NO-SHOWS IN ADA PARATRANSIT

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A Series of Topic Guides for Transit Agencies, Riders, and Advocates on the Americans with Disabilities Act (ADA) and Transportation

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INTRODUCTION

The U.S. Department of Transportation (DOT) Americans with Disabilities Act (ADA) regulation allows transit agencies to suspend, for a reasonable period of time, the provision of paratransit service to riders who establish a pattern or practice of missing scheduled trips, also known as no-shows. In permitting suspensions, the DOT ADA regulation acknowledges that paratransit riders who repeatedly fail to appear for their prearranged rides can have a detrimental effect on operational efficiency, cost, and the quality of the service for other riders.

Yet people with disabilities will experience the same kinds of unexpected schedule changes as everyone else. In addition, some people with disabilities have variable conditions that change from day to day. For these reasons, ADA paratransit riders’ plans will sometimes change. The challenge of no-show policies is to balance these needs.

This Topic Guide on No-Shows in ADA Paratransit addresses how to determine what constitutes a pattern of no-shows, how to distinguish no-shows from missed trips, no-show suspensions, recommended operational procedures for the management of no-shows, and strategies for reducing ADA paratransit no-shows. A subsequent section discusses late cancellations, followed by information on what else riders and advocates need to know, including the rider’s role in reducing no-shows.

FTA determinations in ADA compliance reviews indicate key transit agency requirements and responsibilities.

The Topic Guide Series on ADA Transportation is for transit agencies, public transit riders, and disability advocates. The Topic Guides bring together the requirements of the ADA and the DOT ADA regulation, Federal Transit Administration (FTA) determinations, and best operational practices on each topic. The Federal Transit Administration enforces the ADA in the area of publicly funded transit. Readers who wish to understand the most authoritative and up-to-date interpretations of the ADA transportation requirements may wish to check both the text and endnotes of this Topic Guide to find specific FTA determinations on particular paratransit no-show issues.

The determinations FTA makes in its ADA compliance reviews indicate key transit agency requirements and responsibilities that are important for transit agencies to implement. In each ADA compliance review, FTA Findings are the basis for corrective actions by the transit agency. FTA Recommendations identify one possible way to address the Findings. Many of the reviewed agencies have implemented service improvements since the time of their reviews.
The FTA ADA compliance reviews may be found in full at www.fta.dot.gov/civilrights/ada/civil_rights_3899.html, or go to www.fta.dot.gov/ada and select FTA ADA Compliance / ADA Compliance Review Final Reports.

The Topic Guide series on ADA Transportation also draws information from many other sources, including DOT Disability Law Guidance; FTA ADA Letters of Finding and Bulletins; Transportation Research Board and National Council on Disability publications; National Transit Institute courses; Easter Seals Project ACTION publications and Distance Learning Sessions; American Public Transportation Association draft Recommended Practices; and the recommendations of nationally recognized ADA paratransit operators, planners, and researchers on the best operational practices for implementing ADA requirements.

**PATTERN OR PRACTICE OF MISSED TRIPS BY THE RIDER**

The DOT ADA regulation addresses important principles about how the ADA allows transit agencies to impose service suspensions based on passenger no-shows. The DOT ADA regulation Appendix D, which provides interpretive guidance on the regulation, states:

It is very important to note that sanctions could be imposed only for a “pattern or practice” of missed trips. A pattern or practice involves intentional, repeated or regular actions, not isolated, accidental, or singular incidents. Moreover, only actions within the control of the individual count as part of a pattern or practice. Missed trips due to operator error are not attributable to the individual passenger for this purpose. If the vehicle arrives substantially after the scheduled pickup time, and the passenger has given up on the vehicle and taken a taxi or gone down the street to talk to a neighbor, that is not a missed trip attributable to the passenger. If the vehicle does not arrive at all, or is sent to the wrong address, or to the wrong entrance to a building, that is not a missed trip attributable to the passenger. There may be other circumstances beyond the individual’s control (e.g., a sudden turn for the worse in someone with a variable condition, a sudden family emergency) that make it impracticable for the individual to travel at the scheduled time and also for the individual to notify the entity in time to cancel the trip before the vehicle comes. Such circumstances also would not form part of a sanctionable pattern or practice.5
DON’T COUNT NO-SHOWS BEYOND RIDER’S CONTROL

The ADA does not allow transit agencies to base a suspension of service on any trips missed by a rider for reasons beyond his or her control, including trips missed due to transit agency error or lateness. Those trips may not be a basis for determining that a pattern or practice of missing scheduled trips exists.

The ADA does not allow transit agencies to base a suspension on no-shows beyond the rider’s control.

Yet riders are not always informed of their right to contest particular no-shows. The National Council on Disability reported that, in some cases, riders with disabilities express the concern that they are penalized despite their best efforts to contact the transit agency to establish that particular no-shows were beyond their control.6

WHAT IS BEYOND THE RIDER’S CONTROL?

There are many circumstances that may be beyond the rider’s control, including but not limited to:

• Family emergency
• Illness that precluded the rider from calling to cancel
• Personal attendant or another party who didn’t arrive on time to assist the rider
• Rider was inside calling to check the ride status and was on hold for extended time
• Rider’s appointment ran long and did not provide opportunity to cancel in a timely way
• Another party cancelled rider’s appointment
• Rider’s mobility aid failed
• Sudden turn for the worse in someone with a variable condition
• Adverse weather impacted rider’s travel plans, precluding the rider from cancelling in a timely way

Transit agency error, which may not be counted as a rider no-show, includes but is not limited to:
• Vehicle arrived late, after the pickup window
• Vehicle arrived early, before the pickup window, and rider was not ready to go
• Vehicle never arrived
• Vehicle went to the wrong location
• Driver didn’t follow correct procedures to locate the rider
• Rider cancelled in a timely way but the cancellation was not recorded correctly or wasn’t transmitted to the driver in time

The details of local policy and guidance on the types of circumstances that will be considered beyond a rider’s control should be developed with public input. Riders are in the best position to describe the circumstances that may arise that preclude a timely cancellation.

**SUGGESTED PROCEDURES FOR “BEYOND THE RIDER’S CONTROL”**

Transit agencies should provide a telephone number for riders to inform the transit agency that particular no-shows were beyond their control. In larger systems, this telephone number should be different from the regular reservations line. In general, the calls should go to the staff who are tracking and tabulating no-shows and preparing no-show suspension letters.

Any public information that describes the no-show suspension policy should include a statement that a no-show beyond the control of the rider will not be counted, and that riders are encouraged to contact the transit system at the special telephone number for this purpose, if a no-show was beyond a rider’s control. These statements should also appear in any notices sent to riders indicating that they were charged with one or more no-shows, including letters sent out after any no-shows, pre-suspension letters, and door hangers that are left informing riders that the driver was there and they were a no-show [regarding door hangers, also see Alerting the Rider of No-Shows below, p. 12]. Moreover, these statements should be included in any letter that proposes a suspension [also see Suspensions below, p. 12].

**PROPORTION OF TRIPS MISSED, RATHER THAN ABSOLUTE NUMBER**

**MANY POLICIES TOO RESTRICTIVE**

In 2005, the Transportation Research Board published a study of *Practices in No-Show and Late Cancellation Policies for ADA Paratransit*. The survey of transit properties showed that, by far, the most common no-show policy said that riders could be suspended if they have three no-shows in 30 days.\(^7\)
However, FTA has stated that this stringent sanction (three no-shows in 30 days) is not necessarily a pattern of rider abuse of the paratransit service, particularly for frequent riders. Thus, using this as the standard to suspend service would unfairly deny some riders their right to paratransit eligibility. The Director of the FTA Office of Civil Rights wrote in a 2003 letter:

[Regarding] the suspension of service for no-shows/late cancellations, considering only three no-shows or six cancellations in a 30-day period to be excessive and an abuse of the service may unreasonably limit service to ADA-eligible customers ... [The transit agency] should reconsider this policy and should also consider analyzing overall frequency of riders' use of the service, as well as the number of no-shows, when determining whether there is a sufficient pattern or practice of no-shows to justify a suspension.\(^8\)

FTA stated “three no-shows in 30 days” is not necessarily a pattern of abuse, and thus would deny some ADA rights.

