



April 21, 2014

U.S. Department of Transportation, 1200
New Jersey Avenue S.E., West Building,
Ground Floor, Room W12-140,
Washington, DC 20590-0001

RE: Docket No. FTA-2014-0003

Dear Docket Clerk:

On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to provide comments on the Federal Transit Administration (FTA) request for comments on Americans with Disabilities Act: Proposed Circular Amendment 1, published February 19, 2014 at 79 FR 9585.

About APTA

APTA is a non-profit international trade association of more than 1,500 public and private member organizations, including public transit systems; high-speed intercity passenger rail agencies; planning, design, construction and finance firms; product and service providers; academic institutions; and state associations and departments of transportation. More than ninety percent of Americans who use public transportation are served by APTA member transit systems.

APTA speaks for its members. Its Board of Directors reiterated that fact on March 9, 2013, when it adopted the following statement: “While APTA encourages its members to provide specific examples or impacts in support of the association's positions, APTA crafts its comments to represent those of all APTA members. The association goes to great lengths to ensure its regulatory comments represent the consensus views of our members. Every APTA member has the opportunity to review drafts, participate in discussions, and assist in crafting those consensus comments. In short, we speak with a single voice and, when the rare instance occurs that we cannot reach consensus, we do not speak at all. APTA's comments are those of our more than 1,500 members. This consensus-based method of crafting regulatory comments is a factor underlying APTA's selection as one of Washington's most trusted brands in a broad survey conducted by the National Journal and we encourage all federal agencies to recognize the representative nature of the association's regulatory comments.”

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The material is inappropriate for inclusion in a circular

In attempting to clarify the various requirements flowing from or related to the *Americans With Disabilities Act* (ADA), FTA has instead offered a restatement of statutory and regulatory requirements and a collection of best practices. The text itself demonstrates this, with phrasing such as “a good practice is to,” “common practices include,” and “FTA recommends.” In the context of a circular, these practices are extremely likely to be interpreted by FTA field personnel, oversight contractors, and passengers as requirements.

Moreover, even were FTA to simply attempt to explain existing requirements, the highly technical and subjective nature of some aspects of ADA service would result in expansion or contraction of the statutory and regulatory requirements. Paraphrasing, or attempting to describe the intent of particular requirements (e.g., definitions “intended to be interpreted” in some particular way) is inappropriate. FTA is not authorized to expand or contract the requirements inherent in statute or DOT regulation. If DOT intends a particular interpretation, DOT itself must make that intent clear in its own regulatory actions.

APTA strongly suggests FTA discontinue this effort to create a circular, limited as it is to the stilted process of proposed language, comment, and final language. Of far more value would be to move this project to creation of a best practices manual, much as FTA created for grantee procurement practices. In that effort, the entire community could be engaged in a far more meaningful way.

We appreciate the opportunity to assist OST in this important endeavor. For additional information, please contact James LaRusch, APTA’s chief counsel and vice president corporate affairs, at (202) 496-4808 or jlarsch@apta.com.

Sincerely yours,



Michael P. Melaniphy
President & CEO

MPM/jpl