

Systems Planning & Programming
Public Transit Team

ADA Complementary Paratransit

Compliance Manual



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Introduction

The Americans with Disabilities Act (ADA) requires public transit agencies that provide fixed route service to provide complementary paratransit services to peoples with disabilities who cannot use the fixed-route bus or rail service because of disability. The ADA regulations specifically define a population of customers who are entitled to this service as a civil right.

In general, ADA complementary service must be provided within 3/4 of a mile of a bus route or rail station, at the same hours and days, for no more than twice the regular fixed route fare. Eligible customers who are outside the service area could still use the service if they are able to get themselves within the service area.

The ADA further requires that paratransit rides be provided to all eligible riders if requested any time the previous day. The ADA allows providers to negotiate trip time with the customer, but no more than an hour before or an hour after the requested time.



ADA COMPLEMENTARY PARATRANSIT

STANDARDS AND REQUIREMENTS

ADA Paratransit Eligibility: STANDARDS

- The following individuals are ADA paratransit eligible:
 1. Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system that is readily accessible to and usable by individuals with disabilities.
 2. Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride, and disembark from any vehicle that is readily accessible to and usable by individuals with disabilities.
 - a. An individual using a common wheelchair is eligible if the individual's wheelchair cannot be accommodated on an existing vehicle
 - b. Key stations have not yet been made accessible
 3. Any individual with a disability who has a specific impairment which prevents the individual from traveling to a boarding location or from a disembarking location on such system.
 - a. Architectural barriers not under the control of the public entity providing fixed route service and environmental barriers (e.g., distance, terrain, weather) do not, standing alone, form a basis for eligibility under this paragraph.

The interaction of such barriers with an individual's specific impairment-related condition may form a basis for eligibility, if the effect is to prevent the individual from traveling to a boarding location or from a disembarking location.

- Individuals accompanying an eligible individual shall be provided service as follows:
 1. One other individual accompanying the individual shall be provided service:
 - a. If the individual is traveling with a personal care attendant, the entity shall provide service to one other individual in addition to the attendant who is accompanying the eligible individual.
 - b. A family member or friend is regarded as a person accompanying the eligible individual, and not as a personal care attendant, unless the family member or friend registered is acting in the capacity of a personal care attendant.



2. Additional individuals accompanying the eligible individual shall be provided service, provided that space is available for them on the paratransit vehicle carrying the ADA paratransit-eligible individual, and that transportation of the additional individuals will not result in a denial of service to eligible individuals.
 3. In order to be considered as “accompanying,” the individual must have the same origin and destination as the eligible individual
- If an individual meets the eligibility criteria with respect to some trips but not others, the individual shall be eligible only for those trips for which he or she meets the criteria.
 - Individuals may be eligible on the basis of a permanent or temporary disability.
 - Public entities may provide complementary paratransit service to persons other than eligible individuals. However, only the cost of service to eligible individuals may be considered in a public entity's request for an undue financial burden waiver.

ADA Paratransit Eligibility: PROCESS

- Each public entity is required to provide complementary paratransit service shall establish a process for determining ADA paratransit eligibility.
 1. All information about the process, materials necessary to apply for eligibility, and notices and determinations concerning eligibility shall be made available in accessible formats, upon request.
 2. Public entities are required to make a decision within 21 calendar days following the submission of a complete application. If the entity does not make a determination of eligibility, the applicant shall be treated as eligible until and unless the entity denies the application.
 3. The entity's determination concerning eligibility shall be in writing. If the determination is that the individual is ineligible, the determination shall state the reasons for the finding.
 4. The public entity shall provide documentation to each eligible individual stating that he or she is “ADA Paratransit Eligible.” The documentation shall include: the name of the eligible individual, the name of the transit provider, the telephone number of the entity's paratransit coordinator, an expiration date for eligibility, and any conditions or limitations on the individual's eligibility including the use of a personal care attendant.
 5. The entity may require recertification of eligibility at reasonable intervals.
 6. The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial.
 - a. The entity may require that an appeal be filed within 60 calendar days of the denial of an individual's application.



