



**Moving Public Transportation
Into the Future**

Americans With Disabilities Act (ADA)

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INTRODUCTION TO THE ADA



What is ADA?

- ◆ The Americans With Disabilities Act (ADA) of 1990
 - Civil Rights Protection for Over 43 Million Americans—Reference to Number Deleted in 2008 Amendment
 - Viewed As Limiting
 - Not Discrete and Insular Minority
 - "Amendments" to the Civil Rights Act of 1964
 - Access and Equivalent Service is a Civil Right



What Is the Goal of ADA?

- ◆ To assure that persons with disabilities have equal opportunity, a chance to fully participate in society, are able to live independently, and can be economically self-sufficient.



What Does Accessibility Mean?

- ◆ Physical Access to Vehicles and Buildings
- ◆ Proper Training of Personnel
- ◆ Proper Maintenance of Equipment
- ◆ Operating Policies and Procedures
- ◆ Public Information and Communication Accessible



Impacts of the ADA

◆ Wide Coverage

- Government Agencies
- Public Entities
- Private, For-Profit Corporations
- Private, Nonprofit Organizations



Primary Sections of the ADA

- ◆ Title I: Employment
- ◆ Title II: Public Services (Transportation)
- ◆ Title III: Public Accommodations and Services Operated by Private Entities
- ◆ Title IV: Telecommunications
- ◆ Title V: Miscellaneous Provisions



Title II

- ◆ Services and Benefits Provided by Public Entities Must Be Offered In a Way That Does Not Discriminate Against Persons With Disabilities
- ◆ Implementing Federal Agencies Define:
 - What Constitutes Discrimination
 - What Actions Are Required to Ensure Services Are Non-Discriminatory



