommittee's workshop at APTA's 2005 Transit Board Members Seminar, Memphis, Tenn.

Accessibility Features (Wheelchair lifts, signage, communication systems, etc.):

QUESTION: Do we have all of the appropriate features on or in our buses, trains, and facilities to ensure accessibility? If a feature does not work, how do we accommodate our customers?

Public entities shall maintain in operative condition those features of facilities and vehicles that are required

to make the vehicles and facilities readily accessible to and usable by persons with disabilities. These features include but are not limited to lifts and other means of access to vehicles, securement devices, accessible routes, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing. Accessibility features shall be repaired *promptly* if they are damaged or out of order. When a feature is out of order, the entity shall take reasonable steps to accommodate individuals who would use the feature. 49 CFR Part 37.161.

QUESTION: Do operators need to announce stops? What stops must they announce?

Entities shall announce stops at least at transfer points with other fixed

routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. Entities shall announce any stop on request of an individual with a disability. Vehicles shall be equipped with a public address system permitting the driver to announce stops. 49 CFR Part 37.167(b); 49 CFR Part 38.35

QUESTION: How are our vehicles equipped to allow disabled customers to request their stop?

Vehicles shall provide controls adjacent to the securement location for requesting stops. Such a system shall provide auditory and visual indications that the request has been made. 49 CFR Part 38.37.

QUESTION: How can persons with visual impairments identify their bus at a stop with multiple routes?

Where vehicles for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment can identify the proper vehicle. Each vehicle shall have illuminated signs on the front and boarding side of the vehicle. 49 CFR Part 37.167(c); 49 CFR Part 38.39.

QUESTION: How can a person with a disability get information about our transportation services and in a format usable by them?

Entities shall make available to persons with disabilities adequate information concerning transportation services including making them available through accessible formats and technology to obtain information and schedule service. 49 CFR Part 37.167 (f).

QUESTION: Do our vehicles include priority seating and wheelchair locations designated for persons with disabilities? Do operators ask other customers to move from these areas as necessary?

Operators shall ask persons to move from a designated priority seat or securement area in order to allow an individual with a disability to occupy the seat or securement area. The entity is not required to enforce the request. However, all signage designating priority seats shall include language informing persons sitting in these locations that they should comply with requests by the operator. 49 CFR Part 37.167(j); 49 CFR Part 38.27.

Animals:

QUESTION: Do we have to permit service animals on our vehicles?

Entities shall permit service animals to accompany individuals with disabilities in vehicles and facilities. 49 CFR Part 37.167(d).

Construction (new facility/structure):

QUESTION: Do our new facilities have to be accessible to persons with disabilities?

Any new facility or station to be used in providing transportation service must be “readily accessible and usable” by individuals with disabilities, including those who use wheelchairs. 49 CFR Part 37.41.

Construction (existing facility/structure):

QUESTION: Do we need to make our existing facility accessible? To what extent will the facility or structure be modified?

If a structure is altered, the altered portions must be made compliant with the requirements of the ADA and the ADAAG, and accessible to and usable by

persons with disabilities “to the maximum extent feasible.” U.S. DOT ADA regulations define “to the maximum extent feasible.” as “the occasional case where the nature of an existing facility makes it impossible to comply fully with applicable accessibility standards through a planned alteration.” If the altered portion of the facility is an area of primary function, the path of travel to and from the altered area must also be made accessible. Normal maintenance is not an alteration and does not require the same compliance. 49 CFR Part 37.3 & 49 CFR Part 37.43.

QUESTION: Must accessibility costs be included in both new construction costs and alterations to existing structures/facilities costs?

All new construction must comply with ADAAG standards, so accessibility costs are included in overall project cost. All alterations to existing facilities must also comply with ADAAG standards, so accessibility costs are included in the overall alteration project costs. When an alteration is made to an area of primary function, accessibility costs for those alterations are included in the overall costs of the alteration. However, when the cost of making the additional required alterations to the path of travel exceeds 20 percent

of the cost of the alteration to the primary function area, those costs are considered disproportionate. In such an instance, the alterations to the path of travel must be made to the maximum extent possible but not to the point of being disproportionate. 49 CFR Part 37.43(c)&(f). Priority should be given to: entrances, routes to accessible areas, restrooms, telephones, drinking fountains and then other accessible elements.

