

ADA Audio Conference Series Special Session Resources  
Special Session: COVID-19 and the Americans with Disabilities Act (ADA): Access to programs and services  
Prepared by the ADA National Network

## COVID-19 Resources

### Employment

[What You Should Know About the ADA, the Rehabilitation Act, and COVID-19](#)"

"[Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#)".

[The COVID-19 Pandemic and Antidiscrimination Laws – YouTube](#)

### Education

[U.S. Department of Education Releases Webinar, Fact Sheet for Protecting Students' Civil Rights During COVID-19 Response](#)

### Health Care

[OCR Issues Bulletin on Civil Rights Laws and HIPAA Flexibilities That Apply During the COVID-19 Emergency | HHS.gov](#)

### Transportation

[Frequently Asked Questions from FTA Grantees Regarding Coronavirus Disease 2019 \(COVID-19\) | FTA](#)

<https://www.transit.dot.gov/frequently-asked-questions-fta-grantees-regarding-coronavirus-disease-2019-covid-19#CARES>

#### **CR1: May a transit agency restrict Americans with Disabilities Act (ADA) complementary paratransit trips to essential medical trips?**

**A:** No. The DOT [ADA regulations](#) at 49 CFR 37.131(d) expressly prohibit paratransit providers from imposing restrictions or priorities based on the trip purpose. Further, medical trips are not the only trips that may be essential to a passenger. An agency may send a request and encouragement to its paratransit customers asking them to cancel all nonessential trips. Transit agencies often use this approach, for example, in impending weather events. If a paratransit rider, however, wants to take a trip, the agency cannot deny the request due to the purpose of the trip.

The establishment of trip purpose restrictions or priorities is permitted under 49 CFR 37.133(c) only for subscription service. Further, because DOT ADA regulations do not require subscription service, it may also be suspended or cancelled.

#### **CR2: Are Title VI equity analyses required for emergency service cuts and changes during COVID-19?**

**A:** No. Under [FTA's Title VI Circular](#) 4702.1B, transit providers that operate 50-or-more fixed route vehicles in peak service and are located in an urbanized area (UZA) with a population of 200,000 or more, must perform a service equity analysis whenever they make a major service change. The service equity analysis evaluates the impacts of the proposed service changes on Title VI-protected populations and low-income populations. Temporary service changes in response to an emergency do not rise to the level of a major service change, so a service equity analysis is not required. Similarly, FTA exempts all

temporary fare changes enacted as a result of an emergency from the fare equity analysis requirement. However, if a transit agency chooses to make permanent any changes made during an emergency, then the transit agency must perform a service or fare equity analysis.

FTA does expect that all transit agencies take reasonable measures to implement temporary service or fare changes equitably to prevent unintentional discrimination. FTA does not require a transit agency to document this process, get board approval prior to implementing changes, or share documentation on the changes with FTA, but FTA recommends that transit agencies document the rationale for specific service reductions, as well as steps taken to ensure equitable reductions in service, in the event someone files a complaint.

**CR3: May a transit agency deny service to a transit rider with a disability who is exhibiting symptoms of COVID-19?**

A: A transit agency should contact local and State public health officials, who generally coordinate information with the Centers for Disease Control and Prevention (CDC), to determine under what circumstances service may be denied to any transit rider, regardless of whether they have a disability. The Americans with Disabilities Act (ADA) does not require an agency to exempt riders with disabilities from this local determination. The [DOT ADA regulations](#) at 49 CFR 37.5(h) provide that an agency may deny service to a person with a disability who “represents a direct threat to the health or safety of others.” A “direct threat” is defined, in part, by 49 CFR 37.3, as “a significant risk to the health or safety of others.”

**CR4: If a transit agency suspends fares temporarily on its fixed route service to limit interactions between operators and passengers or to limit public contact with fare equipment due to the COVID-19 public health emergency, does it also need to provide free fare on its complementary paratransit service?**

A: Yes. Under the DOT ADA regulations at 49 CFR 37.131(c), the fare for an ADA paratransit trip may not exceed more than twice the fare for a similar trip made using the fixed route system, without regard to discounts. FTA has regarded promotional, occasional fare-free days on fixed route service as a form of a discount, and has not also required paratransit service to be free during the limited time of the promotion. In this case, however, if the fixed route system is fare-free to limit interactions between the passenger and the operator, it would not be a discount, and the transit agency must do the same for the paratransit system per 49 CFR 37.131(c).

