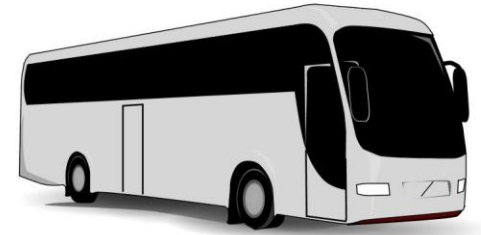




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# Transportation Accessibility



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**APTA Legal Affairs and Risk  
Management Seminars  
February 24-26, 2019**



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## What Types of Transportation are Covered?

- Heavy, Light, and Intercity Rail Systems
  - City Buses & Paratransit Systems
  - Taxis, Airport Shuttles, etc.
  - Hotel Shuttles, Car Rental Shuttles, etc.
  - Intercity Buses and Tour Companies
  - Airports and Airlines
-



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## Key Terms

- Public entity: Any state or local government or its instrumentality
- Private entity: NOT a state or local government

**49 C.F.R. § 37.3**



## Key Terms

- Fixed Route: vehicle is operated along a prescribed route according to a fixed schedule (**city bus, intercity bus, rail, etc.**)
- Demand Responsive: not fixed route (**taxi, paratransit, charter bus, tour bus, etc.**)

**49 C.F.R. § 37.3**



## Key Terms

- Private entities primarily engaged in the business of transporting people: **A bus or shuttle company**, etc.
- Private entities **NOT** primarily engaged in the business of transportation people: **A hotel with a shuttle, A rental car company**, etc.



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# The Americans with Disabilities Act

- Signed July 26, 1990
- Original DOT Regulations – Sep 6, 1991
- Over-the-Road Buses – Sep 28, 1998
- Reasonable Mod. – Mar 13, 2015



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## Legal Authority

- Title II, Part B – 42 U.S.C. §§ 12141-12150
- Title III – 42 U.S.C. §§ 12184-12186  
[www.ada.gov/pubs/ada.htm](http://www.ada.gov/pubs/ada.htm)
- 49 C.F.R. Part 37 – Transportation Services
  - **Appendix D** – Construction & Interpretation
- 49 C.F.R. Part 38 – Vehicle Specifications  
[www.fta.dot.gov/ada](http://www.fta.dot.gov/ada)



## Part 37 – Appendix D Example

### Section 37.3, Definitions:

- “*Wheelchair* means a mobility aid belonging to any class of three- or more-wheeled devices, usable indoors, designed or modified for and used by individuals with mobility impairments, whether operated manually or powered.”

### Appendix D, Section 37.3, Definitions:

- “The definition of wheelchair is not intended to include a class of devices known as ‘other power-driven mobility devices’ (OPMDs). OPMDs are defined in Department of Justice ADA rules as “any mobility device powered by batteries, fuel, or other engines...’...”



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# DOJ Enforcement

## 28 C.F.R. Part 35, Subpart F

- Complaint/Investigations and Compliance Reviews

[http://www.ada.gov/filing\\_complaint.htm](http://www.ada.gov/filing_complaint.htm)

- DOJ and DOT (Federal Transit Administration) have a collaborative Memorandum of Understanding for public transit



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## Airports and Airlines

Airport accessibility issues:

- FAA OCR – (202) 267-3258

Airline accessibility issues:

- Air Carrier Access Act
- DOT Enforcement Unit – 1-800-778-4838  
(9am-5pm EST, Mon-Fri)



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# DOT ADA REQUIREMENTS



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## Non Discrimination Provisions

- Cannot prevent a person with a disability from using the transportation service for the general public if the individual is capable of using the system. **§ 37.5(b)**
- Cannot require that a person with a disability use the designated priority seating. **§ 37.5(c)**



## Non Discrimination Provisions

- Cannot impose special charges (extra fees) on individual with disabilities. **§ 37.5(d)**
  - Same rate must be charged to passenger requiring use of the lift.
  - If a taxi charges \$1 to stow luggage in the trunk, it cannot charge \$2 to stow a wheelchair. \$1 charge would be acceptable.



