

Appendix C FTA Service Requirements

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[Demand Response Service Requirements](#)

Chapter 7 of the FTA ADA Circular discusses the U.S. DOT regulations that apply to demand response service. The requirements for demand response services are summarized in this section of the toolkit.

This section of the ADA Toolkit is organized in the following subsections:

[What is Demand Response Service?](#)

[General Requirements](#)

[Demand Response Specific Requirements](#)

[Vehicles Used in Demand Response Service](#)

[Equivalent Service Standards](#)

[Contracting Service from Taxi Providers and Transportation Network Companies](#)

[Section Sources](#)

The information presented in this section is based on the U.S. Department of Transportation (U.S. DOT) regulations: [49 CFR Part 37- Transportation Services for Individuals with Disabilities \(ADA\)](#) and Federal Transit Administration (FTA) [Circular 4710.1 - Americans with Disabilities Act \(ADA\): Guidance](#).

Click here to download a sample ADA policy template for a rural transit system that operates demand response service

What is Demand Response Service?

According to U.S. DOT ADA regulations, demand responsive services are defined as any services transporting individuals which is not a fixed route service [49 CFR Part 37, Section 37.3]. In this toolkit, the expression “demand response service” is used to refer to what U.S. DOT regulations refer to as a “demand responsive system.” As described in Section 7.1 of the FTA ADA Circular, demand responsive services encompass a wide variety of service types, including traditional dial-a-ride service, taxi subsidy service, vanpool service, and route deviation service. In the context of the U.S. DOT ADA regulations, demand responsive service does not include paratransit, which is discussed elsewhere in the FTA ADA Circular.

Note that the definition of demand response in FTA’s [National Transit Database \(NTD\)](#) is different from the definition of a demand responsive service in the ADA regulations. The NTD defines demand response transit as:

A transit mode comprised of passenger cars, vans or small buses operating in response to calls from passengers or their agents to the transit operator, who then dispatches a vehicle to pick up the passengers and transport them to their

destinations. A demand response (DR) operation is characterized by the following:

- a. *The vehicles do not operate over a fixed route or on a fixed schedule except, perhaps, on a temporary basis to satisfy a special need, and*
- b. *Typically, the vehicle may be dispatched to pick up several passengers at different pick-up points before taking them to their respective destinations and may even be interrupted en route to these destinations to pick up other passengers. The following types of operations fall under the above definitions provided they are not on a scheduled fixed route basis:*
 - *Many origins - many destinations*
 - *Many origins - one destination*
 - *One origin - many destinations*
 - *One origin - one destination*

General Requirements

Before reviewing the requirements specific to demand response service, readers are advised to review the general requirements for ALL service types that are summarized in the [General Requirements](#) section of this toolkit.

Demand Response Specific Requirements

Vehicles Used in Demand Response Service

All vehicles acquired for use in providing demand response service must be accessible to and usable by individuals with disabilities, including wheelchair users see 49 [CFR Part 38](#). Inaccessible vehicles may only be acquired for demand-responsive service if the service, when viewed in its entirety, provides equivalent service to individuals with disabilities, including individuals who use wheelchairs, according to specific regulatory standards.

Equivalent Service Standards

If inaccessible vehicles are acquired for demand-responsive service, the service provided to individuals with disabilities must be equivalent to the service provided to other individuals with respect to the following service characteristics [Section 37.77(c)]:

- 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

The transit agency must demonstrate equivalency according to these criteria prior to any acquisition of inaccessible vehicles. While the standard FTA certifications and assurances contain an equivalent service certification form, transit agencies must be able to provide proof of service equivalency upon request (such as during a triennial review or other compliance review conducted by FTA or the State DOT).

Contracting Service from Taxi Providers and Transportation Network Companies

Some transit agencies contract for some or all of their demand response services with taxi providers, transportation network companies (TNCs) such as Lyft and Uber, or other private operators. If an agency relies on external transportation providers to provide any portion of their demand response services, the agency needs to ensure that individuals with disabilities are provided with an equal level of access based on the seven service characteristics (equivalent service standards) listed in Section 37.77(c) and referenced above. For more information, see the [frequently asked questions on shared mobility](#) published on the FTA website. This could be achieved by requiring the contracted private provider to provide equivalent accessible service (e.g., requiring a taxi provider to operate an adequate number of accessible vans as part of the contract), by the transit agency providing its own accessible service, or contracting with another entity.

