

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit a procedure for accepting documentation of eligibility issued by the visitor's home jurisdiction from the visitor.

The recipient is deficient if it does not provide service to visitors based on apparent disabilities or documentation of disability.

**DEFICIENCY CODE ADA-CPT3-2:** Service not provided to visitors with apparent or documented disabilities

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit a procedure for providing service to visitors whose disability is apparent or who present documentation of disability, provided that if documentation of residency has been requested, it has also been submitted.

The recipient is deficient if it does not provide service to visitors for 21 days within a 365-day period.

**DEFICIENCY CODE ADA-CPT3-3:** Service to visitors not provided for at least 21 days

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit a procedure for providing visitors with 21 days of service within a 365-day period.

The recipient is deficient if it does not process visitors' requests for service the same day or not more than one day later.

**DEFICIENCY CODE ADA-CPT3-4:** Service to visitors not provided under same conditions as eligible riders

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit a procedure for processing requests for service from visitors on the same day or not more than one day later.

## **GOVERNING DIRECTIVE**

### 49 CFR 37.127 Complementary paratransit service for visitors

- (a) Each public entity required to provide complementary paratransit service under §37.121 of this part shall make the service available to visitors as provided in this section.
- (b) For purposes of this section, a visitor is an individual with disabilities who does not reside in the jurisdiction(s) served by the public entity or other entities with which the public entity provides coordinated complementary paratransit service within a region.
- (c) Each public entity shall treat as eligible for its complementary paratransit service all visitors who present documentation that they are ADA paratransit eligible, under the criteria of §37.125 of this part, in the jurisdiction in which they reside.
- (d) With respect to visitors with disabilities who do not present such documentation, the public entity may require the documentation of the individual's place of residence and, if the individual's disability is not apparent, of his or her disability. The entity shall provide paratransit service to individuals with disabilities who qualify as visitors under paragraph (b) of this section. The entity shall accept a certification by such individuals that they are unable to use fixed route transit.
- (e) A public entity shall make the service to a visitor required by this section available for any combination of 21 days during any 365-day period beginning with the visitor's first use of the service during such 365-day period. In no case shall the public entity require a visitor to apply for or receive eligibility certification from the public entity before receiving the service required by this section.

## 49 CFR Part 37 Appendix D to 49 CFR 37.127 Complementary paratransit service for visitors

This section requires each entity having a complementary paratransit system to provide service to visitors from out of town on the same basis as it is provided to local residents. By “on the same basis,” we mean under all the same conditions, service criteria, etc., without distinction. For the period of a visit, the visitor is treated exactly like an eligible local user, without any higher priority being given to either.

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### **ADA-CPT4. Does the recipient's paratransit service meet the ADA complementary paratransit service requirements?**

#### **BASIC REQUIREMENT**

ADA complementary paratransit service must be origin-to-destination service provided according to the service criteria described in 49 CFR 37.131.

#### **APPLICABILITY**

Public providers of fixed-route service (other than commuter rail or commuter bus service)

#### **DETAILED EXPLANATION FOR REVIEWER**

In crafting the ADA, Congress recognized that even when a fixed-route transit system is fully accessible there will be some individuals whose disabilities prevent them from using the system. Congress therefore created a “safety net” to ensure that these individuals have transportation available to them on the same basis as individuals using fixed-route systems.

The following requirements apply to complementary paratransit service.

**Types of service.** ADA complementary paratransit must be “origin-to-destination” service. The basic mode of service can be designated as door-to-door or curb-to-curb. If the entity’s basic mode of service is curb-to-curb, the entity must provide assistance from the vehicle to the first doorway for customers who need additional assistance to complete the trip. The entity cannot charge individuals needing door-to-door service an extra fee as this violates the nondiscrimination provisions of 49 CFR 37.5, the paratransit fare requirements of 49 CFR 37.131(c), and the requirement to provide origin-to-destination service under 49 CFR 37.129(a).

Some small entities may operate comingled fixed-route and complementary paratransit service using the same vehicle operated along a fixed route and deviating from the route only for ADA paratransit eligible riders. If this option is chosen, the agency must be prepared to demonstrate to FTA that it is fulfilling all of the Subpart F requirements. This would include, for example, ensuring complementary paratransit is provided within  $\frac{3}{4}$  mile of the fixed route and is free from capacity constraints.

