

**Metro**Los Angeles County  
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metro.net**EXECUTIVE MANAGEMENT COMMITTEE  
OCTOBER 18, 2012****SUBJECT: ADMINISTRATIVE CODE AMENDMENTS****ACTION: APPROVE AMENDMENTS TO ADMINISTRATIVE CODE****RECOMMENDATION**

Adopt the proposed amendments to the Administrative Code as provided in Attachment A and modify security policy to conform with new Title VI Guidance.

**ISSUE**

On September 28, 2012 the FTA released updated guidance on Title VI of the Civil Rights Act of 1964. The new FTA Circular includes several provisions that require amendments to the Administrative Code or Board policies. These include:

- Requiring that the Metro Board add definitions for disparate impact and disproportionate burden. These definitions have specific purposes related to service and fare equity analysis;
- Adding exemptions to requirement to conduct equity analysis for certain types of temporary fare changes;
- Eliminating the need to conduct a Title VI review at the planning and programming stage of new fixed guideway projects, and creates a new requirement for a Title VI review at least six months before new fixed guideway operations begin; and
- Adding a requirement to conduct a Title VI review at the planning stage of projects requiring land acquisition, other than fixed guideway and related facilities.
- It is no longer necessary for transit agencies to have a specific civil rights policy for transit security

**DISCUSSION**

The new circular requires transit agencies to review the proposed definitions with the public. Metro staff anticipated this new requirement and reviewed a draft policy with the

five service area councils, minority and limited English groups, the Bus Riders Union, at public hearings for service changes, and on the Metro internet home page in late 2011. Attachment B provides a summary of the outreach activity.

The circular changes the language referring to impacts related to Environmental Justice. In previous circulars the impacts were always measured in terms of “disproportionate, high and adverse impacts”. The new circular measures these impacts using the term, “disproportionate burdens”, however there is no effect other than a name change.

The new FTA circular appears to adopt the language proposed by Metro to include both a percentage change, and absolute percentage difference to determine when disparate impacts or disproportionate burdens occur.

The circular adds exemptions to the requirement to conduct equity analysis for temporary fare changes. The proposed amendments to the Administrative Code adopt these exemptions for temporary fare changes.

A new section is added to the circular establishing a requirement to conduct a Title VI analysis whenever a new facility is being planned. The requirement excludes bus shelter and facilities that are part of a new fixed guideway line including stations, guideways and power substations. The provision does include, but is not limited to, locations for bus and railcar storage facilities, maintenance facilities, and operations centers.

In January, 2012 the Board adopted the response time provisions of the contract with the Los Angeles County Sheriff’s department as our civil rights transit security policy. The new Title VI guidance does no longer requires a specific transit security policy. Aligning the required Metro service policies with the Title VI guidance will have no effect on security as the response time requirement will be unchanged, and they are embedded in the Metro contract with the Sheriff.

A full copy of the FTA Circular C-4702.1B and the Federal Register explaining the changes may be found at [http://www.fta.dot.gov/legislation\\_law/12349\\_14792.html](http://www.fta.dot.gov/legislation_law/12349_14792.html).

### **DETERMINATION OF SAFETY IMPACT**

Approval of the amendments will have no safety impact.

### **FINANCIAL IMPACT**

The proposed amendments will result in a cost increase to cover the preparation of a Title VI analysis for every project involving siting of facilities. No other new direct costs are anticipated.

## **ALTERNATIVES CONSIDERED**

If Metro does adopt definitions of disparate impact and disproportionate burden, the agency would not be in compliance with FTA guidance, and would risk sanctions.


## **NEXT STEPS**

If adopted the proposed changes will be incorporated into the Administrative Code and the appropriate staff notified of the change. All future service or fare changes and new facility siting studies will be subject to the analysis requirements.

## **ATTACHMENTS**

- A. Administrative Code
- B. Overview of Title VI Outreach

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**Chapter 2-50**

**Title VI Requirements and Public Hearings**

**2-50-005 Major Service Changes.**

- A. All major increases or decreases in transit service are subject to a Title VI Equity Analysis prior to Board approval of the service change. A Title VI Equity Analysis completed for a major service change must be presented to the Board of Directors for their consideration and then forwarded to the FTA with a record of the action taken by the Board.
- B. A major service change is defined as any service change meeting at least one of the following criteria:
1. A revision to an existing transit route that increases or decreases the route miles by 25% or the revenue service miles operated by the lesser of 25%, or by 250,000 annual revenue service miles at one time or cumulatively in any period within 36 consecutive months;
  2. A revision to an existing transit service that increases or decreases the revenue hours operated by at least 25% or by 25,000 annual revenue service hours at one time or cumulatively in any period within 36 consecutive months;
  3. A change of more than 25% at one time or cumulatively over any period within 36 consecutive months in the number of total revenue trips scheduled on routes serving a rail or BRT station, or an off-street bus terminal serving at least 4 bus routes;

4. A change of more than 20% of the total system revenue miles or revenue hours in any 12 month period;
  5. The implementation of any new transit route that results in a net increase of more than 25,000 annual revenue hours or 250,000 annual revenue miles;
  6. Six months prior to the opening of any new fixed guideway project (e.g. BRT line or rail line) regardless of whether or not the amount of service being changed meets the requirements in the subsections 1 – 5 above.
- C. Experimental, demonstration or emergency service changes may be instituted for one year or less without a Title VI Equity Analysis being completed and considered by the Board of Directors. If the service is required to be operated beyond one year the Title VI Equity Analysis must be completed and considered by the Board of Directors before the end of the one year experimental, demonstration or emergency period.
- D. A Title VI Equity Analysis shall not be required if a Metro transit service is replaced by a different mode or operator providing a service with the same headways, fare, transfer options, span of service and stops.