- a. The process shall include an opportunity to be heard and to present information and arguments, decided by a person not involved with the initial decision to deny eligibility, and written notification of the decision, and the reasons for it.
 - b. The entity is not required to provide service to the individual pending the determination on appeal. However, if the entity has not made a decision within 30 calendar days of the completion of the appeal process, the entity shall provide service from that time until and unless a decision to deny the appeal is issued.
7. The entity may establish an administrative process to suspend service for a reasonable period of time to eligible individuals who establish a pattern or practice of missing scheduled trips.
- a. Trips missed by the individual for reasons beyond his or her control (including, but not limited to, trips that are missed due to operator error) shall not be a basis for determining that such a pattern or practice exists.
 - b. Before suspending service, the entity shall take the following steps:
 - i. Notify the individual in writing that the entity proposes to suspend service, the basis of the proposed suspension.
 - ii. Provide the individual an opportunity to be heard and to present information and arguments.
 - iii. Provide the individual with written notification of the decision and the reasons for it.
8. In applications for ADA paratransit eligibility, the entity may require the applicant to indicate whether or not he or she travels with a personal care attendant.

Complementary Paratransit for: VISITORS

- Each public entity required to provide complementary paratransit service shall make the service available to visitors.
- A visitor is an individual with disabilities who does not reside in the jurisdiction(s) served by the public entity.
- Each public entity shall treat visitors as eligible for those visitors who present documentation that they are ADA paratransit eligible.
- A public entity shall make the service to a visitor required by this section available for any combination of 21 calendar days during any 365-day period beginning with the visitor's first use of the service during such 365-day period. In no case shall the public entity require a visitor to apply for or receive eligibility certification from the public entity before receiving the service required by this section.

**Complementary Paratransit: SERVICE CRITERIA**

The following service criteria apply to complementary paratransit.

SERVICE AREA***Bus***

- The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route.
- For purposes of this paragraph, the core service area is that area in which corridors with a width of three-fourths of a mile on each side of each fixed route merge together such that, with few and small exceptions, all origins and destinations within the area would be served
 1. Within the core service area, the entity also shall provide service to small areas surrounded by corridors but barely outside of the 3/4 mile area.
 2. Outside the core service area, the entity may designate corridors with widths from three-fourths of a mile up to 1 ½ miles on each side of a fixed route, based on local circumstances.

JURISDICTIONAL BOUNDARIES

- An entity is not required to provide paratransit service in an area outside the boundaries of the jurisdiction(s) in which it operates, if the entity does not have legal authority to operate in that area. The entity shall take all practicable steps to provide paratransit service to any part of its service area.

RESPONSE TIME

- The entity shall provide service to any eligible person at any requested time on a particular day if a request for service was made the previous day. Reservations may be taken by reservation agents or by mechanical means.
 1. The entity shall make reservation service available during at least all normal business hours of the entity's administrative offices, 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.
 2. The entity may negotiate pickup times with the individual, but the entity shall not require an eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.
 3. The entity may use real-time scheduling in providing complementary paratransit service.
 4. The entity may take reservations up to 14 calendar days in advance.
 5. When an entity proposes to change its reservations system, it shall comply with the public participation requirements.



FARES

- The fare for a trip shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the fixed route system.
 1. In calculating the full fare that would be paid on the fixed route system, the entity may include transfer and premium charges applicable to a trip of similar length, at a similar time of day, on the fixed route system.
 2. The fares for individuals accompanying eligible individuals shall be the same as for the eligible individuals they are accompanying.
 3. A personal care attendant shall not be charged for complementary paratransit service.
 4. The entity may charge a fare higher than otherwise permitted to a social service agency or other organization for agency trips.

TRIP PURPOSE AND RESTRICTIONS

- The entity shall not impose restrictions based on trip purpose.

HOURS AND DAYS OF SERVICE

- The complementary paratransit service shall be available the same hours and days as the entity's fixed route service.

CAPACITY OF CONSTRAINTS

- The entity shall not limit the availability of complementary service to individuals by any of the following:
 1. Restrictions on the number of trips an individual will be provided;
 2. Waiting lists for access to the service; or
 3. Any operational pattern or practice that significantly limits the availability of service to eligible persons.
 4. Such patterns or practices include, but are not limited to, the following:
 - a. Substantial numbers of significantly untimely pickups for initial or return trips;
 - b. Substantial numbers of trip denials or missed trips;
 - c. Substantial numbers of trips with excessive trip lengths.
- Operational problems beyond the control of the entity (i.e. weather or traffic conditions affecting all vehicular traffic) shall not be considered a factor.



Paratransit Plan: SUBMISSION

- Each public entity operating fixed route transportation service is required to submit a paratransit plan.
- Each entity shall submit an annual update to its plan by January 31 of each succeeding year.

Paratransit Plan: DEVELOPMENT

SURVEY OF EXISTING SERVICES

- Each entity shall survey the service area to identify any person or entity (public or private) that provides a paratransit or other special transportation service for eligible individuals in the service area to which the plan applies.