**Service area.** The paratransit service area for fixed-route bus service consists of corridors  $\frac{3}{4}$ -mile wide on either side of a fixed route, with a  $\frac{3}{4}$ -mile radius around the end points. The  $\frac{3}{4}$ -mile service area requirement is a straight-line distance (“as the crow flies”). This requirement obligates transit agencies to also provide service throughout a “core service area,” which refers to the portion of agencies’ service areas where many bus routes intersect and/or overlap so that their respective  $\frac{3}{4}$ -mile corridors cover virtually all destinations. For smaller agencies, the core service areas are usually downtown districts served by multiple bus routes. For larger agencies, the core service areas may encompass entire downtowns or suburban activity centers. Inside the fixed-route bus core service areas, 49 CFR 37.131(a)(1)(ii) requires the complementary paratransit service to also include any small areas not inside any of the corridors but which are surrounded by corridors.

The minimum rail service area for complementary paratransit—excluding commuter and intercity rail, which are exempt from the requirement—is defined as circles of  $\frac{3}{4}$ -mile radius from the center of each station. The  $\frac{3}{4}$ -mile requirement is a straight-line distance (a radius around rail stations or “air miles”).

This requirement obligates transit agencies to provide complementary paratransit trips from any point within one station circle to any point within the station circle of another station, but not between two points within the same station circle.

The service areas encompass all points within the  $\frac{3}{4}$ -mile range; where service areas extend beyond political boundaries of a transit agency's jurisdiction, this requirement obligates the agency to provide service to and from such points, except when legal prohibitions prevent service. Per Appendix D to 49 CFR 37.131, there must be a *legal bar* to the entity providing service on the other side of the boundary.

**Response time.** For any day that a transit agency operates complementary paratransit, 49 CFR 37.131(b) requires that eligible riders be able to reserve trips on the day before. For example, individuals can request a Wednesday trip by calling during normal business hours on Tuesday. Agencies may not require customers to reserve trips 24 hours in advance; this is not next-day service, and is described by Appendix D to 49 CFR 37.131 as "inadequate" to meet that standard.

Transit agencies must also ensure that riders can reserve trips on a next-day basis on days even when the administrative office is closed and fixed routes may not be running (e.g., on holidays). As discussed in Appendix D to § 37.131, "on days prior to a service day on which the administrative offices are not open at all (e.g., a Sunday prior to a Monday service day), the reservation service would also be open 9 to 5." As explained below and in Appendix D, agencies may use voicemail to accept these reservations. Agencies using voicemail or other automated means of reserving trips must ensure, however, that any eligible rider making a reservation on a non-service day for a trip to be taken at the beginning of the next service day are assured of their reservation. If there is no Sunday service, and service begins at 5:00 a.m. on Monday, but reservation hours do not begin until 8:00 a.m., it would not be appropriate to wait until 8:00 a.m. on Monday to check the Sunday reservations line.

If a transit agency's normal business hours for its administrative offices are 8:00 a.m. to 5:00 p.m. from Monday to Friday and it operates service Monday through Sunday, 49 CFR 37.131(b) requires the agency—whether with reservation staff or other staff (e.g., dispatch)—to accept trip requests from 8:00 a.m. to 5:00 p.m. Sunday through Saturday. Further, 49 CFR 37.131(b) requires agencies to permit callers who request trips during these hours to be able to reserve trips for any time during the next service day. If an agency operates service past midnight—or operates service 24 hours a day—this also means allowing callers to call during normal business hours (i.e., during administrative office hours) the day before the trip to request a trip at any time the next day, including a trip that would begin just after midnight.

As noted in 49 CFR 37.131(b)(4), while next-day service is the base requirement, agencies may permit advance reservations up to 14 days before a rider's desired trip.

**Fares.** Under 49 CFR 37.131(c), the fare for a trip charged to an ADA paratransit eligible rider cannot exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard for discounts) for a similar trip on the agency's fixed-route system.

To calculate the proper paratransit fare, the entity would determine the route(s) that an individual would take to get from his or her origin to his or her destination on the fixed-route system at the same time of day the person was traveling. Applicable charges like transfer fees or premium service charges may be added to the amount, but discounts (e.g., the half-fare discount for off-peak fixed route travel by seniors and persons with disabilities) would not be subtracted. The transit provider could charge up to twice the resulting amount for the paratransit trip. The system operates the same regardless of whether the paratransit trip is being provided in place of a bus or a rail trip the user cannot make on the fixed-route system.

