

ACHIEVING TRANSIT ACCESS: AN ACTION GUIDE

INTRODUCTION

The passage of the Americans with Disabilities Act (ADA) in 1990 established the requirement that public transit agencies must make their transit services accessible to people with disabilities. As such, fixed route services, including buses, subways and light rail, must be accessible. In addition, the ADA instituted the requirement for public transit agencies to establish ADA complementary paratransit services for those individuals with disabilities who are unable to access the fixed route.

Although significant progress has been made, there are still transit agencies that have not yet reached full compliance with the transit regulations of the ADA. When stop announcements are not made on the fixed route, when transit stations and bus stops are not accessible, and when lifts are not maintained in a manner that promotes reliable availability, the full promise of the ADA has not been reached. Matters are further complicated if the city or county hasn't ensured accessibility of the sidewalks and intersections that lead to stops and stations.

When fixed route service is not fully accessible, the demand for ADA complementary paratransit service increases. However, problems with paratransit eligibility processes, capacity constraints, trip denials, reservation processes, significantly delayed pick-ups, missed trips, and trips with excessive lengths mean that those services are not always accessible to people with disabilities.

Individuals with disabilities who are informed regarding their transit rights under the ADA often look to get involved in opportunities to improve transit in their communities. When transit agencies fail to meet their ADA obligations, many of these individuals self-advocate and attempt to negotiate solutions with their transit agency at an individual level. If unsuccessful, these individuals frequently discuss their transit concerns with others and look to an advocacy organization to provide leadership in resolving the situation. Disability advocacy organizations, including independent living centers, disability-specific organizations, and protection and advocacy organizations, are uniquely positioned to provide needed leadership. However, even if a disability advocacy organization is not available to provide that support, a group of transit riders with disabilities can form their own group to advocate for transit access.

Some individuals and groups may be unsure how to effectively advocate for transit access. How do you negotiate with a transit agency to achieve transit access? How do you motivate a group of individuals to organize and promote change? How do you impact a system that seems impaired by bureaucracy?

This guide presents a step by step process that any group can use to negotiate with transit agencies to achieve ADA compliance. The focus is on action and success, on pushing forward until compliance is reached. These steps should be considered a general blueprint. Certainly you shouldn't jump ahead to a lawsuit or a peaceful protest if you haven't yet tried individual advocacy or meeting with the transit agency. However, you may find that adjusting the order of these steps may be necessary for unique circumstances in your community. Of course, it may also be possible to resolve a situation without having to move on to the more intensive steps.

We offer the following negotiation plan to achieve ADA transit access:

- Step 1: Advocate at the individual level
- Step 2: Organize an action coalition
- Step 3: Conduct research
- Step 4: Establish pattern or practice with documentation
- Step 5: Develop strategy
- Step 6: Host initial meetings
- Step 7: File FTA and/or DOJ complaint(s)
- Step 8: Hold a public forum
- Step 9: Schedule follow-up meetings
- Step 10: Organize a media ride-along
- Step 11: Stage a peaceful protest
- Step 12: Continue negotiation
- Step 13: File a class action lawsuit

Taken together, these steps seem daunting, especially considering the research and groundwork necessary within each. However, we wish to point out that every movement toward greater justice has been a process taking years, and nothing we suggest here needs to be done either alone, or overnight. In order to avoid feeling overwhelmed, simply focus on what is next, the current step, or even the next subtask contained within. Remember to celebrate individual accomplishments even if they appear small or incremental. Support your colleagues and find others who will support you in kind. Setbacks and disagreements will happen, but keep the focus on the long-term goal of creating a transit system that meets not merely the letter but the "spirit" of the Americans with Disabilities Act.

STEP 1: ADVOCATE AT THE INDIVIDUAL LEVEL

All advocacy starts at the individual level. It starts with one person with a disability who is having problems accessing transit services. As an individual, that person can politely call and complain to the customer service line or the transit supervisor, email the ADA coordinator, or file a grievance with the transit agency.

It is always important to start with individual advocacy to allow transit officials the opportunity to respond. Many problems can be resolved at an individual level. You don't want to start by notifying the media, having a massive demonstration, or filing a lawsuit if individuals have not first contacted the transit agency. The transit agency should be notified of individual compliance problems and have an opportunity for response and resolution before a group gets involved.

Independent living centers, protection and advocacy organizations, and disability-specific organizations can provide guidance to self-advocates by sharing information on ADA transit regulations (see the *Riders' Guide to Public Transit for People with Disabilities* listed in the resource section of this guide), encouraging the individual to document grievances with detailed narrative descriptions and photos, and by assisting the individual to file a grievance with the transit agency. Suggest that self-advocates make copies of everything as those may be useful at a later date.

Encourage the individual to leave anger out of it. When contacting the transit agency, s/he should remain problem-focused, offer solutions, and remain professional, polite, and calm at all times. If an individual can put a personal face to an access problem, and explain how that lack of access impacts him/her on a personal level (e.g., I can't get to my job) it will build insight for transit officials. Also encourage the individual to be persistent. It often takes more than one effort to reach resolution. S/he should keep trying, create a paper trail, and contact supervisors, if necessary. If transit representatives do not respond to calls, emails, and letters, a personal visit to the office of a transit official may be appropriate.

STEP 2: ORGANIZE AN ACTION COALITION

Isolated incidents are rarely worthy of a group response. Even the best transit agency will have isolated occurrences when the lift doesn't work because of snowy and cold weather, the elevator unexpectedly breaks despite proper maintenance, or a bus driver has a bad day. However, if a significant number of transit complaints suggest that your transit agency engages

in a “pattern or practice” of non-compliant service with no resolution, then consider organizing a coalition to negotiate with your transit agency.

The concept of “pattern or practice” is important when advocating regarding ADA transit access. A pattern or practice involves intentional, repeated or regular actions, not isolated, accidental, or singular incidents. If one bus driver does not announce stops on one day, that does not constitute a pattern or practice of non-compliance. However, if many bus drivers on most days don’t announce stops, this situation would constitute a pattern or practice. Keep in mind that the Federal Transit Administration (FTA), the enforcement agency for the transit provisions of the ADA, has established an enforcement priority based on patterns or practices of compliance problems, not on isolated errors. So when you identify a pattern or practice of unresolved ADA compliance problems, it might be time to organize an advocacy coalition.