## Non Discrimination Provisions

- Cannot require that an individual with a disability be accompanied by an attendant. **§ 37.5(e)**
- Private entities must comply with DOJ obligations concerning eligibility criteria, making reasonable modifications, providing auxiliary aids and services, and removing barriers (28 CFR § 36.301-306). **§ 37.5(f)**



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# Other Service Requirements

## 49 C.F.R. § 37.167

- Entity must ensure that operators make use of accessibility-related equipment and features
- Adequate information regarding transportation services must be made available through accessible formats
- Persons using the lift must be allowed to exit at any stop, unless it would damage the lift or there are temporary conditions precluding anyone's use of the stop
- Must ensure adequate time allowed to board/disembark



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# Service Animals



- Allow to accompany passengers
- Animals that are individually trained to perform tasks for people with disabilities  
**49 C.F.R. §§ 37.3 & 37.167(d)**



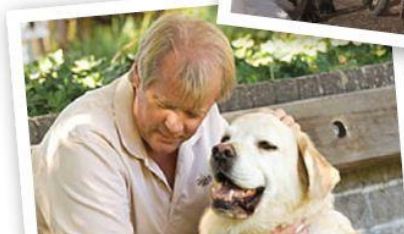
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# Resources

Easter Seals Project ACTION – [www.projectaction.org](http://www.projectaction.org)

## Facts about Service Animals and Transportation



### Service animals and public transportation

U.S. Department of Transportation  
ADA regulations define a service animal as "any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to:

- guiding individuals with impaired vision,
- alerting individuals with impaired hearing to intruders or sounds,
- providing minimal protection or rescue work,
- pulling a wheelchair, or
- fetching dropped items" (49 CFR 37.3).



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# Training Requirements

## 49 C.F.R. § 37.173

- All entities which operate a transportation system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to differences among individuals with disabilities.



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# Responsible Person and Complaint Procedures

## **49 C.F.R. § 37.17 – Effective July 2015**

- Each entity must designate at least one person to comply with the DOT requirements
- Shall adopt a complaint procedures with incorporates due process standards
- Provide prompt equitable resolution of complaints



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# Stop Announcements

## 49 C.F.R. § 37.167(b)

- Applies to fixed route – public & private
- Must announce transfer points, major intersections, and destination points, at intervals along a route sufficient to permit individuals to be oriented to their location.
- Must announce stops on request.
- Can be automated or by driver.





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# Route Identification

## 49 C.F.R. § 37.167(c)

Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment *or other disability* can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on that particular route.

- i.e., external stop announcements





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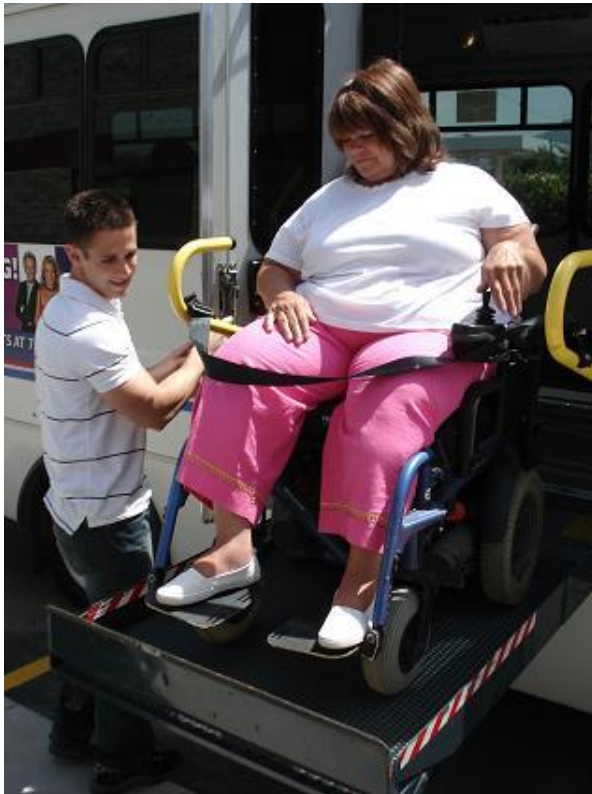
# Maintenance of Accessible Features

## 49 C.F.R. § 37.161

- Applies to public and private transportation services
- Covers lift/ramps, securement devices, elevators, signage, public address systems, etc.
  - Must be repaired promptly
  - Must take reasonable steps to accommodate persons with disabilities who would otherwise use the feature
  - Does not prohibit isolate or temporary interruptions due to repair or maintenance



## Wheelchair Lift & Securement Requirements



- Securement systems on all accessible buses **§ 37.165**
- Transport all wheelchairs **§ 37.165(b)**
- Establish a policy to secure all wheelchairs, or only upon passenger's request **§ 37.165(c)(3)**
- May not refuse to transport person because the chair cannot be satisfactorily restrained **§ 37.165(d)**