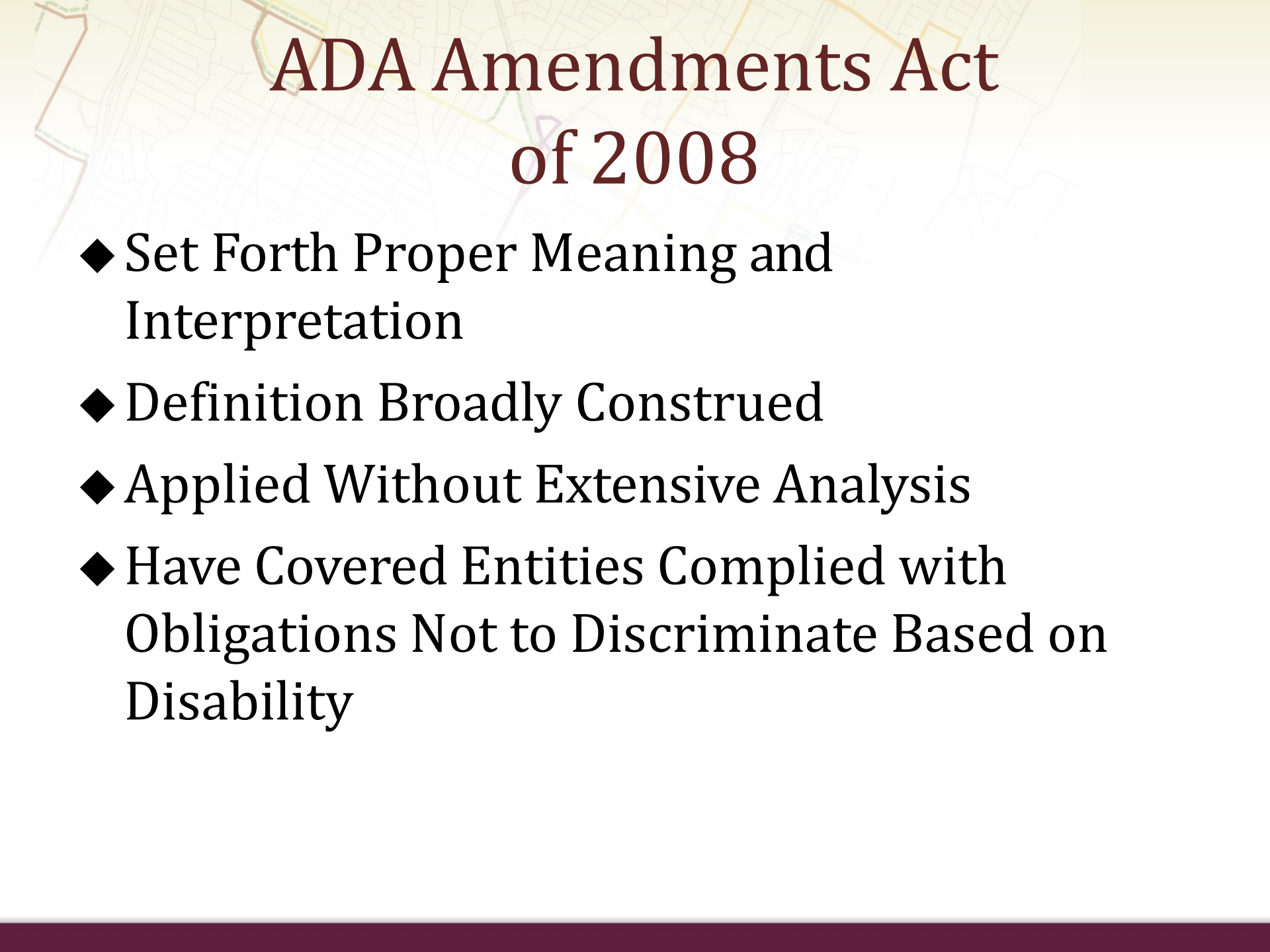
Title II

- ◆ Subtitle A - Applies to All Service Provided By Public Entities Except Transportation
 - Implementing Agency is the USDOT
 - 49 CFR Part 35
- ◆ Subtitle B - Applies to Transportation Services Provided by Public Entities
 - Implementing Agency is the USDOT
 - 49 CFR Parts 27, 37, and 38



Disability Definition (2016)

- ◆ Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment even if they do not currently have a disability; or being regarded as having such an impairment.



ADA Amendments Act of 2008

- ◆ Set Forth Proper Meaning and Interpretation
- ◆ Definition Broadly Construed
- ◆ Applied Without Extensive Analysis
- ◆ Have Covered Entities Complied with Obligations Not to Discriminate Based on Disability



Cases Brought Under ADA

- ◆ Focus on Merits of Discriminatory Acts Not on Whether an Individual's Impairment Meets the Definition of Disability
 - One of the Longstanding Criticisms of the ADA is that it Leaves too Much Uncertainty for Employers, and too Much for Courts to Define the Meaning of the Law



Physical or Mental Impairment

- ◆ Any Physiological Disorder or Condition, Cosmetic Disfigurement, or Anatomical Loss affecting One or More Body Systems
 - Neurological,
 - Musculoskeletal,
 - Special Sense Organs,
 - Respiratory (Including Speech Organs),
 - Cardiovascular,
 - Reproductive,



Physical or Mental Impairment

- Genitourinary,
- Digestive,
- Immune,
- Circulatory,
- Hemic,
- Lymphatic,
- Skin,
- Endocrine



Physical or Mental Impairment

- ◆ Any Mental or Psychological Disorder
 - Intellectual Disability,
 - Organic Brain Syndrome,
 - Emotional or Mental Illness,
 - Specific Learning Disability



Physical and Mental Impairments

- ◆ Includes But Is Not Limited to Contagious and Noncontagious Diseases and Conditions
 - Orthopedic,
 - Visual Impairments,
 - Speech Impairments,
 - Hearing Impairments
 - Cerebral Palsy,
 - Epilepsy,
 - Muscular Dystrophy,
 - Multiple Sclerosis,



Physical and Mental Impairments

- Cancer,
- Heart Disease,
- Diabetes,
- Intellectual Disability,
- Emotional Illness,
- Dyslexia and Other Specific Learning Disabilities,
- ADHD, Symptomatic or Asymptomatic HIV ,
Drug Addiction,
- Alcoholism



Physical or Mental Impairment

◆ Does Not Include

- Homosexuality
- Bisexuality,
- Transvestism
- Transexualism,
- Pedophilia,
- Exhibitionism,
- Voyeurism,
- Gender Identity Disorders,



Physical or Mental Impairment

- Sexual Behavior Disorders
- Compulsive Gambling,
- Kleptomania,
- Pyromania
- Psychoactive Substance Use Disorders Resulting From Current Illegal Drug Use



Major Life Activities

- ◆ Non-Exhaustive List of Major Life Activities
 - Caring for Oneself, Performing Manual Tasks, Seeing, Hearing, Eating, Sleeping, Walking, Standing, Sitting, Reaching, Lifting, Bending, Speaking, Breathing, Learning, Reading, Concentrating, Thinking, Writing, Communicating, Interacting with Others, Working



Substantially Limits

- ◆ Construed Broadly
- ◆ An Impairment is a Disability if it Substantially Limits the Ability of an Individual to Perform a Major Life Activity As Compared to Most People in the General Population
- ◆ Requires a Degree of Functional Limitation that is Lower Than the Previous Standard
- ◆ Does Not Require Scientific, Medical, or Statistical Evidence

A background map showing a street grid with several colored overlays: a red outline, a yellow line, and a purple line. The map is semi-transparent and serves as a decorative background for the text.

Predictable Assessments

- ◆ Some Types of Impairments Will, In Virtually All Cases, Result in a Determination of Coverage
 - Individualized Assessment Should Be Simple and Straightforward
 - Deafness, Blindness, Intellectual Disability, Partially or Completely Missing Limbs, Mobility Impairments Requirement Use of a Wheelchair, Autism, Cancer, Cerebral Palsy, Diabetes, Epilepsy, HIV, Major Depressive Disorder, Bipolar Disorder, PTSD, Traumatic Brain Injury OCD Schizophrenia

What Are the Major Highlights of ADA?