Section Sources

- [49 CFR Part 37- Transportation Services for Individuals with Disabilities \(ADA\)](#)
 - [FTA Circular 4710.1, Americans with Disabilities Act: Guidance](#)
 - [U.S. DOT, “Dear Colleague” Letter on Equity and Access Obligations for Transportation Network Companies, December 5, 2016](#)
 - [FTA Frequently Asked Questions on Shared Mobility](#)
-

General Requirements for All Service Types

There are some Americans with Disabilities Act (ADA) requirements that apply to ALL transit agencies, regardless of the type of service they provide. These common requirements are described on this page of the toolkit. They include non-discrimination requirements, provision of service requirements, other service requirements, the requirement to make reasonable modification of policies and practices, and the requirement for an ADA complaint process.

This section of the ADA Toolkit is organized into the following subsections:

- [Non-Discrimination Requirements](#)
 - [U.S. DOT Regulatory Definition of “Wheelchair”](#)
 - [Reasonable Modifications](#)
- [Provision of Service Requirements](#)
 - [Maintenance and Use of Accessible Features](#)
 - [Other Service Requirements](#)
- [Reasonable Modification of Policies and Practices](#)
- [Training Requirements](#)
- [Complaint Process Requirements](#)
- [Section Sources](#)

The information presented in this section is based on the U.S. Department of Transportation (U.S. DOT) regulations in [49 CFR Part 37- Transportation Services for Individuals with Disabilities \(ADA\)](#) and FTA [Circular 4710.1 - Americans with Disabilities Act \(ADA\): Guidance](#).

As noted on the Welcome page of this toolkit, the toolkit focuses on the requirements for public entities because these are the requirements that apply to Section 5311-funded services even if they are operated by a private entity. A private entity operating service under contract or other arrangement or relationship to a public entity or receiving a grant awarded by a public entity to operate transit services is considered under the U.S. DOT ADA regulations to be “standing in the shoes” of the public entity for those services. Therefore, that private agency is subject to the ADA requirements that apply to public entities for that service [Section 37.23(a)].

In addition to the common requirements that apply to all transit agencies and services, there are also service type-specific requirements that are not included on this page of the toolkit. The ADA requirements that apply to specific types of service are presented in other sections of this toolkit as listed below. Note that

these toolkit sections were developed by National RTAP and may not address all U.S. DOT ADA regulations. Readers are advised to review the FTA ADA Circular and U.S. DOT ADA regulations for complete guidance.

- [Fixed route bus service](#) – see Chapter 6 of the FTA ADA Circular for FTA guidance on fixed route requirements
- [ADA complementary paratransit service](#) – see Chapters 8 and 9 of the FTA ADA Circular for FTA guidance on ADA complementary paratransit requirements
- [Demand response service](#) – see Chapter 7 of the FTA ADA Circular for FTA guidance on demand responsive requirements
- [Route deviation service](#) – see Section 7.5.4 in Chapter 7 of the FTA ADA Circular for FTA guidance on route deviation service.

Definitions for each of these service types are provided on the page specific to that service type.

Before reviewing the requirements specific to each service type, readers are advised to review this section on the ADA requirements that apply to all service types, as well as Chapter 2 of the FTA ADA Circular.

Non-Discrimination Requirements

If the agency has not already done so, it is a good idea to develop a set of service policies so that passengers know exactly what they can expect from the transit system. These policies are applicable to ALL passengers, but must be nondiscriminatory. Well-articulated policies demonstrate that all passengers are being treated equitably. They should be posted on the transit agency's web site and be made available in accessible formats upon request.

Examples of policies that the U.S. DOT regulations explicitly cite as discriminatory include:

- compelling an individual with a disability to use a separate transportation service than the general public service when they are capable of using the public service,
- imposing special charges, or requiring an individual with a disability to be accompanied by an attendant [49 CFR Section 37.5].

For additional examples and guidance on discriminatory policies and practices, see Chapter 2, Section 2.2 of FTA Circular 4710.1.

The nondiscrimination requirements in 49 CFR Section 37.5 state that an organization may not discriminate against people with disabilities. This is the overarching requirement that needs to be applied throughout transportation system and the entire organization. Clear organizational and operating policies can help a transit agency clarify exactly how it will deliver public transit service in a non-discriminatory manner.

As a condition of eligibility for federal funding (such as Section 5311), 49 CFR Part 27 requires compliance with 49 CFR Parts 37, 38, and 39.