Transit agencies with no-show policies that penalize riders after three no-shows in a 30-day period should reconsider their policies, in light of the FTA view that this may not constitute a sufficient showing of pattern or practice of no-shows to justify a suspension for riders who regularly use the service. Other FTA ADA compliance reviews have found similarly, that particular transit agency policies “may be an overly restrictive interpretation of the DOT ADA regulations,” stating this conclusion regarding policies in which:

- Any combination of three no-shows and/or late cancellations within one month could result in a suspension.
- Eight no-shows in 12 months could result in a suspension.
- Three no-shows in 90 days (or in a calendar quarter) could result in a suspension.
- Six no-shows in a calendar year could result in a suspension.\(^9\)

FTA made these findings even when the transit agencies had not suspended any riders for excessive no-shows recently. FTA has stated that transit agency leniency in applying a no-show policy, or not enforcing a suspension policy, does not make the policy reasonable.\(^10\)

**CONSIDER THE FREQUENCY OF TRIPS MISSED**

The 2003 FTA letter from the Director of the FTA Office of Civil Rights quoted above addressed another important consideration, which was first explained in the DOT ADA regulation
Appendix D: no-show suspensions may be imposed only when the rider’s record involves intentional, repeated, or regular actions, not isolated, accidental, or singular incidents. Three no-shows in a month for a regular rider who uses the service to get to and from work each day as well as for other trips, is very different from three no-shows by a rider who schedules only five trips a month. So frequency of use, or proportion of trips missed, should be considered when determining a pattern or practice.

FTA stated that the frequency of an individual’s rides and no-shows should be considered.

FTA has repeatedly found in ADA compliance reviews that no-show suspension policies should not be based solely on a set number of no-shows per month, such as three or more. FTA stated that, rather, the frequency of an individual’s rides and the frequency of his or her no-shows should also be considered to determine if a true pattern or practice exists.11 One way of doing this is to initially set a minimum number of no-shows that must be exceeded, and then to check that even if this number is exceeded, the no-shows represent a certain percentage of all trips taken.

PATTERN OR PRACTICE MEANS BOTH SUBSTANTIAL NUMBER AND ABOVE-AVERAGE FREQUENCY

When determining what frequency of no-shows constitutes a pattern or practice of abuse, transit systems should also consider the overall no-show rate for all riders and adjust upward, so as not to penalize riders with average no-show records. If the overall no-show rate is five percent, for example, a rider who no-shows only five percent of her scheduled trips should not be considered an abuser of the service, because this is the average. Abuse could, for example, be considered as several times the overall system average, such as 15 percent if the system average is five percent.

The number of no-shows should be considered in addition to frequency. A person who schedules one round-trip in a month and no-shows both ends of that trip would have no-showed 100% of his scheduled trips, but this does not constitute a pattern or practice. It is not clear whether scheduling just two round-trips and no-showing both is a pattern or practice. A minimum number such as five no-shows in a month would seem to be a more appropriate minimum. When this minimum number is exceeded, that could trigger a review of the rider’s no-show frequency.
NOT DIFFICULT TO ADMINISTER

Most transit agency policies still state an absolute number of no-shows—for example, five (or some other number) per month. It is considered easier to administer an absolute number than basing suspensions on the frequency or proportion of no-shows in relation to all trips a rider took. Yet implementing the FTA determination that considering frequency is necessary under the ADA, need not be difficult to administer.

It is not necessary to look at the no-show frequency of every rider. Transit agencies can still use a set number, such as five in a month, as a trigger to identify riders with several no-shows each month. Then a more detailed check of these riders’ trip histories and no-show frequency can be performed before a suspension is proposed. It is also good practice to double-check each no-show for riders who are considered for suspension, in order to confirm that the no-show coding was correct. Given that someone performs this double-check of each no-show, it is not burdensome to also assess the frequency of no-shows at the same time.

Another good approach that transit agencies sometimes use is to focus only on those riders with the highest number of no-shows. Each month, the transit agencies prepare a report showing the riders with the greatest number of no-shows. They then develop the trip history and no-show frequency for these riders, and propose suspensions when appropriate. This approach is also used to identify riders who might be having difficulty using the service. Riders are contacted to see if there is anything that might help avoid no-shows. [Also see Recommended No-Show Procedures below, p. 17.]

DON’T CANCEL THE RETURN TRIP

FTA has made the policy interpretation that if a rider misses a scheduled outbound trip, transit agencies may not automatically cancel his or her return trip. Each leg of a trip must be treated separately. Without an indication from the rider that the return trip is not needed, it should remain on the schedule.

This FTA determination is based on the impact on riders when the return trip is automatically canceled. For example, if a vehicle operator had an incorrect rider address on the outbound trip, and the trip was missed, but the rider reached her destination another way, the rider may still need a way to go home. Cancelling the return trip could strand her.

If contact is made with the rider when the outbound trip is no-showed—for example, the dispatcher may reach the rider when a call is made to alert him or her that the vehicle has arrived—the dispatcher should ask if the rider would still like the return trip kept on the schedule. If no contact can be made with the rider when the outbound trip is no-showed, transit systems may want to consider other ways to contact the rider or another appropriate person, to determine if the return trip is still needed. For example, if the destination was a
regularly visited social service program, the transit agency can contact the social service program midday to learn if the rider arrived that day by a means other than paratransit. But if there is no communication with the rider or a reliable source familiar with the rider’s travel needs, the return trip should not be canceled.

**MISSING TRIPS BY RIDERS (NO-SHOWS) VS. MISSED TRIPS DUE TO TRANSIT AGENCY ERROR**

The ADA distinguishes between trips that are missed by the rider (no-shows) and missed trips (trips not served) that are the responsibility of the transit agency.

If a rider is not present when a vehicle arrives because the vehicle is late, some transit agencies still record this as a no-show. However, when the vehicle arrives outside the pickup window, if the passenger does not make the trip, the transit agency should not consider this a no-show, but rather, a missed trip by the transit agency itself. Substantial numbers of missed trips constitute an illegal capacity constraint under the ADA.

When the vehicle arrives outside the pickup window and the passenger doesn’t make the trip, it’s not a no-show.

A best practice is to consider a trip missed by the transit agency if the vehicle never arrives, or if the vehicle arrives outside of the pickup window and the rider does not take it. For example, for a transit agency with a pickup window from the scheduled time up to 30 minutes after the scheduled time (a 0/+30 pickup window), if the vehicle arrives 35 minutes after the scheduled pickup time (that is, five minutes after the end of the 30-minute window), and the rider is not there or decides not to take the trip, it should be coded as a missed trip by the transit agency. Similarly, if a vehicle arrives early, before the beginning of the pickup window, the rider does not board, and the vehicle departs, that should also be coded as a transit agency missed trip. The one possible exception is if the vehicle arrives early and the driver would otherwise wait until the scheduled pickup time, but the rider indicates that he or she does not intend to make the trip even if the driver were to wait until the scheduled time. This circumstance can be considered a cancellation at the door. If the vehicle arrives late or early and the rider elects to take the trip, it is considered a late pickup or early pickup.

Dispatchers need to code these trips accurately. So a best practice is for dispatchers to be involved each time a vehicle arrives at a location and the rider is not there or decides not to make the trip. Before giving authorization, dispatchers should compare the vehicle arrival time.
NO-SHOWS IN ADA PARATRANSIT

SUSPENSIONS

ALERTING THE RIDER OF NO-SHOWS

Transit agencies should alert riders about no-shows as they occur.

It is a good practice for transit agencies to alert riders about no-shows on their record as the no-shows occur. If transit systems do not alert riders along the way, then they should bring the no-shows in the rider’s record to the rider’s attention before proposing a suspension. Notifying the rider after each no-show is preferred for many reasons, including that it is not reasonable to expect riders to remember the specific circumstances of each day of the past several weeks or even months.

Whether informing riders about no-shows as they occur, or only after some have been recorded, any rider notification about no-shows should also restate the agency policy and inform riders that they can contact the transit agency if they think any of the no-shows were not in their control and/or were charged in error. [Also see Don’t Count No-Show Beyond Rider’s Control above, p. 6.]

When choosing a method of alerting riders to no-shows on their records, a transit agency should be sensitive to its riders’ views. Some transit agencies leave door hangers at the pickup location. But some transit systems’ riders have expressed opposition to having items hung on
their doors that give others an indication that no one is home. If riders oppose door hangers, a transit agency can choose another way to alert riders, such as by sending a letter each time a rider misses a scheduled trip.