- ◆ Nondiscrimination
- ◆ Facility Access
- ◆ Accessibility of Vehicles
- ◆ Complementary Paratransit Services for Fixed-Route Providers
- ◆ Equivalent Service for Demand Response Services
- ◆ Operating Policies and Procedures





ADA Applicability

- ◆ Public and Private Entities that Provide Public Transportation
- ◆ Private Entities that Operate Demand Response or Fixed Route System
- ◆ Services Provided Under Contract or Other Arrangement
- ◆ University Transportation Systems
- ◆ Taxi Services
- ◆ Vanpools Operated by Public Entities



ADA Applicability

◆ Subcontractors

- Contractors "Stand in the Shoes" of the Contracting Agency
- Includes Contracts or "Other Arrangements or Relationships"



ADA Applicability

◆ Assessing Applicability

- First, Determine the Type of Entity
 - Public Entity
 - Private Entity, Primarily Engaged
 - Private Entity, Not Primarily Engaged
- Second, Determine Service Mode(s)
 - Fixed Route
 - Demand Response



ADA Applicability

◆ Public Entity

- Any State or Local Government;
- Any Department, Agency, Special Purpose District
- Instrumentality of One or More State or Local Governments
- Tribal Organization
- Amtrak
- Any Commuter Authority



ADA Applicability

◆ Fixed Route Service

- "...System of Transporting Individuals...On Which Vehicles are Operating Along a Prescribed Route According to a Fixed Schedule"

◆ Demand Response Service

- "...System of Transporting Individuals...Which is Not a Fixed Route System"



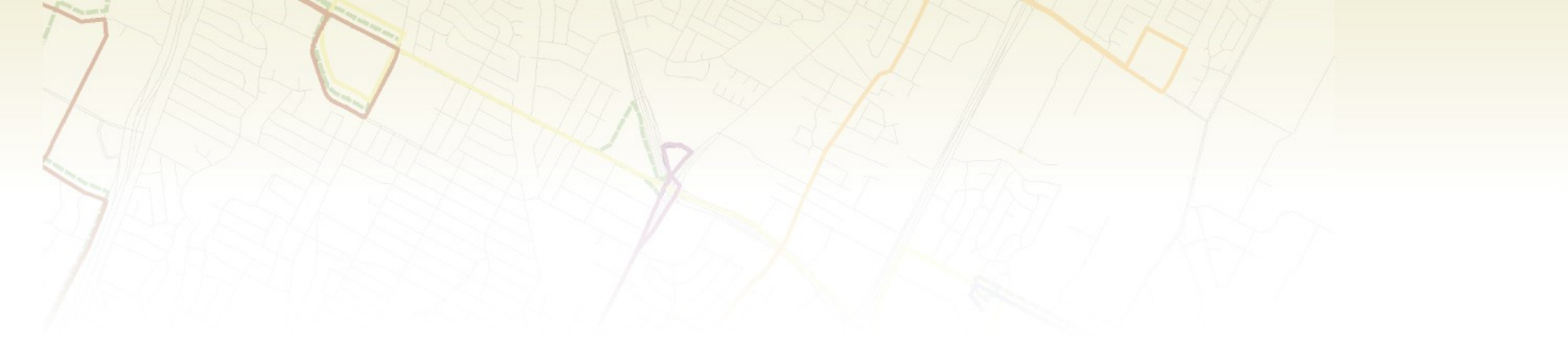
ADA Applicability

- ◆ Fixed Route vs. Demand Response
 - Traditional Distinction
 - Demand Response Service Requires Some Interaction Between the User and the Transit System
 - Route/Point Deviation
 - Deviate for Some – Fixed Route
 - Deviate for All – Demand Response



ADA Applicability

- ◆ Why Such Distinctions
 - Fixed Route Services Require
 - Provision of Complementary Paratransit
 - Establishment of an Eligibility Process
 - Demand Response Services Require
 - Equivalent Service Provided to All



ADDITIONAL ADA REQUIREMENTS



Personal Care Attendants

- ◆ A Personal Care Attendant (PCA) Must Always be Allowed to Ride With an Eligible Individual
 - A PCA is Someone Specifically Designated or Employed by the Disabled Person and is Required by the Person in Order to Complete the Trip Or the Trip Purpose
- ◆ The Entity May Not Charge a Fare for a PCA
- ◆ The Entity Can Not Require a PCA

Portable Oxygen Tanks

◆ Portable Oxygen

- Must Allow Travel With a Respirator or Personal Oxygen Supply, Consistent With Applicable USDOT Rules Regarding Transport of Hazardous Materials



Priority Seating

◆ Priority Seating

- Can Ask, But Cannot Require Individuals to Move from Priority or Designated Seating Locations
- Signage Requirements
 - Designated Locations





Service Animals

◆ Department of Justice

○ Accommodating Service Animals (DOJ)

- System Must Permit Service Animals to Accompany Individuals With Disabilities In Vehicles and Facilities
 - Dogs and Miniature Horses that are Individually Trained to Do Work or Perform Tasks for People with Disabilities



Service Animals

◆ Department of Transportation

- Service Animals Defined as "Any Guide Dog, Signal Dog, or Other Animal Individually Trained to 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"



