



Accessible Transportation - An Essential Element of Community Integration

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What Types of Transportation Must be Accessible under U.S. Laws?

- Rail Systems – Intercity Rail (Amtrak), commuter rail, subways, light rail, streetcars
- City Buses & Paratransit Systems
- Taxis, Airport Shuttles, etc.
- Hotel Shuttles, Car Rental Shuttles, etc.
- Intercity (Over the Road) Buses, Tour Buses
- Airlines and Airports

But some exceptions and some long “phase in” periods

Laws - Air Carrier Access Act

- Air Carrier Access Act of 1986, 49 U.S.C. § 41705 passed October 2, 1986 and signed into law by President Reagan
 - (a) In General.—In providing air transportation, an air carrier, including (subject to section 40105(b)) any foreign air carrier, may not discriminate against an otherwise qualified individual on the following grounds:
 - (1) the individual has a physical or mental impairment that substantially limits one or more major life activities.
 - (2) the individual has a record of such an impairment.
 - (3) the individual is regarded as having such an impairment.

Air Carrier Access Act

Air Carrier Access Act Regulations, 14 CFR §382 issued by DOT in 1990.

- Addresses Airport and Aircraft Accessibility
- Requirements for Services like assistance in airports, boarding assistance, etc.
- Requires training of airline personnel
- Has a complaint and enforcement procedure

Air Carrier Access Act

Air Carrier Access Act Regulations amended in 2008 to bring foreign carriers under coverage of Act

Also added some specific provisions addressing service animals on board aircraft

2013 regulations amended to provide for gradual accessibility of websites and check-in kiosks

2016 - Current negotiated rule-making on possibly requiring accessible lavatories on single aisle aircraft, possible revision to service animal provisions, Accessibility of Inflight Entertainment

Laws - Americans with Disabilities Act

Most comprehensive law, addresses all modes of transportation other than air travel

- Signed July 26, 1990

Detailed regulations

- Original DOT Regulations – Sep 6, 1991
- Over-the-Road Buses – Sep 28, 1998
- DOT Reasonable Modification Regulations – Mar 13, 2015

ADA Statute & Regulations

- Title II, Part B – 42 U.S.C. §§ 12141-12150
- Title III – 42 U.S.C. §§ 12184-12186
www.ada.gov/pubs/ada.htm
- 49 C.F.R. Part 37 – Transportation Services
 - **Appendix D** – Construction & Interpretation
- 49 C.F.R. Part 38 – Vehicle Specifications
www.fta.dot.gov/ada

Major Distinctions in ADA

- Public entity: Any state or local government or its instrumentality
- Private entity: NOT a state or local government
49 C.F.R. § 37.3
- Fixed Route: vehicle is operated along a prescribed route according to a fixed schedule (city bus, intercity bus, rail, etc.)
- Demand Responsive: not fixed route (taxi, paratransit, charter bus, tour bus, etc.)
49 C.F.R. § 37.3

Other Important Distinctions in ADA

- Private entities primarily engaged in the business of transporting people: A bus or shuttle company, etc.
- Private entities **NOT** primarily engaged in the business of transportation people: a hotel with a shuttle, a rental car company, etc.

ADA Non-Discrimination Provisions

- Cannot prevent a person with a disability from using the transportation service for the general public if the individual is capable of using the system. § 37.5(b)
- Cannot require that a person with a disability use the designated priority seating. § 37.5(c)

ADA Non-Discrimination Provisions

- Cannot impose special charges (extra fees) on individual with disabilities § 37.5(d)
 - Same rate must be charged to passenger requiring use of the lift
 - For example, if a taxi charges \$1 to stow luggage in the trunk, it cannot charge \$2 to stow a wheelchair. \$1 charge would be acceptable

ADA Non-Discrimination Provisions

- Cannot require that an individual with a disability be accompanied by an attendant
§ 37.5(e)
- Private entities must comply with DOJ obligations concerning eligibility criteria, making reasonable modifications, providing auxiliary aids and services, and removing barriers (28 CFR § 36.301-306) § 37.5(f)

DOT ADA Service Requirements

49 C.F.R. § 37.167

- Entity must ensure that operators make use of accessibility-related equipment and features like lifts or ramps on buses
- Adequate information regarding transportation services must be made available through accessible formats
- Persons using the lift must be allowed to exit at any stop, unless it would damage the lift or there are temporary conditions precluding anyone's use of the stop
- Must ensure adequate time allowed to board/disembark

DOT ADA Service Animal Regulations

- Allow to accompany passengers
- *Animals* that are individually trained to perform tasks for people with disabilities

49 C.F.R. §§ 37.3 & 37.167(d)

- Different from DOJ ADA regulations regarding service animals which are limited to dogs.
 - DOJ ADA regulations do permit miniature horses to be treated like service animals with some restrictions

DOT ADA Training Requirements

49 C.F.R. § 37.173

- All entities which operate a transportation system 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 differences among individuals with disabilities.

ADA Stop Announcement Requirements

49 C.F.R. § 37.167(b)

- Applies to fixed route – public & private
- Must announce transfer points, major intersections, and destination points, at intervals along a route sufficient to permit individuals to be oriented to their location.
- Must announce stops on request.
- Can be automated or by driver.

