

# Regional Issues in Accessible Transportation

**February 25, 2015**  
**1:00 – 2:00 PM EST**



Cornell University



# Today's Presenters



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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 of the 2-11-15 Webinar Highlights – *The ADA and Accessible Transportation*
- Q & A – Respond to Questions received during the 2-11-15 webinar on accessible transportation
- Review of recent settlement agreements, enforcement actions and trends in the Northeast ADA Center's Region and nationwide, that impact accessible transportation.



# 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



- **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)



# The Importance of Accessible Transportation



- "Equal access to public transportation is a critical right that is guaranteed for people with disabilities, ensuring their ability to live independently in the community,"
  - Thomas E. Perez, Assistant Attorney General, U.S. Department of Justice, Civil Rights Division – 3-24-10
- Transportation is integral to community participation and independent living.
- Without accessible transportation, many people with disabilities cannot access employment, education, healthcare, or participate in other aspects of community life.

# The ADA Gives You the Right To:



- Use any public bus or rail system.
- Use a wheelchair or other mobility device to board a bus or train.
- Receive transportation route and service information in an accessible and useable form.
- Find all lifts and securement devices in good working order.
- Ride the bus or train seated in your wheelchair or mobility device.

# The ADA Gives You the Right To (Continued):



- Have stops, major streets and intersections announced along the route.
- Travel with a personal care attendant if needed.
- Travel with a service animal.
- Travel with any necessary equipment and devices.
- Receive courteous, respectful service as well as ample time to get on and off the vehicle.
- File a complaint with the transportation provider if necessary

Easter Seals Project Action Rider Brochure

# 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



## 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: 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



## 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



# Questions Received during the February 11, 2015 Webinar on Accessible Transportation



- **Question:** What do I do if I have severe allergies to something I encounter on a public transportation system (i.e., service animals, cigarette smoke at bus stops, etc.)?
- **Answer:** Encountering cigarette smoke, service animals, and other potential allergens is a function of going out in public. Adoption of a no smoking policy at bus stops is a local issue and is not covered under the Americans with Disabilities Act (ADA); however, you may contact your local transit authority to discuss such a concern. Under DOT ADA regulations, public transit providers are required to allow trained service animals to accompany riders on vehicles.

# Questions Received during the February 11, 2015 Webinar on Accessible Transportation



- **Question:** Re: Hours of operation: Currently our fixed route buses stop at midnight and our Paratransit ends at 9pm. Is this within ADA requirements?
- **Answer:** Under DOT ADA regulations, complementary paratransit service must be available during the same days and hours that fixed route service operates.

# Questions Received during the February 11, 2015 Webinar on Accessible Transportation



- **Question:** Is Route Identification required as the bus is traveling, or only at stops?
- **Answer:** There are ADA Requirements in place for both Route Identification and Stop Announcements. Below is a link to an excellent Topic Guide produced by the Disability Rights Education Defense Fund (DREDF) that breaks down the ADA Requirements for Route Identification and Stop Announcements.  
<http://dredf.org/ADAtg/stop.shtml>

# Questions Received during the February 11, 2015 Webinar on Accessible Transportation



- **Question:** Should transit organizations provide assistance to riders with disabilities (i.e. pushing or pulling a rider's wheelchair)? We have concerns about driver injury and/or liability.
- **Answer:** The DOT ADA regulations require operators to train their personnel to properly assist and treat individuals with disabilities with sensitivity, and to operate vehicles and equipment safely.

While attendant type services are not required, assistance with boarding and disembarking, including pushing a manual wheelchair up a particularly steep ramp, is required.

# Questions Received during the February 11, 2015 Webinar on Accessible Transportation



- **Question:** Can you clarify the paratransit geographic service area requirements? I am wondering if you need to be within 3/4 of a mile of the closest bus stop or within 3/4 of a mile of where the bus drives by.
- **Answer:** The DOT ADA Regulations for Complementary Paratransit state the following re: Geographic area of service – “Transit systems that run fixed routes must also provide ADA complementary paratransit service within ¾ mile on either side of the fixed route; this is considered to be the maximum distance a rider would travel to reach a bus or train stop.”

# Questions Received during the February 11, 2015 Webinar on Accessible Transportation



- **Question:** If a private transportation carrier operates on a fixed route equivalent public transit system, is it required to be accessible? They are not contracted, but they are operating on a fixed route in the absence of the fixed route system.
- **Answer:** If a public or private system transports the general public by bus on a regular basis on vehicles that travel a designated route on a fixed schedule, it then qualifies as fixed route service. Additionally, private entities primarily engaged in transportation and providing fixed-route service have an obligation to purchase/lease accessible vehicles (with some exceptions for very small vehicles) and in that case, the system accessibility requirements must still be met.