Service Animals

◆ DOT Clarification of Allowed Species

- More Specific Definition Of "Service Animals"
 - Excludes Non-human Primates and Exotic Animals (e.g. Snakes, Reptiles)
 - Distinguishes Between Psychiatric Service Animals and Comfort Animals
 - Psychiatric Service Animals Are Allowed "If They Are Trained to Perform a Task"
 - Excludes Animals Whose "Sole Function Is to Provide Emotional Support, Comfort, Therapy, Companionship, Therapeutic Benefits, Or Promote Emotional Well-Being"



Service Animals

- ◆ Riders must be permitted to travel with service animals that are trained to assist them
 - May Ask if a Pet
 - May Ask What Service the Animal is Trained to Perform
 - May **NOT** ask About Disability
 - May **NOT** Require a Harness
 - May **NOT** ask for Proof of Certification or Other Documentation



Service Animals

◆ Service Animals

- Allergies and Fear of Animals Are Not Valid Reasons For Refusing Service
- Animal Must Be Under Control of the Passenger
- Don't Touch or Speak to the Service Animal – It is Working
- Service Animals are Not Required to Wear Identification Such as a Tag, Vest, or Harness



Accessible Information

◆ Adequate Information

- Obligation Includes Making Adequate Communications Capacity Available, Through Accessible Formats And Technology, to Enable Users to Obtain Information, Register for and Obtain Service
 - Provide Upon Request
 - Usable to Individual
 - Appropriate for the Intended Use
 - Providing Information Over the Phone is Not Considered a Substitute for Written Information



Accessible Information

- ◆ Access to Information – All Printed Material Must Be Available Upon Request and in an Accessible Format and Form That The Person Can Use
 - Does Not Have to be Preferred Method if Other Means can be Used
- ◆ Public Hearings Must Be Held in Accessible Locations



Accessible Information

◆ Adequate Information

- TTYs (TDDs)
- Relay Services
- Brail
- Large Print
- Information Compatible with Computer Assistive Software
- Access to Accessible Information Must Be Provided Equivalent to General Information Access



Accessible Information

- ◆ Not To Be Confused With Limited English Proficiency Requirements



Effective Communication

- ◆ Use People –First Language
- ◆ Do Not Interrupt a Complaining Customer
- ◆ Keep the Customer Informed
- ◆ Think About Your Body Language and Verbal Reactions
- ◆ Do Not Tell a Customer How They Feel or Tell Them to Calm Down
- ◆ Treat Each Caller as an Individual

A background map showing a street grid with several colored lines (red, yellow, purple) highlighting specific routes or areas. The map is faded and serves as a decorative background for the text.

Effective Communication

- ◆ Repeat and Ask for Verification
- ◆ Provide Clear Organized Instructions to Customers
- ◆ Know How to Apologize
- ◆ Understand Abuse is Never Acceptable



Effective Communication

- ◆ Customers with Hearing Impairments
 - Face Customer When Speaking
 - Don't Let Objects Obstruct the View
 - Do Not Raise Your Voice
 - Make Sure the Customer is Informed of Schedule Changes When Using Audible Announcements



Effective Communication

- ◆ Customers with Vision Disabilities
 - Ask Customer if You Can Provide Assistance
 - Identify Yourself and Ask How You Can Assist
 - Respond Verbally so the Customer Knows You Have Heard Him/Her
 - When Handling Money Count Out Loud
 - Announce the Customer's Stop



Effective Communication

- ◆ Customers with Mobility Disabilities
 - Ask Customer How You Can Assistance Them
 - Do Not Hold or Lean on Mobility Devices Without Permission
 - Assist with Lift Use
 - If Required to Operate a Mobility Device Ask the Customer How to Operate



Effective Communication

- ◆ Customers with Mobility Disabilities
 - Know Your Agency's Policy on Wheelchair Securement
 - Must Provide Securement Assistance
 - Cannot Require the Mobility Device Passenger to Use a Shoulder or Lap Belt if Others Are Not Required to Wear

A background map with various colored lines (red, green, yellow, purple) overlaid on a light-colored grid, possibly representing a transit route or geographic area.

Training To Proficiency

◆ Training

- Drivers and Other Staff Shall Be Trained to “Proficiency”
 - Appropriate To Duties
 - Safe Operation Of Vehicles And Equipment
 - Respectful And Courteous Customer Service
 - Disability Awareness
 - Appropriate Passenger Assistance



Adequate Time to Board and Alight

- ◆ The Entity Must Ensure That Adequate Time Is Provided to Allow Individuals With Disabilities to Complete Boarding and Alighting From the Vehicle



Trip Denials

◆ Trip Denials

- When One Leg of a Multi-legged Trip Cannot Be Made, **All** of the Segments Must be Recorded as Denials
- When a Denied Trip Makes a Subsequent Trip (*i.e.*, the Return Trip) Impossible, **Both** Trips Must be Recorded as Denials
- On Complementary Paratransit, Trips Scheduled Outside the One-Hour Negotiating Window, but Passenger Agrees to Pick-Up Time Trip **Must** be Recorded as a Denial

How Does ADA Impact Non-Profit Subrecipients?