ADA Route Identification Requirements

49 C.F.R. § 37.167(c)

Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment *or other disability* can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on that particular route.

- i.e., external stop announcements

ADA Maintenance of Accessible Features/Equipment

49 C.F.R. § 37.161

- Applies to public and private transportation services
- Covers lift/ramps, securement devices, elevators, signage, public address systems, etc.
 - Must be repaired promptly
 - Must take reasonable steps to accommodate persons with disabilities who would otherwise use the feature
 - Does not prohibit isolate or temporary interruptions due to repair or maintenance

ADA Wheelchair Lift and Securement Requirements

- Securement systems on all accessible buses § 37.165
- Transport all wheelchairs § 37.165(b)
- Establish a policy to secure all wheelchairs, or only upon passenger's request § 37.165(c)(3)
- May not refuse to transport person because the chair cannot be satisfactorily restrained § 37.165(d)

ADA Wheelchair Lift & Securement Requirements

Upon request, must:

- Allow standees to use the lift § 37.165(g)
- Secure wheelchairs § 37.165(f)
- Assist with securement system, seatbelts, ramp and lift § 37.165(f)
- May require wheelchairs to remain in designated securement locations; persons may transfer, however may not require person to transfer § 37.165(b) & (e)

ADA Requirements on Keeping Lifts Operable

49 C.F.R. § 37.163

Public (i.e. WMATA, SEPTA, MBTA, CTA, MARTA) /non-rail **entities** must:

- Establish system of regular & frequent maintenance checks
- Report failures as soon as possible
- Provide alternative transportation if the headway to the next accessible vehicle exceeds 30 minutes
- Must take lift vehicle out of service by the next day, unless there is no spare

ADA Complementary Paratransit

49 C.F.R. §§ 37.121-155

- Designed as a compliment to *public* fixed route bus service
- A safety net; intended for riders who cannot take some or all of their trips on the city bus because of their disability
- Shared-ride, origin-to-destination service
- Detailed Regulatory Scheme covering Eligibility & Service Criteria

ADA Complementary Paratransit

49 C.F.R. §§ 37.123-125

- For persons who cannot independently use fixed route transportation, even if fixed route system is accessible
- Eligibility for Complementary paratransit is based on functional ability and most the limiting condition, not trip purpose or a particular destination
- If conditional eligibility is granted, those conditions are then applied to a rider's individual trips

ADA Complementary Paratransit

In determining Eligibility, transit systems should be considering all of the skills required to ride transit:

- Walking to the bus stop; crossing a street
- Standing while waiting for the bus or train
- Tolerating hot and cold temperatures while waiting
- Identifying the bus to board
- Handling fare media (payment cards, bills, exact change)

ADA Complementary Paratransit

For people with physical disabilities, transit agencies should be considering:

- Strength and endurance
- Balance and dexterity
- Range of motion
- Gait
- Speed

ADA Complementary Paratransit

How are eligibility decisions made?

- **In-person** – assessment conducted by occupational therapists, physical therapists, & other licensed professionals
 - Assessments can be in the real environment, or accurate simulated environment
- **Paper** – only applications and medical information are evaluated by staff
- Or a **Hybrid**

ADA Complementary Paratransit

- Eligibility decisions must be made within 21 days, or temporary eligibility is granted
- If denial or conditional eligibility, must include reason and appeal process
- A requirement to recertify is permitted
- May have at least 1 companion, more if space allows
- May have a personal care attendant; assistance provided does **not** need to be while on the vehicle
- Visitor eligibility is also required

ADA Complementary Paratransit

Possible outcomes in Eligibility Decisions:

- ***Unconditional eligibility*** – any trip the rider wishes to take is eligible.
- ***Conditional eligibility*** – trips are only eligible when certain conditions are met. Also called ***trip-by-trip eligibility***.
- ***Denial***

ADA Complementary Paratransit

- Individuals can appeal denials of eligibility, conditional eligibility, and even trip-by-trip denials
- Includes the requirement for an opportunity to be heard
- Appeal decision must be made by a person who has a separation of function from the original decision maker

ADA Complementary Paratransit

Transit agencies can impose suspensions of Eligibility

- For a rider no-shows or late cancellations
- Should be pattern or practice of no-shows
- Late cancellations should only count when functionally equivalent to a no-show
- Must be a reasonable suspension period
- Should be able to appeal suspension

Required Elements of an ADA Complementary Paratransit SYSTEM

What are the requirements for a Complementary
Paratransit System? 49 C.F.R. § 37.131

- #1 Service Area
- #2 Response Time
- #3 Fares
- #4 No Trip Purpose Restrictions
- #5 Hours & Days of Service
- #6 Capacity Constraints

