

# The ADA & Accessible Transportation Title II and Title III

February 11, 2015  
1:00 – 2:00 PM EST



Cornell University



# Today's Presenter



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# Northeast ADA Center



***1-800-949-4232***

## **Northeast ADA Center**

...providing training, technical assistance, consultation, and materials on a broad range of topics related to disability in the United States.



**[www.northeastada.org](http://www.northeastada.org)**

# Disclaimer



Information, materials, and/or technical assistance are intended solely as informal guidance, and are neither a determination of your legal rights or responsibilities under the ADA, nor binding on any agency with enforcement responsibility under the ADA.

The Northeast ADA Center is authorized by the National Institute on Disability and Rehabilitation Research (NIDRR) to provide information, materials, and technical assistance to individuals and entities that are covered by the ADA.

# Today's Agenda



- Review how the ADA Applies to Title II Entities
  - Public Transportation, Fixed Route Service and Paratransit
- Review Service Requirements for Providers of Transportation Services
- Review how the ADA Applies to Title III Entities
  - Private Transportation (Over the Road Buses, Air Carrier Access, etc...)
- Provide Enforcement Information for ADA Transportation Provisions

# Quick Overview...What is the ADA?



- Civil rights law passed in 1990 and amended in 2008
- Has five titles:
  - Title I – Employment
  - Title II – State & Local Government Services
  - Title III – Places of Public Accommodation
  - Title IV – Telecommunications
  - Title V – Miscellaneous Supplemental Provisions
- Goal of the ADA is to provide equal opportunity and access in these areas for people with disabilities.
- In terms of transportation, both Title II and Title III cover transportation services:
  - Title II covers most public transportation systems
  - Title III covers public accommodations, including most privately operated transportation systems

# Role of the U.S. Department of Transportation (DOT)



- DOT issues regulations implementing the transportation and related provisions of the ADA and Section 504 of the Rehabilitation Act of 1973, as amended.
- These regulations apply broadly to both public and private entities and to almost all types of transportation services, including fixed route bus and rail (e.g., commuter, rapid, and light rail), complementary paratransit, demand responsive service and ferry service.

# DOT ADA Regulations



## Transportation Regulations Issued by U.S. Department of Transportation

- **Part 27**  
Nondiscrimination in Federally Funded Programs
- **Part 37**  
Transportation Services for Individuals with Disabilities
- **Part 38**  
Accessibility Specifications for Vehicles



[http://www.fta.dot.gov/12876\\_3906.html](http://www.fta.dot.gov/12876_3906.html)

# Right to Use General Public Transportation Services



- People with disabilities have the same right to use transit agencies' services as all other individuals.
- Transit agencies cannot “deny to any individual with a disability the opportunity to use the transportation service for the general public if the individual is capable of using that service”.



# Part 38—ADA Accessibility Specifications For Transportation Vehicles



- All vehicles covered by Part 38 shall provide a level-change mechanism or boarding device (e.g., lift or ramp) and sufficient clearances to permit a wheelchair or other mobility aid user to reach a securement location.
- At least two securement locations and devices shall be provided on vehicles in excess of 22 feet in length; and at least one securement location and device, shall be provided on vehicles 22 feet in length or less.
- Vehicle lift—Design load. The design load of the lift shall be at least 600 pounds.



# Part 38—ADA Accessibility Specifications For Transportation Vehicles



- Agencies must carry a wheelchair and its user, as long as the lift can accommodate the size and weight of the wheelchair and its user and there is space for the wheelchair on the vehicle.
- However, if in fact a lift or vehicle is unable to accommodate the wheelchair and its user, the transportation provider is not required to carry it.

# ADA Service Requirements for Providers



## General maintenance of accessibility features:

- You must ensure that your vehicles and related transit facilities are maintained in good working order so that they are usable by individuals with disabilities.
  - Shoveling snow to provide access at transportation facilities
  - Providing alternate accessible transportation in the event of an inoperable lift/ramp on vehicles.

# ADA Service Requirements for Providers



## Keep vehicle lifts in operative condition:

- Transit agencies must establish a program of “regular and frequent maintenance checks of lifts” sufficient to determine if they are operating properly.
- When drivers discover that lifts or ramps are not working, they must inform appropriate staff as soon as possible. Based on this information, supervisors can decide the best course of action.



