

# Equity in Transportation for People with Disabilities

## Why Equity in Transportation Matters

Congress is currently debating reauthorization of the surface transportation bill, with heated debate over spending amounts and policy needs. As the nation considers its transportation policy for the 21<sup>st</sup> century, it is crucial to consider the needs of *all* individuals living in the United States, especially those who have traditionally been left behind.

Transportation and mobility play key roles in the struggle for civil rights and equal opportunity in the disability community. Affordable and reliable transportation allows people with disabilities access to important opportunities in education, employment, health care, housing, and community life. Because our nation's investments in transportation infrastructure have disproportionately favored cars and highways, those who cannot afford cars or do not drive cars often lack viable transportation options. People with disabilities—particularly in rural areas—need accessible, affordable transportation options that bring employment, health care, education, housing, and community life within reach.

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Unfortunately, adults with disabilities are twice as likely as those without disabilities to have inadequate transportation (31 percent vs. 13 percent).<sup>1</sup> Of the nearly 2 million people with disabilities who never leave their homes, 560,000 never leave home because of transportation difficulties.<sup>2</sup> Leaving people out has real costs to the nation. Keeping people with disabilities at home keeps them out of jobs, away from shopping, and out of community life, and it prevents them from making valuable contributions to our society as individuals, as workers, as consumers, and as taxpayers.

## Transportation and The Americans with Disabilities Act

The Americans with Disabilities Act of 1990 (ADA) is the landmark civil rights law that addresses the rights of people with disabilities. Title II of the ADA prohibits discrimination on the basis of disability in public transportation services, such as city buses and public rail (subways, commuter trains, etc.). Under the ADA; all new vehicles used in public transit must be accessible; key existing rail stations and all new rail stations and facilities must be accessible; and transit operators must provide paratransit (on-demand, door-to-door) services for those who cannot use available mass transit.

## Surface Transportation Legislation

The current legislation that authorizes all highway and transit funding is the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). SAFETEA-LU authorized \$286.5 billion to fund the nation's transportation network through 2009. It authorizes funds for highways and highway safety and transit programs, including paratransit and grant programs related to transportation for people with disabilities. The bill originally expired on September 30, 2009, and has been extended a number of times as Congress seeks a long-term funding solution for the nation's transportation infrastructure and considers reauthorization legislation.

## Accessibility

Twenty years after passage of the ADA, transportation choices for people with disabilities are still limited. The ADA has led to major improvements in transit systems across the United States. However, there are persistent gaps in compliance that continue to create significant barriers for people with disabilities. In addition, because the ADA only addresses public transportation, few transportation options exist for people with disabilities where no public transportation is available. In some areas, such as in rural communities, insufficient funding has left people with disabilities with little or no transportation options. In urban areas, where individuals often rely on accessible taxis, a lack of requirements has meant very uneven progress.

## 1. *Fixed Route Public Transit*

Under the ADA, services for people with disabilities on public buses and rail systems have expanded significantly. However, there are still several important issues that need to be addressed.

Bus services have improved significantly under the ADA. Universal design features such as low-floor buses with ramps, larger destination signs, floor markings, additional grab bars, audible stop announcements, and monitors that show upcoming stops have greatly enhanced accessibility. However, many transit agencies still fail to comply with the ADA requirement to announce bus stops, which greatly affects individuals with visual and cognitive disabilities. Some rely on automatic stop announcement systems, which often are problematic. Additionally, problems persist with the maintenance of accessibility equipment such as lifts, and with securing mobility equipment such as wheelchairs and scooters. In some cases, drivers do not stop for people with disabilities. Drivers need more training on securing equipment, calling out stops, and following procedures regarding passengers with disabilities.

Over-the-road buses—large buses elevated over a luggage compartment, which are often used for tours and travel—can also be problematic for people with disabilities. These types of buses frequently pick up passengers at curb stops rather than at stations. Although large companies generally tend to comply with accessibility requirements, smaller companies often ignore them.