Any group of riders with disabilities experiencing compliance problems can organize into a coalition to address these barriers. However, it may be possible to organize under the umbrella of an independent living center, a protection and advocacy organization, or even a local transit advocacy group not specifically focused on disability. The advantage of doing so is that you will benefit from the strength of their name and be able to utilize their expertise, leadership, and resources. Often these organizations are better equipped to mobilize larger numbers of riders to participate in your campaign, and numbers do make a difference.

If you decide to form a new group of concerned riders with disabilities which will not have an association with a previously established organization, be sure to name your coalition. Being able to utilize a name in all of your interactions makes it clear that you have a group working together, not just a haphazard collection of individuals.

Whether you join an existing advocacy organization or form your own, consider the composition of your coalition carefully. For the greatest effect, be sure to invite transit riders in your community who represent a wide variety of disabilities. Include people who are blind or have low vision, people who use wheelchairs and scooters, people who are ambulatory but use canes or walkers, people who have intellectual disabilities, people with traumatic brain injury, people with epilepsy, etc. Greater diversity of your group will result in broader resolution of compliance issues.

Also make sure that your coalition includes people with a variety of skills and knowledge. Include people who are well versed in the ADA and/or transit operations, people who have an accounting or financial background, and people who are good at research, public speaking, writing, computer usage, photography, or taking notes at meetings. Include people who can help with logistics or organization, people who have or are willing to make connections with

other community organizations, and people who will show up at public forums and peaceful protests.

Make sure that you recruit individuals who are willing to put in time and effort and will be committed to participating for the long haul. Your campaign may take months or even years, and consistency in members, especially among the leaders of your group, is important.

Find your champion or your star. Your group will need at least one leader who will act as the coalition's spokesperson and can be the driving force behind meetings and activities. This leader should be a person with a disability who rides transit in your community on a regular basis. Choose someone with strong leadership skills who can inspire others to get involved. S/he should have a firm knowledge of the ADA and be able to articulate and express him/herself well. This person should not have a personal agenda or get lost in anger but instead should always present him/herself professionally and respectfully. Again, this person should have the time and availability to devote for the long haul.

Once you have organized your coalition, evaluate whether you might be able to partner with other groups. Partnering with a variety of organizations leads to a stronger effort. Approach other disability advocacy groups or disability-specific organizations (such as a council for the blind or an organization focused on multiple sclerosis) to see if you can join forces, but don't limit yourself to only groups that have a disability focus. Other types of groups may have similar transit goals. Consider approaching general transit advocacy groups, senior organizations, environmental groups, the business community, and employers. If you are able to get the support and involvement of a group that does not have a disability focus, you broaden your sphere of influence.

STEP 3: CONDUCT RESEARCH

The ADA

It is extremely important that you thoroughly understand the transit provisions of the ADA as well as the general Title II provisions which apply to state and local governments. Make sure you know what the ADA *really* says and requires, not what you *think* or *assume* it says. If your information is not accurate, your group will be written off immediately. Not only will you waste your time, but you may actually make the situation worse if your transit agency refuses to work with your coalition. As you begin to consider rider complaints, always check to be sure that each of the complaints is related to ADA compliance.

Be sure to study the specific areas that you and your group are unfamiliar with and areas related to your rider complaints. In particular, keep in mind that the ADA does not prevent the cutting of routes, service hours or frequency of service. The ADA does not require Title II entities to provide public transit. Instead, the ADA only requires that where public transportation does exist, it be operated in a non-discriminatory manner. In addition, make sure you understand the comparability factor: paratransit services must complement and be comparable to fixed route service. Comparability means that paratransit services must be offered on the same days and at the same times as fixed route services, paratransit serves a similar geographical region as served by fixed route, and the type of service offered by paratransit is comparable to the type of service offered by fixed route. Know and understand this correlation.

Several resources are listed in the back of this document that will provide additional information regarding the transit provisions of the ADA. The *Riders' Guide to Public Transit for People with Disabilities* is a valuable resource for developing your ADA expertise. In addition, your regional ADA Center, part of the ADA National Network, is available to provide your group with training on ADA topics (www.adata.org or contact your regional ADA Center at 1-800-949-4232 V/TTY).

Also, study and monitor applicable court cases and settlement agreements. Each one provides you with additional insight into the ADA and suggests appropriate areas of focus for your community. Examples include:

1. **Crawford et al. v. City of Jackson (MS):** On March 30, 2010, a Department of Justice (DOJ) consent decree was reached with the city of Jackson, Mississippi and their public transit system, JATRAM, addressing maintenance of wheelchair lifts on the city's fixed route bus system, providing alternative transportation when lifts are inoperable, training personnel to assist passengers with disabilities, and meeting the required level of service on the city's complementary paratransit system. See insert and http://www.ada.gov/jackson_transit.htm.
2. **Dilworth v. City of Detroit:** In 2005, the U.S. Department of Justice reached a settlement agreement with the City of Detroit, resolving a lawsuit that alleged discrimination by the Detroit Department of Transportation (DDOT). Once the litigation began, DDOT took steps to retire buses with nonfunctioning lifts, repair and maintain lifts, and acquire new buses. Under the terms of the settlement order, DDOT continued to expand these programs and also retrain drivers and mechanics in lift deployment, assisting passengers with disabilities, and lift maintenance. See <http://www.ada.gov/detroittransit05.htm>.

3. **Richardson v. City of Steamboat Springs (CO):** In 2000, a consent decree was reached with the City of Steamboat Springs in response to a lawsuit which alleged that the city violated the ADA by purchasing inaccessible used buses without first making the required good faith efforts to purchase accessible buses, by failing to repair inoperable wheelchair lifts and to provide alternative transportation when wheelchair lifts were inoperable, and by not adequately training bus drivers in the operation of wheelchair lifts. Under the consent decree, the City agreed to obtain accessible vehicles, implement a wheelchair lift maintenance program, train employees on proper maintenance and operation of wheelchair lifts, and provide an alternative means of transportation when wheelchair lifts are inoperable. See <http://www.ada.gov/steambt.htm>.

The Department of Justice continues to list new cases of interest on their website at <http://www.ada.gov/settlemt.htm> . Monitor their site to be aware of the development of any new cases.