# ADA Service Requirements for Providers

## Maintaining Accessible Features



For vehicles, accessibility features include:

- Lifts and ramps
- Kneelers (if required to achieve compliant ramp slope)
- Mobility aid securement areas and systems
- Lap and shoulder belts
- Lighting
- Signage
- Public address and other communications equipment

For facilities, accessibility features include:

- Doors
- Accessible paths to and within facilities
- Lifts and ramps
- Elevators
- Platforms and handrails
- Lighting
- Signage
- Communications equipment
- Fare vending equipment and fare gates

# ADA Service Requirements for Providers

## Maintaining Accessible Features



- Transit agencies must promptly repair accessibility features “if they are damaged or out of order”
- Isolated or temporary interruptions in service or access due to maintenance or repairs are not prohibited
- The regulations also requires that accommodations be made to individuals with disabilities who would otherwise use an inoperative accessibility feature.
  - For example, when a rail system discovers that an elevator is out of order, blocking access to one of its stations, it could accommodate users of the station by announcing the problem at other stations to alert passengers and offer accessible shuttle bus service around the temporarily inaccessible station.

# ADA Service Requirements for Providers



- Where necessary or requested, drivers must assist with use of:
  - Securement System
  - Ramp
  - Lift
- This assistance is required even if the driver must leave his/her seat to do so
- Can only require passenger restraint if ALL passengers are required to use



# ADA Service Requirements for Providers



## Wheelchair Lifts and Securement Use:

### Wheelchair and OMD Definition:

*“A mobility aid belonging to any class of three or more wheeled devices, usable indoors, designed or modified for and used by individuals with mobility impairments, whether operated manually or powered.”*

- Cannot deny service on basis of difficulty in securing wheelchair
- Transfer from wheelchair to vehicle seat can be recommended, but not required



# ADA Service Requirements for Providers



## Training requirements:

- Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency in the areas below:
  - Operate vehicles and equipment safely
  - Provide level of service as required
  - Treat individuals with disabilities in a respectful, courteous way
  - Training programs must be relevant to employee's job responsibilities and comprehensive



# Training Programs Should Address the Following (Continued)



- Bus Boarding/Alighting Requirements:
  - Adequate time must be allowed for boarding/alighting of passengers with disabilities
  - Includes adequate time for passengers to get to a seat
  - Providers cannot refuse to permit a passenger who uses a lift to disembark from a vehicle at any designated stop, unless the lift cannot be deployed, the lift will be damaged if it is deployed, or temporary conditions at the stop, not under the control of the transit operator, preclude the safe use of the stop by all passengers.
- Providers must ask that individuals sitting in the priority seating area, or fold-down seats in the wheelchair securement area, relocate if an individual needs to use that priority seating because of a disability or needs to secure a wheelchair.
- Providers cannot prohibit an individual with a disability from traveling with a respirator or portable oxygen supply provided the devices are properly secured

# Training Programs Should Address the Following (Continued)



Drivers may not:

- Discriminate in connection with the provision of transportation
- Deny service if the passenger is capable of using it
- Require use of designated priority seats
- Impose special charges based on disability, gender, religion, national origin, race, English-proficiency or age
- Require or unreasonably deny an escort
- Refuse service solely because the passenger's disability results in behavior that may offend, annoy, or inconvenience the driver; however, it is not discrimination to refuse service if the passenger engages in violent, seriously disruptive or illegal conduct.



# ADA Service Requirements for Providers

## Service Animals



- Under the DOT ADA regulations “service animal” is defined as “any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.”
- DOT ADA regulations require transit entities to permit service animals to accompany individuals with disabilities in vehicles and facilities.
- \*Note that while the DOJ has amended the definition of “service animal” for purposes of its ADA regulations under Titles II and III of the ADA, for state and local governments and places that are open to the public, the definition under DOT ADA regulations for transportation has not changed.