NOTIFICATION BEFORE SUSPENSIONS

Before any suspension of service due to no-shows, the transit agency must notify the individual rider in writing, citing specifically the full reason for the proposed suspension and its length, including the exact no-show dates, times, pickup locations, and destinations on which the proposed suspension is based, using accessible formats when necessary. [Also see Accessible Formats below, p. 15.]

The notification must include information about the appeal process, including how to file an appeal. [Also see Appeal Process for No-Show Suspensions below, p. 15.] It should also include a statement that the suspension may not be based on any no-shows beyond the rider’s control, nor on any trip missed due to transit agency error or lateness, even if the transit agency has notified the rider of no-shows as they occurred. The statement should include how to contact the transit agency about no-shows beyond their control. This procedure helps to avoid going to a full appeal. If the rider contests one or more no-shows, and the transit agency agrees, there may be no need for an appeal.

FTA has made the finding that time is needed for the filing of an appeal before suspensions become effective, suggesting that a transit agency should allow at least 15 days between receipt of a notice of a proposed suspension of service and the proposed date on which the suspension becomes effective.\textsuperscript{13}

LENGTH OF SUSPENSIONS

It is important for suspensions to be limited to the reasonable period of time envisioned in the DOT ADA regulation.\textsuperscript{14} As an FTA representative explained:

\begin{quote}
We are, in most cases, looking for a suspension on a progressive system so that the first offense ... should probably only be for a couple of days, maybe a week. Thereafter, the second time ... you could allow for a more severe punishment, say twice as long as the first suspension, and so on ... , with the goal ultimately of not denying the person service but of correcting the behavioral problem or the lack of attention problem that is leading to disruption to your service. In summary, we are looking for suspensions of days, maybe weeks, not suspensions, typically, of months and especially of years.\textsuperscript{15}
\end{quote}
FTA has also stated that the sanction should not be too long, nor overly punitive, and found in ADA compliance reviews that eligibility was impermissibly restricted when riders were suspended for one year or eligibility was revoked.\textsuperscript{16}

**FINANCIAL PENALTIES—OPTIONAL ONLY**

Some transit agencies allow riders to pay a fine or other financial penalty instead of imposing a no-show service suspension. However, a financial penalty is permitted by the ADA only as an option instead of a suspension. A fine or financial penalty may not be mandatory, and may not be charged in addition to a suspension.\textsuperscript{17}

*A financial penalty is permitted by the ADA only as an option instead of a suspension. A fine may not be mandatory.*

Moreover, the ADA does not allow a transit agency to charge any fee or financial penalty (whether optional or mandatory) because of a single no-show, nor for any number of no-shows short of a suspension. This includes fares for trips not taken for any reason by a rider or a rider’s companion. Requiring payment of fares for trips not taken is disallowed by the ADA. A financial penalty is legal only as an *option to a suspension*, not as a punitive measure for one or more no-shows.

If a financial penalty is offered as an option instead of a suspension, all of the other ADA protections must be in place: the no-shows on which the fine is based must have been within the rider’s control, the appeal process must be available, and so forth [also see *Appeal Process for No-Show Suspensions* below, p. 15].

There are several reasons why mandatory financial penalties are illegal under the ADA. First, the only way the DOT ADA regulation addresses a pattern of no-shows is a suspension of service. Transit agencies may not impose a mandatory punishment that is outside of the enforcement framework of the regulation. Another reason is that a mandatory financial penalty is a violation of the prohibition on fees in ADA paratransit (other than trip fares). This prohibition is explained in detail in the Topic Guide on *Eligibility for ADA Paratransit*, which is available at [http://dredf.org/ADAtg](http://dredf.org/ADAtg). Lastly, financial penalties for individual no-shows are not permitted because the ADA does not consider single no-shows to be an abuse of the system. Only a *pattern or practice* of missing scheduled trips may be punished.
ACCESSIBLE FORMATS

The ADA requires transit agencies and other covered entities to use accessible formats (also called alternate formats). Accessible formats are types of auxiliary aids and services. Auxiliary aids and services are measures to ensure communications access for people with impaired vision, speech, or hearing.\(^\text{18}\)

In the context of a no-show suspension, this requirement means that a transit agency no-show suspension notice, like its other communications, must provide effective communication. For example, a print letter may not provide effective communication for an individual rider who is blind or has a vision impairment. Such a rider may need his or her letter in large print, in Braille, or in an audio or electronic format.

It is not appropriate to assume that all riders who are blind or have vision impairments can use the same alternate format. An e-mailed notice may provide effective communication for some people; a notice in Braille or one in large print may provide effective communication for others.

According to the DOT ADA regulation Appendix D:

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A document does not necessarily need to be made available in the format a requester prefers, but it does have to be made available in a format the person can use. There is no use giving a computer disk to someone who does not have a computer, for instance, or a braille document to a person who does not read braille.\(^\text{19}\)
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APPEAL PROCESS FOR NO-SHOW SUSPENSIONS

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Paratransit service must continue until an appeal is heard and decided.
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The ADA guarantees that a rider may file a local appeal of a transit agency decision to suspend the provision of paratransit service due to a pattern of missing scheduled trips.

If a rider requests an appeal, paratransit service must continue to be provided to the rider until the appeal is heard and decided. According to the DOT ADA regulation Appendix D:
We would emphasize that, prior to a finding against the individual after this due process procedure, the individual must continue to receive service. The entity cannot suspend service while the matter is pending.\textsuperscript{20}

The local appeal process must include an opportunity to be heard and to present information and arguments. According to the DOT ADA regulation Appendix D:

All relevant [transit agency] records and personnel would be made available to the individual, and other persons could testify. It is likely that, in many cases, an important factual issue would be whether a missed trip was the responsibility of the provider or the passenger, and the testimony of other persons and the provider's records or personnel are likely to be relevant in deciding this issue. While the hearing is intended to be informal, the individual could bring a representative (e.g., someone from an advocacy organization, an attorney). The individual may waive the hearing and proceed on the basis of written presentations.\textsuperscript{21}

Moreover, according to Appendix D, "If there is a hearing, and the individual needs paratransit service to attend the hearing, the [transit agency] must provide it."\textsuperscript{22}

The decision on an appeal must be made by a person or panel of people uninvolved with the initial decision to suspend service. The DOT ADA regulation requires a separation of authority between those making the initial determination to suspend service and those making the decision on an appeal. For example, neither a subordinate of the person who made the initial decision, nor his or her supervisor, should hear appeals.

Written notification of the result must be provided, with detailed, specific reasons stated. This information must be available in accessible formats [also see Accessible Formats above, p. 15].

Best practices for handling no-show appeals include:

- Establishing a panel to make decisions on no-show appeals, rather than a single individual. The transit agency should have a rotational pool of panel members available on call, so it can convene a panel quickly.\textsuperscript{23}
- Including representation from the disability community on the panel.
- Ensuring panel members receive training on relevant ADA paratransit issues, such as the issues discussed in this Topic Guide.
NO-SHOWS IN ADA PARATRANSPORT

RECOMMENDED NO-SHOW PROCEDURES

In any service that requires reservations before the day of travel, a certain number of no-shows are to be expected. Occasional schedule conflicts and other circumstances will inevitably occur. In the view of the National Council on Disability, it is advisable to identify and focus on the real abusers and establish a policy that is customer-friendly and respectful of the average rider.\textsuperscript{24} Sending letters to riders about their no-shows that suggest the riders are irresponsible or costly to the transit agency is likely to trigger a negative public response and is not recommended.

Transit agencies should emphasize working with riders in a positive way to reduce no-shows.

Transit agencies should emphasize working with riders in a positive way to reduce no-shows, as well as implementing the warnings and suspensions allowed by the ADA. Newer riders may not fully understand the pickup window, the need to provide special pickup instructions, or the limits of assistance beyond the curb. Trip confirmation calls the evening before the day of service may be helpful for some riders. Some systems provide riders with reminder note pads with spaces for important trip information, which can be kept by the phone. Some systems also provide incentives to encourage riders to minimize no-shows [also see Incentives below, p. 21]. Approaches that work with riders to address the root causes of no-shows and incorporate incentives tend to be the most effective.

