



Vital Connections

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VITAL CONNECTIONS

Civil Rights and Public Policy Issues
Affecting People with Disabilities
in Pursuing Inclusive, Accessible Transportation



The Ability Center

What does our booklet cover?

- **Rights of people with disabilities under the Americans with Disabilities Act;**
 - What protections do I have under the Americans with Disabilities Act?
- **Expanding funding for public transportation;**
 - How can I advocate to expand funding for public transit?
- **Disability Issues in Transit Technology.**
 - What issues should I look for in new transit technology like Uber and Lyft type transportation and automatic vehicles?



What does this presentation cover?

- Access to Existing Public Transit under the Americans with Disabilities Act;
- Issues in a time of COVID-19;
- Expanding Public Transit Networks.

Wheelchairs block city buses

Handicapped protest leads to 18 arrests

By Robert Ourlan
News Staff Writer

Wheelchair-bound demonstrators Monday flung themselves onto the steps of city buses and rolled in front of downtown traffic, to protest what they called the lack of public transportation for handicapped people.

At least 18 were arrested by specially trained police after efforts failed to keep the streets clear. But ~~dozens of others were ignored~~ ~~and taken to court~~, said Bill Bolte of Los Angeles, one of the protesters. "You can't get arrested here."

BOLTE WAS one of several demonstrators who rolled up to a parked bus near Kennedy Square, dragged himself out of his wheelchair and wriggled up the bus steps.

The demonstrators, members of American Disabled for Accessible Public Transportation, conducted organized disruption actions throughout downtown Monday in a second day of protests aimed at a Detroit convention of the American Public Transit Association (APTA).

The group, which traditionally stages protests in conjunction with APTA conventions, has showed up since 1982 in Los Angeles, Washington and Cincinnati. Members plan to remain in Detroit through Thursday. Monday's demonstration began in the morning, when about 50 handicapped protesters jammed the



NEWS PHOTO / W. LYNN OWENS

Detroit police arrest a wheelchair-bound woman after she blocked the passage of a city bus.

Young's City-County Building office and chanted.

"We are here to express our outrage that a leader like Coleman Young of the civil rights movement would invite an organization (the APTA) that discriminates against

fact, speak to them," said Bob Kafka of Austin, Tex. "Like speaking to the Ku Klux Klan would offend black people, well, speaking to APTA offends all disabled people."

Some demonstrators were blocked from building elevators by securi-

ty forces. Dozens of Detroit police officers. At least one elevator was shut off.

The demonstrators remained in the 11th floor hallway for more than an hour, finally leaving after being threatened with arrest. Two met

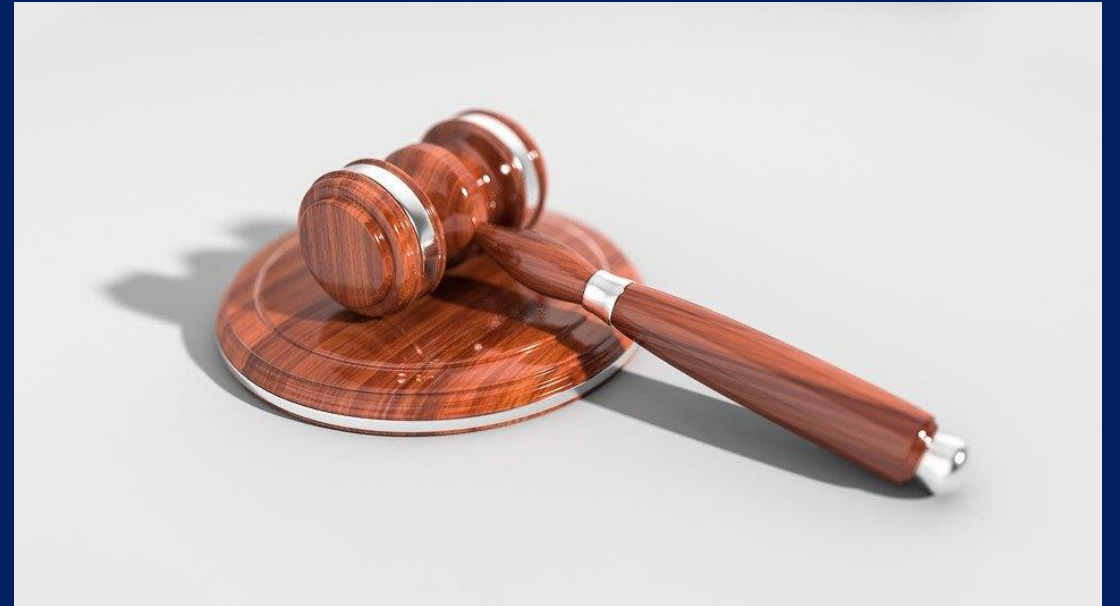
Is
transportation
a civil right?