Train travel has also improved, yet still imposes certain obstacles. With regard to previously existing rail systems, the ADA only requires that key stations be made accessible. Key stations include transfer rail stations, major interchange points, stations where passenger boardings exceed average boardings, and stations serving major activity centers. In cities that have subways, commuter rails, or other systems built before the ADA took effect, including some large East Coast systems such as Boston and New York, there are few accessible stations. Requiring only key stations to be made accessible, rather than incrementally making *all* existing rail stations accessible, has led to gaps in accessibility. Furthermore, it is difficult to agree on a “key” station. *Any* station is *key* to those who use it.

A significant barrier on some rail systems is a lack of elevators or the failure to maintain elevators in working order and to inform riders when they are out of service. Issues with platform accessibility also continue to deter individuals using mobility assistive devices from accessing rail systems. Overly wide gaps between the train and

the platform can be problematic. While newer systems have been built with minimal gaps, older systems have larger gaps that can make transportation prohibitive. Stop announcements for people with visual or cognitive disabilities are often unreliable, when agencies fail to test systems regularly, monitor them closely, and make changes necessary to ensure that they function properly.

When people with disabilities cannot access a station or bus stop, they may be forced to go out of their way to find one that is accessible, and in some cases, this may make travel prohibitive.

Some of the biggest issues with ADA compliance involve Amtrak, the government-owned passenger train company that provides inter-city service across the U.S. Under the ADA, Amtrak was supposed to have been 100 percent ADA compliant (i.e. accessible) within 20 years of passage of the ADA, or by July 2010. However, only about 20 percent of its stations are compliant. In the past 20 years, Congress has severely underfunded Amtrak, which has done little to improve accessibility. Furthermore, Amtrak has found that it does not actually own many of its stations, so it must rely on other entities to make them accessible, which often does not happen. Several court cases have addressed the various issues that people with disabilities face with accessibility at Amtrak stations and on its trains.<sup>3</sup>

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## 2. *Paratransit*

One of the biggest changes under the ADA is the requirement to provide paratransit services in areas where mass transit is available to provide people with disabilities who could not use mass transit with another alternative. Paratransit is an alternate mode of transportation, most often provided by minibuses, which provides door-to-door shared rides upon request by eligible users. Paratransit use has soared in the past 20 years, along with its costs. However, users in many cities experience significant problems with their paratransit systems, including problems with service quality and capacity limitations. Specific

problems include: restrictive eligibility criteria; unfair trip denials; tardiness or failure to show; slow service en route; inefficient and unfriendly telephone reservation systems; inaccurate information; failure to respond to complaints; lack of training for drivers; drivers' lack of respect for users; and punitive cancellation policies.

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Fixed-route public transit is the goal of the ADA for those who are able to use it. Paratransit was envisioned only for those people with disabilities who are unable to use mass transit systems, not for those who merely choose paratransit. Several methods have been used to encourage use of fixed route systems, rather than paratransit, when possible. In addition, in the context of limited federal funding, agencies have had to find ways to control the soaring costs of paratransit. These include removing barriers to fixed transit (for instance, adding curb cuts to make streets more accessible); making fixed-route service more ADA compliant; implementing fare incentive programs on fixed-route transit; ensuring more accurate eligibility determinations; and adding disincentives such as charging premium fares for special services. Some agencies have also offered travel training to teach individuals with disabilities to use fixed route systems and to transition riders from paratransit to fixed routes. Sometimes the biggest impediment to greater use of mass transit by an individual with a disability is fear or inexperience. Increased training, including in-school training for students with disabilities, could greatly reduce reliance on paratransit by individuals who are otherwise able to use mass transit.

### **3. *Private Transportation - Accessible Taxis***

Private transportation is an important alternative that should be considered to increase access for people with disabilities. A pressing issue in the disability community is the dearth of accessible taxis. Taxis are an important mode of transportation for people with disabilities. Many people with disabilities who cannot drive or afford a car utilize taxi services. Taxis can provide greater flexibility and independence than relying on public transportation systems, especially for those for whom mass transit is either unavailable or inaccessible.

Moreover, taxis can provide a cost-effective alternative to paratransit service. Public transit operators could save money by employing taxi services for people with disabilities, and taxi fare is less expensive than providing

paratransit. Furthermore, health care-related travel could be provided more cheaply and effectively by accessible taxis than by privately operated ambulettes or public paratransit systems. This ultimately is a savings not only to transit but to taxpayers as well.

