

BOARD POLICY

Category: Service Development

TITLE VI AND ENVIRONMENTAL JUSTICE SERVICE REVIEW AND COMPLIANCE REPORT POLICY

I. PURPOSE

The Federal Transit Administration (FTA) is responsible for ensuring that its funding recipients fully comply with Title VI of the Civil Rights Act of 1964, in their planning and implementation processes. Pursuant to Title 49 (U.S.C. Chapter 53), as amended, AC Transit is the designated recipient of funds under FTA (sections 5307 and 5309).

Further Federal guidance, provided by Executive Order 12898 and FTA Environmental Justice Circular 4703.1, highlights the District's responsibility to ensure that Environmental Justice is incorporated into the District's mission to provide safe, convenient, courteous, and reliable transit service for the greater East Bay. Additional Federal guidance provided by Executive Order 13166 amplifies the Civil Rights Act mandate by providing that persons with limited English proficiency should have meaningful access to programs and activities receiving federal funds.

As the designated federal funds recipient, AC Transit District prepares a triennial Title VI Update Report in accordance with the FTA Circular 4702.1B dated October 1, 2012, which assesses compliance of the District, its subrecipients, and contractors with the Civil Rights Act of 1964 and the executive orders.

The District must also ensure that there is Title VI consideration whenever there is a change in fares or service that could impact minority or low-income communities. In particular, AC Transit must describe major service changes relating to hours or days of operation, headways or fares, etc., and provide an analysis of the effect that any such changes may have on minority and low-income communities. This policy provides a delineation of that service review.

FTA's Title VI Circular requires AC Transit to monitor four service standards and two service policies for its fixed-route modes. FTA requires that these policies and standards be monitored for disparate-impact effects; the results of this monitoring will be reported to the Board for its consideration, awareness, and approval of the monitoring results.

The FTA circular identifies methods for notifying the public of their rights to file a Title VI complaint and the District's methods of responding to such complaints.

II. TITLE VI TRIENNIAL UPDATE

Every three years, the District shall complete a Title VI Triennial update in accordance with FTA guidelines. This triennial update assesses compliance on a number of issues for the District, its subrecipients, and contractors, as specified in the FTA Circular dated October 1 2012.

III. TITLE VI SERVICE AND FARE EQUITY ANALYSIS

AC Transit will conduct a fare equity analysis for all fare change proposals regardless of the amount of increase or decrease, with the following exceptions:

- “Spare the air days” or other instances when a municipality or transit agency has declared that all passengers ride free;
- Temporary reductions that are mitigating measures for other actions; or
- Promotional or temporary fare reductions that last six months or less.

The District will conduct a Title VI service equity analysis whenever there is a major service change, as defined below. The District will also conduct a service equity analysis for changes which, when considered cumulatively over a three year period, meet the major service change threshold. In addition, the Board may request additional service equity analyses for the consideration of changes as it deems appropriate. For major service changes, the Title VI service equity analysis will assess the quantity and quality of service provided and populations affected.

All service and fare equity analyses shall be presented to the Board of Directors for approval and included in the Title VI Triennial update.

A. MAJOR SERVICE CHANGE POLICY

A Title VI analysis shall occur whenever there is a significant change to service provision. Service changes covered by this policy are those indicated as “Major Adjustments of Transit Service” under Board Policy 163 (“Public Hearings Processes for the Board of Directors”). A major service change is generally one that constitutes a significant aggregate change in route miles or hours, and could include system wide route restructuring, changes in frequency, or adding and deleting service. For such major service changes, the Title VI service equity analysis will assess the quantity and quality of service provided and populations affected.

One exception listed in Policy 163 – restoration of service which had been eliminated due to budget constraints – is not a permissible exception for Title VI purposes. Staff will continue to conduct service equity analyses for restoration of services, if such proposed change otherwise fits the definition of a major service change.

B. DISPARATE IMPACT POLICY

As defined by the FTA Circular:

Disparate impact refers to a facially neutral policy or practice that disproportionately affects members of a group identified by race, color, or national origin, where the recipient’s policy or practice lacks a substantial legitimate justification and where there exists one or more alternatives that would

serve the same legitimate objectives but with less disproportionate effect on the basis of race, color, or national origin[...]. The policy shall establish a threshold for determining when adverse effects of fare/service changes are borne disproportionately by minority populations.

The measure of disparate impact involves a comparison of impacts borne by minority populations compared to impacts borne by non-minority populations. For a major service equity analysis, the District will measure service in terms of current AC Transit standards for frequency, span of service, and/or distance to bus routes. Title VI equity analyses will compare existing service or fares to proposed changes, and calculate the absolute change as well as the percent change. When minority populations or riders as a whole will experience a 15% (or more) greater adverse effect than that borne by the non-minority populations or riders, such changes will be considered to have a disparate impact. An adverse effect is defined as a geographical or time-based reduction in service which includes but is not limited to: elimination of a route, short turning a route, rerouting an existing route, or an increase in headways.

C. DISPROPORTIONATE BURDEN POLICY

As defined by the FTA Circular:

Disproportionate burden refers to a facially neutral policy or practice that disproportionately affects low-income populations more than non-low-income populations. A finding of disproportionate burden requires the recipient to evaluate alternatives and mitigate where practicable.

Low-income populations are not a protected class under Title VI. However, recognizing the inherent overlap of environmental justice principles in this area, and because it is important to evaluate the impacts of service and fare changes on passengers who are transit-dependent, FTA requires transit providers to evaluate proposed service and fare changes to determine whether low-income populations will bear a disproportionate burden of the changes.