Some entities operate fare-free routes or zones that are established either on their own or by an outside organization such as downtown business districts or convention authorities. In cases where a paratransit rider is traveling between origins and destinations that are both within  $\frac{3}{4}$ -mile of a fare-free zone, and the typical fixed-route rider would make use of the fare-free service to make a comparable trip, the

comparable paratransit fare would also be zero. Entities with fare-free zones that wish to determine whether a typical fixed-route rider would in fact use the fare-free option over a paid trip should compare the following factors in their analysis:

- Regular fixed-route fare (outside of free-fare zone)
- Frequency of the free service versus alternative service
- Need for transfers on the free versus alternative service
- Walking distances to and from the free service versus the alternative

Such an analysis might demonstrate that fixed-route riders would walk to the nearest boarding point in the fare-free zone instead of boarding the nearest fixed-route vehicle and transferring to the free-fare service. It might also demonstrate that individuals crossing the free-fare zone would use the regular fixed-route system, while individuals traveling between points along the free-fare zone would be more likely to use the fare-free service. This analysis would enable a transit agency to determine whether it may charge a fare for a given complementary paratransit trip between points that are both within  $\frac{3}{4}$  mile of the free-fare zone.

Where other entities such as business organizations or chambers of commerce sponsor fare-free routes or zones, transit agencies are encouraged to consider including a requirement in such arrangements that the entity also assume responsibility for paratransit fares within such areas.

Some entities may operate fare-free promotions for a defined, limited period of time. While the US DOT ADA regulations specify that "discounts" are not required to be calculated when determining the comparable paratransit fare, the US DOT ADA regulations are silent on what constitutes a discount, other than the half-fare provision contained in the Federal Transit Act. It is therefore incumbent on the entity to determine whether a limited-time fare promotion constitutes a discount and provide support for such determination.

Companions may be charged the same fare as the eligible individual they are accompanying. Personal care attendants ride free.

One exception to the fare requirement is made for social service agency (or other organization-sponsored) trips. This exception, which allows the transit provider to negotiate a price with the agency that is more than twice the relevant fixed-route fare, applies to "agency trips," by which we mean trips which are guaranteed to the agency for its use.

*Trip purpose.* There can be no restrictions or priorities based on trip purpose in a comparable complementary paratransit system. When a user reserves a trip, the entity will need to know the origin, destination, time of travel, and how many people are traveling. The entity does not need to know why the person is traveling and should not even ask. Entities may limit subscription service to some trip purposes.

*Hours and days of service.* If riders can take a particular trip between two points on an agency's fixed-route system at a specific time of day, 49 CFR 37.131(e) requires the same trip to be available on complementary paratransit. A transit agency's complementary paratransit service area, therefore, may change by time of day and day of week when certain fixed routes are not in service. The service area may also expand and contract as individual bus routes or rail lines begin and end operation each day. If a transit agency runs fixed-route service on weekends and holidays, it must provide complementary paratransit on those days as well.

*PCAs and companions.* ADA complementary paratransit must be provided to at least one other individual accompanying an eligible individual. If a PCA accompanies an individual, the service must be provided to the PCA and at least one additional individual accompanying the ADA eligible individual, if requested.

Additional companions must be provided service if space is available, unless doing so would displace other ADA paratransit eligible individuals.

#### **INDICATORS OF COMPLIANCE**

- a. *Is the base mode of service door-to-door or curb-to-curb? If curb-to-curb, does the recipient ensure origin-to-destination service is provided when necessary?*
- b. *Does the recipient provide paratransit service within a ¾-mile radius of all fixed bus routes (except commuter)? If the recipient provides rail service (except commuter), does the paratransit service area include areas within a ¾-mile radius of each station? Where fixed routes cross jurisdictional boundaries, does the paratransit service area follow suit? Where the paratransit service area surrounding a fixed route crosses jurisdictional boundaries, is paratransit service provided across such boundaries? If it is not, do legal prohibitions prevent service?*
- c. *Does the recipient provide paratransit service on a next-day (not 24-hour's notice) basis? Does the entity provide a means for riders to reserve trips on the day before a service day, even if the offices are closed? Are reservations accepted during the same business hours on a non-service day as they are when the offices are open? Are trips reserved on non-service days for travel at the beginning of the next service day confirmed prior to the rider's requested trip time?*
- d. *Is the paratransit fare no more than twice the fare for a trip between the same points made using the fixed-route system?*
- e. *Does the recipient impose any trip purpose prioritization for its paratransit service? Does the recipient ask about trip purpose in the application or reservations process? Is there any evidence that trip purpose is used to prioritize trips?*
- f. *Does the recipient's paratransit service operate during all days and times when the fixed-route service operates? Are there fixed routes that operate when the paratransit system does not?*
- g. *Is service provided to at least one other individual accompanying an eligible passenger? If the eligible passenger travels with a PCA, is service provided to at least one other individual in addition to the PCA?*