Recommended no-show administrative procedures include these steps:

1. Keep riders apprised of recorded no-shows. Riders may be unaware of no-shows on their record, particularly if the “no-shows” were actually system errors. Notifying riders via door hangers or brief, respectful letters or postcards after each no-show is a good practice [regarding door hangers, also see Alerting the Rider of No-Show above, p. 12]. Immediate notification provides riders with an opportunity to effectively respond if the no-show was beyond their control. It may be difficult for riders to recall the specific circumstances if they are not notified for weeks or months, or until several no-shows accumulate. Notifications should inform riders how to indicate if the no-shows were beyond their control.

2. Periodically identify and list riders with the most no-shows. Check the trip record for these riders to ensure that the number of no-shows for each one is a significant percentage of their total trips taken [also see Not Difficult to Administer above, p. 10].
3. If a rider’s record forms a pattern that could result in a no-show suspension, review each no-show to verify that it was not caused by a coding or other transit agency error. Do not depend solely on a list generated by paratransit software. The review could involve checking the trip information and associated notes to ensure the vehicle arrived within the on-time window, that the driver waited the correct amount of time, that the vehicle was at the correct location, and that other policies and procedures were being followed (for example, that the dispatcher attempted to call the rider). [Also see Missed Trips By Riders (No-Show) Vs. Missed Trips Due to Transit Agency Error above, p. 11.]

If a rider’s record forms a pattern that could trigger a suspension, review each no-show to verify it was not a transit agency error.

4. If the review verifies enough no-shows to constitute a pattern, notify the rider about the no-shows and the suspension called for by your agency policy. Some systems issue a warning for a first offense. Give the rider the opportunity to appeal any proposed suspension.

5. If a transit agency no-show policy is new or has been recently changed, it is a good practice to include a phase-in period to educate riders about the policy. During the phase-in, procedures can be tested and fine-tuned; also, letters can be sent but suspensions not yet imposed.

STRATEGIES FOR REDUCING NO-SHOWS

Many circumstances can cause no-shows. Some are within the control of the transit agency and others are related to rider actions. The following are ways transit agencies may decrease the number of no-shows.

OPERATIONAL PROCEDURES TO REDUCE NO-SHOWS

1. Capture and record special pickup instructions (for example, side door, back door) and make sure they get to the driver. Let riders know that it is important to provide these special pickup instructions when the pickup location may not be obvious. Include this in the Rider's Guide as well as in the script used by reservation agents to ask riders each time a trip is booked. Train reservationists to accurately record special instructions in the appropriate places during the trip booking process. Do periodic checks of trip records to make sure that special instructions are being recorded and are showing up in the right places for drivers. Ensure that drivers know
NO-SHOWS IN ADA PARATRANSIT

where those special instructions are recorded. This is particularly important in systems that use Mobile Data Terminals (MDTs) because, very often, the special instructions aren’t on the front page of the MDT, so drivers must scroll to a secondary screen in order to find the information.

2. Capture telephone numbers in the reservations process. In addition to special pickup instructions, make sure that all telephone numbers are obtained from riders during the trip booking process. This includes telephone numbers at the origin of both ends of the trip—the origin and the destination. Include this in the script used by reservation agents and be sure that it is included in agent training. Having phone numbers will then make it possible for radio dispatchers to attempt to contact riders if drivers report possible no-shows. [Also see Don’t Cancel the Return Trip above, p. 10.]

3. Attempt to locate the rider rather than just waiting five minutes and pulling away. When appropriate, drivers might first go to the door to alert riders before they contact dispatch about a possible no-show. [Also see the Topic Guide on Origin to Destination Service, which is available at http://dredf.org/ADAtg]. Radio dispatchers might also make a call to let riders know that the vehicle has arrived.

4. Designate pickup locations at large facilities that can be used as meeting points. Work with large facilities to designate locations where riders can wait for vehicles, and to post signs to identify the locations as ADA paratransit pickup and drop-off points. Whenever possible, provide amenities at the locations, such as a bench and shelter. When riders call to book rides to these large facilities, ask if meeting at the designated pickup and drop-off points is workable for them. If so, indicate it as special instructions on the trip record. Be aware that these designated meeting locations are not always workable for riders. The facilities may be so large that some riders may need to be picked up and dropped off at other locations within the facility grounds. If this is the case, be sure to indicate it in the special instructions. While they are not always workable for everyone, designated pickup locations can be helpful for many trips.

Manage no-shows through the dispatching process.

5. Manage no-shows through the dispatching process. Make sure that drivers contact dispatch and receive authorization before marking riders as no-shows. Before giving authorization, dispatchers should compare the vehicle arrival time to the scheduled pickup time and the pickup window, to ensure that the vehicle arrived and waited the appropriate amount of time. If Automatic Vehicle Locator (AVL) technology is used, dispatchers should also check the vehicle location to make sure it is at the scheduled location. If AVL is not used, dispatchers should ask drivers to describe the location to be sure it is correct, and should include the description in trip notes, in case a no-show is later questioned. If it is part of the approved
6. Track changes made on the day of service and adjust subsequent trips as needed. Occasionally, due to reservations or other errors, riders may be dropped off at different locations, or at different entrances, than what is noted on the schedule. When this happens, vehicle operators should inform dispatch, and dispatchers should make necessary adjustments to any subsequent trips, so that the next driver, performing the second half of the trip, does not end up at the wrong location.

7. Educate riders about the pickup window, the vehicle wait time policy, the importance of being ready and looking for the vehicle, and the need to cancel rides as soon as possible when their plans change. In addition to including this in the Rider’s Guide, consider sending “Helpful Hints” flyers to riders, including this information on the recorded message that riders hear when they call to book trips, and including it in the rider newsletter.

8. Consider implementing rider call-outs. Advanced technologies such as Automatic Vehicle Locator (AVL), with or without Interactive Voice Response (IVR), can provide for automated call-outs when a vehicle is within 5 minutes of a scheduled pickup location, to alert riders that the vehicle will arrive soon. Call-outs can be extended to all riders, or targeted for riders who have difficulty knowing that vehicles have arrived, either due to their disabilities or their locations.

Automated call-outs can be used in a variety of other ways. For example, one transit agency reported that the “top 100 cancellers” receive an automated call-out the evening before each trip. They can cancel the trip by pressing a button on the telephone, which goes into the transit agency database and releases the trip. This idea was echoed by the National Transit Institute course on Paratransit Scheduling and Dispatching. The course handbook states, “Automated call-back systems, which could remind riders of trips scheduled the day before (if they have called 2 or more days in advance) might be a technology that could help reduce no-shows and last-minute cancellations. This approach could be used systemwide or just for riders who have had a problem with no-shows or late cancels.”
9. Work with riders to address the causes of no-shows. It is a good practice to contact riders and discuss no-shows. Try to identify why the no-shows are occurring. Work with each rider to develop approaches for them to use the service without no-shows.

[Also see Suggested Procedures for “Beyond the Rider’s Control” above, p. 7.]

KEEP CURRENT WITH SUBSCRIPTION TRIPS

A lack of coordination with social service agencies is a leading cause of no-shows.

A lack of coordination with social service agencies is a leading cause of no-shows. It is very important for transit systems to keep track of subscription riders’ schedules. Often, a social service agency will have several people on the schedule on a subscription basis. There may be multiple schedule changes, but the agency doesn’t keep the transit system apprised of the changes. Transit systems can reduce no-shows significantly if they work more closely with social service agencies for which they provide subscription service.

It is also important for transit systems to manage subscription trips booked directly by riders. Occasionally, vehicle operators may learn when they pick up a subscription rider that the person will not be making the subscription trip for a period of time—they may be away or may have a change in plans for several weeks. Having told the vehicle operator, the rider or the person communicating this on the rider's behalf may think that they do not need to call to inform the transit agency. However, information gathered by the vehicle operator may not make its way back through dispatch to the schedulers, and the rider might remain on the schedule for several days or even weeks.

INCENTIVES

Rider incentives and rewards programs can play a role in reducing no-shows. The 2005 Transportation Research Board (TRB) report stated:

Under an incentive program, several agencies [including RTC of Southern Nevada and Utah Transit Authority] offer free ride coupons or passes to passengers based on their having not accumulated no-show points during a specified period of time (typically 6 months). The Utah Transit Authority also
gives free ride coupons to passengers when there is a carrier failure and the carrier misses the trip. They may be redeemed to erase no-show points as well.27

The programs are said to have reduced no-shows and are well received by riders.28

The TRB report also suggested “incentive programs such as free ride coupons for passengers with exemplary records (e.g. passengers who have zero no-shows during a 6-month period).”29

REMOVE CAPACITY CONSTRAINTS

On transit systems with capacity constraints, a significant portion of no-shows can stem from rider responses to those constraints. For example, if riders know that calling the day before a ride will likely result in a ride denial, or not receiving the ride time they prefer, they will tend to call earlier and earlier. Some people will arrange rides they may not end up taking, because they must request a ride before their plans are confirmed or because their plans change. The result is an increased number of no-shows.