The FTA's ADA Compliance Reviews for both fixed route service and ADA paratransit service are also worth additional study. A collection of compliance reviews can be found on the FTA's website: http://www.fta.dot.gov/civilrights/ada/civil_rights_3899.html.

Another resource which may prove valuable is the FTA's Letters of Findings which are responses to various transit complaints. They are organized by topic on the FTA's website: http://www.fta.dot.gov/civilrights/ada/civil_rights_3903.html.

Not only should you know the ADA transit regulations but you should also be knowledgeable regarding Title II of the ADA which covers general administrative requirements for all state and local government programs. Since most public transit agencies are run by a state or local government (city, county, or special transportation district), they are responsible for compliance with Title II requirements. Information regarding the general Title II requirements of the ADA can be obtained by contacting your regional ADA center (www.adata.org) or by contacting the Department of Justice (DOJ) (www.ada.gov).

[Your Local Transit Agency](#)

Beyond the ADA, your coalition will need to develop knowledge regarding your particular transit agency. Determine the organizational structure of your transit agency. Is it run by your city, your county, or a special transportation district?

Determine if your transit agency and the governmental entity responsible for your transit agency have met their Title II administrative requirements: self-evaluation and public notice for all entities and an ADA coordinator, grievance procedure, and transition plan for all entities

with 50 or more employees. The self-evaluation and transition plan should be a *transit* self-evaluation and transition plan, not just a general one addressing basic city or county programs. If a self-evaluation and a transition plan have been completed, obtain copies. If any of these requirements have not been met, the satisfaction of these requirements should be one of your group's goals.

Know who the ADA coordinator is for your transit agency, and for your city or county if appropriate, and prepare to develop a relationship with that person. Despite the fact that the ADA requires that any state or local government that retains 50 or more employees have an ADA coordinator, many state and local government entities don't have one. There may be an ADA coordinator but sometimes that person has little knowledge, influence or authority. If either is the case, it may be time to request the appointment of a knowledgeable ADA coordinator who has the authority to facilitate needed changes.

Determine who the key people and decision makers are within your transit agency and the governmental entity that runs it. Know the individuals and boards that are responsible for decisions, including funding decisions. Who are the supervisors, managers, directors, ADA coordinators, mayor, city council members, county commissioners, or board members?

In addition, be familiar with the nuts and the bolts of your transit system operations. Know the routes and facilities throughout the system. Know your transit agency's policies and procedures. Be aware of their operational needs. What are maintenance challenges for your transit agency? What are challenges related to the particular buses your system uses? What about weather challenges and traffic congestion challenges? For example, perhaps many riders have been complaining that bus operators are not using the PA system when announcing stops so it is difficult to hear their announcements. But it could be that the reason that bus operators are not using the PA system is that the microphone is on a gooseneck type device that slaps them in the face while they drive, creating a safety hazard. Start asking drivers questions and become familiar with drivers' concerns.

Familiarize yourself with your transit agency's budget and how that budget fits into the overall budget of your city or county. Know the numbers and the funding challenges. Be aware of grants currently being used.

Finally, make it a point to familiarize yourself with transit agencies in other cities that are doing a good job. What are their operational procedures? How have they resolved compliance problems? What grants are they utilizing? Being familiar with what has worked for other transit agencies will suggest solutions for your transit agency's challenges. If you can offer viable solutions, the chances of resolving your agency's compliance problems vastly increase.

The above suggestions present a rather overwhelming list of research requirements. However, much of this information could be obtained from regular attendance at ADA transit advisory committee meetings and/or ADA advisory committee meetings for your city or county. Joining these committees would result in introduction to the key officials and decision makers, the challenges faced by the transit agency, funding issues, etc. If there aren't such committees, make the formation of these committees one of your goals. It's also a good idea for one or more of your members to join any general transit advisory committee, regardless of whether or not the question of accessible transit is on the agenda. Regular participation in these meetings demonstrates that you are committed to transit and city or county issues.

STEP 4: ESTABLISH PATTERN OR PRACTICE WITH DOCUMENTATION

Prepare detailed documentation to establish a pattern or practice of non-compliance with the ADA. Every incident involving a lack of compliance should be documented. You need to include names of riders and bus drivers, dates, times, route numbers, bus numbers, names of witnesses, etc. Review the FTA Complaint Form listed in the resource section of this handbook to become familiar with the type of details the FTA needs. Complete all documentation with these details in mind so that if you later decide to file an FTA complaint, you will have all the information needed. Prepare your documentation as soon after the incident as possible so the details are fresh in your mind.

You should include a written narrative of each incident and include photos if possible. As often as they can, group members should carry cameras with them when they ride transit and take photos of obstacles, inaccessible bus stops or sidewalks, or nonfunctional lifts. You never know when a problem will arise and photo evidence is extremely effective. Make sure to use the date and time stamp when taking photos and always write down the location where the photo was taken.

Collect documentation from as many riders as possible covering as many incidents as possible. In addition, collect copies of grievances riders have already filed with your transit agency. You are not likely to get this information from the transit agency, but members of your coalition have who have already filed grievances will hopefully have copies for your use.

As you begin to collect this documentation, organize the complaints by category. Categories may include topics such as 1) stops not being announced 2) wheelchair lifts and ramps not available 3) lack of alternative formats for written communication 4) bus stop and station accessibility 5) securement concerns 6) service animal concerns 7) driver training 8) driver attitude 9) paratransit eligibility 10) paratransit scheduling 11) paratransit service or 12) paratransit suspension practices.

Again remember that you are trying to establish a pattern or practice of non-compliance. If you have 30 complaints related to stop announcements, you may have a pattern or practice. But if you have only one complaint related to wheelchair lifts, that is an isolated incident and should not be included.

Include references to applicable ADA regulations with each complaint. Collect all of this material into one document. Maintain this document both as a hardcopy and as an electronic version and make copies which can be handed to key transit personnel and utilized in future efforts.

At this point, it may be valuable to conduct a systematized audit of your transit system and document the results. Have your group members ride every route on the fixed route system and evaluate accessibility. Be sure to ride each route on every shift. By evaluating accessibility on every shift, you are more likely to come into contact with a higher percentage of drivers. Evening shifts may not be as compliant as daytime shifts. Survey every bus stop or station and adjoining sidewalks in the system, if possible. Collect information on every vehicle in the fleet. Evaluate both fixed route and paratransit service. For paratransit services, examine service on all shifts with as many different drivers and reservationists as possible and try to look over all of the paratransit buses in the fleet.

