

FTA

FEDERAL TRANSIT ADMINISTRATION

ADA General Requirements, Oversight, and Monitoring FTA Circular 4710.1

FTA Office of Civil Rights
January 20, 2016



U.S. Department of Transportation
Federal Transit Administration

Overview

- Background
- Chapter 1 – Introduction and Applicability
- Chapter 2 – General Requirements
- Chapter 12 – Oversight, Complaints, and Monitoring
- Questions

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Why an ADA Circular Now?

- Nov. 2010, top-to-bottom review of civil rights
 - Taskforce led by Acting Administrator McMillan
 - Analyzed ADA compliance data
 - Triennial Reviews
 - State Management Reviews
 - Specialized Reviews
 - ADA compliance deficiencies were #2 across all grantees (after procurement)
- Taskforce recommended ADA Circular

Why an ADA Circular Now?

- One-stop shopping
- Imposing body of regulations in 49 CFR 27, 37, 38, 39 and Facility Standards
- Information and tools will help transit agencies avoid deficiencies
- Effective
November 4, 2015



The 12 Chapters of the ADA Circular

Chapter	Topic
1	Introduction and Applicability
2	General Requirements
3	Transportation Facilities
4	Vehicle Acquisition and Specifications
5	Equivalent Facilitation
6	Fixed Route Service
7	Demand Responsive Service
8	Complementary Paratransit Service
9	ADA Paratransit Eligibility
10	Passenger Vessels
11	Other Modes
12	Oversight, Complaints, and Monitoring

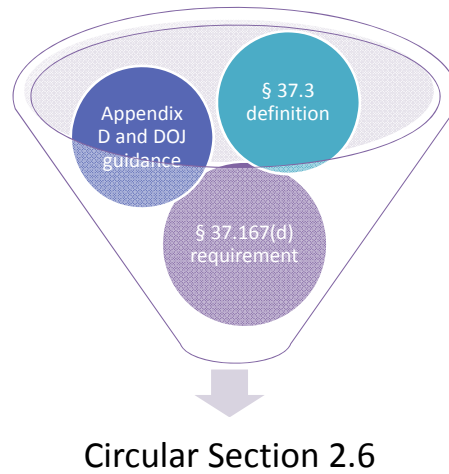
What the ADA Circular Does

- Reader friendly, plain English explanation of the DOT ADA requirements
- Detailed headings and subheadings for easier navigation
- Pictures, figures, and tables
- Sample forms, letters, and policies



Reader Friendly Format: Topical Arrangement

- Service animals



Reader Friendly Format: Tools

- **Checklists**
 - Facilities
 - Bus/Van
 - Stop Announcements/
Route ID
- **Sample forms**
 - Complaint form
- **Sample policies**
 - Paratransit no-show
suspensions
- **Sample letters**
 - Paratransit denial
letters



What the ADA Circular Does NOT Do

- No new requirements
 - Requirements vs. suggestions and options

Requirement
& Discussion
Format

Cited regs &
existing
guidance

Review of
terminology:
No “shoulds”

Caveat
language in
each chapter
introduction

How to Use the Circular

- Refer to it to provide explanation on a topic
- Refer to sample materials as examples
- Refer riders or complainants to a section for more clarity on a hard-to-understand regulation or policy
- Note: ADA Circular and FY 2016 Triennial Workbook are consistent



Example: How to Use the Circular

In a Triennial Review, a deficiency is found regarding an agency's no-show suspensions policy

- Review relevant regulation: 49 CFR § 37.125(h)
- Look to the following information for clarification:
 - Circular Section 9.12 for no-show suspensions discussion
 - Circular Attachment 9-4 for sample no-show policy



How not to Use the Circular

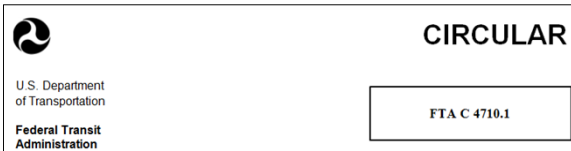
- *Don't* refer to the Circular as the requirement – always cite the regulation as the requirement
- *Don't* think you must use the sample materials provided – they are a guide, but not required
- *Don't* think a deficiency finding will occur if your agency does not follow an optional good practice
 - Deficiencies only apply to not complying with requirements



Chapter 1: Introduction

- What is FTA?