#### **INSTRUCTIONS FOR REVIEWER**

Prior to the site visit, review the recipient's website for information on the ADA complementary paratransit service criteria (service area, reservation requirements, (response time fares, trip purpose, day, and hours of service). Review the recipient's eligibility form(s) and rider guide(s) concerning complementary paratransit service criteria.

Review information provided to the public that describes the ADA complementary paratransit services. Onsite, discuss with the recipient the paratransit service factors and how the recipient ensures that they are met.

### **POTENTIAL DEFICIENCY DETERMINATIONS**

The recipient is deficient if it does not provide origin-to-destination service when needed.

DEFICIENCY CODE ADA-CPT4-1: Origin-to-destination service deficiency

SUGGESTED CORRECTIVE ACTION: The recipient must submit evidence that it provides origin-to-destination service.

The recipient is deficient if it does not provide service between points within at least  $\frac{3}{4}$ -mile radius of fixed bus routes, or between points within a  $\frac{3}{4}$ -mile radius of one rail station to points within a  $\frac{3}{4}$ -mile radius of another rail station, or within the core service area. The recipient is deficient if its service area would cross jurisdictional boundaries, but it does not provide service beyond jurisdictional boundaries, and cannot demonstrate the existence of a legal bar.

DEFICIENCY CODE ADA-CPT4-2: Service area deficiency

SUGGESTED CORRECTIVE ACTION 1: The recipient must submit evidence that the service area for its ADA complementary paratransit system includes all areas within a  $\frac{3}{4}$ -mile radius of fixed bus routes and a  $\frac{3}{4}$ -mile radius of rail stations.

SUGGESTED CORRECTIVE ACTION 2: The recipient must submit evidence that complementary paratransit service is provided within the core service area.

SUGGESTED CORRECTIVE ACTION 3: The recipient must submit evidence of a legal bar preventing the provision of service across jurisdictional boundaries or must submit evidence that service is provided across jurisdictional boundaries.

The recipient is deficient if it does not provide next-day service, accept reservations on all days prior to service days, or accept reservations during regular business hours.

DEFICIENCY CODE ADA-CPT4-3: Next-day service deficiency

SUGGESTED CORRECTIVE ACTION 1: The recipient must submit evidence that complementary paratransit service is provided on a next-day, not 24-hour, basis.

SUGGESTED CORRECTIVE ACTION 2: The recipient must submit evidence that reservations are taken on each day before a service day, including weekends and holidays, during comparable business hours, and confirmed prior to the rider's requested trip time.

SUGGESTED CORRECTIVE ACTION 3: The recipient must submit evidence that reservations are taken during regular business hours.

The recipient is deficient if ADA complementary paratransit fares are more than twice the fare for a comparable trip on fixed routes or if PCAs pay a fare on ADA complementary paratransit service.

DEFICIENCY CODE ADA-CPT4-4: Paratransit fare deficiency

SUGGESTED CORRECTIVE ACTION 1: The recipient must submit evidence that paratransit fares do not exceed twice the fare for a comparable trip using fixed routes.

SUGGESTED CORRECTIVE ACTION 2: For fare-free routes, zones or areas, the recipient must submit the results of an analysis showing that paratransit fares for comparable fixed-route trips made using the fare-free service are also free.

SUGGESTED CORRECTIVE ACTION 3: For fare-free routes, zones or areas where other entities assume the responsibility for paying the fixed-route fare, the recipient must submit evidence that they have included a requirement that such entities include paratransit fares in their arrangements with the recipient for comparable fixed-route trips made using the fare-free service or provide the trips fare-free without compensation from the third party.

SUGGESTED CORRECTIVE ACTION 4: For fare-free promotions available for a defined, limited period of time, the recipient must submit evidence that it has conducted an analysis supporting the designation of such promotions as a “discount.”

SUGGESTED CORRECTIVE ACTION 5: The recipient must submit evidence that it has ceased requiring personal care attendants accompanying eligible riders to pay a fare.

The recipient is deficient if it imposes restrictions or priorities based on trip purpose (other than for subscription service).