If you are unable to audit all the routes or all the stops and stations or all the buses, be strategic in choosing which ones you will evaluate. Spread your efforts across your service area but also consider high priority locations. Are there certain routes or certain stops that are frequently used by people with disabilities? Routes that lead to your independent living center, routes to businesses that employ a large number of people with disabilities, routes near housing for senior citizens or near the senior center, or routes near hospitals or nursing homes may be worth considering. High volume stops, stations, and transfer points are high priorities. Utilize the relationships you have established with other organizations and ask if they have any people who might be available to assist you with your audit. This will expand your coverage.

For both fixed route and paratransit, have as many different reviewers with different disabilities as possible. You will want to include reviewers who use a variety of mobility aids, reviewers with vision and hearing disabilities, and reviewers who use service animals, oxygen and/or attendants if possible. Make sure each of your reviewers is well trained and aware of ADA requirements across all disabilities, not just their own.

A tool that can be used to help organize and document your audit can be found in the document *Assessment of Fixed Route Bus Wheelchair Lift Maintenance and Reliability* listed in the resource section. Look for the section in this document entitled "Fixed Route On-Board Service Review Form." This form can also be adapted to conduct an evaluation of paratransit

services. In addition, you might consider using Easter Seal's *Toolkit for the Assessment of Bus Stop Accessibility and Safety*, also listed in the resource section. Both of these tools focus mostly or exclusively on physical accessibility issues. However, this does not create a complete picture and you will also want to evaluate your transit agency's policies and procedures. Use the knowledge you gained about the ADA in Step 2 to expand your audit accordingly.

Document lack of accessibility with photographs when possible and use date and time stamps. Develop good written records of your findings. Make sure your narrative includes dates, times, route numbers and bus numbers. Use Google maps and mark the route, the location of stops and stations, and the locations of any sidewalks (or lack thereof), curb cuts (or lack thereof) or intersections that present access problems. Include references to applicable ADA regulations.

Keep the results of this audit in one document, separate from the previous document of collected complaints. Include all of the results of your audit, both good and bad. Once again, make sure you have this documentation available both in a hardcopy and electronic version and prepare copies which can be handed to key officials.

Documenting problems with the above methods not only gives specific information about barriers affecting the disability community, but it also puts numbers behind individual anecdotes of the hardship caused by inaccessible transit. This is not to say that individual stories (e. g., "I lost my job because paratransit did not pick me up at a regular time each morning;" or "I waited in the rain for two hours before a bus with a working lift came by") don't have a place; they do. Nevertheless, the fact that these stories are backed by hard numbers makes them more credible and points to system-wide difficulties and failures.

STEP 5: DEVELOP STRATEGY

Before you make any contact with transit officials, meet with your group to share the results of the system wide audit and data collection and develop goals and strategies for moving forward. Eager groups often make the mistake of jumping into contact with transit officials without considering strategy. Often it's lack of strategy that limits their success. Without goals and a strategy, you have no idea what you are trying to accomplish and how you are going to get there. When this happens, individual members of the group splinter off in their own directions and there is no cohesive push toward a common goal. Now is the time to plan your strategy and tactics. All group members should commit themselves to follow the established strategy and tactics throughout the entire process, whether you are at the initial meeting stage, the peaceful protest stage, or the lawsuit stage.

Study your documentation and use it to identify the areas that show a pattern or practice of compliance problems. From this, develop goals. What improvements in accessibility do you need from your transit agency? These goals should have a cross-disability focus. For example, don't focus only on concerns for people who use wheelchairs, but also consider issues for people who are blind.

Resist the temptation to make all your goals about paratransit. Paratransit remains a segregated system and all of your focus should not be on paratransit without considering the integrated fixed route system that allows more spontaneous independence for people with disabilities. Keep in mind that if you address fixed route access, more riders with disabilities will be able to ride fixed route, forever freeing them from paratransit limitations. As a consequence, fewer people will ride paratransit and with lower demand, many paratransit problems related to capacity will be solved.

Evaluate your audit of stops, stations, and adjoining sidewalks and make recommendations for high priority areas where increased accessibility is needed. Are curb ramps needed? Do sidewalks need improvements? Do crosswalks need audible signals? Don't get carried away with your list. It is unlikely that your transit agency or your city or county will be able to make all the improvements you would like to see. Instead, identify the highest priority issues. Be realistic about what can be accomplished with limited funding. You might suggest the "Top Ten" stop improvements which are the highest priorities.

Once your group has developed a list of goals, determine which goals are related to transit operations and which are broader Title II issues and develop strategies accordingly. For transit operation issues and for stops and stations, you should first approach transit officials. Identify key transit officials that you should engage such as supervisors, managers, directors, transit advisory committee members, or transit board members. For broader Title II issues (e.g., lack of an ADA coordinator or local sidewalk or crosswalk accessibility), identify officials within your city or county such as the ADA coordinator, the mayor, city council members, county commissioners, the Planning and Development department, or the Public Works department.

For each of the compliance problems and goals you have identified, it is important to offer solutions when possible. Discuss factors which may be contributing to the problem and then research and discuss potential solutions. Often the same issues are raised and the reasons for non-compliance persist (e.g., a lack of funding). Riders and advocates are not caught up in the bureaucracy of local government and because they use the transit system, they often see solutions that officials can't. When the people complaining can present possible solutions to the issues being raised, it indicates the importance of the system to the riders and their determination to resolve issues to everyone's satisfaction. Don't contribute to the problem. Be a part of the solution.

Identify broader problems behind each issue when appropriate. For example, if a paratransit rider moves and submits a change of address to the transit company, yet the paratransit drivers continue to be sent to the old address, this indicates problems in record-keeping and/or software used by the transit company.