- ◆ Section 5311 Nonprofit Subrecipients Operating Fixed Route Service
 - FTA Views States As Primary Grantee
 - If a State Provides § 5311 Funding to a Private Entity Via a Contract or Grant, Which Then Provides Fixed Route Service, ADA Complementary Paratransit Service Must be Available

Can A Transit System Refuse Service?

◆ All Covered Entities

- Covered Entities Shall Not Deny Service to Those Who Can Use System
- Can Refuse Service to Persons but Only in Circumstances Where the Individual Exhibits Illegal, Violent or Disruptive Behavior
 - To Be Illegal, There Must Be an Established Law Prohibiting the Behavior, Not Just a Common Standard of Appropriate Behavior
 - Seriously Disruptive Behaviors Must Be Significant, Not Just Annoying or Unpleasant



Can A Transit System Suspend Service To a Rider?

- ◆ Regulations Allow Service Suspensions for a “Reasonable Period” for Individuals Who Establish a Pattern or Practice of Missed Trips
- ◆ Allowances for No-shows Beyond the Control of the Individual Must be Made prior to Instituting a Suspension
- ◆ A Local Policy Must be in Place to Implement a Suspension



Service Suspensions

- ◆ Service Suspension Criteria Must be Equitable
 - Service Suspension Policies can **NOT** be Based on a Set Number of Cancellations or No Shows Within a Period of Time
 - Service Suspension Policies that Consider Percentage of Cancellations or No Shows in Comparison to Trips Taken Within a Period of Time is Acceptable



New Vehicles

- ◆ New Vehicles Purchased or Leased Must be Accessible Unless the Vehicle is to be Used Solely in a Demand Responsive System that, When Viewed in its Entirety, Provides Individuals with Disabilities a Level of Service Equivalent to that Provided to Other Members of the General Public



Wheelchair Rules

◆ Lift and Securement Use

- "Wheelchair" Defined as Any Three or More Wheeled Device, Designed For Use By Person With Mobility Impairment, Operated Manually or Powered



Wheelchair Rules

◆ Lift and Securement Use

- The Transit System **MUST** Serve Riders Who Use Wheelchairs If the Lift and Vehicle Can Accommodate the Wheelchair and Occupant, and Combined Weight and Dimensions
- Can Refuse Service If Wheelchair/Occupant Weight Exceeds Lift Specifications or if Service is "Inconsistent with Legitimate Safety Requirements"
- Cannot Refuse to Transport Due to Insurance Rates or Liability Concerns



Wheelchair Rules

◆ Legitimate Safety Concerns

- Must Be Based on Actual Risks
- Must Not Be Based on:
 - Mere Speculation
 - Stereotypes
 - Generalizations About Individuals With Disabilities
 - Generalizations About Devices Used for Mobility Purposes
 - Inability to Secure Device to the Satisfaction of the Transportation Provider



Wheelchair Rules

- ◆ Can a System Require Wheelchairs to be Secured?

Yes, if the transit system has established such a policy and the vehicle is equipped with a securement system

- Systems Can also Establish a Policy that Wheelchairs do not Have to be Secured
 - Must secure if requested



Wheelchair Rules

- ◆ Can a System Require an Individual in a Wheelchair to Travel **Only** in the Designated Securement Area?

Yes, as long as the vehicle is equipped with a securement area.

- Allowable to ask the passenger to transfer to a seat but can not require them to transfer to a seat



Wheelchair Rules

- ◆ If the Lift Manufacturer States Wheelchairs Must Face Away from the Vehicle When Using the Lift, Are Passengers Allowed to Board Facing the Vehicle if They Wish?

Yes, 49 CFR Part 38 specifies that a lift must permit both inboard and outboard facing of wheelchair users

- Educating the wheelchair user of safety risks associated with inboard facing entry and exit



Wheelchair Rules

- ◆ Does the Transit System Have to Transport a Passenger in a Wheelchair if the Wheelchair is Difficult to Secure?

Yes, DOT ADA regulations require transit personnel to make their best effort to secure the device



Wheelchair Rules

- ◆ Can a Transit System Require a Passenger in a Wheelchair to Wear a Seatbelt?

Only when the system mandates the use of seatbelts for all passengers



Wheelchair Rules

◆ Lift and Securement Use

- Personnel Must Assist With Use Of Lifts, Ramps, and Securement
- Must Allow Persons With Disabilities Who Do Not Use Wheelchairs To Use The Lift As "Standees" Or To Use Ramps

Where May Lifts Be Deployed?

