

Title: Americans with Disabilities Act & Complaints

Impact: Catch-A-Ride (CAR)

Effective Date: September 2020

Purpose: The purpose of this policy is to ensure that *Catch-A-Ride* offers equal and effective opportunities and access to public transportation services for persons with disabilities and full compliance with the provisions of Title 49 Parts 37 & 38, of the Americans with Disabilities Act of 1990, Department of Justice, the Equal Opportunity Employment Commission, and the Architectural and Transportation Barriers Compliance Board (Access Board).

References used:

- Title 49 Parts 37 - outlines the transportation requirements of the ADA
- Title 49 Parts 38 - defines the requirements for accessible vehicles.
- Title II of the Americans with Disabilities Act of 1990 - addresses civil rights issues for individuals with disabilities, and extends coverage to both the public and private sectors that are open to public accommodation
- Department of Justice, the Equal Opportunity Employment Commission, and the Architectural and Transportation Barriers Compliance Board (Access Board) have all issued regulations to implement the employment and accessible facility design (this component includes all transit vehicles) features of the ADA.

References reviewed:

- Elements of the ADA specifically aimed at Fixed Route and Complementary Paratransit services.
- Reasonable Modification (See CAR's separate Reasonable Modification Policy)
- Standards for Accessible Facilities (commonly referred to as the ADA Accessibility Guidelines or ADAAG) Generally, the technical specifications contained in ADAAG are the same as the American National Standards Specification for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped (referred to as "ANSI 117.1")
- Accessible Vehicle Specifications – As we only purchase approved vehicles through Section 5311/5310 grants

Policy:

The term "disability" is defined as an individual with a "physical or mental impairment that substantially limits one or more of the major life activities of such individuals; having a record of such an impairment; or being regarded as having such an impairment."

Catch-A-Ride is committed to providing equal access and opportunity to qualified individuals with disabilities in all programs, services and activities and will adhere to all applicable federal and state laws, regulations and guidelines with respect to persons with disabilities. *Catch-A-Ride* does not discriminate on the basis of disability in admission to, participation in, or receipt of services and benefits under any transit program or activity. *Catch-A-Ride* will take appropriate steps to ensure that persons with disabilities have an equal opportunity to participate. *Catch-A-Ride* will not:

- Discriminate against a person with disabilities in the provision of transit service
- Deny access to general public service, notwithstanding any specialized service, if the individual is capable of using that service
- Require an individual to use designated priority seating if an individual chooses not to use them
- Impose special charges on individuals with disabilities
- Require an individual to be accompanied by an attendant
- Deny reasonable accommodations to remove barriers to transportation services
- Deny service because of conditions imposed by the entity's insurance company

The following ADA requirements apply to all providers of public transportation:

- Procedures should be in place to ensure that emergency preparedness, disaster response and disaster recovery planning and operations comply with Federal ADA and civil rights requirements.
- All printed material distributed to the public about public transit service must be available in accessible formats upon request, within a reasonable period of time. Accessible material must be available on request and in a format the person can use such as large print, audio tape, and Braille.
- Individuals with speech and/or hearing impairments must have access to information provided by telephone. This can be accomplished by equipping a phone line with a TTD or by using the Indiana Relay Service.
- The training requirement for all ADA-related transportation services applies to both public and private entities in either demand response or fixed route service. Personnel are to be trained to proficiency as appropriate about their duties and includes drivers, dispatchers, supervisors, customer service representatives, etc.
- All access-related equipment including wheelchair lifts, securement systems, and public address systems must be maintained in good operating condition and repaired promptly when necessary. When equipment is out of order, reasonable steps must be taken to accommodate passengers who would otherwise use the equipment. Every effort must be made to repair lifts before the next day of service. If the lift cannot be repaired the next day, the vehicle can remain in service only if no spare is available. Vehicles with inoperable lifts can be kept in service for no more than three days for areas with population over 50,000 or five days for areas under 50,000.
- Catch-A-Ride must carry a wheelchair and occupant if the lift and vehicle can physically accommodate them, or unless doing so is inconsistent with legitimate safety requirements. Legitimate safety requirements include such circumstances as a wheelchair of such size that it would block an aisle, or would be too large to fully enter a railcar, would block the vestibule, or would interfere with the safe evacuation of passengers in an emergency. These requirements must be based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities or about the devices they use for mobility purposes. Also, they do not apply to securement; a transit provider cannot impose a limitation on the transportation of wheelchairs and other mobility aids based on the inability of the securement system to secure the device to the satisfaction of the transportation provider. It would be inconsistent with this rule to allow transportation providers to deny service to people who use wheelchairs just

because particular devices may be problematic from a securement point of view. Note that the definition of "wheelchair" is "three- or more wheeled devices."