If your transit agency indicates that a lack of funding is the reason why they are unable to create access, you have several solutions and arguments you can offer. First and foremost, if you are asking for accessibility improvements on the fixed route, point out to your transit agency that some riders with disabilities who are currently using paratransit will then be able to ride fixed route as a result of those improvements. Paratransit trips cost a transit agency significantly more than fixed route trips. If some paratransit riders are able to convert significant numbers of their paratransit trips to fixed route trips, the transit agency can experience a considerable savings. Put some numbers to this concept. Ask your transit agency how much it costs them for each paratransit trip. Estimate how many paratransit trips can be converted to fixed route trips as a result of your suggested improvements. Do the math and be prepared to give that number to your transit agency. Now you have a tool that gives you financial leverage and provides riders with disabilities access to the integrated and spontaneous fixed route system.

Along those same lines, if paratransit riders have complaints about conditional eligibility being too complicated, rather than advocating for a more simplified approach which may not get you anywhere, consider advocating for specific accessibility upgrades on the fixed route which would allow those riders to become full-time fixed route riders.

Research other possibilities that create cost savings. Providing travel training and offering deviated fixed route services to allow additional riders to transition from paratransit to fixed route and using smaller vehicles on routes with fewer riders all represent cost saving measures. Use the resources in the back of this guide to investigate these strategies so that you can sell them to your transit agency. You should also research federal grants. Your transit agency may not be using all the grants out there.

As you present your demands to your transit agency, share relevant ADA regulations and information. This not only demonstrates that your coalition knows what it is talking about but also demonstrates that it can provide assistance. You might also offer your group's services in preparing a packet of ADA information for transit drivers.

Many driver problems can be resolved with more education. You might consider offering training for all transit staff – drivers, dispatchers, and supervisors. Begin with a training presentation for all staff and then continue to provide it for new hires and as a refresher course. Include ADA transit regulations and disability etiquette in your presentation. Do some

hands-on training on actual buses with drivers practicing operating the lifts, ramps and securements. Have members of your group who use a variety of mobility aids come to the training so that drivers can practice using the lifts and can practice attaching securements on manual wheelchairs, power wheelchairs, scooters, and/or walkers.

Many lift malfunctions and problems with drivers remembering how to run the lifts can be alleviated by transit agencies developing a policy to cycle each lift every day at the start of each shift. Lifts work better when they are deployed regularly. Also, if drivers are required to cycle them daily, drivers will always know how to operate the lift.

If your transit agency does not have a self-evaluation and transition plan, offer to assist them in completing those. You have probably done much of the work already with your systematized audit. However, if you were unable to cover all the routes and stops and later discover that accessibility at other locations is in question, offer to go evaluate those locations as well. You might also help them identify priorities. Your process of setting goals for compliance and discussing those with the transit agency can help them in developing a transition plan. Use that as leverage. Point out that you are helping them fulfill their obligations under the ADA.

If your transit agency does not have an ADA coordinator, you might recommend a qualified individual. You could go further and draft a job description outlining the responsibilities for this position.

This is a good time to consider timeframes. When would you like to have each issue resolved? Consider operational needs for your transit agency. Some demands may be met sooner than others. Allow enough time for completion. This should be a rough estimate and you need to be prepared to make changes as needed. However, too many groups announce their demands, their transit agency says “We are working on it,” and then nothing ever changes. By including a deadline with your demands, you hold your transit agency responsible for achieving compliance within a reasonable period of time and you establish a timeframe to guide your subsequent efforts. Just make sure you allow the transit agency to give you feedback on a reasonable time frame. When you present your demand and your transit agency says “We are working on that,” be sure to ask “When do you expect to have that completed?” Compare that response to your estimated date and if there is a difference, ask transit officials why they feel it will require more time.

An important component of developing strategy is determining appropriate tactics. As soon as you start interacting with the transit agency and your city or county, refrain from allowing anger to control your interactions. Don’t come out on the attack. Anger often backfires and creates an adversarial situation. You want to establish a cooperative atmosphere in which your transit agency looks to your group for information and assistance. Always remain respectful and

professional during all stages of your campaign. If you make every interaction an angry confrontation, your transit agency will write your group off as troublemakers and fanatics. Although your demands for change and your persistence may inevitably result in your coalition being labeled as “troublemakers”, still strive to be professional and calm with every interaction so as not to give credence to that perception.

When you bring your complaints to your transit agency, be ready to show them appreciation for what they have done well. If you acknowledge their successes, they will be more likely to listen to you. For example, you might consider sending a thank you note regarding a driver that did an excellent job.

Finally, approach everything as a negotiation. Just as you expect your transit agency to listen to your group and be responsive to your group’s needs, you need to listen to them and be responsive to their needs. Having an awareness of the operational needs of your transit agency helps you to identify better solutions. As you begin interacting with your transit agency, be ready to adjust goals and expectations as needed. Certainly, there should be no compromise on complying with the ADA, but you may need to allow for adjustments in how that is accomplished. Approach this process as cooperative problem solving and plan on working together with your transit agency to create solutions. Acknowledgement and consideration of your transit agency’s concerns will help everyone reach an acceptable resolution more quickly.

If you have thoroughly completed all of the above five steps, you are ready to be successful in your interactions with your transit agency and city or county. Most of the hard work is done. You are now organized, knowledgeable, goal-oriented, and professionally focused. Make sure that each member of your coalition knows your group’s demands and suggested solutions to compliance problems. Make sure each member of your coalition is aware of tactics and ready to commit to the agreed tactics. If only some group members know goals and tactics, your group will not be moving together as a unified whole and problems may develop. Communication and commitment is critical.

STEP 6: HOST INITIAL MEETINGS

You are now ready to schedule meetings with your transit agency and city or county officials. In Step 5 you identified your goals and identified key people in each organization you want to contact. It’s time to get started.

Have your identified leader and one or two other individuals meet with two or three key decision makers. Keep these initial meetings small to facilitate better interaction and focus. Meet with transit officials separately from city or county officials at this point. When choosing

who in your group will attend, be sure to include someone who is able to take detailed notes. Document everything that is discussed in each meeting. Effective notes are critical for follow-up activities.

At these meetings you want to present your demands, identify relevant ADA regulations, provide each official a copy of your documentation of complaints and a copy of your audit, present your suggested solutions to each of the identified compliance problems, and discuss deadlines. Be sure to ask questions. Mine each official for information. Use these meetings as opportunities to learn about their operational needs. Sometimes consensus is not reached in meetings because they know something you don't. Be sure to ask a lot of questions and learn as much about their operations, concerns, and funding as possible. It is this information that will impact your ability to present persuasive arguments.