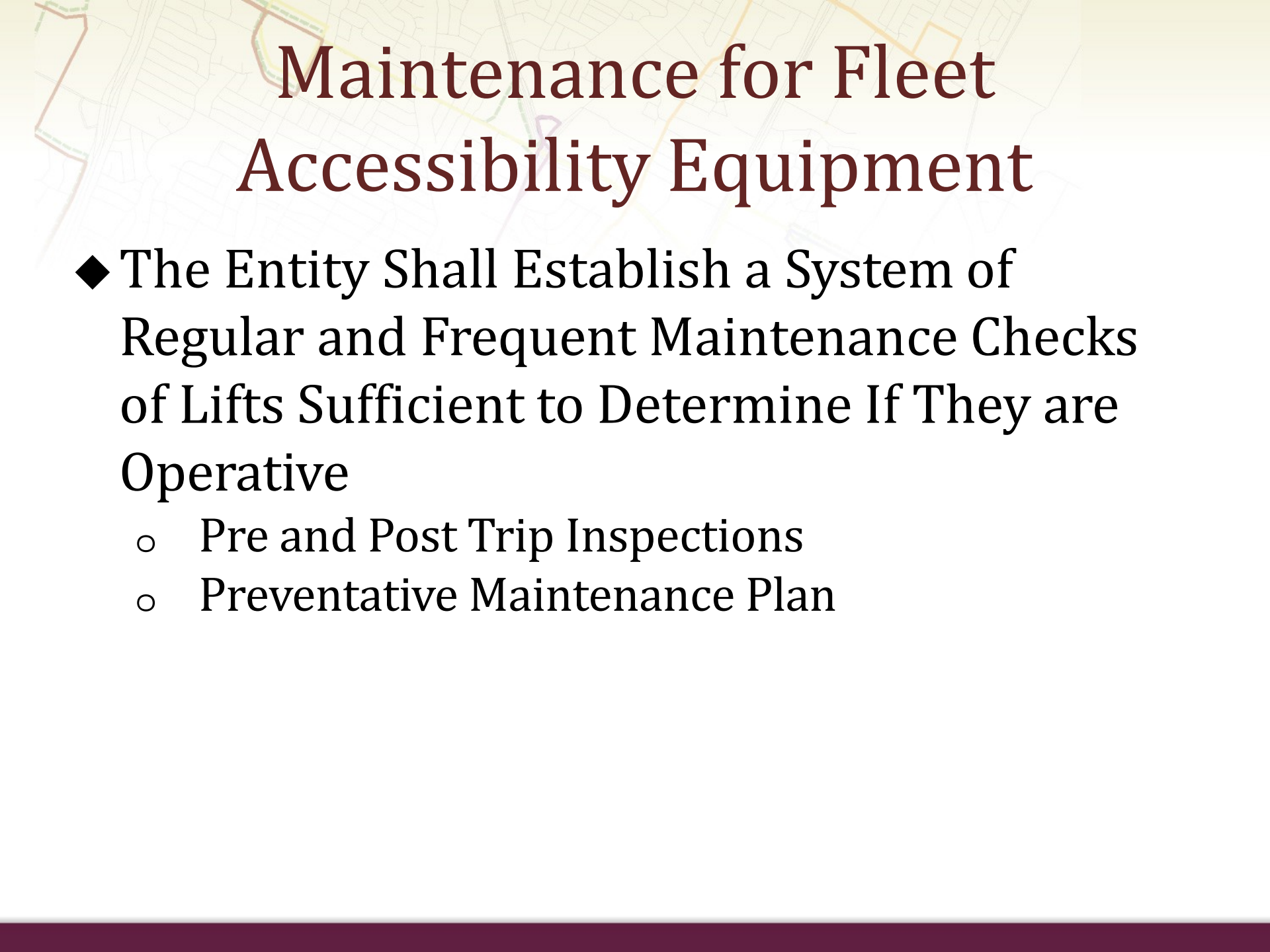
- ◆ The Entity Must Not Refuse to Permit a Passenger Who Uses a Lift to Disembark From a Vehicle At Any Destination, Unless
 - The Lift Cannot Be Deployed
 - The Lift Will Be Damaged If It Is Deployed
 - Temporary Conditions at the Destination Preclude the Safe Use of the Location By All Passengers





Maintenance for Fleet Accessibility Equipment

- ◆ Maintenance of Accessible Features – All Entities
 - Maintain Access-Related Equipment In Operating Condition
 - Repair Promptly
 - Take Reasonable Steps to Accommodate Riders If Equipment Out-of-Order