# ADA Service Requirements for Providers

## Effective Communication



- Transit providers are required to make information regarding their services accessible for people who are blind or have vision impairments.
- Communications and information must be available in accessible formats and technology (e.g., Braille, large print, TDDs)
- Someone cannot adequately use the bus system if schedule and route information is not available in a form that is accessible for them.

# ADA Service Requirements for Providers

## Ensuring Effective Communication



- All print materials must also be available in accessible formats, including:
  - Schedules
  - Information brochures
  - Rider handbooks
  - Service bulletins
- Must be made available upon request in a format individual can use
- Availability of telephone information is NOT an adequate substitute for route and schedule information
- Accessible formats include:
  - Braille
  - Audio Tape
  - Computer Disk
  - Large Print

# ADA Service Requirements for Providers

## Ensuring Effective Communication



### Provision for people with speech/hearing disabilities for access to information provided by telephone

- TDD (Text Telephone)
- Telecommunications Relay Service
- Not all lines and phone stations, but sufficient number
- No delays or costs not experienced by general public
- Relay service must operate during all days/hours that voice phone lines are open

# ADA Service Requirements for Providers



## Fees Association with ADA Transportation:

- Special fares and charges, beyond those required of other riders, cannot be imposed on people with disabilities
- No processing fee for ADA eligibility applications can be assessed

# ADA Service Requirements for Providers

## Use of Attendants



- Transit agencies cannot require individuals with disabilities to be accompanied by an attendant (unless as a mitigation step due to seriously disruptive conduct, or similar issue).
- Drivers are required to provide assistance with use of lifts, ramps and securement systems but drivers are not required to provide attendant services, such as assisting with medical equipment, personal needs, or administering medication. Riders unable to travel without this level of assistance may need to bring along their own attendant.

# Fixed Route-Specific Requirements



## Route Identification

- If a system has stops that serve more than one bus line, the ADA requires that riders are provided with the means of identifying which bus has arrived or to identify themselves as a person seeking a ride on a particular route.
- These external route identification announcements can be automated or spoken by the driver.
- It is recommended to announce both the bus line and the destination to ensure that the rider can board the correct bus going in the desired direction.

# Fixed Route-Specific Requirements



## Stop announcements

Announcements should be made in advance of the stop, and they should follow a standard format.

- For example, the street the bus is traveling on should always be stated before the street it intersects. At a minimum, the following announcements must be made:
  - Transfer points with other fixed routes.
  - Major intersections and destination points.
  - Orientation announcements should be made during longer intervals on a route that has no stops or destination points, which allows passengers with disabilities to be oriented to their location.
  - Any requested stop.



# Fixed Route-Specific Requirements



## ADA Complementary Paratransit

- If a system includes fixed route service, it is required to provide complementary paratransit service to customers who are unable to use the fixed route system.
- The ADA further requires that paratransit rides be provided to all eligible riders if requested any time the previous day, within an hour of the requested time.



# Paratransit Required Service Areas



- Under the ADA, paratransit functions as a “safety net” for persons whose disabilities prevent them from using the fixed route system (bus or rail).
- It is not intended to meet all of the transportation needs of all persons with disabilities, all of the time.
- The level of service provided is required to be comparable to that available on the fixed route system; the hours and days of operation must be the same, and service must be provided to origins and destinations within three-fourths of a mile of a bus route (or between points within a three-fourths of a mile radius of different rail stations).



# Paratransit

## How is Paratransit Eligibility Determined?



- Disability alone does not determine paratransit eligibility; the decision is based on the applicant’s functional ability to use the fixed route bus and is not a medical decision.
- Transit agencies determine whether an individual can use fixed route transit “in his or her own circumstances.” Transit agencies, with input from the communities they serve, devise the specifics of their individual eligibility processes.
- The DOT ADA regulations in Section 37.125 set only broad requirements that all agencies must incorporate, such as written notification of eligibility decisions and an opportunity for an appeal. This regulation may be accessed at the following link: [http://www.fta.dot.gov/12876\\_3906.html](http://www.fta.dot.gov/12876_3906.html).

# How do I File A Complaint - Public Transportation?



The transportation provisions of Title II of the ADA cover public transportation services, such as city buses and public rail transit.