PUBLIC PARTICIPATION

- Each entity shall include public participation in the development of its paratransit plan, including at least the following:
 1. *Outreach.* Each entity shall solicit participation in the development of its plan by the widest range of persons anticipated to use its paratransit service. Each entity shall develop contacts, mailing lists, and other appropriate means for notification of opportunities to participate in the development of the paratransit plan.
 2. *Consultation with individuals with disabilities.* Each entity shall contact individuals with disabilities and groups representing them in the community. Consultation shall begin at an early stage in the plan development and should involve persons with disabilities in all phases of plan development. All documents and other information concerning the planning procedure and the provision of service shall be available, upon request, to members of the public, except where disclosure would be an unwarranted invasion of personal privacy.
 3. *Opportunity for public comment.* The submitting entity shall make its plan available for review before the plan is finalized. In making the plan available for public review, the entity shall ensure that the plan is available upon request in accessible formats.
 4. *Public hearing.* The entity shall sponsor at a minimum one public hearing and shall provide adequate notice of the hearing, including advertisement in appropriate media, such as newspapers of general and special interest circulation and radio announcements.
 5. *Special requirements.* If the entity intends to phase-in its paratransit service over a multi-year period, or request a waiver based on undue financial burden, the public hearing shall afford the opportunity for interested citizens to express their views concerning the phase-in, the request, and which service criteria may be delayed in implementation.

ONGOING REQUIREMENT

- The entity shall create an ongoing mechanism for the participation of individuals with disabilities in the continued development and assessment of services to persons with disabilities. This includes, but is not limited to, the development of the initial plan, any request for an undue financial burden waiver, and each annual submission.



Paratransit Plan: SUBMISSION CONTENTS

Each plan shall contain the following information:

- **Identification of the entity or entities submitting the plan:**
 1. Name and address; and
 2. Contact person for the plan, with telephone number and e-mail if applicable.
- **A description of the fixed route system**
 1. A description of the service area, route structure, days and hours of service, fare structure, and population served. This includes maps and tables
 2. The total number of vehicles (bus, van, or rail) operated in fixed route service (including contracted service), and percentage of accessible vehicles and percentage of routes accessible to and usable by persons with disabilities, including persons who use wheelchairs;
 3. Any other information about the fixed route service that is relevant to establishing the basis for comparability of fixed route and paratransit service.
- **A description of existing paratransit services, including:**
 1. An inventory of service provided by the public entity;
 2. An inventory of service provided by other agencies or organizations, which may in whole or in part be used to meet the requirement for complementary paratransit service;
 3. A description of the response time, fares, restrictions on trip purpose, hours and days of service, and capacity constraints.
- **A description of the plan to provide comparable paratransit, including:**
 1. An estimate of demand for comparable paratransit service by eligible individuals and a brief description of the demand estimation methodology used;
 2. An analysis of differences between the paratransit service currently provided and what is required under this part by the entity(ies) submitting the plan and other entities;
 3. A brief description of planned modifications to existing paratransit and fixed route service and the new paratransit service planned to comply with the ADA paratransit service criteria;
 4. A description of the planned comparable paratransit service as it relates to each of the services including: service area, absence of restrictions or priorities based on trip purpose, response time, fares, hours and days of service, and lack of capacity constraints.
 5. A timetable for implementing comparable paratransit service, with a specific date indicating when the planned service will be completely operational. The plan shall include milestones for implementing phases of the plan, with progress that can be objectively measured yearly.
 6. A budget for comparable paratransit service, including capital and operating expenditures over five years.