“NO STRAND” POLICIES

Many transit agencies have a “no strand” policy stating that if the ADA paratransit system takes a rider to a destination, the rider won’t be left stranded there, even if the rider no-shows for the scheduled return ride. It is a good practice to establish and implement such a policy. Return service is provided as soon as possible, but without a guaranteed on-time window.

COMPLAINT INVESTIGATION

Thorough complaint investigation is an important part of ADA compliance.

The thorough investigation of all complaints related to the use of ADA paratransit service is an important part of monitoring and compliance. Transit agencies should ensure that all rider complaints are recorded and investigated. Transit agencies are required to have procedures to receive, resolve, maintain records of, and report on complaints.30

Transit agencies should provide timely responses to riders with information about the outcome of investigations. Transit systems should then use information obtained from investigations to
address any performance issues and improve service, as an integral part of their ADA compliance effort.

**LATE CANCELLATIONS**

Some transit agencies have defined a category of late cancellations that can contribute to a rider’s no-show suspension. Some have even extended the definition of a late cancellation to be any time after 5 p.m. the previous day, or earlier. One transit agency required riders to cancel at least 24 hours in advance or be penalized.  

**FUNCTIONAL EQUIVALENT OF A NO-SHOW**

Yet FTA has found repeatedly in ADA compliance reviews that such penalties may only be used if the late cancellation is the functional equivalent of a no-show. The FTA findings state that the DOT ADA regulation permits service suspension only for rider no-shows and not for late cancellations. They explain that, in order to be allowed under the DOT ADA regulation to count towards a no-show suspension, the effects of a late cancellation must be operationally equivalent to a no-show in terms of the negative impact on service. FTA does not consider cancellations after the close of business on the day before the service day, or even several hours ahead of the pickup time, to be the functional equivalent of a customer no-show.  

FTA found it acceptable to consider a late cancellation as one made less than two hours before the scheduled trip.

FTA has found it acceptable to consider a late cancellation as one made less than two hours before the scheduled trip. For example, FTA suggested “a ... reasonable threshold might be two hours before the scheduled pickup time.” Some transit agencies use a one-hour cancellation policy; they don’t consider a cancellation late until after one hour before the trip, which is also a good practice.

Extending the definition of a late cancellation much longer than two hours before the scheduled pickup—for example, to several hours ahead of the pickup—does not appear to satisfy the FTA threshold that a late cancellation that penalizes the rider must be the functional equivalent of a no-show. Furthermore, extending the definition of a late cancellation to include trips not cancelled the day before is also inconsistent with the ADA requirement for next day service. Such a policy conflicts with the ADA because the ADA allows trip requests to
be placed up to the close of business before the day of service, but also requires cancellations by or before that same time.\textsuperscript{34}

**TRANSIT SYSTEMS CAN EFFICIENTLY REDEPLOY VEHICLES**

Moreover, penalties for cancellations that are more than two hours in advance are not necessarily needed because many transit agencies have shown that a paratransit system can efficiently redeploy vehicles when same-day cancellations come in, and even use the cancellations to their advantage. For example, an FTA ADA compliance review stated:

> Cancellations made several hours in advance of the scheduled pickup time would still seem to allow the system’s dispatchers to use the open vehicle time to respond to same-day operating issues. Systems, which operate without “floater” vehicles or with limited “floater” capacity, often rely on same-day cancellations to be able to operate reliably and on-time. [The transit agency] should revise its policy of suspending persons who do not cancel by 5:00 PM the day before service and should ensure that its definition of a “late cancellation” is operationally equivalent to a no-show in terms of its impact on the service.\textsuperscript{35}

Several other ADA compliance reviews have echoed this finding.\textsuperscript{36}

**REMOVE CAPACITY CONSTRAINTS**

For transit agencies with capacity constraints, a significant portion of late cancellations, like no shows, can stem from rider responses to those constraints. For example, if riders know that calling the day before a ride will likely result in a ride denial, or not receiving the ride time they prefer, they will tend to call earlier and earlier. Some people will arrange rides they may not end up taking, because they must request a ride before their plans are confirmed or because their plans change. The result can be an increased number of late cancellations.

Riders have taken trips they no longer want, just to avoid being charged with a late cancellation.

There have been public meetings in which riders revealed that they have taken trips they no longer want, just to avoid being charged with a late cancellation. This result serves no one’s interest. If there are capacity constraints in the system, transit agencies should resolve them before they implement tough no-show and cancellation policies.
CANCELLATION OF EARLY TRIPS

Accommodation should be made to allow individuals with trips scheduled in the early morning not to be penalized if they are unable to cancel a ride in a timely way because cancellation calls are not taken early enough before their scheduled trip. For example, if a rider with a variable condition has a 7 a.m. ride but realizes that morning that he is not able to make the trip, yet he cannot cancel in accordance with the transit agency two-hour policy because the transit agency phones are not open until 6:30 a.m., that should be considered outside of his control, and his late cancellation should not be penalized.

WHAT ELSE RIDERS AND ADVOCATES NEED TO KNOW

THE RIDER’S ROLE IN REDUCING NO-SHOWS

Reducing no-shows in ADA paratransit requires actions by riders as well as transit agencies.

Reducing no-shows in ADA paratransit requires actions by riders as well as transit agencies.

- Confirm the beginning and end of the pickup window and the amount of time the vehicle will wait for you when you call to book your trip.
- Call to cancel, as soon as possible, if you won’t be taking a trip.
- Be ready and watching for vehicles during the full on-time pickup window.
- Provide detailed pickup instructions (side or rear door, and so on) for large facilities, for any pickup locations that may be difficult for drivers to find, and for any locations where your needed pickup is not at the main entrance.
- Provide all telephone numbers, including at each destination, and confirm they have been correctly recorded by the reservation agent.
- If you are a subscription rider, call to inform the transit agency of any changes in your plans, such as a vacation or other absence. Telling a driver is not sufficient.

Riders, advocates, and transit agencies should all work to ensure that the best practices in dealing with no-shows (many of which are described in this Topic Guide) are implemented. Riders are an important source of information about ADA paratransit service. And as the
National Council on Disability showed, disability advocates can play an important role in improving the performance of their transit agencies.37

ENFORCEMENT OF YOUR ADA RIGHTS

If you think your transit agency is not in compliance with the ADA, there are several avenues available for enforcement. You may pursue them in any order; you are not required to use them in the order listed below.

1. **File a local complaint**

You can file a complaint with your local transit agency and/or otherwise communicate with local agency staff. Transit agencies are required to have procedures to receive, resolve, maintain records of, and report on complaints.38 It is best to file the complaint quickly, as soon as possible after the problem, and keep a copy of it. Include as many details as possible (who, what, when, where, and so on). Find the transit agency Customer Service department or ADA Coordinator to learn how to submit the complaint. Transit agencies usually have one or more of the following options for filing complaints: by e-mail, through their websites, by telephone, and/or by postal mail. If the issue remains unresolved after allowing a reasonable amount of time for a response, you can file a complaint with the Federal Transit Administration in Washington D.C. and show your local complaint records. [Also see File an ADA complaint in Washington D.C. below, p. 27.]

2. **Engage in local advocacy**

You can also engage in a variety of efforts to advocate for changes by your local transit agency.

You may be able to obtain assistance from local, state, and national disability rights organizations, including:

- Your state’s Protection and Advocacy agency, which you can find by going to http://ndrn.org and scrolling down to the “Get help in your state” section, or by calling 202/408-9514 (or by TTY, 202/408-9521).

- Your local Center for Independent Living (CIL), which you can find by going to www.ilru.org/html/publications/directory/index.html or calling 713/520-0232 (Voice/TTY). You can also find CILs by going to www.ncil.org/directory.html.

In some cities, the disability community and the transit agency have succeeded in building a collaborative relationship in which they work together to improve transit service for people with disabilities.
3. File an ADA complaint in Washington, D.C.