Be on the lookout for an advocate within the system. Who within the transit agency or within the city or county government is sympathetic to your goals and will advocate within the system on your behalf? If you are able to find such an individual, that person should be invited to every meeting or event.

Some transit agencies may argue that the situations you have documented represent a small percentage of their total ridership and as such the problems are not significant. This is where your documentation is critical because by citing the actual numbers involved in your documentation, you can respond emphatically that discrimination is occurring at a rate that is unacceptable and that the problem can be fixed with proper attention. Also, rely on those anecdotal stories from your riders that reflect the severity of the consequences. When riders with disabilities are being injured or have lost their jobs, the severity of those consequences supersedes the argument that these problems don't occur very frequently.

During each meeting, hold your transit officials and city or county officials accountable. Very often you might hear, "We are aware of the problem and we are working on it," but then nothing ever improves. If they indicate they are working on the problem, ask them, "What is being done? Who is the person responsible for this project so we can talk to this individual? What is the timeframe for completion?" This is the time to negotiate regarding your estimated deadlines. Make sure you have discussed clear deadlines with those in attendance before the meeting ends. For example, you might have a goal for a deadline of one month for stops reliably and understandably being announced. However, the transit director indicates the issue is the need for a new automated announcement system to be installed on the buses and that won't happen for another four months. Ask more detailed questions. "When will you order the system? When will you expect to receive it? When will you start installing that on the first buses? How long will it take to get it installed on all of the buses? So you are telling me that on (insert date) you will have the automated announcement system installed on every bus and

everything should be functional?” Now you have a good deadline to work with. You have a means to evaluate progress and you have a timeline to guide future meetings.

Continue to hold follow-up meetings as needed. Don't allow too much time to go by without a follow-up meeting, usually within two months. This holds the transit agency accountable and demonstrates that you are not planning to give up and go away.

This may be a good time to present your concerns at a city council meeting, board of county commissioners meeting or regional board meeting if appropriate. Be familiar with procedures for public comment and be strategic about the use of your time. If you have 20 members of your group each sign up for their three minutes of public comment and each person gets up and says the exact same thing and you take one hour of your council or board's time, you are going to annoy your council or board. However, if you have six members of your group sign up for their three minutes and then have your group leader represent each of those six and speak for 18 minutes, your council or board will appreciate your respect for their time. Your leader should utilize a similar format used in other meetings by stating your demands, citing ADA regulations, suggesting your solutions, and providing copies of your documentation.

STEP 7: FILE FTA AND/OR DOJ COMPLAINT(S)

If two months or so have passed and if you feel like you have not received an adequate response from your transit agency or city or county, it's time to file complaints with the Federal Transit Administration (FTA) and/or the US Department of Justice (DOJ). Complaints related to transit service and transit stops and stations should be directed to the FTA. Complaints about broader Title II issues such as lack of an ADA coordinator, grievance procedure, public notice, self-evaluation or transition plan, as well as inaccessible local sidewalks and local public rights-of-ways should be directed to the DOJ. (However, federally funded sidewalks and public rights-of-way are the jurisdiction of the Federal Highway Administration Office of Civil Rights.)

Again, you will want to demonstrate that patterns or practices exist for the FTA so group similar transit compliance incidents together as appropriate. For example, if one complaint indicates that the lift didn't work on one bus on one day, the FTA will not get involved. However, if you file a complaint that indicates that within the past three months you have documented 100 times the lift didn't work on various different buses within the system and that these buses with broken lifts are not being repaired, your complaint will suggest a pattern or practice.

While you are grouping incidents together to file one complaint, however, be aware of time deadlines. Complaints filed against transit agencies and against state and local government

entities must be filed with the FTA or the DOJ within 180 days of the date of discrimination. Plan accordingly. However, if you have particularly grievous incident, it may be worthwhile filing a complaint just for that incident.

Be aware that filing a complaint with either the FTA or DOJ is a lengthy process and does not result in immediate resolution. You want to continue your efforts with your transit agency or local government to work for a quicker resolution.

As soon as you have filed a complaint, schedule another meeting with key transit or city or county officials to let them know you have done so. Provide them with a copy of the complaint(s). Perhaps at this point they will be ready to take action to resolve the situation. Continue your negotiation.

Continue to file additional complaints with the FTA and the DOJ as appropriate throughout this entire process. Additional complaints will also serve to establish pattern or practice.

STEP 8: HOLD A PUBLIC FORUM

If after an additional two months have passed and your transit agency or city or county government remain unresponsive despite the knowledge that complaints have now been filed with the FTA and/or DOJ, it is now time to organize a public forum. The goal of having a public forum is to increase the pressure on your transit agency and city or county by creating a large public event and notifying the media and your community of the situation.

Invite group members and other riders with disabilities willing to share their stories regarding their difficulties accessing transit. Invite transit managers and supervisors along with any other city or county official who has any power to influence the meeting outcomes. Select your forum location carefully. Make sure you have a location that is accessible for riders with disabilities and a location where they feel comfortable. If there's enough space, holding the forum in the offices of your disability organization may be ideal.

Keep the same focus that you held at previous meetings. You want your leader to identify your demands, present documentation, identify appropriate ADA transit regulations, offer solutions to the compliance challenges, share information about FTA and DOJ complaints that have been filed, and hold officials accountable. What makes this public forum different from previous meetings?

First, you want to involve the media. In advance of your forum, contact your local television and newspaper media outlets. Prepare a press release regarding the date, time and location of your public forum and basic information regarding the transit access problems that are being

experienced, your group's demands to resolve the situation, and the transit agency's current lack of response. The more knowledge you have and the more facts you present, the more likely they are to run a story. Make sure you include contact information. Then saturate the media with your press release. Send your release to all of the local television stations and newspapers and request an interview. Your goal is to get a news story out to the public before the public forum occurs so that it works as an advertisement. This will encourage sympathizers within your community to join your group and/or attend the forum. Many local newscasts have a weekly investigative segment that focuses on a specific, local issue. These are excellent places to start. Have your group leader act as your spokesperson for the interview.