AC Transit will conduct Title VI equity analyses by comparing existing service or fares to proposed changes, and calculating the absolute change as well as the percent change. When the proportion of low-income populations or riders as a whole adversely affected by the proposals is 15% (or more) than the proportion of non-low-income populations or riders adversely affected, such changes will be considered to have a disproportionate burden.

D. MITIGATION OF IMPACTS

If the District finds that the service or fare proposals result in disparate impacts on minority communities, the District must identify alternatives to the proposal that could serve the same legitimate objective with less disparate impact. If a less discriminatory alternative does not exist and AC Transit has substantial legitimate justification that cannot otherwise be accomplished, AC Transit shall identify measures to mitigate the negative impacts of the changes.

If the District finds that the service or fare proposals result in disproportionate burdens on low-income communities, the District shall identify alternatives available to affected low-income riders and take steps to avoid, minimize, or mitigate impacts where practicable.

IV. TRANSIT SERVICE MONITORING

AC Transit is required to monitor the performance of its system relative to system-wide service standards and service policies. AC Transit staff will assess the performance of each route according to definitions in Board Policy 550, "Service Standards and Design Policy," and methods described in the FTA Circular, and report to the Board of Directors not less often than every three years to ensure all elements of the service are being equitably provided.

For cases in which the service exceeds or fails to meet the standard or policy, the District shall analyze why the discrepancies exist, and take steps to reduce the potential effects. If staff determine that prior decisions have resulted in a disparate impact on the basis of race, color, or national origin, the District shall take corrective action to remedy the disparities to the greatest extent possible, and report these efforts in the Title VI program update.

V. TITLE VI COMPLAINT PROCESS

The District shall take any Title VI violation complaint seriously and act quickly to identify, resolve, or remediate any identified issue. Additionally, as part of the District's goal to incorporate environmental justice into its mission and ongoing activities, although low-income populations are not a protected class under Title VI, the District intends to receive complaints related to low-income status through the Title VI complaint process.

A. Communication with Claimant

It is AC Transit's intent to communicate with the claimant throughout the Title VI complaint review process, regardless of the outcome of the investigation.

B. Posting of Title VI Complaint Notification

The following notice will be placed on-board buses, in public ticket offices and public meeting rooms (such as the AC Transit Board Room), and on the AC Transit website, in English, Spanish, and Chinese:

AC Transit is committed to ensuring that no person is excluded from participation in, or denied the benefits of its services on the basis of race, color or national origin as protected by Title VI of the Civil Rights Act of 1964, as amended ("Title VI"). If you believe you have been subjected to discrimination under Title VI, you may file a written complaint. Please complete the online form and address your complaint to: AC Transit Title VI Coordinator, 1600 Franklin Street, Oakland, CA 94612. (510) 891-5470. For the online form, go to www.actransit.org/customer/contact-us/

C. Receipt of Complaint

There are several ways that Title VI complaints are received:

- Mail—On-board buses and AC Transit's website currently list instructions on filing a Title VI complaint that provides an address for submitting a Title VI claim. The complaint form is available in English, Spanish, and Chinese.
- Email or Phone—Individuals can register a Title VI complaint through the AC Transit

customer feedback webpage, which forwards the item to the Title VI Compliance Review department for Title VI review. Individuals may also make a complaint by phone.

D. Review of Complaint

A complaint must be filed within 180 calendar days of the date the claimant believes the discrimination occurred. Upon receipt of a complaint, the Title VI Coordinator reviews the issue to determine if it raises a Title VI concern (i.e. relates to the exclusion from participation in, or denial of benefits of, services on the basis of race, color, national origin, or low-income status). All Title VI Complaint files are kept for a minimum of 10 years.

If the claim is not related to Title VI, but to other issues, the Title VI Coordinator forwards the complaint to the appropriate department for resolution and sends a letter to the claimant explaining the process, providing a copy to the Legal Department for its files. Departments that are responsible for the resolution of the claim are responsible to investigate the issue and respond to the claimant.

Upon determining that the claim raises a Title VI issue, a Title VI investigation will be undertaken. The Title VI Coordinator will send a letter to the individual to notify the claimant that AC Transit will conduct an investigation of the claim, copying the Legal Department for its files and assistance.

E. Investigating Title VI claims

Staff shall review the complaint to determine if it raises any Title VI issues, using Federal Transit Administration guidance. Staff shall complete their review no later than 60 calendar days after the date AC Transit received the complaint. If more time is required, the Title VI Coordinator shall notify the claimant of the estimated time-frame for completing the review.

If it is found that there is or has been a violation of Title VI, staff will identify immediate remediation for consideration by the General Manager and/or Board of Directors. AC Transit will send a letter to the claimant stating the outcome of the investigation. If a violation exists the claimant will be advised of any remediation action that is being proposed or undertaken. Additionally, staff may recommend improvements to AC Transit's processes relative to Title VI and environmental justice, as appropriate. Conversely, if the claim is invalid, erroneous, or does not represent a Title VI violation, the Title VI Coordinator will send a letter to the claimant with their findings.

F. Request for Reconsideration

If the claimant disagrees with the response, they may request reconsideration by submitting the request in writing to the General Manager within 10 calendar days after receipt of the response. The request for reconsideration shall be sufficiently detailed to contain any items the claimant feels were not fully understood by the Title VI Coordinator and/or other staff reviewing the claim. The General Manager will notify the claimant of their decision either to accept or reject the request for reconsideration within 10 calendar days. In cases where the General Manager agrees to reconsider, the matter shall be returned to the Title VI Coordinator to re-evaluate.

G. Submission of Complaint to the Federal Transit Administration

Claimant may also file a complaint directly with the Federal Transit Administration at FTA Office of Civil Rights, Attention: Title VI Program Coordinator, 1200 New Jersey Ave., SE, Washington, DC 20590 within 180 days of the alleged discrimination.