Contracts for Construction/ Alteration of Facilities:

QUESTION: Do private entities need to comply with the ADA in the construction of transit facilities?

Private entities must comply with the requirements of the ADA in constructing and altering public transit facilities. 49 CFR Part 37.45. Public entities must ensure that facilities constructed by private entities under contract or other arrangement are in compliance with these requirements.

Contracts for Transportation Services:

QUESTION: Do private entities operating transportation services as contractors to public agencies need to comply with the requirements of the ADA?

Private entities operating transportation services under contract or other arrangement with public entities effectively stand in the shoes of the public entity, and must operate those services in compliance with requirements for public entities. Public entities that enter into such arrangements or relationships with private entities must ensure that the private entity is meeting these requirements. 49 CFR Part 37.23.

Lease/Purchase of Buses:

QUESTION: Are the buses being procured required to be accessible to and usable by persons with disabilities?

Any public entity purchasing or leasing a **new** non-rail vehicle shall ensure that the vehicle is readily accessible to and usable by persons with disabilities, including wheelchair users. If the public entity is purchasing or leasing a **used** non-rail vehicle, they must also ensure that this vehicle is accessible to and usable by persons with disabilities,

including wheelchair users, unless they can demonstrate that they made good faith efforts to obtain an accessible vehicle but were unable to do so. 49 CFR Part 37.73. (The requirements for what constitutes a good faith effort are defined in U.S. DOT ADA regulations; see 49 CFR Part 37.73(c).) Any public entity remanufacturing or acquiring remanufactured non-rail vehicles must ensure that these vehicles are accessible to and usable by persons with disabilities, including wheelchair users, unless an engineering analysis demonstrates that including accessibility features required by the ADA would have a significant adverse effect on the structural integrity of the vehicle.

Lease/Purchase of Rail Cars:

QUESTION: Are the rail cars being procured required to be accessible to and usable by persons with disabilities?

Public entities leasing or purchasing **new** rail vehicles must ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including wheelchair users. 40 CFR 37.79. If the public entity is purchasing or leasing a **used** rail vehicle, they must ensure that this vehicle is accessible to and usable by persons with disabilities, including wheelchair users, unless they can demonstrate that they made good

faith efforts to obtain an accessible vehicle but were unable to do so. 49 CFR Part 37.79. 49 CFR Part 37.81. (The requirements for what constitutes a good faith effort are defined in U.S. DOT ADA regulations; see 49 CFR Part 37.81(c).) Any public entity remanufacturing or acquiring remanufactured rail vehicles must ensure that these vehicles are accessible to and usable by persons with disabilities, including wheelchair users, unless an engineering analysis demonstrates that including accessibility features required by the ADA would have a significant adverse effect on the structural integrity of the vehicle.

Paratransit:

QUESTION: To what extent must we offer paratransit service to our customers? Do we need to make our paratransit service available to visitors?

Each public entity operating a fixed-route system (bus or rail) shall provide paratransit or other special service to eligible individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed-route system. 49 CFR Part 37.121(a). The service shall be origin to destination service within a corridor with a width of 3/4 of a mile on each side of the

fixed route and around each rail station. 49 CFR Part 37.129(a) & 37.131. Paratransit service shall be available throughout the same hours and same days as the fixed-route service. 49 CFR Part 37.131(e). Each public entity shall provide paratransit service to visitors. 49 CFR Part 37.127.

The following individuals are eligible for complementary paratransit under the ADA:

- Any individual whose disability prevents them from independently boarding, riding, or disembarking from an accessible fixed route vehicle
- Any individual with a disability who can use the accessible fixed-route system, but vehicles used on the route and/or at the time of travel are not accessible
- Any individual whose specific, impairment-related condition preventing them from getting to or from a transit stop or station.

NOTE: Paratransit under the ADA is not intended to meet all of the travel needs of all persons with disabilities; rather, it functions as a safety net for persons whose disabilities prevent them from using the accessible fixed-route system. The standard of service is required to be *comparable* to that provided by the fixed-route system, as provided in 49 CFR Part 37.131,

with its service area and hours and days of service established by the fixed-route system. The expectation under the ADA is that the general public, with and without disabilities, will be accommodated by the accessible fixed-route system.