Is transportation a civil right?

- National Council on Disability recommended that, “disabled people have the same rights to use public transportation as non-disabled people”;
- Prior to ADA, 40% of busses were accessible; as of 2010, 99.8% of busses were accessible;
- Every fixed line public transit system in the country has a paratransit complement.
- Public transit systems are often struggling, or not comprehensive enough, due to a lack of funding;
- A study funded by the DD Council in 2017 found that, while only 16% of respondents owned a car, 70% responded that they get their own transit or get a ride from family or a friend rather than use public transit;
- Many areas have no public transit at all.

Overview of the Americans with Disabilities Act and Transit (ADA):

- Cannot discriminate against a person with a disability based on their disability;
- Must Communicate Effectively with Riders;
- Must train employees on the law and disability awareness;
- Must offer reasonable modifications of transit policies;
- Must build transit facilities and bus stops to be accessible;
- Must offer comparable paratransit service to a fixed line route.



The Right to be Free From Discrimination by transit providers



People with Disabilities have the right to be treated equally by transit providers and benefit from transit.

- A transportation provider cannot deny a ride to someone because of their disability;
- A transportation provider cannot require something of someone because of their disability.

- Example: A person who is blind uses a service dog. A transportation provider cannot refuse to take them and their service dog on a trip.



Example: A transportation provider cannot require a person with a disability to travel with an aid.



Are there any circumstances where a transit provider can deny a ride based on disability?

- If a person constitutes a “direct threat”
 - Must be an actual threat, not just behavior that causes annoyance;
 - Must be based on an individualized assessment, a reasonable judgment based on current medical knowledge and on the best objective evidence.
- Behavior is violent, seriously disruptive, illegal, or represents a direct threat to the health or safety of others.
- Must look to whether reasonable modifications or auxiliary aids and services could mitigate the risk.

Effective Communication

- The ADA requires transit providers to provide enough information about schedules, routes, fares, service rules, and temporary changes for a rider to understand how to use the system.
- The ADA requires transit providers to provide that information in accessible formats.
 - Large Print;
 - Braille;
 - Audiotape;
 - Electronic Files.



Employee Training

- All staff must be “trained to proficiency”:
 - Must operate vehicles and equipment safely;
 - Must assist and treat people with disabilities in a respectful and courteous way



Example: If a driver has not been trained to operate a lift correctly, that would be a violation of the ADA.

Reasonable Modifications

- A reasonable modification is a change in policy based on a person's disability. The FTA gives 27 examples of reasonable modifications.
- Snow and Ice: A bus driver must leave a bus to help a person with a disability travel over snow and ice, even if there is a policy against it.
- Pick Up and Drop Off: If someone needs to be picked up at a particular entrance because of their disability, a transit agency must do that, even if it violates their policy.
- Eating during a ride: A transit agency must allow someone to eat during a ride if they need to because of their disability.



What can be requested and how?

- Request must be something necessary for a person with a disability to use the service because of a disability;
- Do not have to grant the request if it is a fundamental alteration of the program;
- Transit authority should advertise a process to request a reasonable modification.
- Example: A request for a fixed route bus to pick a person up from their home when it is not on the route would be a fundamental alteration

Accessible Bus Stops and Facilities

- All new busses must be accessible;
- All new buildings and bus stops must be accessible (Jan. 26, 1992);
- All old buildings and bus stops must be made accessible over time;
- All accessible features must be maintained.



What is accessible?

