

California Bus Association

What are My ADA Responsibilities?






Ontario, CA · July 13, 2011

The Congress finds that...

...**physical or mental disabilities** in no way diminish a person's right to **fully participate** in all aspects of society, ...

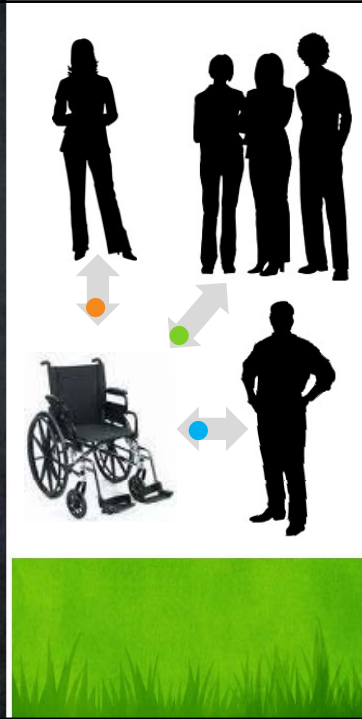
...discrimination against individuals with disabilities continue to be a serious and pervasive social problem...



The diagram illustrates the concept of full participation. It features silhouettes of a woman, a group of three people, and a man in a wheelchair. Arrows with colored dots (orange, green, blue) point from the top group to the wheelchair, and from the wheelchair to the man, symbolizing the connection and inclusion of individuals with disabilities into society.

The Congress finds that...

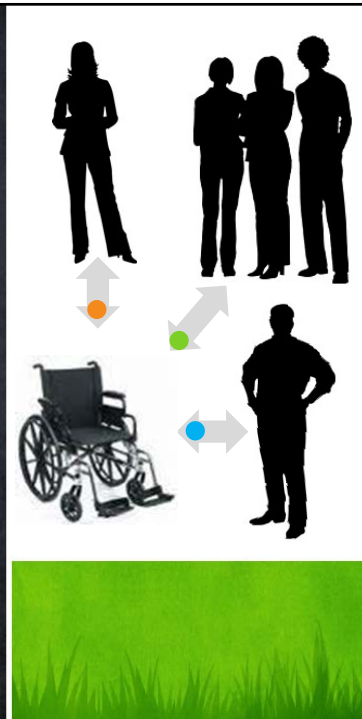
...discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, **transportation**, communication, recreation, institutionalization, health services, voting, and access to public services...



The Congress finds that

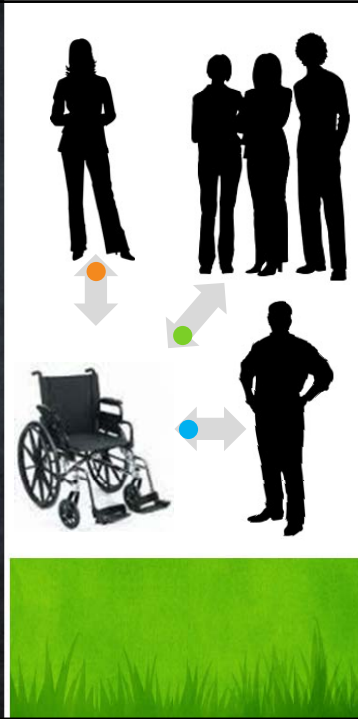
...discrimination on the basis of disability have often had no **legal recourse** to redress such discrimination...

...individuals with disabilities continually encounter various forms of discrimination, **including outright intentional exclusion**...



The Congress finds that

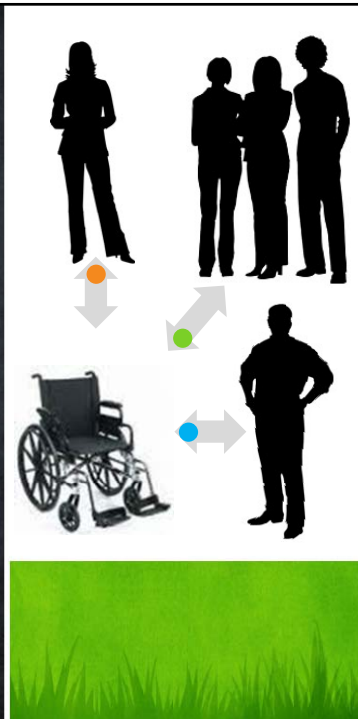
...the Nation's proper goals regarding individuals with disabilities are to assure **equality of opportunity, full participation**, independent living, and economic self-sufficiency for such individuals...