QUESTION: How late can customers call in order to schedule a trip? How soon can they call?

The entity shall schedule and provide service to any eligible person at any requested time on a particular day in response to a request for service made on the previous day, and may permit advance reservations to be made up to 14 days in advance. 49 CFR Part 37.131(b). Where an entity's offices are closed on the day before the next service day—for example, closed on Sunday with operations resuming on Monday—there must be a means of accepting paratransit trip reservations. This can be accomplished through the use of an answering machine or other technology.

QUESTION: May we charge more for paratransit trips?

Paratransit fares are required to be *comparable* to the same fare for the same trip taken at the same time of day on the regular fixed-route system. U.S. DOT ADA regulations define *comparable* as not more than twice the regular fixed-route fare for such a trip at the same

time of day. This represents a limit; you are free to charge a lower fare or no fare at all. 49 CFR Part 37.131(c).

QUESTION: Can we prioritize certain paratransit trips (for example, those to medical appointments) versus trips to other types of destinations?

No, an entity shall not impose restrictions or priorities on trip purpose. 49 CFR Part 37.131(d).

QUESTION: Must we provide all trips requested?

The entity shall not limit the availability of paratransit service to eligible individuals with regard to the number of trips provided or because of “any pattern or practice that significantly limits the availability of service,” including untimely pick-ups, trip denials or missed trips, or excessive trip lengths. 49 CFR Part 37.131(f).

QUESTION: Can we offer our customers subscription trips? And if so, to what extent?

Public entities may offer subscription trips as part of their paratransit system; however, subscription service may not absorb more than 50 percent of the number of trips available at a given time of day. Public entities may establish waiting lists and trip purpose restrictions/priorities on subscription trips. 49 CFR Part 37.133.

Rail Cars:

QUESTION: Do all of our rail cars have to be accessible and usable by persons with disabilities?

All new railcars must be accessible to and usable by persons with disabilities, including wheelchair users. All used and remanufactured railcars must be accessible to and usable by persons with disabilities, including wheelchair users, subject to certain accommodations for unavailability and/or structural issues contained in U.S. DOT ADA regulations. In addition, by July 26, 1995, each public entity providing light or rapid rail service shall ensure that each train consisting of two or more vehicles includes at least one car that is readily accessible to and usable by individuals with disabilities (49 CFR Part 37.93(c)), and each entity providing intercity or commuter rail service must ensure that each train (regardless of number of cars) has at least one car that is readily accessible to and usable by persons with disabilities, including wheelchair users (49 CFR Part 37.93(b)).

QUESTION: Are our rail cars required to be equipped with inter-car or between-car barriers?

Barriers shall be provided to prevent, deter or warn individuals from inadvertently stepping off the platform between cars. 49 CFR Part 38.63 & 49 CFR Part 38.85.

Rail Transportation:

QUESTION: What are our key rail stations? Are the key rail stations in our system accessible and usable by individuals with disabilities? Have we met the deadline?

Public entities should have determined which of its rail stations are key based on specific criteria and then must ensure that they are accessible. 49 CFR Part 37.47. The deadline for making key stations accessible was July 26, 1993 unless the FTA granted an extension.

Training:

QUESTION: What training do we need to conduct with staff concerning the ADA?

Public entities shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals

with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities. 49 CFR Part 37.173.

Wheelchair Lifts:

QUESTION: What features do buses need to ensure accessibility?

Accessibility requirements for buses, vans and systems are established in 49 CFR Part 38, Subpart B. In general, all vehicles shall provide a level-change mechanism or boarding device (lift or ramp) to permit a wheelchair or other mobility aid user to reach a securement location; and at least two securement locations on vehicles in excess of 22 feet. The lift must have a capacity of at least 600 pounds with the safety factors specified in 49 CFR Part 38. Lifts shall accommodate persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps. The securement system shall be placed as near to the accessible entrance as practicable and shall have a clear floor area of 30 x 48 inches. 49 CFR Part 38.23. Specific requirements for lift capacity, lighting, signage, and other required systems are contained in 49 CFR Part 38.

QUESTION: Do we have to have a maintenance schedule for lifts?