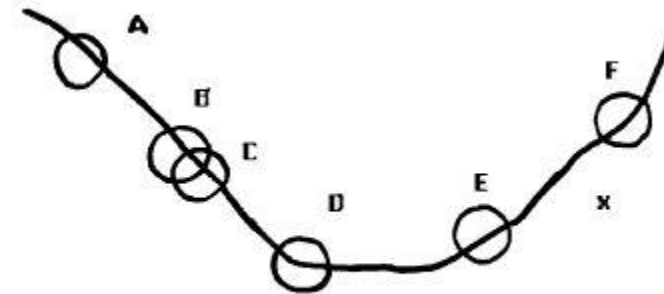
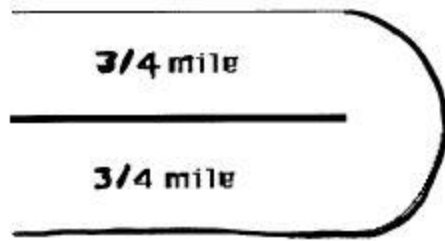
ADA Complementary Paratransit

Eligible individuals:

- Can make a reservation any time today, for a trip any time tomorrow
- Can make a reservation during the normal business hours of the entities administrative offices, as well as during comparable times on days when the offices are not open the day before a service day
- Pickup times can only be negotiated within one hour before or after the requested pickup time

ADA Complementary Paratransit

- All origins and destinations within $\frac{3}{4}$ mile of fixed route transit bus or rail (but not commuter bus, commuter rail, or intercity rail)



Circle radius = $\frac{3}{4}$ mile

- Must provide services unless there is a “legal bar”

ADA Complementary Paratransit

Fares:

- Can be no more than double the undiscounted fares for a comparable fixed route trip
- PCAs ride for free; companions pay same fare as eligible rider

No Trip-purpose Restrictions:

- No restrictions on destination or purpose

Service hours:

- Paratransit should be available during the same hours and days of comparable fixed route service.

ADA Complementary Paratransit

No Capacity Constraints

- No restrictions on number of trips
- No waiting lists
- No other operational pattern or practice that significantly limits the availability of service, including *a substantial number of*:
 - Significantly untimely pickups (in/out of “pickup window”)
 - Trip denials or missed trips
 - Trips with excessive trip length (compared to fixed route)
 - Telephone busy signals or long hold times

Reasonable Modifications in ADA Transportation (all modes)

- Information shall be made readily available to the public about how to make such requests.
- Individual describes what is needed
- Not required to use the term “reasonable modification”
- When feasible, request made before service to be provided
- If made at the time needed, operating personnel determine if it can be provided

§ 37.169

Reasonable Modifications in ADA Transportation (all modes)

When can a Modification Request be denied?

- If it fundamentally alters service, programs, or activities
- If it presents a direct threat to the health or safety of others
- If without modification, individual can use service
- If the modification would be an undue administrative or financial burden (high threshold)

§ 37.169

Reasonable Modifications in ADA Transportation (paratransit examples)

Examples:

- Extreme weather assistance – snow and ice
- Pick up and drop off locations with multiple entrances
- Accessing private property
- Fare handling
- Allowing eating and drinking
- Allowing carrying or taking medicine
- Boarding separately from wheelchair
- Opening building doors
- Navigating an incline, or around obstacles
- Five-minute warning or notification of arrival calls

Other Modes of Transportation - Private Entities Primarily Engaged in Transportation

- Airport (and other) Shuttles
- Sightseeing companies
- Taxis
- Transportation Network Companies

49 C.F.R. § 37.103

Taxis

- Non discrimination requirements apply
 - Cannot refuse service animals or collapsible manual wheelchairs
- Transportation Network Companies (*i.e.*, Uber, Lyft, SideCar, etc.) are also covered:
 - http://www.ada.gov/briefs/uber_soi.pdf
- BUT, ADA exempts taxi service provided by “automobile”
 - § 37.29(b)
- Not required to purchase or lease accessible automobiles
- But, “Other than an automobile” (vans) must be accessible unless equivalent service can be demonstrated

Shuttle Companies

- Demand responsive (*i.e.*, airport shuttle)
- Non discrimination requirements apply
- Vehicle Acquisition: Only purchase or lease of a **new** vehicle over 8 passengers must be accessible, **OR** they must ensure the service provides “equivalent service”

Shuttle companies – “Equivalent Service”

Equivalent with respect to:

1. Schedule / Response Time
2. Fares
3. Geographic Area of Service
4. Hours and Days of Service
5. Availability of Information
6. Reservations capability
7. Capacity
8. Priority or Trip Purpose Restrictions

49 C.F.R. § 37.105

Over-the-Road Buses or Motorcoaches

Buses or Motorcoaches with an elevated passenger deck over a baggage compartment

- Large fixed route operators must be 100% accessible (have lift for wheelchair user) as of October 2012
- Small fixed route operators (Less than \$9.5 million in revenue) may require up to 48 hours advance notice
- Demand responsive (charter & tour service) may require up to 48 hours advance notice

Resources

- National Aging and Disability Transportation Center www.nadtc.org (some materials and staff from Easter Seals, Project Action)
- U.S. Department of Transportation, Federal Transit Administration
www.fta.dot.gov/ada
- Topic Guides on ADA Transportation
<http://www.dredf.org/ADAtg/>

QUESTIONS?