- Passengers who cannot use the steps to enter the vehicle must be allowed to use the wheelchair lift.
- Passengers with disabilities must be allowed to travel with service animals which are trained to assist them.
- Passengers must be permitted to travel with portable oxygen.
- Personal care attendants (PCAs) must be allowed to travel with a passenger with a disability; a PCA is not considered a companion. Service can be refused only if a passenger engages in violent, seriously disruptive, or illegal conduct.
- Special charges or extra fares cannot be imposed on individuals with disabilities, even if additional services are required, unless the fees apply to all other passengers as well.
- Requiring individuals to transfer from a wheelchair to another seat is prohibited

The following ADA requirements apply to systems providing demand response service:

- Any Section 5311 grantee operating demand response service must acquire accessible vehicles, unless the system, when viewed in its entirety, affords a level of service to persons with disabilities, including wheelchair users, equivalent to persons without disabilities. If this condition is met, non-accessible vehicles may be purchased.
- To be considered "equivalent," service must be equal to that provided to individuals without disabilities. Service must be equivalent in the following areas:
 - Response time: This is calculated as the time between the request for service and the actual trip and must be the same for passengers without disabilities as for those with disabilities.
 - Fares: Fares must be the same for all passengers. There cannot be additional charges for accommodating mobility aids
 - Service area: The geographic area must be the same for all passengers. Days and hours of service: Service cannot be limited by certain hours of the day or days of the week for passengers with disabilities.
 - Trip purpose: Service cannot be limited based on trip purpose for passengers with disabilities.
 - Information and reservations: Alternate forms of printed material must be available on request. NOTE: This does not mean that all material must be available in every format, but the process to obtain the requested material in the requested format must be in place so that the material can be available within a reasonable period of time.
 - Systems must have access to a TTD or know how to use the Indiana Relay Service.
 - Capacity constraints: Service must be provided on the same basis to passengers with disabilities as to those without disabilities. In looking at the system as a whole, there cannot be a disproportionate number of trip denials, excessively long trips, excessively long wait times, or a large number of missed trips for passengers with disabilities. Passengers can be offered a trip one hour on either side of the requested time. If trip time cannot be negotiated within these boundaries, it is considered a trip denial.
- Indiana requires at a minimum, 50% of the rural transit system's fleet be accessible.

Spare Vehicle Ratio

- Grantees with a peak-hour operating requirement of 1 to 10 vehicles are allowed a spare ratio of two back-up vehicles; grantees with a peak-hour fleet of 11 or more are allowed a spare ratio of 20% of their fleet. Refer to CAR's **Fleet Maintenance Plan** for additional information.
- Sufficient back up vehicles must also be provided for accessible vehicles.
- Grantees may enter into a contract with another provider for wheelchair accessible vehicles as long as the vehicles are available during the days and times required to meet Americans with Disabilities Act compliance.

Complaint Process

Catch-A-Ride has a process for investigating and tracking complaints from qualified individuals. These procedures shall be posted on the *Catch-A-Ride's* website and will be provided to any individual who wishes to submit a complaint. Alternative means of filing complaints, such as personal interviews, phone calls, or taped requests, will be made available for persons with disabilities if unable to communicate their request in writing or upon request.

Any person who believes they have been discriminated against may file a complaint by completing and submitting *Catch-A-Ride's* **Reasonable Modification/ADA Complaint Form**. *Catch-A-Ride* investigates complaints received no more than 30 days after receipt and notifies INDOT of any such complaints. *Catch-A-Ride* will process complaints that are complete. Once the complaint is received, the complainant will receive an acknowledgement of receipt. If more information is needed to resolve the complaint, *Catch-A-Ride* may contact the complainant. The complainant has 30 business days from the date of the letter to send requested information to *Catch-A-Ride*.

If *Catch-A-Ride* is not contacted by the complainant or does not receive the additional information within 30 business days, *Catch-A-Ride* may administratively close the complaint. In addition, a complaint may be administratively closed if the complainant no longer wishes to pursue their case.

After *Catch-A-Ride* investigates the complaint, a decision will be rendered in writing to the complainant. *Catch-A-Ride* will issue either a Letter of Closure or Letter of Finding.

- a. *Letter of Finding* – This letter will summarize the complaint, any interviews conducted regarding the complaint, and explains what actions will be taken by *Catch-A-Ride* to address the complaint.
- b. *Letter of Closure* – This letter will explain why *Catch-A-Ride* has determined that the complaint does not merit accommodation under the Americans with Disabilities Act and that the complaint will be closed.

If the complainant disagrees with the decision of *Catch-A-Ride*, an opportunity to appeal the decision may be pursued provided the complainant files notice of appeal within 21 days of the initial decision of *Catch-A-Ride*.

In the event of appeal, the complainant will be granted all due process, including the ability to be present additional evidence, present the case in person during an appeal hearing, and to be represented by counsel.

Catch-A-Ride shall designate one official within the organization responsible for handling complaints. This individual is:

Michelle Guidice, *Catch-A-Ride* Director
LifeTime Resources, Inc.
10391 Benedict Drive
Dillsboro, IN 47018
(812) 432-6103
mguidice@lifetime-resources.org

Catch-A-Ride will maintain all records related to complaints for at least five (5) years.

Documents impacted by this Policy: Reasonable Modification/ADA Complaint Form, Driver's Manual, Fleet Maintenance Plan, LifeTime Resources Website, Program Brochure

Approved by: Board of Directors

Amended Date:

Responsible Position: Catch-A-Ride Director