**2-50-010 Fare Changes**

- A. A Fare Equity Analysis shall be prepared for all fare changes (increase or decrease). The analysis will evaluate the effects of fare changes on Title VI protected populations and low-income populations. The analysis will be done for fares not available to the general public such as special discount

programs for students, groups or employers.

- B. If fare changes are planned due to the opening of a new fixed guideway project, an equity analysis shall be completed six months prior to opening of the service.
- C. Each Title VI Fare Equity Analysis shall be completed and presented for consideration of the Board of Directors in advance of the approval of the proposed fare or fare media change by the Board of Directors. The Equity Analysis will then be forwarded to the FTA with a record of action taken by the Board.
- D. A Title VI analysis is not required when:
  - 1. A change is instituted that provides free fares for all passengers
  - 2. Temporary fare reductions are provided to mitigate for other actions taken by Metro
  - 3. Promotional fare reductions are less than six months duration

An equity analysis must be conducted prior to making any temporary fare change into a permanent part of the fare system.

**2-50-015 Determination of Site or Location of Facilities.**

- A. This provision applies to, but is not limited to, storage facilities, maintenance facilities, operations centers etc. This provision does not apply to bus shelters, transit stations, fixed guideways or ancillary facilities such as power substations.
- B. Metro shall complete a Title VI equity analysis during the planning stage with

regard to where a project is located or sited to ensure the location is selected without regard to race, color or national origin. The analysis, which must compare the equity impacts of various siting alternatives, must occur before the selection of the preferred site. Outreach will be dire

**2-50-020 Definitions**

- A. Disparate impact refers to a facially neutral policy or practice that disproportionately affects members of a group identified by race, color or national origin and the policy lacks a substantial legitimate justification including one or more alternatives that would serve the same legitimate objectives but with less disproportionate effects on the basis of race, color or national origin.
- B. Disproportionate burden refers to a neutral policy or practice that disproportionately affects low income populations more than non-low income populations. A finding of disproportionate burdens for fare and major service changes requires Metro to evaluate alternatives and mitigate burdens where practicable.
- C. The thresholds for disparate impacts, or disproportionate burdens in the case of fare or major service changes shall be a change that results in at least a least a 20 percent more adverse service or fare and a 5 percent absolute difference in the overall percentages

**2-50-025 Public Hearings**

- A. A Public Hearing consistent with the procedures in 2-50-025 shall be held



for any new route or changes to Metro transit services that require a Title VI Equity Analysis to be completed.

- B. A Public Hearing consistent with the procedures in 2-50-025 shall be held for changes to Metro Transit fare prices that require a Title VI Equity Analysis to be completed.

**2-50-030 Public Hearing Procedures**

- A. Any public hearing required by section 2-50-020 shall be conducted as set forth in this section.
- B. Notice of the hearing shall be published in at least one English language and Spanish Language newspaper of general circulation, at least thirty (30) days prior to the date of the hearing. Notice at least thirty (30) days prior to the date of the hearing shall also be published in neighborhood and foreign language and ethnic newspapers as appropriate to provide notice to the members of the public most likely to be impacted by the proposed action.
- C. Notice of the public hearing shall also be announced by brochures in English, Spanish and other appropriate languages on transit vehicles serving the areas to be impacted and at customer service centers.
- D. In order to ensure that the view and comments expressed by the public are taken into consideration, MTA staff shall prepare a written response to the issues raised at the public hearing. That response should also include a general assessment of the social, economic and environmental impacts of the proposed change, including any impact on energy conservation.
- E. The public hearing related to a recommendation to increase transit fares

charged to the general public shall be held before the Board of Directors and any action to increase the fares charged to the general public must be approved by a two-thirds vote of the members of the Board of Directors.

The Board of Directors may delegate to another body or a hearing officer appointed by the Chief Executive Officer the authority to hold the public hearing related to a change in transit service.

## Overview of Title VI Outreach

Metro Community Relations initiated an outreach program to solicit public input on the agency's proposed new service change policy in accordance with Title VI guidelines. Community Relations worked with Metro's Director of Civil Rights and the Communications department to develop a visual presentation that explains the proposed service change policy. The presentation explains the definition of 'major service change', disparate impacts, and the equity analysis process included in our proposed new policy to fully comply with Title VI and Environmental Justice regulations.

A number of presentations have been given on the new proposed service change policy, including an overview of Title VI of the Civil Rights act and the Executive Order on Environmental Justice. Presentations have so far been provided to:

- East Los Angeles Review Advisory Committee;
- Little Tokyo Community Council;
- Metro Service Councils (all five);
- Metro's Citizens Advisory Council; and
- Bus Rider's Union

Community Relations also initiated an outreach campaign to determine improved communications strategies for patrons more proficient in their native languages. Individuals or groups were identified that have specialized knowledge of populations with Limited English Proficiency (LEP). These include foreign language publications, community organization leaders, and others.

To date, contacts have been made with individuals or groups representing meetings have been conducted with stakeholders representing Spanish speaking, Japanese, Armenian, Russian, Cambodian, Korean, and Chinese populations. Additional meetings will be held with stakeholders that can provide advice on the best way to communicate with other populations including Thai, Vietnamese and Filipino (Tagalog) customers.

The matrix beginning on the next page summarizes these outreach efforts by language group.

### Next Steps

Once the Board acts on the new policy, the presentation on Metro's proposed service change process - including Title VI and Environmental Justice information - will be updated as appropriate. The presentation will continue to be given to various community groups throughout LA County. In addition, the area of Metro's web page containing civil rights information ([metro.net/civilrights](http://metro.net/civilrights)) will be updated with more information about our service change policy, and the Title VI and Environmental Justice analysis that is part of that process.