**CR5: If a transit agency closes the front door of its buses to boarding to support social distancing, may the agency refuse service to wheelchair users and other people with disabilities who would otherwise need to use the front door where the ramp is located?**

A: No. Transit systems should have procedures in place such as rear-door entry to ensure that social distancing is being observed by the system and transit riders to protect transit operators and the public. See FTA Safety Advisory 20-01. Some exceptions to rear-door-only boarding policies, however, are necessary for ADA compliance. Under [DOT ADA regulations](#) at 49 CFR 37.5(a), no entity may discriminate against an individual with a disability in connection with the provision of transportation

service; per 49 CFR 37.165(b), individuals using wheelchairs must be transported in the agency's vehicles.

Wheelchair users are not the only persons with disabilities who may require the use of the front door of the vehicle. Per 49 CFR 37.165(g), ambulatory persons with disabilities also must be permitted to use the lift or ramp on request, and persons who are blind, for example, may require the use of the route identification mechanism required under 49 CFR 37.167(c) to identify the correct bus to board. Not all waiting passengers with disabilities who need to enter at the front will have a visible disability or be using mobility aids such as canes or walkers; per the regulation, the agency must accommodate such individuals at the front door as well.

When implementing a rear-door-only boarding policy, a transit agency should take steps to minimize confusion for riders and personnel. This effort could include conducting outreach to the disability community through local media channels and social media, informing riders of the policy and what to do if they require the use of the ramp or lift, and development of procedures and instructions for personnel.

**CR6: May a transit agency suspend its mandatory wheelchair securement policy to reduce the need for its operators to be in close proximity to a rider to lessen the potential for exposure to COVID-19?**

A: Yes. The DOT ADA regulations do not explicitly require the use of the securement system; under 49 CFR 37.165(c)(3), an agency may determine for itself whether or not securement will be mandatory for its system. Agencies, therefore, are free to suspend any mandatory securement policy that they may have in place. However, even if an agency suspends a mandatory securement policy, 49 CFR 37.165(f) still requires that the operator assist with the use of the securement system should an individual passenger make a request.

**CR7: To comply with stay-at-home directives designed to mitigate the spread of COVID-19, may a transit agency change its service from fixed route to demand-responsive for essential transportation only?**

A: Yes. Local transit agencies determine the type of service they offer. While there are no Title VI or ADA concerns with a proposal to move from a fixed route to a demand-responsive service (FTA does not require a service or fare equity analysis for a temporary service or fare change as a result of an emergency), note that under [DOT ADA regulations](#) at 49 CFR 37.77, all vehicles used in demand-responsive service must be accessible to and usable by persons with disabilities, including wheelchair users, or equivalent service must be provided according to the specific criteria contained in 49 CFR 37.77(c). In addition, once the system completes its move to demand-responsive service, the obligation to provide ADA complementary paratransit no longer is applicable. For more information on ADA requirements for demand-responsive service, see Chapter 7 of FTA Circular 4710.1.

**CR8: May a transit agency shut down its ADA paratransit operations while still operating fixed route services due to COVID-19 concerns?**

A: No. So long as the fixed route system is operating, the [DOT ADA regulations](#) at 49 CFR 37.121 obligate the agency to continue operating complementary paratransit according to the service criteria contained

in 49 CFR 37.131. If a transit agency makes adjustments to the fixed route system's routes or schedules to accommodate the COVID-19 public health emergency, or shuts down the fixed route service entirely, the agency may make similar adjustments to the paratransit system. Where an agency's ADA paratransit contractor is contemplating shutting down service when fixed route service continues, the agency should consult with its contracting office to determine appropriate steps to ensure that ADA paratransit service continues comparable to the fixed route service being provided.

**CR9: May an agency suspend in-person assessments for ADA paratransit eligibility for the duration of the COVID-19 public health emergency? May an agency process applications remotely, or by paper only, or suspend eligibility determinations entirely during this time?**

A: Transit systems are free to suspend in-person assessments and use a remote or paper process for eligibility determinations. The [DOT ADA regulations](#) at 49 CFR 37.125 do not require in-person assessments for paratransit eligibility, and in fact do not specify how the eligibility process should work. Because a paper or virtual process is not typically as effective in assessing functional ability accurately, a transit system also may decide to be overly broad in who they find eligible, and then reassess during regular recertification sometime in the future. Note that because applicants would be presumptively eligible after 21 days under 49 CFR 37.125(c) if their applications are not processed, a transit system may wish preemptively to offer presumptive eligibility for the duration of the COVID-19 public health emergency, subject to reevaluation once the public health emergency ends. Complete suspension of the eligibility process is not permitted, because 49 CFR 37.131(f)(2) specifically prohibits the use of wait lists to access the service.