You can file a complaint with the Office of Civil Rights of the Federal Transit Administration (FTA) in Washington, D.C., by:

- Filling out and sending the Rider Complaint Form at [www.fta.dot.gov/civilrights/ada/civil_rights_3889.html](http://www.fta.dot.gov/civilrights/ada/civil_rights_3889.html)
- Going to the FTA ADA website at [www.fta.dot.gov/ada](http://www.fta.dot.gov/ada) and selecting ADA Technical Assistance / File an ADA Complaint with the FTA
- Sending a complete letter to:

  Director  
  FTA Office of Civil Rights  
  East Building – 5th Floor, TCR  
  1200 New Jersey Ave. SE  
  Washington, D.C. 20590

Include as many details as possible (who, what, when, where, and so forth), including a record of ongoing ADA violations you believe have occurred. As the FTA Office of Civil Rights states on the Rider Complaint Form:

> You should include specific details such as names, dates, times, route numbers, witnesses, and any other information that would assist us in our investigation of your allegations. Please also provide any other documentation that is relevant to this complaint.³⁹

4. File a lawsuit

The other method of enforcing the ADA is to file a lawsuit.

OTHER RESOURCES

You will find many other resources on the FTA ADA website at [www.fta.dot.gov/ada](http://www.fta.dot.gov/ada). You may also contact the FTA Office of Civil Rights by e-mail at FTA.ADAAssistance@dot.gov or by telephone at 202/366-4018 or 888/446-4511 (or by TTY at 800/877-8339).

In addition to providing technical assistance via telephone and e-mail, the FTA Office of Civil Rights conducts ADA compliance reviews of several transit agencies every year. These are posted on the FTA ADA website at [www.fta.dot.gov/civilrights/ada/civil_rights_3899.html](http://www.fta.dot.gov/civilrights/ada/civil_rights_3899.html).

Additional resources may be available from a variety of local, state, and national disability rights organizations.
GENERAL TRANSIT AGENCY RESOURCES FROM FTA

Many ADA resources are available on the website of the Office of Civil Rights of the Federal Transit Administration at www.fta.dot.gov/ada. FTA Office of Civil Rights may be contacted by e-mail at FTA.ADAAssistance@dot.gov or by phone at 202/366-4018 or 888/446-4511 (or by TTY at 800/877-8339).
ENDNOTES

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NO-SHOWS IN ADA PARATRANSIT


7 From a survey of 134 transit properties, 64 of which answered specifically enough to make a comparison, “The most frequent response ... was three occurrences in 30 days, cited by 28 respondents (44%) as a definition of excessive no-shows ... .” Transit Cooperative Research Program (TCRP) Synthesis 60, Practices in No-Show and Late Cancellation Policies for ADA Paratransit, Transportation Research Board, National Academy of Sciences, Washington D.C., 2005, pp. 16 – 17.


9 In several ADA compliance reviews, including these five, FTA has found that transit agency no-show policies may be overly restrictive regarding the number of no-shows that subject a rider to a suspension of service, even when the transit agencies have not suspended any riders recently for excessive no-shows.

Finding: “AMA’s policy of suspending customers for any combination of three no-shows and/or late cancellations within one month may result in inappropriate suspensions of service for customers who travel frequently. The DOT regulations permit service suspensions for customers who establish a pattern or practice of missing scheduled trips. According to the ‘Manual de Usasrio’ AMA may suspend a customers service for a combination of three no-shows or late cancellations in a one-month period. Three no-shows for a customer who make many trips during a month could be viewed as insufficient to establish a pattern or practice of abuse of service.”

Federal Transit Administration ADA Compliance Review of Autoridad Metropolitana de Autobuses (AMA), San Juan, Puerto Rico, conducted October 2007 (draft).

Finding: “GPTC has a suspension policy for riders in which eight no-shows in a 12-month period could result in a 30-day suspension. GPTC has not suspended any riders for excessive no-shows recently. Nevertheless, this policy’s threshold for
potential suspension may be an overly restrictive interpretation of the DOT ADA regulations. Appendix D of 49 CFR Part 37 indicates that suspensions of eligibility for no-shows are intended to prevent a ‘pattern or practice of ‘no-shows.” It is further noted, ‘a pattern or practice involves intentional, repeated or regular actions, not isolated, accidental or singular incidents.’”

Recommendation: “GPTC should consider revising its suspension policy for no-shows so that, when enforced, the policy does not unduly penalize riders.”


Finding: “ASI has a suspension policy for riders in which three documented valid no-shows in 90 days could result in a 90-day suspension. In practice, ASI has not enforced this policy. Nevertheless, this may be an overly restrictive interpretation of the DOT ADA regulations. Appendix D of 49 CFR Part 37 indicates that suspensions of eligibility for no-shows are intended to prevent a ‘pattern or practice of ‘no-shows.’” It is further noted, ‘a pattern or practice involves intentional, repeated or regular actions, not isolated, accidental or singular incidents.’”

Recommendation: “MTA and ASI should consider revising ASI’s suspension policy for excessive no-shows so that, when enforced, the policy does not unduly penalize riders.”


Finding: “EBP has a suspension policy for riders in which three no-shows in a calendar quarter could result in a 30-day suspension. EBP has not suspended any riders for excessive no-shows for at least two years. Nevertheless, this policy’s threshold for potential suspension may be an overly restrictive interpretation of the DOT ADA regulations. Appendix D of 49 CFR Part 37 indicates that suspensions of eligibility for no-shows are intended to prevent a ‘pattern or practice of ‘no-shows.’”
It is further noted, ‘a pattern or practice involves intentional, repeated or regular actions, not isolated, accidental or singular incidents.’”

Recommendation: “EBP should consider revising its suspension policy for no-shows so that, when enforced, the policy does not unduly penalize riders.”


Finding: “A policy of considering only six missed trips in a calendar year to constitute a pattern or practice of abuse may unreasonably limit service to ADA eligible customers and does not appear to be consistent with the intent of the regulations. Appendix D of 49 CFR Part 37 indicates that, ‘suspensions of eligibility for no-shows are intended to prevent a ‘pattern or practice of ‘no-shows.’’ It is further noted, ‘a pattern or practice involves intentional, repeated or regular actions, not isolated, accidental or singular incidents.’ For a person traveling regularly (e.g., 10 trips a week), this level of missed trips would constitute only about 1% of all scheduled rides. Missing only one out of every 100 trips scheduled does not seem to be a reasonable standard for defining a ‘pattern or practice’ or abuse of the service.”

Recommendation: “It is recommended that the standard used to define a ‘pattern or practice’ of missed trips that could result in a suspension of service, be reviewed with public input. A standard that would be appropriate for regular and frequent riders as well as occasional riders should be considered.”


In several ADA compliance reviews, including these four, FTA has stated that transit agencies’ leniency in applying their no-show policy or not enforcing a suspension policy does not make the policy reasonable.
“The fact that HRT has been lenient in enforcing this policy is not ‘evidence of the value and effectiveness of the new policy’ and does not make the policy reasonable.”


Finding: “ASI has a suspension policy for riders in which three documented valid no-shows in 90 days could result in a 90-day suspension. In practice, ASI has not enforced this policy. Nevertheless, this may be an overly restrictive interpretation of the DOT ADA regulations. Appendix D of 49 CFR Part 37 indicates that suspensions of eligibility for no-shows are intended to prevent a ‘pattern or practice of ‘no-shows.’” It is further noted, ‘a pattern or practice involves intentional, repeated or regular actions, not isolated, accidental or singular incidents.’”

Recommendation: “MTA and ASI should consider revising ASI’s suspension policy for excessive no-shows so that, when enforced, the policy does not unduly penalize riders.”

Federal Transit Administration ADA Compliance Review of Los Angeles County Metropolitan Transportation Authority (MTA), Los Angeles, California, op. cit., p. 30.

Finding: “GPTC has a suspension policy for riders in which eight no-shows in a 12-month period could result in a 30-day suspension. GPTC has not suspended any riders for excessive no-shows recently. Nevertheless, this policy’s threshold for potential suspension may be an overly restrictive interpretation of the DOT ADA regulations. Appendix D of 49 CFR Part 37 indicates that suspensions of eligibility for no-shows are intended to prevent a ‘pattern or practice of ‘no-shows.’” It is further noted, ‘a pattern or practice involves intentional, repeated or regular actions, not isolated, accidental or singular incidents.’”