The U.S. DOT ADA regulations under 49 CFR Part 37 specifically address these points:

- You cannot discriminate against a person with a disability in the provision of transportation service [Section 37.5(a)].
- You cannot, on the basis of disability, deny an individual with a disability the opportunity to use the general transportation system if that person is capable of using that service [Section 37.5(b)].
- You cannot require that a person with a disability use priority seating [Section 37.5(c)].
- You cannot impose special charges on individuals with disabilities, including those who use a wheelchair [Section 37.5(d)].
- You cannot require that an individual with a disability be accompanied by an attendant [Section 37.5(e)].

You cannot refuse service to an individual with disabilities because your insurance coverage or rates are based on the absence of individuals with disabilities [Section 37.5(g)].

U.S. DOT Regulatory Definition of “Wheelchair”

When reviewing this section of the toolkit, it is important that transit providers understand the what mobility devices fall under the definition of “wheelchair” in the U.S. DOT regulations. As defined in 49 CFR Section 37.3, a wheelchair is “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.” Three-wheeled mobility scooters fall under the U.S. DOT definition of wheelchair, and the transit systems must accommodate three-wheeled mobility scooters as wheelchairs. Additional information is found in the Accommodating Riders Using Mobility Devices Serving Riders section of the toolkit.

Reasonable Modifications

Public transportation providers must make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability or to provide program accessibility to their services [Section 37.5(i)] unless:

1. Granting the request would fundamentally alter the nature of the entity's services, programs, or activities;
2. Granting the request would create a direct threat to the health or safety of others; or
3. Without the requested modification, the individual with a disability is able to fully use the entity's services, programs, or activities for their intended purpose [Section 37.169(c)].

The general requirements related to considering requests for reasonable modifications are described later in this section of the toolkit, with service type-specific scenarios discussed in the sections related to specific service types.

Provision of Service Requirements

Part 37 Subpart G of the U.S. DOT ADA regulations requirements for maintaining the accessibility features of transit vehicles and facilities, lift and securement use, other service requirements, requirements to consider requests for reasonable modification, and training requirements.

Maintenance and Use of Accessible Features

- **General maintenance of accessibility features:** Transit providers must ensure that the accessibility features of their vehicles and facilities are maintained in operative condition so that they are usable by individuals with disabilities [Section 37.161(a)]. They must promptly repair accessibility features if they are damaged or out of order. If an accessibility feature is out of order, they must also take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature [Section 37.161(b)]. Examples of this may include promptly dispatching a substitute accessible vehicle to a fixed route passenger who encounters an inoperative lift. They are also responsible for clearing obstructions that create accessibility barriers in areas directly controlled by the organization. An example of this is removing snow at bus stops over which the transit agency has direct control. For other bus stops and surrounding sidewalks, FTA encourages coordination with other public

entities or private property owners [FTA ADA Circular Section 2.3.2, page 2-8].

- **Keeping vehicle lifts and ramps in operative condition:** Transit providers must create and follow a system of regular and frequent maintenance checks of lifts and ramps to determine whether the equipment is operative. Vehicle drivers must report any failure of a lift/ramp to operate in service as soon as possible. If there is a spare vehicle, the vehicle with the inoperative lift must be taken out of service before the beginning of the vehicle's next day of service and the lift must be repaired before the vehicle returns to service. If there is not a spare vehicle available, such that taking the vehicle out of service would reduce the transportation service the transportation provider is able to provide, the vehicle with the inoperative lift may be kept in service for no more than five days if the transit agency's service area has a population of 50,000 or less, and three days where the population exceeds 50,000. In cases where the inoperative lift is operating on a fixed route, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the provider must promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work [Section 37.163]. Note that this applies to public entities [Section 37.163(a)], as well as any private entity considered to be "standing in the shoes" of a public entity (including as Section 5311-funded service operated under contract) [Section 37.23(a)]. For ramp-equipped buses the driver will often be directed to deploy the ramp manually, so alternative transportation may not be needed. For additional discussion and suggested practices, see Section 6.2.1 of the FTA ADA Circular.
- **Lift and securement use:** If the lift and vehicle can accommodate a wheelchair and its occupant, the transit provider is required to transport the individual. The Accommodating Riders Using Mobility Devices section of this toolkit discusses this requirement in more depth. The driver is not required to permit wheelchairs to ride in places other than designated securement locations, but an individual using a wheelchair cannot be denied transportation on the grounds that the device cannot be secured or restrained satisfactorily by the vehicle's securement system. The driver may recommend, but cannot require, that a user of a wheelchair transfer to a vehicle seat. The driver must assist individuals

with disabilities who need or request assistance with the use of securement systems, ramps and lifts. If this requires vehicle drivers to leave their seat, they must do so. Transit providers must permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle [Section 37.165].

