

National RTAP ADA Toolkit Update Questions and Answers

June 30, 2020

The National RTAP ADA Toolkit was thoroughly updated in June 2020 with new content, resources, explanations, templates, questions and answers, glossary, and more. The Toolkit is meant to give rural and tribal transit managers an overview of their responsibilities under the Americans with Disabilities Act (ADA) regulations to provide equal service to all passengers. Beth Hamby and Buffy Ellis, KFH Group, and Cara Marcus, National RTAP, provided an overview of the updated toolkit's sections, features, and functionality.

Access the webinar [recording](#) and [PowerPoint](#).

Q: Comment on the integration of On-Demand service with Fixed Route and Complementary Paratransit.

A: On-demand service to the general public is covered by the ADA requirements for demand-responsive service. All vehicles must be accessible to and usable by persons with disabilities, including wheelchair users, unless the service, when viewed in its entirety, provides equivalent service to persons with disabilities according to specific regulatory criteria that include fares, response time, service area, and hours and days of service. Service provided under contract or other arrangement or relationship with a private entity, including a grant, subgrant, or cooperative agreement, must meet the same regulatory requirements as service provided directly by the public entity. This means that if a passenger can reserve an on-demand trip using a service operated under any kind of arrangement between a public entity, such as transit agency, and a private entity, such as a taxi operator or TNC, the same service must be available on the same basis to persons with disabilities, including wheelchair users.

The same is true of fixed route services. Some transit agencies have entered into arrangements with private operators to provide what amounts to flag-stop service, where the vehicles follow a fixed route but stop to pick up passengers only when requested by a rider via an app. Public operators of fixed route service must ensure that all vehicles are accessible to and usable by persons with

disabilities, including wheelchair users; therefore, any such service provided under contract or other arrangement or relationship must also consist of only accessible vehicles. Appendix D to the DOT ADA regulations makes it clear that the mere existence of an interaction with a passenger to obtain service, such as flagging down a bus to board, does not render an otherwise fixed route demand-responsive.

In some cases, transit operators are engaging the services of private entities such as TNCs or taxi operators to supplement their ADA complementary paratransit service. Again, the requirements applicable to the public entity would apply. Some transit operators use these services to provide paratransit service on a real-time basis; while this is expressly permitted under the ADA, it is important to understand that real-time service must be provided to all paratransit passengers using the service, not just to ambulatory riders. Wheelchair users and others who require an accessible vehicle must be provided with the same level of service.

Q: Is a Zinger covered under the current wheelchair definition?

A: The U.S. DOT ADA regulations define a wheelchair as "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." (49 CFR Section 37.5) Should any questions arise with respect to a specific device, a transit agency should contact the FTA Regional Civil Rights Officer (RCRO) for their Region.

Q: Please explain next-day service vs. 24-hour service.

A: Next-day service means that ADA complementary paratransit riders can request a trip at any time (during business hours) today, to be taken any time (during service hours) tomorrow. For example, if a passenger wants to make a trip at 8:00 AM on Tuesday, they can call at 3:00 PM on Monday to schedule the trip. They do not have to call at 8:00 AM on Monday.

It's important to note that U.S. DOT ADA regulations require transit operators to take next-day paratransit reservations on days when offices may be closed. For example, if offices are closed on Sunday, but Monday is a service day, the agency must have a means in place to make next-day reservations on Sunday.

Q: In a Cliff Notes elevator pitch, what is the difference between paratransit and demand response?

A: While the term "paratransit" has often been used in a generic sense, it has a specific meaning under the ADA, subject to specific eligibility and service criteria. When we speak of "paratransit," we are referring to ADA complementary paratransit.

Other forms of demand-responsive services are just that – demand-responsive, and subject to their own separate requirements under the ADA for accessible vehicles and equivalent service.

It's also important to note that there is no such thing as "non-ADA service." This term is often used to describe demand-responsive service that is not ADA complementary paratransit. U.S. DOT ADA

regulations cover every form of surface transportation, public and private; the only form of “non-ADA service” involves the use of aircraft.

Q: Does demand response require eligibility determination like paratransit, or can anyone use it within organizational policies? If so, what guidelines determine eligibility for demand response?

A: U.S. DOT ADA regulations do not require eligibility determination for demand response services. Eligibility policies for demand response services can be determined at the local organization level. Sometimes funding sources will limit eligibility, or require that the service be open to the general public. Locally-determined policies must not be discriminatory (for example, wheelchair users must be able to use the service in a manner equivalent to ambulatory individuals).

Q: Are agencies allowed to use the pictures from the toolkit in their own marketing and manuals?

A: Anyone is able to use photos from the [National RTAP Marketing Toolkit](https://www.nationalrtap.org/Toolkits/Marketing-Toolkit/Marketing-Tools/Photo-Library) for their own marketing materials. No attribution is required. This only applies to our Marketing Toolkit Photo Library at <https://www.nationalrtap.org/Toolkits/Marketing-Toolkit/Marketing-Tools/Photo-Library>, not to photos in any of our other toolkits or elsewhere on our website.

Q: Are there any policies available regarding driver safety when boarding and alighting clients who due to the client’s size may pose a safety risk to the health of the operator?

A: The driver needs to provide assistance with boarding and alighting provided that the level of assistance is reasonable and does not constitute a direct threat to the health or safety of the driver. The regulations do not set a minimum or maximum weight for an occupied wheelchair that drivers are obligated to help propel. Transit agencies will need to assess whether a particular level of assistance constitutes a direct threat on a case-by-case basis.

If an individual does present a direct threat to the health or safety of others, it would be appropriate for the transit agency to work with the individual to identify a solution that would not pose a direct threat to the driver. A transit agency may wish to consult their agency's legal counsel or contact the FTA Regional Civil Rights Officer (RCRO) for their Region to discuss a specific situation.

Q: Is there guidance or definitions for rider No-Show patterns and practice?

A: The toolkit addresses no-shows in the ADA Complementary Paratransit section of toolkit, under [Rider No-Shows](#). This section summarizes the U.S. DOT requirements and FTA recommendations for no-shows found in Section 9.12.2 the FTA ADA Circular. The toolkit section provides links to the circular as well as to the in-depth DREDF topic guide on the subject.

Q: What was the Passenger Assistance and Customer Service called before?

A: It was called Customer Service and Sensitivity.

Q: Are there any new regulations that would change the way we do anything?

A: U.S. DOT issued a final rule on Reasonable Modification of Policies and Practices in March 2015. Since then, there have been no new U.S. DOT ADA regulations. The FTA ADA Circular (4710.1), which provides guidance on the existing U.S. DOT regulations, was published in October 2015.