# Recent Settlement Agreements, Letters of Findings and Regulation Developments



## Topic Areas

- Public Transportation Systems
- Motorcoach Accessibility
- Taxi Services
- Ride Sharing Programs
- Air Carrier Access Regulations



# Recent Enforcement Actions:



- **Virgin Islands Department of Public Works (VITRAN) Under Title II of the Americans with Disabilities Act – 11-14-14 - U.S. DOJ Letter of Findings – Summary of Recommended Remedial Measures:**
  - Maintain, promptly repair, and keep vehicle lifts on fixed-route buses in operative condition...
  - Make stop announcements on fixed-route buses;
  - Provide and maintain (at least two) securement equipment on fixed-route buses ;
  - Allow passengers who use a lift on fixed-route buses to board and disembark at all designated bus stops;
  - Provide paratransit services to individuals with disabilities that are sufficient to provide such individuals a level of service which is comparable to the level of service provided to individuals without disabilities who use the fixed route system;
  - Schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day, including by allowing for reservations during VITRAN’s normal business hours, as well as during times, comparable to normal business hours, on a day when the entity’s offices are not open before a service day;

# Recent Enforcement Actions:



- Plan to meet 100% of paratransit demand, by ensuring that there are sufficient vehicles and drivers on the road to meet the growing demand for paratransit service;
- Revise its policies to remove age restrictions on companions and ensure that riders are allowed to bring at least one companion;
- Revise its fare policies so that riders who travel within “the city” are charged no more than double the fare for a comparable “in the city” fixed-bus trip;
- Ensure that it does not impose capacity constraints, including by reducing untimely pickups, charging no more than twice the fare for a comparable fixed-route trip, and maintaining reservation service during normal hours of operation and offering weekend reservation service;
- Train all personnel to proficiency, 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.

# Motor Coach Accessibility

## Federal Motor Carrier Safety Administration (FMCSA)



- ADA regulations require accessible, timely, motor coach service for passengers with disabilities, including wheelchair-users.
- 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).

# Recent Enforcement Actions: DeCamp Bus Lines Settlement Agreement Title III of the ADA - 6-12-13



- DOJ Settlement with DeCamp Bus Lines (New Jersey)
- DOJ found that DeCamp Bus Lines violated the ADA by requiring that passengers with disabilities provide 48 hours of advance notice to secure a wheelchair-accessible bus, even though passengers without disabilities did not have to provide any advance notice, and even though their fleet was fully accessible.
- The settlement agreement requires DeCamp to comply with all ADA requirements for accessible service, and not exclude persons with disabilities from its transportation services.

# Recent Enforcement Actions: Motor Coach Accessibility DC Trails, Inc. – 12-1-14



- **U.S. DOJ Settlement Agreement**
  - DC Trails is a large, private fixed route operator in Virginia.
  - A compliance review from DOJ and FMCSA found that the Over the Road Bus fleet was not 100% accessible and the company failed to file mandated reporting re: the use of lifts to board accessible buses.
  - The company also did not provide appropriate staff training for employees on the ADA and Service Requirements.
  - The Settlement requires that DC Trails must provide employee training on the ADA, provide fixed route service without advance notice and must use wheelchair-accessible motor coaches for its fixed route service.
  - [http://www.ada.gov/dc\\_trails\\_sa.htm](http://www.ada.gov/dc_trails_sa.htm)

# Recent Enforcement Actions: Intercity Bus Company Settlement Title III of the ADA - 5-16-11



- DOJ Settlement Agreement with Megabus (located in Chicago and New Jersey).
- A complaint was filed against Megabus because a rider was not permitted to use the ramp on a passenger bus, and the rider was forced to transfer out of his wheelchair rather than be secured in the wheelchair, during a trip from New York to Baltimore.
- Under the terms of the settlement agreement, Megabus will:
  - Ensure that all of the vehicles in its intercity service are fully accessible to individuals with disabilities,
  - Alter its online reservation services so that passengers with disabilities are able to access schedule information and make reservations in the same manner and using the same reservation system as other passengers.

# Taxi Services



“Reliable, accessible transportation will change my life. With a wheelchair accessible (taxi) fleet I would no longer be relegated to staying home or spending hours trying to get somewhere that takes everyone else 20 minutes. Wheelchair accessible taxis and liveries will significantly change my life, and will help thousands of people like me.”

-Ronnie Raymond, longtime advocate for accessible taxi service in NYC

# Recent Enforcement Actions:

## Taxi Services – Title II

### NYC Taxicab Accessibility Approved 9-16-14



- *Taxis for All Campaign v. Taxi & Limousine Commission (TLC)*
- The suit was brought by a coalition of people with disabilities, including Taxis for All Campaign, United Spinal Association, 504 Democratic Club, and Disabled in Action.
- Under the settlement terms, the TLC agrees to propose rules that will require the yellow taxi fleet to phase-in wheelchair-accessible vehicles, as non-accessible taxis are retired, reaching a 50-percent wheelchair accessible fleet by 2020.
- The TLC will institute a 30-cent surcharge for all fares beginning in 2015.  
The fee will fund a fleet of 7,500 wheelchair accessible cabs.
- Currently, only 231 out of the City's 13,237 taxicabs are wheelchair-accessible.