- Where do applicable regulations come from?



- DOT ADA regulations: 49 CFR Parts 37, 38, and 39
- DOT Section 504 regulations: 49 CFR Part 27
- DOJ ADA regulations

- Applicability of DOT regulations

- Stand-in-the-shoes requirement

Chapter 2: General Requirements

Crosscutting chapter



- Nondiscrimination
- Service denials for conduct
- Accessible features: wheelchairs, securement, & lifts/ramps
- Personnel training
- Service animals
- Accessible information
- Reasonable modification

Chapter 2: Nondiscrimination

- 49 CFR § 37.5(a)
 - “No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.”



Chapter 2: Nondiscrimination

- Refusing to provide service because of a person's disability
- Examples:
 - Seat belts
 - Special charges
 - Insurance or liability waivers



Chapter 2: Service Denials for Conduct

- Service denials due to rider conduct that is:
 - violent, seriously disruptive or illegal
 - a direct threat to others
- Due process
- No permanent bans unless direct threat remains



Chapter 2: Wheelchairs

- Must transport individuals using wheelchairs
 - Legitimate safety concerns
- Wheelchair 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.”
49 CFR § 37.3
 - Footplate or other equipment not required



Chapter 2: Securement

- Securement devices required for buses and vans
- An agency can require securement
 - Not mandatory to require securement
 - But if agency requires securement, it can deny service if rider refuses securement
 - Cannot deny service if wheelchair cannot be secured by vehicle's securement system
- Seat belts and shoulder harnesses



Chapter 2: Lifts/Ramps

- Minimum design specifications for lifts
 - 600 lbs.
 - 30"x 48"
- Maintenance of lifts
- Standees allowed



Chapter 2: Personnel Assistance

- Provide a reasonable level of assistance
- Drivers are not required to:
 - Provide PCA type services
 - Assist with luggage or packages
 - Obtain rider fares from wallet/purse
 - Take charge of a service animal
- Personnel training



Chapter 2: Service Animals

- “Individually trained to work or perform tasks for an individual with a disability”
 - DOT definition includes animals other than dogs
- Transit agencies can ask:
 1. Is the animal a service animal required because of a disability?
 2. What work or task has the animal been trained to perform?
- Emotional support animals
 - Not required to accommodate
 - Not trained to perform task, provide comfort passively, by its nature, or through owner’s perception



Chapter 2: Accessible Information

- Accessible formats
- Accessible websites
- Alternatives to audio communications



Chapter 2: Reasonable Modification

- Agencies are required to make *reasonable modifications* to policies, practices, and procedures
 - to avoid discrimination and
 - ensure that their programs are accessible to individuals with disabilities
- Effective July 2015
- See Reasonable Modification webinar on FTA website



Chapter 12: Oversight

- How FTA assesses compliance
 - Grantee self-certification
 - Complaint investigations
 - On-site reviews:
 - Triennial Reviews
 - State Management Reviews
 - Civil Rights Specialized Compliance Reviews
- Informal resolution
 - Cooperation and assistance
- Administrative enforcement
 - Termination of funds
 - Referral to DOJ to enforce



Chapter 12: Transit Agency Local Complaint Process

- Final rule on reasonable modification included complaint process changes
- Changes to longstanding § 27.13 requirement – to “promptly resolve” complaints
 - Process must be sufficiently advertised to public
 - Must be accessible to and usable by individuals with disabilities
- Promptly communicate response to complainant
 - Document response



Chapter 12: FTA Complaint Process

- FTA handles ADA complaints against both grantees and non-grantees
- Process:
 - Administrative closures
 - Investigation
- Fact-specific analysis
- Informal resolution



Chapter 12: Monitoring

- Transit agencies must sufficiently monitor their service
 - In house or by contractors
- Confirms internally (and to FTA) that service is being delivered consistent with ADA requirements
- FTA does not dictate the specifics of these monitoring efforts





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