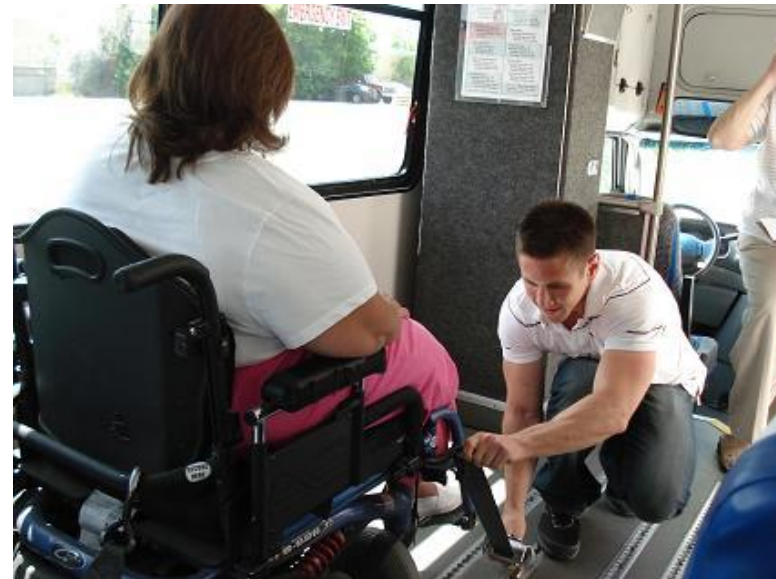
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## Wheelchair Lift & Securement Requirements

Upon request, must:

- Allow standees to use the lift **§ 37.165(g)**
- Secure wheelchairs **§ 37.165(f)**
- Assist with securement system, seatbelts, ramp and lift **§ 37.165(f)**
- May require wheelchairs to remain in designated securement locations; persons may transfer, however may not require person to transfer **§ 37.165(b),(e)**





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# Keeping Lifts Operable

## 49 C.F.R. § 37.163

**Public**/non-rail entities must:

- Establish system of regular & maintenance checks
- Report failures as soon as
- Provide alternative headway to the next accessible vehicle exceeds 30 minutes
- Must take lift vehicle out of service by the next day, unless there is no spare



View the Federal Transit Administration Announcement  
of the Topic Guides on ADA Transportation

1. Equipment Maintenance
2. Stop Announcements and Route Identification
3. Eligibility for ADA Paratransit
4. Telephone Hold Time in ADA Paratransit
5. Origin to Destination Service in ADA Paratransit
6. On-Time Performance in ADA Paratransit
7. No-Shows in ADA Paratransit

<http://www.dredf.org/ADAtg/>



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# Bus Stop Accessibility

New construction must meet the requirements of the ADA Accessibility Guidelines, § 810

- Firm, stable surface
- Boarding and alighting area 96" long x 60" wide
- Connected to streets, sidewalks, or pedestrian paths by accessible route
- 30" x 48" clear floor or ground space entirely within shelter





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# Rail Requirements

- Key Stations  
 **§§ 37.47, 51-53**
- New Rail Stations  
 **§ 37.41**
- Altered Rail  
Stations  **§ 37.43**



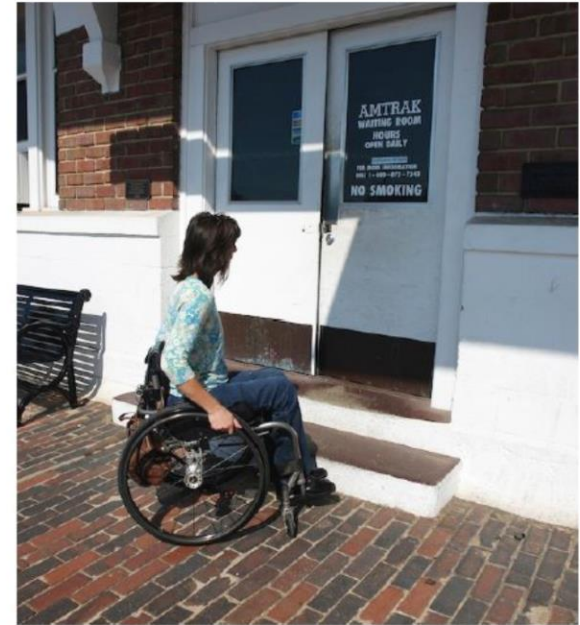


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## Intercity Rail (Amtrak)

- All intercity rail stations must be accessible by July 26, 2010 **§ 37.55**
- Oct 2013 NDRN complaint – affiliates visited 105 stations; 95% had accessibility problems
- June 2015 Letter of Finding



**All Aboard (Except People with Disabilities)**

Amtrak's 23 Years of ADA Compliance Failure

October 2013



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# ADA Complementary Paratransit