Defining Disability

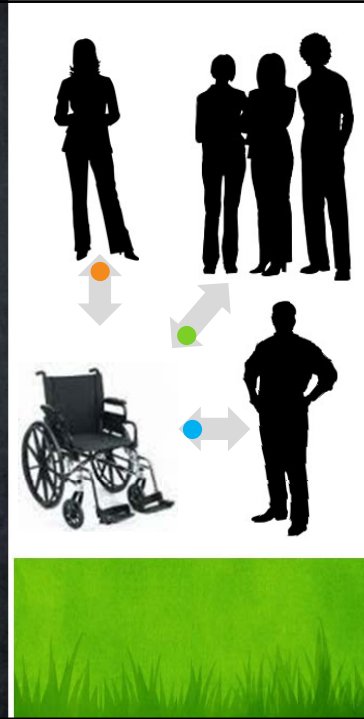
The U.S. government defines disability as “a physical or mental impairment that substantially limits one or more **major life activities**.”

Major life activities include such activities as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.



Major Types of Disability

- ☐ Reduced Mobility
- ☐ Hearing Loss
- ☐ Vision Loss
- ☐ Speech and Language Disabilities
- ☐ Cognitive Disabilities
- ☐ Psychiatric Disabilities
- ☐ Medical Disabilities
- ☐ Hidden Disabilities

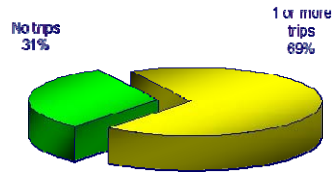


Title 49: Transportation

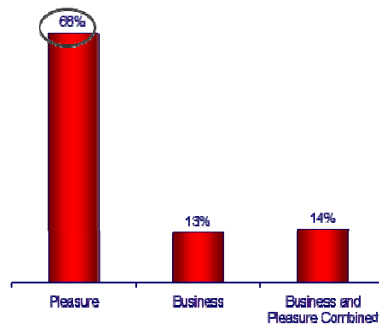
PART 37—TRANSPORTATION SERVICES FOR INDIVIDUALS WITH DISABILITIES (ADA) Subpart H—Over-the-Road Buses

Among those who have taken a trip in the past two years, most say it was purely for leisure.

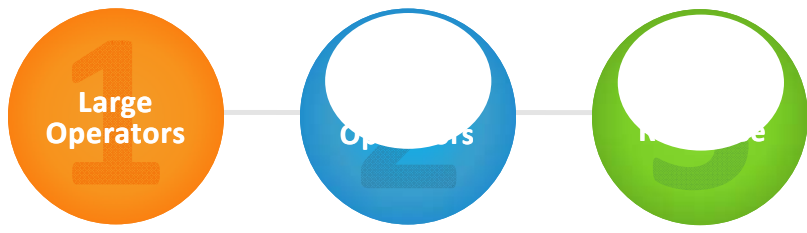
Whether Have Traveled within Past 2 Years



Traveled within Past 2 Years – By Type of Trip



Information provided by: Open Doors Organization



What are our responsibilities? —






Large Operator


- Fixed route – OTRB
- Gross sales - \$8.6 million (adjusts annually)
- October 30, 2000
 - All new acquisitions – accessible
 - October 30, 2006
 - 50% of fleet must be accessible
 - 48 Hours notice
 - October 29, 2012
 - 100% Fleet
 - No notice


What are our responsibilities? 

Small Operator

- Fixed route – OTRB
- Less than \$8.6 million (adjusted annually)
- October 29, 2001
 - All new acquisitions – accessible
 - Ensure that equivalent service, as defined in §37.105, is provided to individuals with disabilities, including individuals who use wheelchairs. To meet this equivalent service standard, the service provided by the operator must permit a wheelchair user to travel in his or her own mobility aid.
 - 48 Hours notice

What are our responsibilities? 



PART 37: TRANSPORTATION SERVICES FOR INDIVIDUALS WITH DISABILITIES (ADA)

Subpart E: Acquisition of Accessible Vehicles by Private Entities 37.105 - Equivalent service standard.

...a fixed route system or demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is **equivalent to the service provided other individuals** with respect to the following service characteristics:

- (a) (1) Schedules/headways (if the system is fixed route);
- (2) Response time (if the system is demand responsive);
- (b) Fares;
- (c) Geographic area of service;
- (d) Hours and days of service;
- (e) Availability of information;
- (f) Reservations capability (if the system is demand responsive);
- (g) Any constraints on capacity or service availability;
- (h) Restrictions priorities based on trip purpose (if the system is demand responsive).