Public entities shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative. 49 CFR Part 37.163(b) Best practices may include pre-trip cycling a lift to make sure it is operational, as well as checking the public address system or automated stop announcement system, checking belts, hooks, straps, and securement devices to make sure they are clean and in working condition, and making sure the vehicle floor is free of debris and obstructions.

QUESTION: What do we do if the lift is broken?

When a lift fails in service, the entity is required to ensure that operators report any such failures by the most immediate means available.

When a lift is found to be inoperative, the vehicle must be taken out of

service before the beginning of the vehicle's next service day and the lift repaired before the vehicle returns to service. If there is no spare vehicle to replace the vehicle with the inoperable lift, and taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service for no more than three (or five) days from the day on which the lift is discovered inoperable. Three days applies to areas over 50,000 in population, and five days applies to areas under 50,000 in population. If a lift is discovered to be inoperable in service and if the headway to the next accessible vehicle exceeds 30 minutes, the public entity shall provide alternative transportation to individuals with disabilities. Lift maintenance requirements are intended to ensure that inoperative lifts are discovered before a bus is dispatched into service, so that the passenger needing the lift is not the first to discover that it is not working. 49 CFR Part 37.163 (d-f).

Notes



Appendix C: ADA Technical Assistance Centers

Federal Transit Administration Office of Civil Rights

The Federal Transit Administration offers technical assistance and workshops on both Civil Rights Title VI and ADA-related transportation topics.

*www.fta.dot.gov/civilrights/ada/
888-446-4511 (V)
Email: FTA@ADAAssistance.gov*

U.S. Department of Justice Americans with Disabilities Act Home Page

This Web site provides a comprehensive list of all federal agencies with ADA responsibilities, federal resources on the ADA, direct links to ADA publications, downloadable materials, and news briefs. A toll-free hotline is also available.

*www.ada.gov
800-514-0301 (V)
800-514-0383 (TTY)*

United States Access Board

This federal board is the primary source of information on accessible design, including public transit vehicles.

www.access-board.gov

800-872-2253 (V)

800-993-2822 (TTY)

Disability and Business Technical Assistance Center

DBTAC is a network of 10 regional ADA centers that provide information, resources, referrals, and training on the ADA to businesses, employers, government entities, individuals with disabilities, and the media.

www.adata.org

800-949-4232 (TDD/V)

Easter Seals Project ACTION

Easter Seals Project ACTION provides free resources, web pages, compiled answers to frequently asked questions, a toll-free assistance line, training, distance learning events, and research findings pertaining to accessible transportation for people with disabilities.

www.projectaction.org

800-659-6428 (V)

202-347-7385 (TDD)



Appendix D: Additional Resources

American Public Transportation Association

An international membership organization for public transportation systems and industry suppliers, APTA serves the advocacy and information needs of those who provide and advance public transportation.

www.apta.com
202-496-4800 (V)

The Center for Universal Design— North Carolina State University

The NC State center is a national source for information, technical assistance, and research on the application of universal design in housing, public facilities, and outdoor environments.

www.design.ncsu.edu/cud/
800-647-6777 (V)

DisabilityInfo.gov—Online Resource for People with Disabilities

This site provides accessible information on disability programs, laws, services, and benefits for nine subject areas including transportation. State and local resources are also provided.

www.disabilityinfo.gov

National Council on Disabilities

The NCD is an independent, federal agency that advises the president, Congress, and executive branch agencies of the United States on programs and policies for individuals with disabilities.

www.ncd.gov
202-272-2004 (V)
202-272-2074 (TTY)

National Resource Center on Human Services Transportation

The NRC provides technical assistance on public transportation and the coordination of transit with medical care, education, employment, and services for older adults and people with disabilities.

www.ctaa.org
800-891-0590 (V)

United We Ride

United We Ride is a national initiative of eleven federal agencies to support states and communities with coordinated transportation planning, technical assistance, and community transportation assessments.

www.unitedweride.gov
800-527-8279 (V)

Easter Seals Project ACTION

1425 K Street NW, Suite 200
Washington, D.C. 20005
www.projectaction.org
(800) 659-6428 (V)
(202) 347-7385 (TDD)

American Public Transportation Association

1666 K Street NW, Suite 1100
Washington, D.C. 20006
www.apta.com
(202) 496-4800