Provide a press kit and share it with any reporter with whom you have direct contact. Press kits will include a more complete description of the facts about the situation and the lack of timely response. Press kits can be as simple as a pocket folder with a press release, organization brochure, fact sheet(s) and contact sheet or you might include a complete copy of your documentation of lack of compliance. Make sure you provide contact information because you want the media to be able to contact you at any time to answer their questions. You want the facts to be accurate and for the press to be fair. Get a business card from every reporter with whom your group interacts. Develop relationships with reporters because you may want to contact them in the future.

Invite the media to the public forum itself. Send additional press releases out a few days before your public forum and the morning of your forum for reminders. Have a group member act as a liaison with the media during the actual forum. This individual can greet each member of the press, hand out press kits, provide copies of your documentation, and connect reporters with your group leader or riders who are sharing their stories for additional interviews. Again, make sure you collect business cards for each member of the press that attends.

Another thing that makes this public forum different from other meetings is the human factor. By having riders who are impacted by a lack of compliance share their stories and describe how this affects their lives, suddenly this isn't just numbers or a story on paper, it is real life and empathetic listeners will be influenced by these stories.

Develop an agenda which allows time for riders to share their stories, for transit officials to respond, and for your leader to identify your group's demands and possible solutions to compliance challenges. Include discussion of ADA transit regulations. However, keep the schedules of your invited officials in mind. They may have limited time and you don't want them to leave before you have presented your demands and suggested solutions. Have multiple copies of your documentation and your list of demands in both hardcopy and electronic format and share these with all of the attending officials (and with officials you invited but who were unable to attend).

Once again, include a discussion of your deadlines. Ask officials to be involved in that discussion and ask for their commitment to a deadline for resolution. Be ready to make appropriate changes in the timeframe if needed, but make it clear that you do expect resolution within a reasonable amount of time.

Assign someone the task of documenting everything that is said and discussed. Effective notes are extremely helpful to adjust goals as appropriate and to hold officials accountable for following up. You might want to take it one step further and record the forum and have minutes transcribed to create a public record.

STEP 9: SCHEDULE FOLLOW-UP MEETINGS

Continue to schedule meetings with key transit and city and county officials as appropriate. Discuss progress on each demand or lack thereof and if resolution has not been achieved, continue to outline your demands and suggestions and set new deadlines for resolution. You will continue to use the same strategy and tactics used previously. You may feel your group sounds a bit like a broken record because you often repeat yourselves. However, the key is that you are not giving up and you are not going away. Continue to hold your transit system accountable and continue the pressure.

Throughout this process and at every stage you should keep communication and negotiations open. Persistence pays off. Continue your group's participation in advisory committees.

STEP 10: ORGANIZE A MEDIA RIDE-ALONG

After two more months or so after the public forum, if your transit agency has not put in a good faith effort toward compliance, it's time to move onto the next strategy. Consider inviting a television or newspaper reporter and photographer to ride along with several members of your group as they try to get to work or go shopping on your public transit system. Utilize media contacts made during the public forum.

Plan the event strategically. Pull out your documentation of compliance issues and your audit and determine which routes and which stops or stations have the greatest number of compliance issues. Plan to highlight those routes, stops and stations in the ride-along so that you will increase the chances your reporter will observe as many compliance issues as possible. Also consider the times of day compliance issues are most likely to be found. Does one shift have more problems than another?

Conducting a ride-along on paratransit may be trickier than doing a ride-along on fixed route. The ADA says you are always entitled to bring one companion with you on paratransit who will pay the same fare as you. But if you bring a reporter and a photographer, you may have a harder time getting both aboard. Remember you will have to make a reservation for your companion(s). Also, because of the more personalized nature of paratransit service, taking video of your paratransit ride is going to be much more obvious than taking video of a fixed route ride. That may result in more tension and concern from your paratransit driver. Evaluate the benefits and risks when choosing whether to focus your ride-along on fixed route or on paratransit.

You might decide to have your group leader conduct the ride along and/or have other group members participate as you deem appropriate. Coach your group members that are being followed by the reporter. Make sure they are able to effectively discuss the compliance problems by referring to the appropriate ADA regulations. Also, on the off chance the system actually works, make sure your group members are prepared to say things like, “This has been great today, but last week I waited while two buses passed me by,” or “Last week I waited an hour before paratransit picked me up,” so that your full message gets across. Provide your reporter with a copy of your documentation if you haven’t already done so at the public forum.

This tactic was used to great effect in Los Angeles in 2009. ABC7 Eyewitness News in Los Angeles conducted a two-month undercover investigation of the L.A. County Metropolitan Transportation Authority and its treatment of bus passengers with disabilities. This investigation uncovered some serious ADA compliance issues, complete with video evidence which was transmitted on the evening news. Continuing media pressure over that two month period eventually resulted in improvement in some of the accessibility issues.

Once again, follow-up the media ride-along with requests for additional meetings with appropriate transit and city or county officials. Keep the pressure on.

STEP 11: STAGE A PEACEFUL PROTEST

If you do not see reasonable progress in compliance after the media ride-along, move on to the next step of a peaceful demonstration in front of the mayor’s office, city hall, or the transit authority’s main building. The transit authority’s main building would be effective if it is centrally located. If it is on the outskirts of town, your message will be lost on the general public.

Be sure to check with local law enforcement to determine if a permit is needed and what restrictions may apply. Generally, permits are not needed unless the action involves blocking a

public right-of-way, such as a city street. However, if you plan to march on city streets or sidewalks, parade permits may be required. These are easy to obtain and recommended. You certainly have a right to take action, especially peaceful action, and law enforcement can help keep you safe from motorists.

Once again, invite the media to cover the demonstration. Prepare a press release regarding the date, time and location of your demonstration and basic information regarding transit access barriers, your group's demands to resolve the situation, the transit agency's current lack of response, and contact information. Personally invite all of the previous media contacts your group established through your public forum and media ride-along. Don't limit yourself to only your current contacts. Get your press releases out to all other television stations and newspapers with which you haven't previously interacted.

Saturate the media with your press release. Send press releases to all of your media outlets one week before your demonstration, two days before, and again the morning of the demonstration. This saturation guarantees that the media is aware of your demonstration and purpose, has plenty of notice, is reminded of your demonstration as it gets closer, and keeps the issue on the front burner.