Charter operator



- Not required to purchase or lease accessible buses in connection with providing demand-responsive service.
- Any individual with a disability who requests service in an accessible OTRB receives such service.
- The operator may require up to **48 hours'** advance notice to provide this service.
- If the individual with a disability does not provide the advance notice the operator requires under paragraph (a) of this section, the operator shall nevertheless provide the service if it can do so by making a **reasonable effort**.



Example #1



- Tour bus operator requires all passengers to reserve space on the bus three months before the trip date.
- Requirement applies to passengers with disabilities on the same basis as other passengers.
- Individual passenger who is a wheelchair user would have to request an accessible bus at the time he or she made his reservation, at least three months before the trip date.
- If the individual passenger with a disability makes a request for space on the trip and an accessible OTTB 48 hours before the trip date, the operator could refuse the request because all passengers were required to make reservations three months before the trip date.

Example #2



- A group makes a reservation to charter a bus for a trip four weeks in advance.
- A week before the trip date, the group discovers that someone who signed up for the trip is a wheelchair user who needs an accessible bus, or someone who later buys a seat in the block of seats the group has reserved needs an accessible bus.
- A group representative or the passenger with a disability informs the bus company of this need more than 48 hours before the trip date.
- **The bus company must provide an accessible bus.**

Example #3



- While the operator's normal deadline for reserving space on a charter or tour trip has passed, a number of seats for a trip are unfilled.
- The operator permits members of the public to make late reservations for the unfilled seats.
- If a passenger with a disability calls 48 hours before the trip is scheduled to leave and requests a seat and the provision of an accessible OTRB
- The operator must meet this request (as long as it does not displace another passenger with a reservation).



Example #4



- A tour bus trip is nearly sold out three weeks in advance of the trip date.
- A passenger with a disability calls 48 hours before the trip is scheduled to leave and requests a seat and the provision of an accessible OTRB.
- The operator need not meet this request if it will have the effect of displacing a passenger with an existing reservation.
- **If other passengers would not be displaced, the operator must meet this request.**



Example #5



- Is there a list of situations which DOT would recognize as legitimate the failure of a motorcoach operator for not providing accessible service?
- Only **matters beyond the control of the operator** that result in no one being provided transportation would be recognized as legitimate by US DOT. The preamble to the ADA rule provides two examples:
 - a snowstorm which brings traffic to a halt,
 - an accident that prevents the coach from picking up passengers.
 - According to US DOT, there are no acceptable reasons, following a timely request for accessible service, for denying transportation to customers using wheelchairs while other passengers receive transportation

Small mixed-service operators



- **Special provision for small mixed-service operators.**
 - (a) For purposes of this section, a small mixed-service operator is a small operator that provides both fixed-route and demand-responsive service and does not use more than **25 percent of its buses for fixed-route service.**
 - (b) May conduct all its trips, including fixed-route trips, **on an advance-reservation basis** as provided for demand-responsive trips in §37.189.
 - Such an operator is not required to comply with the accessible bus acquisition/equivalent service obligations of §37.183(b).

Training and other requirements



- “Training to proficiency” includes, (as appropriate to the duties of particular employees) ...
 - Training in proper operation and maintenance of accessibility features and equipment,
 - Boarding assistance, securement of mobility aids,
 - Sensitive and appropriate interaction with passengers with disabilities,
 - Handling and storage of mobility devices, and familiarity with the requirements of regulations
 - OTRB operators shall provide refresher training to personnel as needed to maintain proficiency.

Intermediate and rest stops



- Passenger with a disability, including an individual using a wheelchair or service animal shall be permitted to leave and return to the bus on the same basis as other passengers. The operator shall ensure that assistance is provided to passengers with disabilities as needed to enable the passenger to get on and off the bus at the stop.
- If an OTRB operator owns, leases, or controls the facility at which a rest or intermediate stop is made, or if an OTRB operator contracts with the person who owns, leases, or controls such a facility to provide rest stop services, the OTRB operator shall ensure the facility complies fully with applicable requirements of the Americans with Disabilities Act.
- If an OTRB equipped with an inaccessible restroom is making an express run of three hours or more without a rest stop, and a passenger with a disability who is unable to use the inaccessible restroom requests an unscheduled rest stop, the operator shall make a **good faith effort** to accommodate the request.
- The operator is not required to make the stop.
- The operator shall explain to the passenger making the request the reason for its decision not to do so.