Recommendation: “GPTC should consider revising its suspension policy for no-shows so that, when enforced, the policy does not unduly penalize riders.”

Finding: “EBP has a suspension policy for riders in which three no-shows in a calendar quarter could result in a 30-day suspension. EBP has not suspended any riders for excessive no-shows for at least two years. Nevertheless, this policy’s threshold for potential suspension may be an overly restrictive interpretation of the DOT ADA regulations. Appendix D of 49 CFR Part 37 indicates that suspensions of eligibility for no-shows are intended to prevent a ‘pattern or practice of ‘no-shows.’” It is further noted, ‘a pattern or practice involves intentional, repeated or regular actions, not isolated, accidental or singular incidents.’”

Recommendation: “EBP should consider revising its suspension policy for no-shows so that, when enforced, the policy does not unduly penalize riders.”

Federal Transit Administration ADA Compliance Review of Alameda-Contra Costa Transit District (AC Transit) and San Francisco Bay Area Rapid Transit District (BART), Oakland, California, op. cit., pp. 28 and 29.

11 In many ADA compliance reviews, including these four, FTA found that no-show suspension policies should not be based solely on a set number of no-shows per month, such as three or more. FTA stated that, rather, the frequency of an individual’s rides and the frequency of his or her no-shows should be considered to determine if a true pattern or practice exists.

Finding: “HRT’s policy of considering only three no-shows in a 90-day period to be excessive and an abuse of the service may unreasonably limit service to ADA eligible customers and does not appear to be consistent with the intent of the regulations. Appendix D of 49 CFR Part 37 indicates that suspensions of eligibility for no-shows are intended to prevent a ‘pattern or practice of ‘no-shows. . . A pattern or practice involves intentional, repeated or regular actions, not isolated, accidental or singular incidents.’ Given that a rider who forgets that he or she has booked a trip could be assessed two no-shows for a single round-trip, three no-shows could be exceeded by forgetting to cancel only two round-trips. For a rider who travels regularly (say, 10 one-way trips a week), three-missed trips in a 90-day period would be only two percent of the total trips made by that person. Missing only two out of every 100 trips scheduled does not seem to be a reasonable standard for defining a ‘pattern or practice’ or abuse of the service.”

Federal Transit Administration ADA Compliance Review of Transportation District Commission of Hampton Roads (Hampton Roads Transit), Hampton, Virginia, Compliance Review of ADA Complementary Paratransit Service,
Finding: “COTA’s no-show policy imposes suspensions on riders for no-showing three or more times per month for two or more months in any given year. Considering only three no-shows in a one month period to be excessive and an abuse of the service may unreasonably limit service to ADA eligible customers. Appendix D of 49 CRF Part 37 states that suspensions of eligibility for no-shows are intended to prevent a ‘pattern or practice of ‘no-shows.’” It is further noted, ‘a pattern or practice involves intentional, repeated or regular actions, not isolated, accidental or singular incidents.”

Recommendation: “Before imposing suspensions for ADA complementary paratransit service, COTA should consider not only a rider’s absolute number of no-shows, but the proportion of no-shows relative to the total number of trips scheduled. Three no-shows in a month for a rider who travels two or more times each day would still only be a small percentage of that person’s total trips scheduled.”

Finding: “At the time of the review team’s visit, CDTA’s no-show suspension policy stated that ‘if you no-show three times in one month, you could lose your STAR riding privileges for a period of 30 days.’ According to the paratransit coordinator, CDTA has not been implementing this policy since early 2005. CDTA was in the process of reviewing and possibly revising this policy.”

Recommendation: “When CDTA revises its suspension policy for no-shows, the policy should consider the number of a rider’s no-shows as a proportion of his/her total trips during a period of time, rather than consider only the absolute number of no-shows during that period.”
Finding: “While the current practice appears to be appropriate, the formal policy, which considers seven or more no-shows or late cancellations in a six-month period to be an abuse of the service could unreasonably limit service to ADA eligible customers and does not appear to be consistent with the intent of the regulations. Appendix D of 49 CFR Part 37 indicates that, ‘suspensions of eligibility for no-shows are intended to prevent a ‘pattern or practice of ‘no-shows.’’ It is further noted, ‘a pattern or practice involves intentional, repeated or regular actions, not isolated, accidental or singular incidents.’ Seven no-shows or late cancellations in a six-month period, particularly when considering a customer who uses the service frequently, may not rise to the level of a pattern or practice as intended by the regulations and described in the associated appendix.”

Recommendation: “It is recommended that NYCT revise its policy for service suspensions to take into consideration the frequency of use of the service and the percentage of trips no-showed or late cancelled. A frequency of no-shows and late cancellations that shows a clear ‘pattern or practice’ should then be the basis for a proposed suspension of service. It is also recommended that public input be obtained for this policy revision.”


12 “We find EBPC policy to cancel automatically a return trip if the rider was a "no show" for the first half of the trip not acceptable.”

Letter of Finding by Cheryl L. Hershey, then ADA Group Leader, Office of Civil Rights, Federal Transit Administration, February 27, 2001, regarding FTA Complaint No. 00055 against Alameda-Contra Costa Transit District, Oakland, California, p. 2.

Also National Transit Institute, *Paratransit Scheduling and Dispatching Fundamentals*.

13 In this ADA compliance review, FTA addressed allowing time to file appeals of no-show suspensions:
Finding: “No-show suspensions become effective almost immediately upon receipt of the no-show suspension letters. Time is not allowed for riders to request an appeal before the suspension takes effect. The current practice also appears to reinstate service on a case-by-case basis if an appeal is requested. DOT ADA regulations (§ 37.125(h) (3)) require that service continue to be provided until any requested appeals are heard and decided.

Recommendation: “CAB should allow at least 15 days between the receipt of a notice of a proposed suspension of service due to no-shows and the proposed date on which the suspension becomes effective. If suspensions are appealed, CAB should also continue to provide service and should delay the suspension until the appeal is decided.”


14 In this ADA compliance review, FTA recommended that a transit agency revise the length of its suspensions “to be reasonable, in keeping with the intent of the DOT ADA regulations.”

Recommendation: “R-GRTA should consider revising its definition of ‘excessive’ no-shows to better reflect a true pattern or practice of abuse of the service. The periods of suspension should also be revised to be reasonable, in keeping with the intent of the regulations.”


16 In several ADA compliance reviews, including these two, FTA addressed the length of no-show suspensions. FTA did not find it reasonable in the first one to suspend eligibility for a year, nor, in the second one, permanently:

Finding: "HRT’s policy regarding suspensions does not appear to be a ‘reasonable sanction’ for abuses of the service. DOT ADA regulations allow service to be suspended for a pattern or practice of no-shows for a ‘reasonable period of time.’ The current HRT policy could result in a suspension of eligibility for one year, a revocation of eligibility, and a requirement to reapply for eligibility for a rider who no-shows or late cancels 12 times over a one-year period."

Recommendation: “HRT should consider revising its definition of ‘excessive’ no-shows to better reflect a true pattern or practice of abuse of the service. The periods of suspension should also be revised to be reasonable, in keeping with the intent of the DOT ADA regulations.”


Finding: “Pierce Transit’s no-show policy provides for permanent suspensions if riders violate the no-show policy five times. Section 37.125(h) of the DOT ADA regulations allow suspensions to be for ‘a reasonable period of time.’ FTA does not consider a permanent suspension to meet this regulatory requirement.”


17 In this ADA compliance review, FTA found that a transit agency may not charge riders for fares related to no-shows and/or late cancellations as a condition of reinstatement of the service, and that financial penalties are acceptable only in lieu of a suspension, at the rider’s option.

Finding: “MTS policy calls for riders to pay the applicable fares for the second and all subsequent no-shows or late cancels in any given 30-day period. A rider is not allowed to receive additional service until these charges are paid. The DOT ADA
regulations allow for a suspension of service for excessive no-shows, but do not indicate that riders can be charged for the fares related to no-shows and/or late cancels as a condition of reinstatement of the service. Financial penalties of this type would be acceptable if offered in lieu of the proposed suspension of service, at the rider’s option, but imposing both a financial penalty and a suspension from service appears to exceed the allowed actions for no-shows under the regulations.”

Recommendation: “MTS should revise its no-show policy and should eliminate the required payment of fare charges for no-shows and late cancels. Fare charges could be used in lieu of suspensions of service, at the option of the rider, but the policy should not require that fares be paid for trips that are no-showed or late cancelled.”