However, only a very small percentage of taxis nationwide are accessible, and people with disabilities still face an enormous amount of discrimination from taxi services. Some cities have accessible taxi programs. Chicago's program has been a model due to effective enforcement. Other cities such as Boston, Las Vegas, San Francisco, Seattle, and Portland also have made progress. The ADA requires accessibility only in van-style taxis, not for sedan-style taxis. However, when local governments regulate taxis, they must be careful not to discriminate against people with disabilities in violation of the ADA.

In New York City, a recent landmark court case ruled that the New York Taxi and Limousine Commission's (TLC) operation of an inaccessible taxi fleet illegally discriminated against people with disabilities.<sup>4</sup> The availability of accessible taxis has long been an issue in New York City, the country's most populous city. Taxis there are regulated by the city and only those that receive medallions from the TLC can provide "street hail" service. Despite the ADA's prohibitions on discrimination by public entities in the provision of public services, the TLC has not required accessibility in taxis, and historically less than 2 percent of New York City taxis have been accessible. In 2011 several disability groups joined together to sue the TLC, charging it with "failing to provide yellow taxis that men, women and children who use wheelchairs are able to access." The court agreed that the TLC's policies resulted in discrimination against people with disabilities and that the city must provide "meaningful access" to wheelchair users.

### **4. *Compliance Assessments***

Lack of enforcement is one of the biggest obstacles to realizing the goals of the ADA. There are no "ADA police," so transit operators can often shirk responsibilities without repercussions. ADA enforcement is complaint-driven, which is burdensome for people with disabilities, especially in remote rural communities. In 1998, the Federal Transit Administration (FTA) began conducting assessments in cities where the FTA had concerns about ADA compliance. These compliance assessments led to positive results. In a number of cities where assessments occurred, people with disabilities reported significant service improvements. However, in recent years the FTA has stopped doing assessments. To ensure vigorous oversight and compliance with ADA transportation requirements, the FTA must reinstate its compliance assessments.

## **Livable Communities—Safe and Accessible Rights-of-Way**

Safe and accessible rights-of-way are essential elements of community life. Rights-of-way include streets, sidewalks, crosswalks, curb ramps, crossing signals, street parking, and other public infrastructure, and are crucial to viable transportation for people with disabilities. The lack of enforceable standards under the ADA remains a problem, and people with disabilities in communities across the country continue to face barriers such as inaccessible bus stops, intersections without curb ramps, street crossings and pedestrian signals that are not audible to individuals with visual disabilities, and barriers such as telephone poles blocking sidewalks. If people with disabilities cannot even get down their streets, they will be unable to connect to other forms of transportation. Congress is currently considering “complete streets” legislation that would address the issue of public rights-of-way and make streets safe and accessible to everyone.

### **Transportation in Rural Areas**

Rural communities face even greater barriers to accessible transportation. A significant lack of funding to rural communities means that public transit in general, let alone accessible transportation, is often in very short supply. At least 12 million individuals living in rural communities, or 41 percent of the rural population, live in counties with no public transportation.<sup>5</sup> Rural residents with disabilities and those who serve them report that the lack of transportation is one of their most significant and persistent problems.<sup>6</sup> Minimal or nonexistent transit services in rural areas severely curtail the mobility of people with disabilities and keep them from jobs, medical appointments, community life, and independence.

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### **Local Transportation Programs**

There are several federally funded programs focused on transportation for people with disabilities that have been useful, especially in rural communities. The Transportation for the Elderly and People with Disabilities Program (also known as Section 5310) provides funding to states to assist private nonprofit groups in providing transportation for the elderly and persons with disabilities when the public

transportation service provided is unavailable, insufficient, or inappropriate to meet their needs.

The Job Access Reverse Commute (JARC) Program (Section 5316) provides transportation to and from jobs for low-income individuals and individuals who receive government assistance. Although it is not specifically geared to people with disabilities, the government has awarded JARC money to programs that serve the disability community.

The New Freedom formula grant program (Section 5317) supports new public transportation services and alternatives beyond those required by the ADA to assist individuals with disabilities with their transportation needs. Some models that have been successful under the New Freedom Program include mobility management and voucher programs.