## 49 C.F.R. §§ 37.121-155

- Designed as a compliment to *public* fixed route bus service
- A safety net; intended for riders who cannot take some or all of their trips on the city bus because of their disability
- Shared-ride, origin-to-destination service
- Regulatory Focus: Eligibility & Service Criteria





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# Paratransit Eligibility – Standards

## 49 C.F.R. §§ 37.123-125

- For persons who cannot independently use fixed route transportation, even if it is accessible
- Decision is based on functional ability and most the limiting condition, not trip purpose or a particular destination
- If conditional eligibility is granted, those conditions are then applied to a rider's individual trips



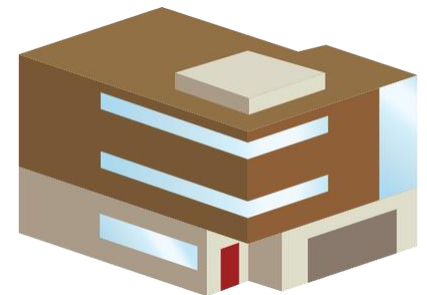
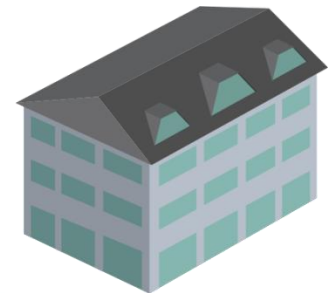
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# Two Stage Process

**Personal Eligibility**

**Trip Eligibility**





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# Functional Ability





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# Master List of Transit Skills

Transit systems should be considering all of the skills required to ride transit:

- Walking to the bus stop; crossing a street
- Standing while waiting for the bus or train
- Tolerating hot and cold temperatures while waiting
- Identifying the bus to board
- Handling fare media
- Etc.



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# Master List of Transit Skills

For people with physical disabilities, transit agencies should be considering:

- Strength and endurance
- Balance and dexterity
- Range of motion
- Gait
- Speed



# Paratransit Eligibility – Process

How are eligibility decisions made?

- **In-person** – assessment conducted by occupational therapists, physical therapists, & other licenses professionals
  - Assessments can be in the real environment, or accurate simulated environment
- **Paper** – only applications and medical information are evaluated by staff
- Or a **Hybrid**



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# Paratransit Eligibility – Process

Possible outcomes:

- ***Unconditional eligibility*** – any trip the rider wishes to take is eligible.
- ***Conditional eligibility*** – trips are only eligible when certain conditions are met. Also called ***trip-by-trip eligibility***.
- ***Denial***



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# Trip-by-Trip Barriers





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# Trip-by-Trip Barriers





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## Paratransit Eligibility – Process

- Decision must be within 21 days, or temporary eligibility is granted
- If denial or conditional eligibility, must include reason and appeal process
- A requirement to recertify is permitted
- May have at least 1 companion, more if space allows
- May have a personal care attendant; assistance provided does **not** need to be while on the vehicle
- Visitor eligibility is also required



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# Eligibility Appeals

- Can appeal denials of eligibility, conditional eligibility, and even trip-by-trip denials
- Includes the requirement for an opportunity to be heard
- Appeal decision must be made by a person who has a separation of function from the original decision maker

*See Topic Guides on ADA Transportation; Eligibility*



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# Suspension Policies

- For a rider no-shows or late cancellations
- Should be pattern or practice of no-shows
- Late cancellations should only count when functionally equivalent to a no-show
- Must be a reasonable suspension period
- Should be able to appeal suspension

*See Topic Guides on ADA Transportation; No-Shows*

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# Six Paratransit Service Criteria

## **49 C.F.R. § 37.131**

- #1 Service Area
- #2 Response Time
- #3 Fares
- #4 No Trip Purpose Restrictions
- #5 Hours & Days of Service
- #6 Capacity Constraints

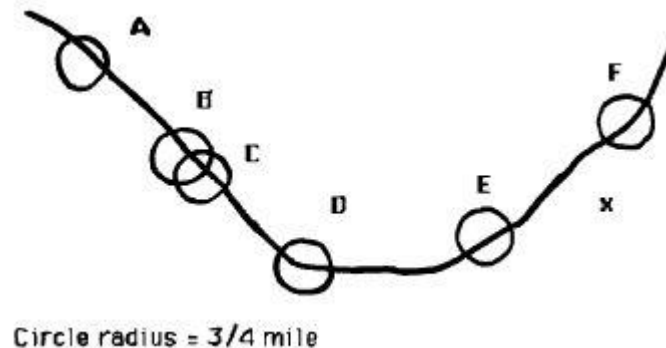
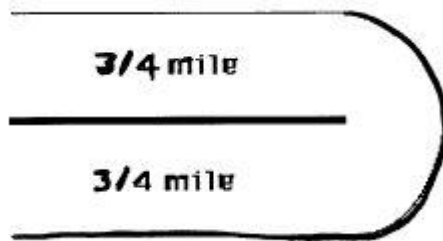