18 See 42 U.S.C. § 12186(a)(1) and 49 C.F.R. § 37.167(f); 42 U.S.C. § 12182(b)(2)(a)(iii) and 28 C.F.R. § 36.303; and 42 U.S.C. § 12186(b) and 28 C.F.R. Subpart E, §§ 35.160 – 35.164. Additional potentially relevant judicial authority includes Burkhart v. Washington Metropolitan Transit Auth., 112 F.3d 1207 (D.C. Cir. 1997); Melton v. Dallas Area Rapid Transit, 391 F.3d 669 (5th Cir. 2004); and Booze v. Tri-County Metropolitan Trans. Dist. of Oregon, 587 F.3d 997 (9th Cir. 2009).


The following FTA ADA compliance review reinforced this regulatory requirement that paratransit service must be provided until any appeal of a service suspension is heard and decided:

Finding: “No-show suspensions become effective almost immediately upon receipt of the no-show suspension letters. Time is not allowed for riders to request an appeal before the suspension takes effect. The current practice also appears to reinstate service on a case-by-case basis if an appeal is requested. DOT ADA regulations (§ 37.125(h)(3)) require that service continue to be provided until any requested appeals are heard and decided.”
Recommendation: “CAB should allow at least 15 days between the receipt of a notice of a proposed suspension of service due to no-shows and the proposed date on which the suspension becomes effective. If suspensions are appealed, CAB should also continue to provide service and should delay the suspension until the appeal is decided.”

Federal Transit Administration ADA Compliance Review of Central New York Regional Transportation Authority, Syracuse, New York, op. cit., pp. 50 and 51.


26 National Transit Institute, Paratransit Scheduling and Dispatching Fundamentals.


This requirement is not in the DOT ADA regulation, but rather in what is called Part 27. Part 27 contains other transit agency obligations including the DOT regulation for Section 504 of the Rehabilitation Act of 1973, another disability rights law. Part 27, which is formally cited as 49 C.F.R. Part 27, is available at www.fta.dot.gov/civilrights/ada/civil_rights_3907.html. The reporting requirement is at 49 C.F.R. § 27.13(b), 49 C.F.R. Subpart C, §§ 27.121 – 27.129.


In a number of ADA compliance reviews, including these four, FTA found that late cancellations may not be considered in suspension policies unless they pose the same level of operational impact as a no-show. In the first one listed below, FTA suggested that a reasonable threshold might be two hours before the scheduled pickup time.

Finding: “COTA’s late cancellation policy considers cancellations to be late if notice is provided less than four hours before the scheduled pickup. The regulations allow transit systems to suspend service for a reasonable period for riders who abuse the system by regularly ‘no-showing’ for scheduled trips. While transit agencies have in recent years also considered ‘late cancellations’ to be an abuse of the system and have considered this in their suspension policies, in order to be allowed under the DOT ADA regulations, the effects of such a late cancellation must be operationally equivalent to a no-show in terms of the negative impact on the service. A cancellation made three to four hours before a ride is scheduled does not seem to pose the same level of operational impact as a no-show. To the contrary, the slack time created by a cancellation that far in advance, in many cases, can be used to assist with other trips.”

Recommendation: “COTA should consider revising its policy of equating cancellations made up to four hours ahead of the scheduled pickup time as no-shows. A more reasonable threshold might be two hours before the scheduled pickup time.”

Federal Transit Administration ADA Compliance Review of Central Ohio Transit Authority (COTA), Columbus, Ohio, op. cit., p. 43.

Finding: “Metro considers same day cancellations in its procedure for service suspensions. The DOT ADA regulations allow transit systems to suspend service for a reasonable period for riders who abuse the system by regularly ‘no-showing’ for
scheduled trips. While transit agencies have in recent years also considered ‘late cancellations’ to be an abuse of the system and have considered this in their suspension policies, the effects of a late cancellation should be operationally equivalent to a no-show in terms of the negative impact on the service. Cancellations made several hours in advance of the scheduled pick-up time would still seem to allow the system’s dispatchers to use the open vehicle time to respond to same-day operating issues. Accordingly, same day customer cancellations made several hours before the scheduled time should not be considered as a basis for suspending customer service.”

Recommendation: “Metro should revise its procedures for suspensions to consider only late cancellations that are operationally equivalent to a no-show in terms of the negative impact on the service. Same day customer cancellations made several hours before the scheduled time should not be considered as a basis for suspending customer service.”


Finding: “The regulations allow transit systems to suspend service for a reasonable period for riders who abuse the system by regularly ‘no-showing’ for scheduled trips. While transit agencies have in recent years also considered ‘late cancellations’ to be an abuse of the system and have considered this in their suspension policies, the effects of a late cancellation should be operationally equivalent to a no-show in terms of the negative impact on the service. Cancellations made several hours in advance of the scheduled pick-up time would still seem to allow the system’s dispatchers to use the open vehicle time to respond to same-day operating issues. Systems, which operate without ‘floater’ vehicles or with limited ‘floater’ capacity, often rely on same-day cancellations to be able to operate reliably and on-time. NYCT should revise its policy of suspending persons who do not cancel by 5:00 PM the day before service and should ensure that its definition of a ‘late cancellation’ is operationally equivalent to a no-show in terms of its impact on the service.”

Finding: “The regulations allow transit systems to suspend service for a reasonable period for riders who abuse the system by regularly ‘no-showing’ for scheduled trips. While transit agencies have in recent years also considered ‘late cancellations’ to be an abuse of the system and have considered this in their suspension policies, the effects of a late cancellation should be operationally equivalent to a no-show in terms of the negative impact on the service. Cancellations made several hours in advance of the scheduled pick-up time would still seem to allow the system’s dispatchers to use the open vehicle time to respond to same-day operating issues. Systems, which operate without ‘floater’ vehicles or with limited ‘floater’ capacity, often rely on same-day cancellations to be able to operate reliably and on-time. R-GRTA should reconsider its policy of suspending persons who do not cancel by 5:00 PM the day before service and should ensure that its definition of a ‘late cancellation’ is operationally equivalent to a no-show in terms of its impact on the service.”


33 In this ADA compliance review, FTA suggested that a reasonable threshold for late cancellations might be two hours before the scheduled pickup time.

Finding: “COTA’s late cancellation policy considers cancellations to be late if notice is provided less than four hours before the scheduled pickup. The regulations allow transit systems to suspend service for a reasonable period for riders who abuse the system by regularly ‘no-showing’ for scheduled trips. While transit agencies have in recent years also considered ‘late cancellations’ to be an abuse of the system and have considered this in their suspension policies, in order to be allowed under the DOT ADA regulations, the effects of such a late cancellation must be operationally equivalent to a no-show in terms of the negative impact on the service. A cancellation made three to four hours before a ride is scheduled does not seem to pose the same level of operational impact as a no-show. To the contrary, the slack time created by a cancellation that far in advance, in many cases, can be used to assist with other trips.”

Recommendation: “COTA should consider revising its policy of equating cancellations made up to four hours ahead of the scheduled pickup time as no-shows. A more reasonable threshold might be two hours before the scheduled pickup time.”
Federal Transit Administration ADA Compliance Review of Central Ohio Transit Authority (COTA), Columbus, Ohio, op. cit., p. 43.

34 See 49 C.F.R. § 37.131(b)("The entity shall schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day.")


36 These three other FTA ADA compliance reviews found that a cancellation several hours in advance of the scheduled pickup time would still allow dispatchers to use the open vehicle time to respond to same-day scheduling issues.

   Federal Transit Administration ADA Compliance Review of Central Ohio Transit Authority (COTA), Columbus, Ohio, op. cit., p. 43.

   Federal Transit Administration ADA Compliance Review of Metro, St. Louis, Missouri, op. cit., pp. 32 and 33.


38 This requirement is not in the DOT ADA regulation, but rather in what is called Part 27. Part 27 contains other transit agency obligations including the DOT regulation for Section 504 of the Rehabilitation Act of 1973, another disability rights law. Part 27, which is formally cited as 49 C.F.R. Part 27, is available at www.fta.dot.gov/civilrights/ada/civil_rights_3907.html. The reporting requirement is at 49 C.F.R. § 27.13(b), 49 C.F.R. Subpart C, §§ 27.121 – 27.129.