Questions and complaints about public transportation should be directed to:

**Federal Transit Administration  
U.S. Department of Transportation**

**Office of Civil Rights**

1200 New Jersey Avenue,  
Room E54-427, Room 9102  
Washington, D.C. 20590

[FTA.ADAAssistance@dot.gov](mailto:FTA.ADAAssistance@dot.gov)

1-888-446-4511

# ADA Title III – Private Entities & Transportation Accessibility



- Private entities covered by Title III may offer transportation services to the public.
- Sometimes the primary function of the business is providing transportation, for example, taxi companies or airport shuttle services.
- Other businesses offer transportation as part of customer service options, such as hotels that offer shuttles to nearby shopping centers or airports. These transportation services may operate on a fixed-route basis or a demand-responsive basis.
  - Examples include: taxi cabs, over-the-road buses, airport shuttles, hotel shuttles, casino shuttles, and amusement park shuttles.

# Demand Response-Specific Requirements

## Equivalent Service Standards



If a service provider operates a general public demand response system, it is not required that they also provide ADA complementary paratransit service, but they are required to provide *equivalent service* for passengers with disabilities. Service should be equivalent in the following ways:

- Response time
- Fares
- Geographic service area
- Hours and days of service
- Restrictions or priorities based on trip purpose
- Availability of information and reservation capability
- Any constraints on capacity or service availability

# How do I File A Complaint – Private Transportation?



**The U.S. Department of Justice enforces Title III of the ADA.**

- To file a complaint by Mail, contact:

US Department of Justice  
950 Pennsylvania Avenue, NW  
Civil Rights Division  
Disability Rights Section – 1425 NYAV  
Washington, D.C. 20530

- To file an ADA complaint by fax: (202) 307-1197
- To file a complaint by email: [ADA.complaint@usdoj.gov](mailto:ADA.complaint@usdoj.gov)

# Motor Coach Accessibility Federal Motor Carrier Safety Administration (FMCSA)



- ADA regulations require accessible, timely, motor coach service for passengers with disabilities, including individuals who use wheelchairs.
- The fixed route fleet of a motor coach company, with annual transportation revenue exceeding \$8.7 million, was required to be 100% accessible by October 2012. (Prior to that date, these companies should have provided accessible motor coach services to passengers with disabilities on a 48-hour advance notice basis).

# How Do I File A Complaint – Motor Coach Accessibility?



Contact FMCSA:

Online at:

<http://nccdb.fmcsa.dot.gov/HomePage.asp>

1-888-DOT-SAFT (1-888-368-7238)

# Air Transportation Accessibility

## Air Carrier Access Act (ACAA)



- The ACAA prohibits discrimination in air transportation by domestic and foreign air carriers against individuals with physical or mental disabilities. It applies only to air carriers that provide regularly scheduled services for hire to the public.
- People may enforce rights under the ACAA by filing a complaint with the U.S. DOT or by bringing a lawsuit in federal court.
- Complaints can be mailed to:

### **Aviation Consumer Protection Division**

U.S. Department of Transportation

400 Seventh St., S.W. Room 4107, C-75

Washington, D.C. 20590

- You can also contact the **Aviation Consumer Disability Hotline:**  
800-778-4838 (voice) or 800-455-9880 (TTY).

# Suggested Resources:



**U.S. DOT – FTA Office of Civil Rights - Civil Rights & Accessibility FAQ's:**

<http://ftawebprod.fta.dot.gov/ContactUsTool/Public/FAQs.aspx?CategoryID=4>

**Easter Seals Project ACTION:**

1-800-659-6428 – [www.projectaction.org](http://www.projectaction.org)

**Community Transportation Association:**

1-800-527-8279 – [www.ctaa.org](http://www.ctaa.org)

**National Rural Transit Assistance Program:**

<http://webbuilder.nationalrtap.org/adatoolkit/Resources/ADA101WebinarQA.aspx>

# Upcoming Webinar



Please join us on February 25, 2015 for a discussion of *Regional Issues Impacting Accessible Transportation*. For more information or to register, please visit:

<http://www.edi.cornell.edu/register/index.cfm?event=5055>

**Thank you for  
attending!**

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