“This is one of the most significant acts of inclusion in this city since Jackie Robinson joined the Brooklyn Dodgers. It is an act of a city that equally values all of its residents and visitors. I commend the plaintiffs and their lawyers for their persistence, and the mayor and the city’s representatives for the good judgment that today’s agreement represents.”

-Statement by Manhattan Federal Judge George Daniels upon approving the Taxi Settlement Agreement



# Recent Enforcement Actions:

## Taxi Services – Title III



- **Altagracia Roumou– 5-15-14 U.S. DOJ Settlement Agreement, St. Thomas, U.S. Virgin Islands**
  - Taxi operators must not refuse to provide transportation services to a customer or potential customer with a disability because that individual is accompanied by a service animal;
  - Taxi operators must not ask or require a customer or potential customer accompanied by a service animal to pay any surcharge or deposit not imposed on customers generally because that individual has a service animal; and
  - Taxi operators must not require a customer or potential customer accompanied by a service animal to comply with any additional conditions of service not imposed on customers generally.

# Recent Litigation: Uber & Lyft – Ride Sharing Programs



## **National Federation of the Blind v. Uber Technologies Inc.**

- Lawsuit in California federal court, alleging violations of the ADA and saying drivers for the company's UberX taxi service often refuse to transport blind customers with service animals.
- The US DOJ has issued as Statement of Interest in this case:

[http://www.ada.gov/briefs/uber\\_soi.pdf](http://www.ada.gov/briefs/uber_soi.pdf)

- A coalition of Texas disability advocates sued ride-share companies Uber and Lyft over inaccessible vehicles and policies in Summer, 2014.

# Recent Regulation Development: Air Carrier Access Act (ACAA) Website & Kiosk Accessibility



- On November 12, 2013 DOT issued rules regarding the accessibility of carrier websites and ticket kiosks, which will require these sites and kiosks to be accessible to people with disabilities. The final rule went into effect on December 12, 2013.
- U.S. and foreign air carriers operating flights to or selling tickets to the U.S. public are required to ensure that the public-facing content of websites that they own or control conforms to the Web Content Accessibility Guidelines (WCAG) 2.0 Level A and Level AA. The regulations apply to core air travel services as of December 12, 2015 and to the entire site as of December 12, 2016.
- After December 12, 2016 carriers must start to deploy accessible kiosks until a total of 25% of all kiosks in each location are accessible.

# Accessible Transportation Trends and Issues in Puerto Rico



- Few Alternatives
- General Unreliability
- Paratransit Services Are Limited and Scarce
- Lack of Services in Rural Areas
- Lack of skills in local governments to get funds for this kind of service

# Accessible Transportation Trends and Issues in Puerto Rico



- Lack of Accessible Taxi Services
- Need for Sensitivity / ADA Training for Drivers
- Need for Maintenance of Accessible Features
- Need for Education for people with disabilities about their rights under the ADA
- Need for Community Transportation Initiatives



AAAT member Peter Tan demonstrating how impossible it is to board a bus.

# Review of Enforcement Agencies



- Public Transportation
- Motor Coach Accessibility
- Private Transportation
- Air Transportation

# 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**

1-888-446-4511

**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)

# 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)

# How Do I File a Complaint – Private Transportation?



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

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)

# How Do I File a Complaint?

## Air Transportation Accessibility



- The Air Carrier Access Act (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).

# Next Steps?



## **Continue and Expand on Advocacy Efforts:**

- The disability and broader civil rights community must continue to work together for a transportation system that meets the needs of ALL individuals in the United States.

## **Message to Congress:**

- Dedicated funding for public transit is critical—most federal funding currently favors cars and highways, missing a whole segment of the nation.
- Adequate funding must be provided for transportation programs and for innovative private and public sector models

## **Enforcement:**

- Vigorous oversight and compliance with ADA requirements is crucial. The FTA should continue its compliance assessments to hold transit agencies accountable.
- Policies should be implemented that support the availability of accessible taxis, buses, trains, and other transportation.
- Taxis should be made accessible and considered as cost-effective alternatives to paratransit.

# 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)
- FTA Letters of Findings by Topic Area: [http://www.fta.dot.gov/12325\\_9564.html](http://www.fta.dot.gov/12325_9564.html)
- Disability Rights Education & Defense Fund – Transportation Resources -  
<http://dredf.org/public-policy/transportation/>
- [AAPD - Equity in Transportation for People with Disabilities](#)
- <http://www.civilrightsdocs.info/pdf/transportation/final-transportation-equity-disability.pdf>
- Virtual CIL – Website with links to Centers for Independent Living (CIL) by State:  
<http://www.virtualcil.net/cils/>

# Mark Your Calendars...

## Upcoming Free Webinar



Please join us on 3-11-15 for our next webinar, *The Rights of People with Disabilities as Community Members*. For more information or to register, please visit:

<http://www.northeastada.org/pages/events/>

**Thank you for  
attending!**

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