- The Department of Transportation's ADA Standards apply to new public transit facilities
- The ADA Standards for Accessible Design apply to private transportation facilities open to the public
- Vans and buses must meet the Department of Transportation's ADA Accessibility Specifications for Transportation Vehicles
- New vans purchased after 8/25/1990 must be accessible
- Section 810.2 of DOT standards applies to the construction, alteration, or relocation of bus stops
- There is an exception for taxis if they use automobiles, but vans must be accessible.

Paratransit

- The ADA requires any fixed route system to have a comparable paratransit service for people with disabilities who are unable to use fixed route systems because of their disability
- Comparable:
 - Hours and days of service;
 - Service area;
 - Response time;
 - Fares;
 - Operating without regard to trip purpose;
 - Absence of capacity constraints.



Paratransit Eligibility

- Category 1: Inability to Navigate System Independently
- Category 2: Lack of Accessible Vehicles, Stations or Bus Stops
- Category 3: Inability to Reach a Boarding Point or Final Destination

Enforcement

- File a grievance with local transit authority.
- File a complaint with the Federal Transit Authority (FTA):
<https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/file-complaint-fta>
- File a Complaint with the Department of Justice:
<https://www.justice.gov/crt/how-file-complaint>
- File a lawsuit

What about the COVID-19 Pandemic?

- Paratransit agencies can encourage riders to only take essential medical trips but cannot deny rides for other trips.
- During the Pandemic, if fares are suspended on fixed line buses they must be suspended on paratransit busses.
- If an agency closes the front door of its buses to encourage social distancing, it must still allow riders to use the ramp or lift at a front entrance.
- <https://www.transit.dot.gov/frequently-asked-questions-fta-grantees-regarding-coronavirus-disease-2019-covid-19#COVID-19Civil>



Does a transit authority have to transport a person infected with COVID-19?

- FTA: A transit agency should contact local and State public health officials, who generally coordinate information with the Centers for Disease Control and Prevention (CDC), to determine under what circumstances service may be denied to any transit rider, regardless of whether they have a disability. The Americans with Disabilities Act (ADA) does not require an agency to exempt riders with disabilities from this local determination. The DOT ADA regulations at 49 CFR 37.5(h) provide that an agency may deny service to a person with a disability who “represents a direct threat to the health or safety of others.” A “direct threat” is defined, in part, by 49 CFR 37.3, as “a significant risk to the health or safety of others.”

CARES Act Funding

- <https://www.transit.dot.gov/frequently-asked-questions-fta-grantees-regarding-coronavirus-disease-2019-covid-19>
 - Funding is limited to prevention, preparation for, and response to COVID-19
 - Includes response to economic conditions caused by the virus
 - Expenses Post Jan. 20, 2020
- Goals:
 - maintaining service
 - Reimbursing lost revenue
 - Ensuring safety
 - Employee leave

Other resources on transportation and COVID-19

- <https://www.nadtc.org/covid-19-resource-center/>
- <https://www.transit.dot.gov/ADA>
- <https://www.ndrn.org/resource/ndrn-launches-video-series-know-your-rights-during-covid-19/>
- <https://adata.org/event/special-session-covid-19-and-americans-disabilities-act-ada-access-programs-and-services>

How can I expand my public transit network?

- The issue: Funding
- One possible answer: ask legislators to designate part of a tax to go to a state public transit fund



- Examples:
 - New Jersey: Casino revenue is put in a fund dedicated to older Americans and Americans with Disabilities; 8.5% of funds are allocated to a Senior Citizen and Disabled Resident Transportation Assistance Program
 - Indiana: Established the Public Mass Transportation Fund to fund and promote public transportation in Indiana; money comes from a percent of the sales and use tax.
 - Florida: Established the Transportation Disadvantaged Trust Fund that supports service for elderly, disabled, and low-income populations; money comes from a tax on vehicle registrations.

Tools for Advocating for Additional Funding

- Studies that show the need for additional public transit services;
- Models that show other states doing it better;
- Personal stories showing a need for additional transportation services.
- Identify allies in other disciplines;
- Form a workgroup or coalition;
- Create a common platform;
- Make contact with state and local decision makers and agency representatives;
- Tell your story and ask for your platform.

Independence
Equity
Inclusion
Education
Community



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