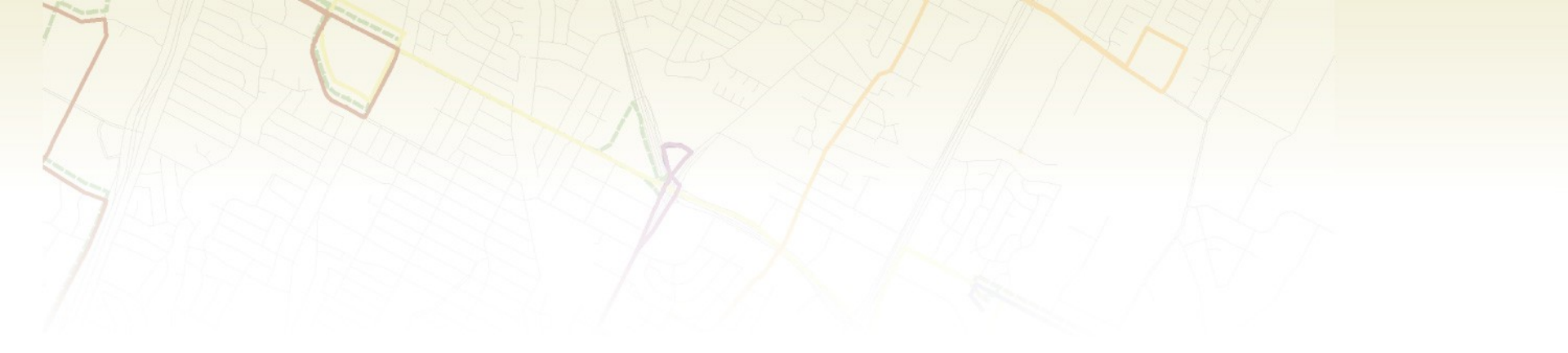
Maintenance for Fleet Accessibility Equipment

- ◆ The Entity Shall Establish a System of Regular and Frequent Maintenance Checks of Lifts Sufficient to Determine If They are Operative
 - Pre and Post Trip Inspections
 - Preventative Maintenance Plan



Maintenance for Fleet Accessibility Equipment

- ◆ Vehicle With Inoperable Lifts and No Spare (*e.g.*, Removal of Vehicle Would Reduce Service)
 - Urbanized Areas
 - Vehicle May Operate No More Than Three (3) Days
 - Nonurbanized Areas
 - Vehicle May Operate No More Than Five (5) Days



REASONABLE MODIFICATION

A background map showing a street grid with several colored overlays: a red outline, a green outline, a yellow line, and a purple line. The map is semi-transparent and serves as a decorative background for the title.

ADA Circular (2016)

- ◆ One of the Most Useful FTA Guidance Documents Ever Issued
 - Plain English
 - Examples
 - Interpretations

Reasonable Modification (2015)

- ◆ USDOT Published Final Rule on March 13, 2015
- ◆ Rulemaking – Almost 10 Years in the Making
 - NPRM - 2006
- ◆ Applies Concept of Reasonable Accommodation to USDOT Covered Entities
 - New Definitions
 - Practice Changes
 - Effective Date: July 13, 2015



Reasonable Modification

◆ Title II of the ADA

- State and Local Governments (DOJ)
 - Reasonable Modifications to Policies, Practices, and Procedures Where Necessary to Avoid Discrimination, Unless They Can Demonstrate That Doing So Would Fundamentally Alter the Nature of the Service, Program, or Activity
- Public Transit (DOT)

◆ Title III of the ADA

- Places of Public Accommodation



Reasonable Modification

- ◆ DOJ and DOT Have Oversight Responsibilities in Their Respective Sections of Article II
- ◆ DOT Contention That Reasonable Accommodation Always Applied to Entities Covered by DOT Rule
- ◆ Courts Have Not Always Agreed With that Assessment



Reasonable Modification

- ◆ This Rule Clarifies That Elements of the DOJ Rules Apply to Public Transit Service Providers
 - 28 CFR 35.130(b)(7)
- ◆ USDOT Issued These Rules So There Is an Explicit Requirement



Reasonable Modification

◆ What the Rule Does

- Amends the Section 504 Rule (49 CFR part 27) on Types of Discrimination Prohibited
 - Adds Definition of Reasonable Accommodation
 - Cross Reference to DOJ Regulation
 - Requires Complaint Process and Designation of Responsible Individual
- For Many Community Transportation Providers, This is “Business as Usual” – You Have Been Doing Reasonable Modification for Years



Amendments

◆ What the Rule Does

- Amends the USDOT Rule on the ADA (49 CFR part 37)
 - Adds Definition of “Origin-to-Destination” Service
 - Clarifies Circumstances When Services Can be Refused (Codifies Previous Issued Guidance)
 - Requires Both Public and Private Transportation Entities to Make Reasonable Accommodation
 - Public Entities
 - » Designation of Responsible Employee and Complaint Procedures

A background map showing a street grid with several colored overlays: a red outline, a yellow line, a purple line, and a green line. The map is semi-transparent and serves as a decorative background for the slide.

Reasonable Accommodation

- ◆ Applies to
 - Policies
 - Practices
 - Procedures
- ◆ Applies When a Change in Policy, Practice, or Procedures Would Avoid Discrimination on the Basis of Disability (*e.g.*, Refusal of Service)



Reasonable Modification

◆ Origin-to-Destination Service

- Many in Industry Believe that Only Curb-to-Curb Service Required
- Regulation, However, Refers to Origin-to-Destination Service
- Where the Local Planning Process Establishes Curb-to-Curb Service as the Basic Paratransit Service Mode, Provision Should Still Be Made to Ensure That the Service Available to Each Passenger Actually Gets the Passenger From His or Her Point of Origin to His or Her Destination Point



Reasonable Modification

◆ Origin-to-Destination Service

- To Meet This Origin To Destination Requirement, Service May Need to Be Provided to Some Individuals, or at Some Locations, in a Way That Goes Beyond Curb-to-Curb Service