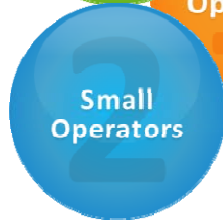
Lift maintenance



- Shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.
- Shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.
- When a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next trip and ensure that the lift is repaired before the vehicle returns to service.
- If there is no other vehicle available to take the place of an OTRB with an inoperable lift, such that taking the vehicle out of service before its next trip will reduce the transportation service the entity is able to provide, the entity may keep the vehicle in service with an inoperable lift for no more than **five days** from the day on which the lift is discovered to be inoperative.



Oxygen



- Motorcoach operators are required to transport oxygen for personal use when medically necessary.
- The total weight permitted in a bus cargo compartment is 45 kg (**99 lbs.**).
- A carrier may elect to transport up to 200 kg (440 lbs.) in the cargo compartment if the oxygen cylinders are necessary to protect the health and safety of the passengers.
- Strongly recommend limiting weight to 45 kg (**99 lbs.**) except under extraordinary circumstances.



SERVICE REQUEST RECORDKEEPING



- All OTRB companies are required to document all **individual requests** for accessible or equivalent service they receive.
- Each request must be documented in a manner that records the following information:

SERVICE REQUEST RECORDKEEPING



- 1. Company's name
- 2. Company's address
- 3. Company's telephone number
- 4. Passenger's name
- 5. Passenger's address
- 6. Passenger's telephone number
- 7. Scheduled date(s) and time(s) of trip(s)
- 8. Date and time of request
- 9. Location(s) of need for accessible bus or equivalent service, as applicable
- 10. Was accessible bus or equivalent service, as applicable, provided for trip(s)? Yes/No
- 11. Was there a basis recognized by U.S. Department of Transportation regulations for not providing an accessible bus or equivalent service, as applicable, for the trip(s)? Yes/No If yes, explain
- OTRB companies must provide a copy of the completed Service Request Form to the passenger and retain a copy for five years.

Annual Report of OTRBs Purchased/Leased and Overall Fleet Data



- OTRB companies must submit acquisition and lease data to the DOT annually. These annual reports should contain the following data:
- 1. Company's name
- 2. Company's address
- 3. Company's telephone number
- 4. Contact person name for the company
- 5. **Total number of buses** in the company's fleet
- 6. **Total number of accessible buses** in the company's fleet
- 7. The number of **new and used buses purchased or leased** during the time period from October 1 of the prior calendar year through September 30 of the calendar year when the report is submitted
- 8. Number of new **accessible buses purchased** during the time period
- 9. Number of used accessible buses purchased during the time period
- 10. Number of new accessible buses leased during the time period
- 11. Number of used accessible buses leased during the time period

Annual Report of OTRBs Purchased/Leased and Overall Fleet Data



- Due last Monday of October
- Covers October 1 of the prior calendar year through September 30 of the current calendar year.
- The mailing address to which all reports must be sent is as follows:

Federal Motor Carrier Safety Administration
Office of Information Management MC-RIS
1200 New Jersey Avenue, SE
Washington, DC 20590

Federal Motor Carrier Safety Administration Compliance Audit



- 1. Have an ADA accessible bus, lease one or have written agreement with another carrier to gain access to an accessible vehicle when needed.
- 2. Maintain a service log showing that the lift has been inspected on a regular basis. This should be part of a larger ADA maintenance program that includes a list of items on the lift that are checked regularly.
- 3. Have a training program in place on how to handle calls from and deal with passengers with disabilities. This should include sensitivity training.
- 4. Have an active/current list of all ADA related requests, one form for each request.
- 5. Maintain a file for such requests for at least 5 years.
- 6. All the above information, including the training program, should be contained in a 3-ringed binder to readily give to the FMCSA inspector.



ADA Guidelines for Over-the-Road Bus Companies

<http://www.fmcsa.dot.gov/rules-regulations/bus/company/ada-guidelines.htm>





U.S. Department of Justice
Americans with Disabilities Act

<http://www.ada.gov/>



Laure Van Horn (212) 260-6103

<http://www.ada.gov/>





<http://projectaction.easterseals.com/>

A multi-colored graphic layout for a "Thank you!" slide. It features a blue abstract design on the top left, a grey textured area on the top right containing contact information, a dark grey area on the bottom left with the text "Thank you!", an orange abstract design on the bottom right, and a green grass border at the bottom.

Ken Presley
United Motorcoach Association
www.uma.org

Thank you!