Mobility management programs use all types of transportation to meet the transportation needs of individuals with disabilities utilizing a comprehensive and holistic approach. They take into account a rider’s age, income level, and accessibility needs to determine the best transportation options—from carpools, vouchers, intercity and local buses, rail, vanpools, and personal vehicles, to walking and biking. Under these programs, individuals in community organizations are trained as mobility managers to coordinate transportation for people with disabilities.

Vouchers are tickets or coupons that eligible riders can use as full or partial payment to participating transportation providers, including taxis, human services transportation providers, and even family members, neighbors, and friends who provide transportation to individuals with disabilities. The voucher system allows customers to choose transportation services that match their needs, from the type of vehicle, to the time and day of travel, to the type of service; and allows service providers such as taxis to increase their ridership.

Several programs have been successfully implemented in rural areas around the country. Innovative private and public programs can offer important transportation alternatives to people with disabilities. However, more funding and better coordination are required. Different programs with different eligibility requirements often lead to overlapping or inefficient services that could be coordinated to be much more cost effective and usable.

## Conclusion

Equity in transportation is an important civil rights issue. It is critical to the independence of people with disabilities and their ability to contribute economically, socially, and politically. The ADA prohibits discrimination based on disability and requires accessibility in public transportation. In the past two decades since passage of the ADA, some progress has been made; however transportation options for people with disabilities remain unacceptably limited. More efforts must be made to ensure that people with disabilities have access to affordable and reliable transportation. We therefore make the following recommendations.

## RECOMMENDATIONS

The disability and broader civil rights community must continue to work together for a transportation system that meets the needs of ALL individuals in the United States. As Congress considers legislation related to transportation, it should keep in mind the following recommendations:

### Funding

- Dedicated funding for public transit is critical—most federal funding currently favors cars and highways, missing a whole segment of the nation.
- Funding should support the state of good repair—letting our infrastructure fall apart impedes the mobility of millions of people in the U.S.
- Funding should allow for operating assistance in addition to capital expenses to assist in paying the operating and administration costs of providing transit service.

### Programs

- The Transportation for the Elderly and People with Disabilities Program (Section 5310), the New Freedom Program (Section 5317), and the Job Access Reverse Commute Program (JARC) (Section 5316) are critical in providing transportation options for people with disabilities.
- Adequate funding must be provided for transportation programs and for innovative private and public sector models.
- Programs need greater coordination to be effective. If consolidated, they should allow for coordination and give transportation providers the flexibility they need to serve all groups.
- In consolidating programs, it is imperative to ensure that funds continue to go specifically to programs that benefit people with disabilities, and are not diverted to larger entities or used for other purposes.

## Livability Provisions

- Complete streets provisions—which ensure that the entire roadway is designed with all users in mind—are important in making streets and public rights-of-way safe and accessible for everyone, including people with disabilities.
- All modes of transportation should be accessible to all people at all times—systems designed to meet the needs of people with disabilities will meet the needs of everyone.

## Enforcement

- Vigorous oversight and compliance with ADA requirements is crucial. The FTA should reinstate its compliance assessments to hold transit agencies accountable.
- Policies should be implemented that support the availability of accessible taxis, buses, trains, and other transportation.
- Taxis should be made accessible and considered as cost-effective alternatives to paratransit.
- Amtrak must be funded to improve station accessibility and held accountable for achieving full accessibility.

## Endnotes

1. CDC Promoting the Health of People with Disabilities, Department of Health and Human Services, at <http://www.cdc.gov/ncbddd/disabilityandhealth/pdf/AboutDHPProgram508.pdf>.
2. “Opportunities for Creating Livable Communities,” Mia R. Oberlink, April 2008 at [http://assets.aarp.org/rgcenter/il/2008\\_02\\_communities.pdf](http://assets.aarp.org/rgcenter/il/2008_02_communities.pdf).
3. National Council on Disability, *The Current State of Transportation for People with Disabilities in the United States*, June 13, 2005, available at <http://www.ncd.gov/publications/2005/06132005>.
4. *Noel v. New York City Taxi and Limousine Commission*, U.S. District Court, for the Southern District of New York, decided December 23, 2011.
5. Rural Disability and Rehabilitation Research Progress Report, May 2007 at <http://rtc.ruralinstitute.umn.edu/Trn/Partners.htm>.
6. National Council on Disability, “The Current State of Transportation for People with Disabilities in the United States” June 13, 2005 at 151–54.