Other Service Requirements

Section 37.167 outlines several additional service delivery requirements, some of which apply only to fixed route systems. The fixed route-only requirements are not included here, but instead are found in the Fixed Route Requirements section of the toolkit. The requirements that apply to all operators of public transit systems are summarized in this section. These requirements apply to both public and private entities.

For all public transit services, the following is required:

- Transit providers must permit service animals to accompany individuals with disabilities in vehicles and facilities [Section 37.167(d)]. The U.S. DOT regulatory definition of “service animal” [Section 37.3] is “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.” Transportation providers must follow the U.S. DOT definition and not the U.S. Department of Justice (DOJ) definition, which is limited to dogs. Section 2.6 of the FTA ADA Circular provides guidance on service animals. Technical assistance information is also found in the [Service Animals](#) section of the toolkit.
- Vehicle drivers and other personnel must make use of the accessibility-related equipment or features that are required to be installed in the vehicles by 49 CFR Part 38 [Section 37.167(e)]. These requirements are found in Subpart B of 49 CFR Part 38. Chapter 4 of the FTA ADA Circular provides guidance on these requirements. They are briefly summarized in the [Vehicle and Facility Accessibility](#) section of the toolkit.
- Service information must be available in accessible formats to individuals with disabilities [Section 37.167(f)]. This means that printed materials must be available, upon request, in accessible formats such as large print

format, braille, or an accessible electronic file or on the agency's website. Online and other electronic information should be formatted to accommodate screen readers. Refer to Section 2.8 of the FTA ADA Circular for FTA guidance on accessible information. The [Rider Information](#) section of this toolkit provides technical assistance information.

- Transit 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
 - Temporary conditions at the stop that are not under the control of the transit operator preclude the safe use of the stop by all passengers [Section 37.167(g)].
- Transit drivers cannot prohibit an individual with a disability from traveling with a respirator or portable oxygen supply provided the devices are properly secured under 49 CFR subtitle B, chapter 1, subchapter C. U.S. DOT Office of Pipeline Safety and Hazardous Materials [Section 37.167(h)].
- Transit providers must ensure that individuals with disabilities have adequate time to complete boarding or disembarking from the vehicle [Section 37.167(i)].
- Drivers must ask individuals sitting in the priority seating area to relocate if an individual needs to use that priority seating because of a disability. Individuals occupying seats in the securement area, including other individuals with disabilities, must be asked to vacate the securement area if an individual using a wheelchair needs to use the securement area [Section 37.167(j)].

While many requirements apply to all agencies providing public transportation service, there are some requirements that are specific to the type of service(s) an organization provides. As noted earlier, service type-specific requirements for different service types are found in other sections of the toolkit by name.

Reasonable Modification of Policies and Practices

Public transportation providers are required to make reasonable modifications to their policies, practices, and procedures to avoid discrimination and ensure programs and services are accessible to individuals with disabilities. The requirements to make reasonable modifications are found in Sections 37.5(i) and

37.169. Section 37.169 was added to the regulations with the publication of the [Reasonable Modification Final Rule](#), effective July 13, 2015.

As detailed in Section 37.169 of 49 CFR Part 37, public entities must establish a process for accepting and considering requests for reasonable modification to policies and practices. The process must allow for requests to be made and determined in advance whenever feasible. Requests may be identified during the ADA complementary paratransit eligibility process, through customer service inquiries, or through the entity's complaint process. When an advanced request is not feasible, operating personnel (potentially in consultation with management) would be required to make a determination of whether the modification should be provided at the time of the request [Section 37.169(b)]. Requests for modification may be denied only based one or more of these reasons:

1. Granting the request would fundamentally alter the nature of the transit agency's services, programs, or activities.
2. Granting the request would create a direct threat to the health or safety of others.
3. Without the requested modification, the individual with a disability is able to fully use the entity's services, programs, or activities for their intended purpose. [Section 37.169(c)]

In the event a request is denied, the transit agency is required to take other actions to ensure that the individual with a disability receives the services or benefit provided by the agency. [Section 37.169(e)]

Appendix E to Part 37, issued as part of the Reasonable Modification Final Rule, provides 27 examples of requests for modifications, and notes circumstances under which the requested modification would be considered a fundamental alteration of service or create a direct threat to the health or safety of others.