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# #1 Service Area

- All origins and destinations within  $\frac{3}{4}$  mile of fixed route bus or rail (not commuter bus, commuter rail, or intercity rail)



- Must provide services unless there is a “legal bar”



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## #2 Response Time

- Can make a reservation any time today, for a trip any time tomorrow
- Can make a reservation during the normal business hours of the entities administrative offices, as well as during comparable times on days when the offices are not open the day before a service day
- Pickup times can only be negotiated within one hour before or after the requested pickup time



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## #3 Fares

- Can be no more than double the undiscounted fares for a comparable fixed route trip
- PCAs ride for free; companions pay same fare as eligible rider

## #4 No Trip Purpose Restrictions

- No restrictions on destination or purpose



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## #5 Hours & Days of Service

- Paratransit should be available during the same hours and days of comparable fixed route service.



## #6 Capacity Constraints

- No restrictions on number of trips
- No waiting lists
- No other operational pattern or practice that significantly limits the availability of service, including *a substantial number* of:
  - Significantly untimely pickups (in/out of “pickup window”)
  - Trip denials or missed trips
  - Trips with excessive trip length (compared to fixed route)
  - Telephone busy signals or long hold times

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<http://www.dredf.org/ADAtg/>



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# Reasonable Modification Requests

- Information shall be made readily available to the public about how to make such requests.
- Individual describes what is needed
- Not required to use the term “reasonable modification”
- When feasible, request made before service to be provided
- If made at the time needed, operating personnel determine if it can be provided

**§ 37.169**



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# Reasonable Modification Requests

Denials:

- Fundamentally alters service, programs, or activities
- Direct threat to the health or safety of others
- Without modification, individual can use service
- Undue administrative or financial burden

**§ 37.169**



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# Reasonable Modification Requests

Examples:

- Snow and ice
- Extreme weather assistance
- Pick up and drop off locations with multiple entrances
- Private property
- Obstructions
- Fare handling

**Appendix E**



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# Reasonable Modification Requests

Examples (continued):

- Eating and drinking
- Medicine
- Boarding separately from wheelchair
- Opening building doors
- Navigating an incline, or around obstacles
- Five-minute warning or notification of arrival calls

**Appendix E**



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## Private Entities Primarily Engaged in Transportation

- Airport (and other) Shuttles
- Sightseeing companies
- Taxis
- Transportation Network Companies

**49 C.F.R. § 37.103**



# Taxis

- Non discrimination requirements apply
- Transportation Network Companies (*i.e.*, Uber, Lyft, SideCar, etc.) are also covered
  - [http://www.ada.gov/briefs/uber\\_soi.pdf](http://www.ada.gov/briefs/uber_soi.pdf)
- The ADA exempts taxi service provided by “automobile”



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# Taxis

## § 37.29(b)

- Not required to purchase or lease accessible automobiles
- “Other than an automobile” must be accessible unless equivalent service can be demonstrated



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# Vehicle Accessibility Standards

## 49 C.F.R. Part 38

- Door width, height
- Handrails – location, cross-sectional diameter, knuckle clearance
- Lighting at entrance
- Moveable aisle armrests



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# Vehicle Accessibility Standards

## 49 C.F.R. Part 38

- Slip-resistant floors
- Level changes
- Floor Slopes
- Clearances



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# Vehicle Accessibility Standards

## 49 C.F.R. Part 38

- 2 securement locations and devices –  
30" x 48" clear floor space
- Seatbelt and shoulder harness
- Lift with edge barriers, handrails,  
extensive safety standards



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# Vehicle Accessibility Standards

## 49 C.F.R. Part 38

- Ramp slopes
- Ramp cross-slopes
- Ramp runs
- Ramp edge conditions



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# Resources

[www.fta.dot.gov/ada](http://www.fta.dot.gov/ada)



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## Americans with Disabilities Act

 **Sign up for email updates on this topic.**

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity and access for persons with disabilities.

The Federal Transit Administration works to ensure nondiscriminatory transportation in support of our mission to enhance the social and economic quality of life for all Americans. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring to ensure nondiscriminatory provision of transit services.

### Tips for ADA Compliance

- [Requirements to Remember for Construction Projects \(PDF\)](#)

### ADA Regulations

- [ADA Standards for Transportation Facilities](#)

ADA Regulations

ADA Compliance

ADA Technical Assistance

ADA Links

A A A  SHARE 





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