Again, strategic planning is critical. You want to include some of the same strategies you've used in other events: outline your demands, cite relevant ADA regulations, and present your solutions. Determine how you will do that within the format of a demonstration. Is there some activity that you can include as a focus, such as signing a FTA or DOJ complaint? If the mayor or some other official has continued to refuse to meet with you, you might make a demand that person meet with you as the central focus of your demonstration.

Determine how you want your demonstrators to participate. Will they hold signs? Chant a slogan? Stand in a line, or move in a circle? What will the signs say? Some cities have requirements about where demonstrators can gather, how far from a building entrance they can stand, and whether or not they must keep moving. Be sure you know what your city's requirements are for peaceful demonstrations. Make sure that all of the people who are planning to participate understand what is expected. Also ensure that all participants are familiar with the issues and your demands. The media may informally interview any one of your participants at any time, so all participants should be prepped and ready to respond to interview questions.

Be prepared for any type of response from city officials, whether positive or negative, and plan your next steps accordingly to let the media know and keep their attention.

STEP 12: CONTINUE NEGOTIATION

After your demonstration, continue to invite relevant officials, including the ADA coordinator and elected officials as well as key transit authority staff, to meet and talk with you. Document all of these meetings—or lack thereof. Note what commitments were made, any timeline established for correcting problems, and whether or not these were met.

STEP 13: FILE A CLASS ACTION LAWSUIT

If you have completed (and repeated as necessary) the above steps and insufficient progress has been made toward compliance, and if your group feels you have run out of other options, it may be time to file a class action lawsuit. Start by contacting your state’s protection and advocacy organization as they may be willing to represent you. If not, they can probably recommend another organization that will, or they will be able to refer you to private attorneys who are skilled with ADA cases.

Carefully consider the pros and cons of suing for injunctive relief (which requires the transit agency to correct its discriminatory practices) vs. suing for monetary damages. If your main goal is to create access in your transit system, suing for injunctive relief will result in access improvements. However, if you sue for monetary damages, it won’t fix your access problems and in fact, you are taking money away from your transit agency that they might use to create access.

After a lawsuit has been filed is not the time to sit back and wait for others to work on your behalf. Call a press conference using the same media contacts your group has already established. Remain in negotiation with your transit agency and city or county and continue to offer assistance in resolving the issues.

CONCLUSION

This document offers a general protocol of steps any member of a community can take to attempt to achieve ADA compliance with their transit agency. However, you may need to make adjustments based on the specific circumstances in your community. Always remain responsive to events that suggest a different course of action.

Know that pursuing transit accessibility will be a long term commitment; so brace yourself for running a “marathon” rather than a “sprint.” Even if you make it to the stage of filing a class

action lawsuit and a consent decree is reached addressing the areas of your concern, that doesn't mean your job is over. Compliance with a consent decree usually occurs over time, and your advocacy will be valuable in reaching full compliance with the consent decree. Persistence and tenacity remain the best tools in advocacy.

Generating this persistence will require some soul-searching for deep motivations that will stand the trials placed before you. Typically, this kind of dedication derives from a sense of the "big picture," how individual efforts combine to achieve lasting societal change for the betterment of all. Examples include the woman's suffrage movement (resulting in the 19th Amendment in 1920) and the civil rights movement of the 1950's-60's. The struggle for full implementation of the Americans with Disabilities Act is best thought of in these terms, and those making the effort will have the gratification of knowing they achieved greater freedom for generations to come.

RESOURCES

1. The ADA National Network by DBTAC is a national network of 10 regional centers that provide technical assistance, information, training and materials regarding the Americans with Disabilities Act.
www.adata.org
1-800-949-4232 (voice/TTY)
2. *The Riders' Guide to Public Transit for People with Disabilities* - This guide provides a comprehensive overview of the ADA requirements for fixed route and ADA complementary paratransit. In clear and direct language, riders with disabilities are guided through everything they need to know to successfully access these systems. Riders' rights and responsibilities are included as well as useful tips.
<http://www.transitaccessproject.com/InternalDocs/RiderInfo/ridersguide.pdf>
3. Transit Access Project - The ADA Transit Portal searches and indexes all of today's most pertinent ADA information relating to public transportation and accessibility. Within this unique search portal, you will find guidance materials, research reports and the latest case law information. Designed with the transit and disability professional in mind, this portal will quickly direct the user to appropriate transit accessibility documents.
<http://www.transitaccessproject.org>
4. Federal Transit Administration – The FTA is the enforcement agency for the public transit provisions of the ADA. (FTA Office of Civil Rights Complaint Form
http://www.fta.dot.gov/civilrights/ada/civil_rights_3889.html)

www.fta.dot.gov/ada

1-888-446-4511 (voice) 1-800-877-8339 (TTY)

5. U.S. Department of Justice – The DOJ is the enforcement agency for Title II of the ADA which covers state and local governments. They may be appropriate to contact regarding broader ADA issues in relation to accessing programs of local governments.

www.ada.gov

1-800-514-0301 (voice) 1-800-514-0383 (TTY)

6. Easter Seals Project ACTION – Project ACTION promotes cooperation between the transportation industry and the disability community to increase mobility for people with disabilities under the ADA and beyond. They offer numerous resources, as well as training and technical assistance. Be sure to check out their *Toolkit for the Assessment of Bus Stop Accessibility and Safety*:

http://projectaction.easterseals.com/site/PageServer?pagename=ESPA_BusStopToolkit

www.projectaction.easterseals.com

1-800-659-6428 (voice) 1-202-347-7385 (TTY)

7. *Assessment of Fixed Route Bus Wheelchair Lift Maintenance and Reliability* – This assessment tool is designed to assist transit agencies in determining if accessibility equipment on fixed route bus systems is operating reliably. It also is meant to assist in assessing lift cycling and maintenance, and related service policies. Guidance is provided on getting input in the review process from local disability organizations and customers, on selecting vehicles to be reviewed, and on conducting actual on-street observations of lift cycling operation and maintenance practices. Guidance is also provided on administrative follow-up issues related to promoting and implementing a policy for successful lift maintenance and operation.

<http://www.dlrp.org/html/publications/transportation/wheelchairliftmaintenance.html>

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Meeting the Challenge, Inc.
www.transitaccessproject.org