Training Requirements

All public and private organizations that operate fixed route or demand responsive systems must ensure that their personnel are trained to proficiency, as appropriate to their duties. They must be able to operate vehicles and equipment safely and properly assist individuals with disabilities using the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities. [Section 37.173] As noted in Section 2.9.1 of the FTA ADA Circular, in addition to driver training, relevant training also includes

training maintenance staff, customer service personnel, dispatchers, managers, and supervisors. FTA recommends regular refresher training (including on new vehicles, and encourages transit agencies to collaborate with local disability organizations for assistance with employee training.

Providing respectful and courteous customer service for people with disabilities is discussed in the Passenger Assistance and Customer Service section of this toolkit.

Complaint Process Requirements

Public transportation providers are required to designate an employee to coordinate ADA compliance and to have procedures in place specifically to address complaints alleging ADA violations. The requirements for a transit agency's ADA complaint process are found in 49 CFR Part 37, Section 37.17, Designation of responsible employee and adoption of complaint procedures. Transit agencies are required to designate at least one person to coordinate its efforts to comply with 49 CFR Part 37. Many agencies designate this individual as the "ADA Coordinator." Transit agencies are also required to adopt complaint procedures that incorporate appropriate due process standards and provide for resolution of complaints alleging actions prohibited by 49 CFR Parts 27, 37, 38 and 39.

The transit agency must advertise to the public (such as on the agency's website) the process for filing a complaint. The ADA complaint procedures must be accessible to and usable by individuals with disabilities (see the Rider Information section of this toolkit for information on making information accessible). When an ADA complaint is received, the transit agency must promptly communicate its response to the complaint allegations, including its reasons for the response, to the complainant, and document the response [Section 37.17]. Under Section 504 of the Rehabilitation Act of 1973, agencies receiving federal funding are required to retain all detailed documentation for one year, and save a summary of all ADA complaints for five years [49 CFR Part 27 Section 27.121]. See Section 12.7 of the FTA ADA Circular for additional guidance on complaint process requirements.

Section Sources

- [49 CFR Part 37 - Transportation Services for Individuals with Disabilities \(ADA\)](#), includin

Route Deviation Service Requirements

This section of the toolkit discusses aspects of route deviation service that should be considered in light of ADA compliance, and is organized in the following subsections:

- [Characteristics of Route Deviation Service](#)
- [General Requirements](#)
- [Route Deviation Service for the General Public](#)
 - [Vehicle Accessibility](#)
 - [Equivalent Service Standards](#)
 - [Ensuring Nondiscrimination in Route Deviations](#)
- [Commingled Fixed Route and Paratransit Service](#)
- [Section Sources](#)

The information presented in this section is based on the U.S. Department of Transportation (DOT) regulations in [49 CFR Part 37- Transportation Services for Individuals with Disabilities \(ADA\)](#) and the FTA [Circular 4710.1, Americans with Disabilities Act \(ADA\): Guidance](#).

[Click here](#) to download a sample ADA policy template for a rural transit system that operates route deviation service.

Characteristics of Route Deviation Service

Route deviation is also referred to as deviated route, deviated fixed route, flexible route, or flex route service. Route deviation service can be a way to stretch limited resources in areas of low population and this type of service is frequently operated in rural areas.

As described in Section 7.5.4 of the FTA ADA Circular, route deviation service operates along established routes that typically have designated stops. Between these stops, vehicles deviate from an established route to pick up or drop off riders within a defined off-route service area. The circular also notes that riders are typically asked to call in advance to request off-route pickups.

For the purpose of ADA regulations, transit systems are considered to be either fixed route or demand responsive systems [Section 37.3]. While some systems

are clearly one or the other, systems that provide route deviation service can be harder to categorize. Appendix D to 49 CFR 37.3 states that U.S. DOT would regard a system that permits user-initiated deviations from routes or schedules as demand-responsive. This distinction is important, because demand-responsive service is not subject to the requirement for complementary paratransit service. In order to be considered demand-responsive, a route deviation system must deviate in response to a request from any passenger.