Reasonable Modification

◆ Exceptions

- Accommodation Would
 - Be a Fundamental Alteration the Nature of the Service
 - Create a Direct Threat to the Health or Safety of Others
 - Passenger is Able to Fully Use the Transportation Entity's Service Without Accommodation



Reasonable Modification

- ◆ If An Exception Applies, the Entity May Deny Request
- ◆ If Denial, Additional Obligations Apply
 - Take Other Actions To Ensure The Disabled Person Receives Transit Service (49 CFR part 37.169(e))
 - Denial of Service Should be Transit Agency's Last Option



Complaint Process

- ◆ Designation of Responsible Employee
 - Name, Address, Telephone Number, and Email
 - Sufficiently Advertised—Web/Other
- ◆ No Regulatory Training Requirements
 - Designated Employee is Responsible for Making Decisions That Impacts an Individual's Civil Rights
 - Should be Trained on ADA/Reasonable Accommodation Rule
 - Should Have Authority to Make Key Operational Decisions



Complaint Process

◆ Due Process

- Ensure that an Administrative Alternative is Available So that an Individual Can Appeal an Adverse Decision on Reasonable Accommodation
 - Have Another Individual/Group Hear the Appeal
 - Permit Presentation of Evidence/Direct Appearance
 - Establish Fixed Milestones for Filing, Deliberating, and Ruling on Appeals
- ADA Eligibility Determinations May Represent a Model for Structure



Complaint Process

- ◆ Response to Complaint Must Be Promptly Communicated Including Reasons for the Response
 - Accessible and Usable By Individuals With Disabilities
 - Standards for Prompt and Equitable Resolution of Complaints
 - No Definition for Prompt Given
 - Established Procedures for Promptly Communicating its Response



Complaint Response

- ◆ Elements of the Response
 - Response Decision
 - Reasons For the Response
 - Appeals Procedures



Complaint Process

◆ Documentation

- Notification Does Not Have To Be In Writing
- Copies of Internal Documentation Maintained for One Year
- Summary Maintained for Five Years



Modification Requests

◆ Individuals Making a Request

- Must be a Qualified Individual with a Disability (per ADA definition)
- Should Describe the Requested Modification
- Need Not Identify the Request or Use the Term “Reasonable Modification” in Order to be Considered
- Should be Requested in Advance, if Possible



Modification Requests

◆ Individuals Making a Request

- Where a Request for Modification Cannot Practicably be Made and Determined in Advance
 - Operating Personnel of the Entity Shall Make a Determination of Whether the Modification Should Be Provided at the Time of the Request
 - Operating Personnel May Consult With The Entity's Management Before Making a Determination to Grant or Deny the Request



Origin-to-Destination Service

- ◆ Codifies Previous FTA Guidance that ADA Complementary Paratransit Service Must be Origin-to-Destination
- ◆ Under this Standard
 - Entity May Continue to Use Curb-to-Curb Passenger Assistance Policies But Must, For Individuals Who May Need Such Assistance, Provide Origin-to-Destination Service
 - May Require an Operator to Leave a Vehicle



Origin-to-Destination Service

- ◆ This Standard Does Not Require an Operator to Provide Door-Through-Door Service
 - Other Guidance
 - Assistance Would Result in a Fundamental Alteration or Direct Threat is Not Required



Origin-to-Destination Service

◆ Practical Interpretation

- Drivers Are Not Required to
 - » Leave Vehicles for Lengthy Periods of Time
 - » Leave Their Vehicles Unattended or Lose the Ability to Keep Their Vehicles Under Visual Observation
 - » Take Actions that Would Be Clearly Unsafe

Nondiscrimination

- ◆ Applies to All DOT Covered Entities
 - Primary Requirement – Transport Unless the Individual
 - Engages in Violent Behavior
 - Is Seriously Disruptive
 - Exhibits Illegal Conduct
 - Represents a Direct Threat to the Health or Safety of Others



Nondiscrimination

- ◆ Applies to All DOT Covered Entities
 - An Entity Cannot Refuse to Provide Service to an Individual with Disabilities Solely Because the Individual's Disability Results in Appearance or Involuntary Behavior that May Offend, Annoy, or Inconvenience Employees of the Entity or Other Persons

Oversight

◆ Direct Recipients

- Unnecessary to Obtain FTA Permission in Making Reasonable Accommodation Decisions

◆ Subrecipients

- Transit System Should Have a Designated Employee and Procedures

Likely Impacts

- ◆ Real Time, Situational Decisions at Fixed Route Bus Stops
- ◆ Occasional Complementary Paratransit and Demand Response Requests for Alternative Drop-Off/Pick-Up Locations
- ◆ Higher Levels of Passenger Assistance Requests
 - May Challenge Safety of Others Concept

Likely Impacts

- ◆ Systems Likely to Have Addressed These One- on-One Issues in the Past

- ◆ Ensure Some Flexibility in Service Policy
 - Rigid Application of Service Rules to Deny Mobility Would be Inconsistent With the New Rule



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