- **A description of the process used to certify individuals with disabilities as ADA paratransit-eligible, including, at a minimum:**
 1. A description of the application and certification process, including:
 - a. The availability of information about the process and application materials in accessible formats;
 - b. The entity's system and timetable for processing applications and allowing presumptive eligibility; and
 - c. The documentation given to eligible individuals.
 2. A description of the administrative appeals process for individuals denied eligibility.
- **A policy for visitors**
- **Description of the public participation process including:**
 1. Notice given of opportunity for public comment, the date(s) of completed public hearing(s), availability of the plan in accessible formats, outreach efforts, and consultation with persons with disabilities.
 2. A summary of significant issues raised during the public comment period, along with a response to significant comments and discussion of how the issues were resolved.
- **Efforts to coordinate service with other entities subject to the complementary paratransit requirements of this part that have overlapping or contiguous service areas or jurisdictions**
- **The following endorsements or certifications:**
 1. A resolution adopted by the board of the entity authorizing the plan, as submitted. If more than one entity is submitting the plan there must be an authorizing resolution from each board. If the entity does not function with a board, a statement shall be submitted by the entity's chief executive.
 2. In urbanized areas, certification by the Metropolitan Planning Organization (MPO) that it has reviewed the plan and that the plan is in conformance with the transportation plan developed under the Federal Transit/Federal Highway Administration joint planning regulation (49 CFR part 613 and 23 CFR part 450). In a service area that is covered by more than one MPO, each applicable MPO shall certify conformity of the entity's plan. The provisions of this paragraph do not apply to non-FTA recipients.
 3. A certification that the survey of existing paratransit service was conducted.
 4. To the extent service provided by other entities is included in the entity's plan for comparable paratransit service, the entity must certify that:
 - a. ADA paratransit-eligible individuals have access to the service;
 - b. The service is provided in the manner represented; and
 - c. Efforts will be made to coordinate the provision of paratransit service by other providers.



- **A request for a waiver based on undue financial burden, if applicable**
 1. A request shall include information sufficient for FTA. A waiver must include a description of paratransit services that would be provided to achieve full compliance with the requirement for comparable paratransit in the event the waiver is not granted, and the timetable for implementing the additional services.
- **Annual plan updates**
 1. Information submitted annually must include all significant changes and revisions
 2. If the paratransit service is being phased in over more than one year, the entity must demonstrate that the milestones identified in the current paratransit plans have been achieved. If the milestones have not been achieved, the plan must explain any slippage and what actions are being taken to compensate for the slippage.
 3. The annual plan must describe specifically the means used to comply with the public participation requirements.

Paratransit Plan: IMPLEMENTATION

- Each entity shall begin implementation of its complementary paratransit plan, pending notice from FTA. The implementation of the plan shall be consistent with the terms of the plan, including any specified phase-in period.
- If the plan contains a request for a waiver based on undue financial burden, the entity shall begin implementation of its plan, pending a determination on its waiver request.
- Each entity revising its plan shall continue to comply with the public participation requirements applicable to the initial development of the plan.

Paratransit: BROCHURE

- It is recommended that each entity offering complementary paratransit service publish a brochure available to the public. The Brochure should include the following;
 1. Should be offered in languages other than English (i.e. Spanish)
 2. Hours of operation (including holidays when the service is not available)
 3. Telephone number and email addresses for business hours and after hours of operation (specify hours) - voice mail should include languages other than English.
 4. Description of complementary paratransit service
 5. Eligibility requirements for service
 6. Specific dimensions that may limit riders
 7. Rules of conduct and security
 8. Specific policies - (i.e. service animals, friends / family members, etc..)



State Comment on Plans

- Each state required to receive plans shall:
 1. Ensure that all applicable section 18 and section 9 recipients have submitted plans.
 2. Certify to FTA that all plans have been received.
 3. Forward the required certification with comments on each plan to FTA.
 4. Develop comments on each plan, responding to the following points:
 - a. Was the plan filed on time?
 - b. Does the plan appear reasonable?
 - c. Are there circumstances that bear on the ability of the grantee to carry out the plan as represented? If yes, please elaborate.
 - d. Is the plan consistent with statewide planning activities?
 - e. Are the necessary anticipated financial and capital resources identified in the plan accurately estimated?

Considerations during FTA Review

- In reviewing each plan, at a minimum FTA will consider the following:
 1. Whether the plan was filed on time;
 2. Comments submitted by the state, if applicable;
 3. Whether the plan contains responsive elements for each component;
 4. Whether the plan, when viewed in its entirety, provides for paratransit service comparable to the entity's fixed route service;
 5. Whether the entity complied with the public participation efforts required by this part; and
 6. The extent to which efforts were made to coordinate with other public entities with overlapping or contiguous service areas or jurisdictions.

Disapproved Plans

- If a plan is disapproved in whole or in part, FTA will specify which provisions are disapproved. Each entity shall amend its plan consistent with this information and resubmit the plan to the appropriate FTA Regional Office within 90 days of receipt of the disapproval letter.
- Each entity revising its plan shall continue to comply with the public participation requirements applicable to the initial development of the plan.



Reference:

Transportation Services for Individuals with Disabilities (ADA)
49 CFR Part 37.121

Justia.com: <http://law.justia.com/us/cfr/title49/49-1.0.1.1.26.html>. Accessed 1/26/11