Some rural transit agencies operate route deviation service that does not deviate for all riders. A route deviation service that does not deviate for all riders is not demand-responsive service within the context of the U.S. DOT ADA regulations. Unless the route deviates for any passenger, it is not demand responsive and therefore subject to the requirements for a fixed route system, including the provision of ADA complementary paratransit service. The U.S. DOT ADA regulations do not prohibit commingling (combining) ADA complementary paratransit and fixed route riders on the same vehicle (i.e., commingled service). However, as discussed in Section 7.5.4 of the FTA ADA Circular and later in this section of the toolkit, commingled fixed route bus service and complementary paratransit service using the same vehicle is difficult to implement.

General Requirements

All readers are advised to review the general requirements for ALL service types that are summarized on the [General Requirements](#) section of this toolkit.

Route Deviation Service for the General Public

As with all demand response services, the requirement is that all vehicles used in route deviation service are accessible to and usable by persons with disabilities, including wheelchair users. Inaccessible vehicles may only be used as long as the system, when viewed in its entirety, provides an equivalent level of service for its riders with disabilities for seven specific service characteristics (listed below and described in more detail in the [Demand Response Requirements](#) section of this toolkit).

Vehicle Accessibility

Vehicles purchased for demand responsive systems must be accessible (i.e., comply with 49 CFR Part 38, as described in the Vehicle and Facility Accessibility section of this toolkit) unless the system, when viewed in its entirety, provides an

equivalent service to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual with respect to the service characteristics listed in the next section [Section 37.77(c)].

As noted in Section 7.5.4 of the FTA ADA Circular, typically, all vehicles used in route deviation service are accessible, as it would be difficult to provide equivalent service with a mixed fleet. Riders needing accessible vehicles would not have the same ability to catch the next bus at a scheduled stop if only certain runs were provided with accessible vehicles.

Equivalent Service Standards

Service provided to individuals with disabilities, including individuals who use wheelchairs, must be equivalent to the service provided to other individuals in the following ways [Section 37.77(c)]:

- 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

Ensuring Nondiscrimination in Route Deviations

In order to be considered demand responsive service, a transit agency also needs to advertise the availability of route deviations (e.g., including the information on schedules and in other public information)—and to provide the requested deviations as advertised. The FTA ADA Circular notes that designating services as route deviation in plans and other documents, but not advertising them as such, would be considered a discriminatory practice.

The circular also noted that it would be discriminatory to establish restrictive policies for deviations that would significantly limit the use of the service by individuals with disabilities who are not able to get to and from designated stops. Examples include charging excessive surcharges for deviations, establishing overly restrictive areas within which riders can request deviations, limiting deviations to only certain trip purposes, and unreasonably capping the number of permitted deviations.

Commingled Fixed Route and Paratransit Service

It may be possible to provide fixed route and ADA complementary paratransit service using the same vehicle through a form of route deviation service, though this can be difficult. This type of service is referred to as commingled service in Section 7.5.4 of the FTA ADA Circular. Under such a scenario, the transit agency would provide fixed route service, but deviate for paratransit-eligible persons with disabilities according to the service criteria established under 49 CFR Part 37, Subpart F, which are listed and explained in the [ADA Complementary Paratransit](#) section to the Service Criteria anchor]. The transit agency must also implement a paratransit eligibility determination (and appeal) process for those who would like to request route deviations because they are unable to use fixed route.

Transit agencies opting to meet ADA complementary paratransit requirements through commingled service may experience great difficulty keeping to the route's published schedule due to the need to deviate ¼-mile on either side of the route for ADA paratransit eligible riders without introducing prohibited capacity constraints. One solution to this problem is to meet some of the ADA complementary paratransit demand through supplemental dial-a-ride or other demand response service that meets the ADA complementary paratransit criteria for eligible rides for those busier times. As noted in Section 7.5.4 of the FTA ADA Circular, this supplemental service could be an existing service provided by a rural transit agency.

Section 7.6.2 of the FTA ADA Circular discusses commingling dial-a-ride and complementary paratransit service. See "Comingled Dial-A-Ride and Complementary Paratransit Service" in Section 7.6.2 of the FTA ADA Circular for FTA suggestions for tracking and analyzing combined services to ensure compliance with ADA complementary paratransit requirements.

Section Sources

- [49 CFR Part 37- Transportation Services for Individuals with Disabilities \(ADA\)](#)
- [FTA Circular 4710.1, Americans with Disabilities Act \(ADA\): Guidance](#)

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