DEFICIENCY CODE ADA-CPT4-5: Trip purpose restrictions or prioritization

SUGGESTED CORRECTIVE ACTION: The recipient must submit evidence that it has ceased the application of trip purpose restrictions or priorities.

The recipient is deficient if paratransit service is not available during the same hours and days as fixed-route service.

DEFICIENCY CODE ADA-CPT4-6: Paratransit service hours and days do not match those of fixed-route service

SUGGESTED CORRECTIVE ACTION: The recipient must submit evidence that the hours and days during which paratransit service operates are the same as those for a comparable trip using the fixed-route system.

The recipient is deficient if at least one other individual may not accompany an eligible passenger or may not accompany the eligible passenger in addition to the PCA.

DEFICIENCY CODE ADA-CPT4-7: Restrictions on companions

SUGGESTED CORRECTIVE ACTION 1: The recipient must submit evidence that at least one other individual may accompany an eligible passenger.

SUGGESTED CORRECTIVE ACTION 2: The recipient must submit evidence that at least one other individual in addition to the PCA may accompany an eligible passenger.

## **GOVERNING DIRECTIVE**

### **49 CFR 37.123 ADA Paratransit Eligibility: Standards**

(a) Individuals accompanying an ADA paratransit eligible individual shall be provided service as follows:

- (1) One other individual accompanying the ADA paratransit eligible individual shall be provided service—

- (i) If the ADA paratransit eligible individual is traveling with a personal care attendant, the entity shall provide service to one other individual in addition to the attendant who is accompanying the eligible individual;
  - (ii) A family member or friend is regarded as a person accompanying the eligible individual, and not as a personal care attendant, unless the family member or friend registered is acting in the capacity of a personal care attendant;
- (2) Additional individuals accompanying the ADA paratransit eligible individual shall be provided service, provided that space is available for them on the paratransit vehicle carrying the ADA paratransit eligible individual and that transportation of the additional individuals will not result in a denial of service to ADA paratransit eligible individuals;
- (3) In order to be considered as "accompanying" the eligible individual for purposes of this paragraph (f), the other individual(s) shall have the same origin and destination as the eligible individual.

**49 CFR 37.129 Types of service**

- (a) Except as provided in this section, complementary paratransit service for ADA paratransit eligible persons shall be origin-to-destination service.
- (b) Complementary paratransit service for ADA paratransit eligible persons described in §37.123(e)(2) of this part may also be provided by on-call bus service or paratransit feeder service to an accessible fixed route, where such service enables the individual to use the fixed route bus system for his or her trip.
- (c) Complementary paratransit service for ADA eligible persons described in §37.123(e)(3) of this part also may be provided by paratransit feeder service to and/or from an accessible fixed route.

**49 CFR 37.131 Service criteria for complementary paratransit**

The following service criteria apply to complementary paratransit required by §37.121 of this part.

- (a) *Service Area—*
  - (1) *Bus.*
    - (i) The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route. The corridor shall include an area with a three-fourths of a mile radius at the ends of each fixed route.
    - (ii) Within the core service area, the entity also shall provide service to small areas not inside any of the corridors but which are surrounded by corridors.
    - (iii) Outside the core service area, the entity may designate corridors with widths from three-fourths of a mile up to one and one half miles on each side of a fixed route, based on local circumstances.
    - (iv) For purposes of this paragraph, the core service area is that area in which corridors with a width of three-fourths of a mile on each side of each fixed route merge together such that, with few and small exceptions, all origins and destinations within the area would be served.
  - (2) *Rail.*
    - (i) For rail systems, the service area shall consist of a circle with a radius of 3/4 of a mile around each station.

