



U.S. Department  
of Transportation  
**Federal Transit  
Administration**

Headquarters

East Building, 5<sup>th</sup> Floor – TCR  
1200 New Jersey Avenue, SE  
Washington, DC 20590

December 8, 2014

Mark Cody  
Office Chief, Federal Transit Grants Program  
California Department of Transportation (Caltrans)  
1120 N Street  
P.O. Box 942874  
Sacramento, CA 94274-0001

Dear Mr. Cody:

I am writing in response to your October 1 letter regarding route deviation. We too believe our discussions with Caltrans and the California Association for Coordinated Transportation (CalACT) on this issue have been productive and I welcome this opportunity to further clarify our position in writing.

A central question in our discussions has involved whether a transit system operating route deviation service must provide complementary paratransit service. The U.S. Department of Transportation's Americans with Disabilities Act (ADA) regulations in 49 C.F.R. Part 37 regard a system that permits user-initiated deviations from routes or schedules as demand responsive, for which ADA complementary paratransit is not required. To be considered demand responsive, the service must deviate for the general public, not just persons with disabilities. If deviations are restricted to a particular group, the service ceases to be a form of demand-responsive service for the general public and ADA complementary paratransit is required.

This longstanding requirement has been misinterpreted to mean a transit provider has only two options: (1) deviate for any passenger upon request or (2) operate as a fixed route system (without route deviations of any kind) and run a separate ADA complementary paratransit service. During our discussions we were able to clarify that another option, which is consistent with our past guidance, may be especially feasible for some smaller systems to implement. In some instances, there may be circumstances where a system can operate ADA paratransit and fixed route service together, comingling customers on the same vehicle. The DOT ADA regulations do not technically require that fixed route service and paratransit be provided by separate vehicles; in fact, comingling paratransit and fixed route riders on the same vehicle has the benefit of providing service to the disability community in a more integrated setting. We understand that some systems in California have long operated their service in this way.

Given the above, we have taken steps to emphasize this local service option by revising the “Route Deviation” section of the FY 2015 Triennial Workbook to explain:

In limited circumstances, a grantee may be able to provide both ADA complementary paratransit service and fixed route service using the same vehicle. In these situations, the fixed route bus would go off route (or “deviate”) only for people with disabilities who have been determined to be ADA paratransit eligible. In this scenario, service to such persons must be provided according to the same requirements in Subpart F of Part 37 for complementary paratransit (e.g., service area, response time, fares, hours and days of service, absence of capacity constraints and absence of trip purpose restrictions).

We will similarly update the State Management Review Workbook and we have included this clarification in Chapter 6 of the proposed ADA Circular (see Section 7.4.4), which is currently open for public comment.

While systems have the option to run ADA paratransit on the same vehicle as fixed route service, we emphasize that if this option is chosen, **an agency must be prepared to demonstrate to FTA that it is fulfilling the requirements in Subpart F of Part 37 for complementary paratransit.** This would include, for example, ensuring paratransit is provided within ¾-mile of the fixed route and is free from capacity constraints. In systems with high fixed route ridership and tight schedules, comingling riders may not be a workable option. And, we provided this exact guidance to one of your subrecipients, El Dorado Transit, when this issue was first brought to our attention.

Lastly, you request that FTA reconsider SMR finding #11 pertaining to Caltrans’ monitoring and oversight of its subrecipients regarding ADA compliance. In part, this finding stated:

Caltrans was not aware of the manner or extent of the route deviation service and could not confirm that route deviation service provided by subrecipients had the characteristics of demand responsive service for the general public.

To close the finding, Caltrans was instructed to submit to the FTA Region IX Civil Rights Officer, no later than January 13, 2014, an updated state management plan that includes procedures for ensuring that route deviation service provided by subrecipients has the characteristics of demand responsive service.

We commend Caltrans’ initial response to the finding by surveying its subrecipients, providing training, and collecting action plans. Since Caltrans instructed its subrecipients to stop all activities related to this finding, however, we cannot close this finding because Caltrans must do more to ensure compliance by its subrecipients. With this letter, which we hope Caltrans will share with its subrecipients, we reiterate that Caltrans must collect action plans or other documentation to ensure that its subrecipients are providing route deviation service in accordance with the requirements outlined in this letter. That being said, we will extend the deadline to July 31, 2015 for completing this activity and reporting back to FTA.

We will continue to work with CalACT and Caltrans to ensure ADA route deviation requirements are consistently understood and explore webinar and other options to provide technical assistance on the topic.

If you have any questions, please do not hesitate to contact us.

Sincerely,

 for

Linda Ford  
Director, Office of Civil Rights

cc: CalACT  
FTA Region IX