- (ii) At end stations and other stations in outlying areas, the entity may designate circles with radii of up to 1 1/2 miles as part of its service area, based on local circumstances.
- (3) *Jurisdictional boundaries.* Notwithstanding any other provision of this paragraph, an entity is not required to provide paratransit service in an area outside the boundaries of the jurisdiction(s) in which it operates, if the entity does not have legal authority to operate in that area. The entity shall take all practicable steps to provide paratransit service to any part of its service area.
- (b) *Response time.* 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. Reservations may be taken by reservation agents or by mechanical means.
- (1) The entity shall make reservation service available during at least all normal business hours of the entity's administrative offices, as well as during times, comparable to normal business hours, on a day when the entity's offices are not open before a service day.
  - (2) The entity may negotiate pickup times with the individual, but the entity shall not require an ADA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.
  - (3) The entity may use real-time scheduling in providing complementary paratransit service.
  - (4) The entity may permit advance reservations to be made up to 14 days in advance of an ADA paratransit eligible individual's desired trips. When an entity proposes to change its reservations system, it shall comply with the public participation requirements equivalent to those of §37.137 (b) and (c).
- (c) *Fares.* The fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system.
- (1) In calculating the full fare that would be paid by an individual using the fixed route system, the entity may include transfer and premium charges applicable to a trip of similar length, at a similar time of day, on the fixed route system.
  - (2) The fares for individuals accompanying ADA paratransit eligible individuals, who are provided service under §37.123 (f) of this part, shall be the same as for the ADA paratransit eligible individuals they are accompanying.
  - (3) A personal care attendant shall not be charged for complementary paratransit service.
  - (4) The entity may charge a fare higher than otherwise permitted by this paragraph to a social service agency or other organization for agency trips (i.e., trips guaranteed to the organization).
- (d) *Trip purpose restrictions.* The entity shall not impose restrictions or priorities based on trip purpose.
- (e) *Hours and days of service.* The complementary paratransit service shall be available throughout the same hours and days as the entity's fixed route service.
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**ADA-CPT5. If the recipient has a no-show/late cancellation policy for ADA complementary paratransit service, does it meet the ADA complementary paratransit service requirements?**

## **BASIC REQUIREMENT**

Recipients may- but are not required to - establish an administrative process to suspend, for a reasonable amount of time, the provision of ADA complementary paratransit service to ADA eligible individuals who establish a pattern or practice of missing scheduled trips. The procedure must provide for due process.

## **APPLICABILITY**

Public providers of fixed-route service (other than commuter rail or commuter bus service)

## **DETAILED EXPLANATION FOR REVIEWER**

Under 49 CFR 37.125(h), an entity may establish an administrative procedure to suspend, for a reasonable period of time, the provision of complementary paratransit service to ADA eligible individuals who establish a pattern or practice of missing scheduled trips.

As explained in Appendix D to this section of the regulation, a “pattern or practice” involves intentional, repeated or regular actions, not isolated, accidental, or singular incidents. An entity’s no-show policy must therefore be narrowly tailored to ensure that suspension is only imposed for a true pattern or practice of missing scheduled trips. For example, three no-shows in 30 days would not be a pattern or practice for a frequent or daily rider. Such a policy would take into account frequency of rides and no-shows, and not use a simple number threshold.

Any suspensions must be “for a reasonable period of time.” Suspension of service for 30 days for a first “offense,” for example, is not “reasonable.” A reasonable suspension for a first instance of a pattern or practice of no-shows might be a few days to a week. Subsequent offenses may justify longer suspensions, but FTA generally considers suspensions longer than 30 days to be excessive.

Entities may not impose a mandatory financial penalty as part of a no-show policy, including charging for the fare for the no-show trip. 49 CFR 37.125(h) permits only the establishment of an administrative process to suspend, for a reasonable amount of time, the provision of complementary paratransit service to eligible individuals who establish a pattern or practice of missing scheduled trips. In very limited cases, however, transit operators and riders facing suspension have voluntarily and mutually agreed to make and accept payment for the missed trips in lieu of suspension. Where such arrangements are made voluntarily, FTA has elected not to intervene.

Only no-shows that are under the rider’s control may be counted against the rider. No-shows caused by reasons beyond the rider’s control (e.g., scheduling problems, late pickups, and operational problems on the part of the entity or a family emergency or sudden turn for the worse in a variable medical condition) or operator error must not be counted against the rider.

FTA has permitted entities to include late cancellations in their suspension policy, but only to the extent that late cancellations have the same effect on the system as a no-show, and only for late cancellations within the rider’s control. FTA has found it acceptable to consider a late cancellation as one made within an hour or two before the pickup time provided to the rider.

49 CFR 37.125(g)(2) obligates entities to inform riders in writing that they have the right to appeal the proposed suspension (with an option for an in-person appeal), consistent with the appeals process outlined in 49 CFR 37.125(g). This means including instructions on the appeal process, and how to request an appeal. Under 49 CFR 37.125(h)(3), suspensions are stayed pending the outcome of the appeal.

It is important to note that 49 CFR 37.125(h) permits an entity to establish a no-show policy; it does not require one to do so. An entity is therefore not deficient if it does not have a no-show policy and does not suspend riders based on no-shows.

A noncompliant no-show policy is noncompliant even if it is not enforced.