

	<p>TITLE VI POLICIES: Major Service Change, Disparate Impact, Disproportionate Burden</p> <p>Mgr., Office of Diversity</p>	<p>Issued: 6/28/2021</p> <p>Approved by: Board of Directors</p>
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1. PURPOSE

Title VI of the Civil Rights Act of 1964 (codified at 42 U.S.C. §2000D et seq.) prohibits discrimination on the basis of race, color, or national origin. As a recipient of federal funds, Capital Metropolitan Transportation Authority (CapMetro) must ensure that it provides its services without discrimination on the basis of race, color, or national origin.

On October 1, 2012, the Federal Transit Administration (FTA) Title VI Circular 4702.1B became effective, requiring transit providers that have greater than 50 fixed-route vehicles in peak service operating fixed-route service to conduct equity analyses on service or fare changes that meet the agency’s definition of a “Major Service Change”. The purpose of this policy is to define what constitutes a “Major Service Change” and to establish thresholds for determining if service and fare changes would result in either a “Disparate Impact” on minority populations or a “Disproportionate Burden” on low-income populations.

2. DEFINITIONS

The following terms and definitions are to address the FTA Title VI Circular 4702.1B (October 1, 2012) and relate to the policies below.

- Adverse Effects/Impacts** - Adverse effects/impacts are defined as impacts that may have negative consequences as a result of a contemplated service or fare change. An adverse effect for service can be defined as a geographical or temporal reduction in service that includes but is not limited to: elimination of a route, rerouting an existing route, or a decrease in frequency or span of service. For fare changes, an adverse effect can include, but is not limited to: increases in average fare, reduction of discounts for passes or groups of riders, or a reduction in access to discounted fare products such as those that may result from the introduction of new fare payment technology or other actions. CapMetro will consider the degree of adverse effects, and analyze those effects, when planning Major Service Changes and all fare changes.
- Disparate Impact** - A neutral policy or practice that disproportionately affects members of a group identified by race, color, or national origin, where CapMetro’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.

- **Disproportionate Burden** - A neutral policy or practice that disproportionately affects low-income populations more than non-low-income populations. A finding of disproportionate burden requires CapMetro to evaluate alternatives and mitigate burdens where practicable.
- **Emergency Service Adjustment** - Changes to routes, service frequencies, or service spans that may be necessitated by emergency situations (weather or otherwise) or a major catastrophe that severely impairs public health or safety, results in changes in access to public streets or rights-of-way, or restricts the ability to access CapMetro equipment needed to operate service.
- **Environmental Justice** - The fair distribution of the benefits and/or the burdens associated with Federal programs, policies, and activities, including recipients of Federal funding such as CapMetro.
- **Equity Analysis** - Analysis of proposed service or fare changes to determine if the burdens and benefits are equally distributed between minority and non-minority populations, and low-income and non-low-income populations.
- **Fare Change** - An increase or decrease in the riders' fare whether applicable to the entire system, or by mode, or by type of fare product or fare media. All fare changes regardless of the magnitude would require a Fare Equity Analysis, not including exceptions.
- **Fixed-Route** - Refers to public transportation service provided in vehicles operated along pre-determined routes according to a fixed schedule.
- **Low-Income population** - For purposes of this policy, low-income population is defined as any readily identifiable group of households who are at or below 125% of the United States Department of Health and Human Services Poverty Guidelines.
- **Minority Persons** - Persons who self-identify as being non-white under the United States Census Bureau guidelines. This includes American Indian and Alaskan Native, Asian, Black or African American, Hispanic, Latino or LatinX, and Native Hawaiian or Other Pacific Islander.
- **Minority Population** - Any readily identifiable group of minority persons who live in geographic proximity and if circumstances warrant, geographically dispersed/transient populations (such as migrant workers of Native Americans) who will be similarly affected.
- **Service Adjustment** - Any changes to service, such as reductions or increases to frequency, hours of operation (service span) or routing. Not all service adjustments will be considered Major Service Changes.
- **Title VI** - Title VI of the Civil Rights Act of 1964 (codified at 42 U.S.C. §2000D et seq.) prohibits discrimination on the basis of race, color or national origin by programs and activities receiving federal financial assistance.

3. MAJOR SERVICE CHANGE POLICY AND USE

The Major Service Change Policy has been developed in compliance with applicable federal requirements (Title VI of the Civil Rights Act 1964, 49 CFR Section 21 and FTA Circular 4702.1B). All Major Service Changes will be subject to a Service Equity Analysis that includes an analysis of adverse effects, as previously defined, along with any associated positive impacts. CapMetro shall consider the degree of adverse effects, and analyze those effects, when planning Major Service Changes. Additionally, when changes to service or fares involve improvements, the accrual of benefits should also be analyzed.

CapMetro will conduct a Title VI Service Equity Analysis whenever there is a Major Service Change, as defined below.

A Major Service Change is defined as the following:

1. The establishment of new fixed-route bus route;
2. The elimination of any fixed-route bus or rail route in its entirety;
3. A geographic change on a given transit route of 25% or more of its annual revenue miles;
4. A change of 25% or greater in the number of annual revenue hours provided; or
5. 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 above.

A Major Service Change is not defined as the following:

- Temporary additions to service lasting less than 12 months;
- Route renumbering with no underlying change;
- Schedule or service adjustments required by a third party that operates or controls the same right-of-way (such as road closure);
- New fixed-route bus or rail "Break in period" prior to the commencement of revenue service, lasting less than 12 months;
- Emergency service adjustments associated with weather or other emergency conditions; or
- Operations that result from circumstances beyond the control of CapMetro (such as construction).

CapMetro will conduct a Fare Equity Analysis under Title VI whenever a Fare Equity Analysis is required, as defined below.

A Fare Equity Analysis is required for the following:

- a. All fare changes, regardless of the percent of increase or decrease, are subject to a Fare Equity Analysis when contemplating a change; or
- b. For fare changes associated with the opening of a new fixed-guideway project, an equity analysis must be completed six months prior to the commencement of revenue service.

A Fare Equity Analysis is not required for the following exceptions:

- a. "Ozone Action Days" or other instances when Capital Metro has declared that all passengers ride free;
- b. Temporary fare reductions that are mitigating measures for other actions. For example, a reduced fare for passengers impacted by the temporary closure of a segment of a rail system for construction; or

- c. Promotional fare reductions. If a promotional or temporary fare reduction (such as response to emergency) lasts longer than six months, then FTA considers the fare reduction permanent and the transit provider must conduct a fare equity analysis.

CapMetro will also conduct a Service Equity Analysis for changes which, when considered cumulatively over a three-year period, meet the Major Service Change threshold. For Major Service Changes, the Service Equity Analysis will assess the quantity and quality of service provided and populations affected.

Equity Analyses will be based on the most recent passenger survey data for fare analyses, and ridership or census block group data for service changes if ridership survey data is not appropriate for the analysis undertaken.

Each Title VI Equity Analysis will be presented to the Capital Metro Transit Authority Board of Directors for its consideration and the results will be included in the subsequent CapMetro Title VI Program Update with a record of action taken by the Board.

4. DISPARATE IMPACT POLICY AND USE

The Disparate Impact Policy establishes a threshold that identifies when the adverse effects of a Major Service Change (defined above) as well as any fare changes, are borne disproportionately by minority populations (defined above), discovered through the conduct of a Service or Fare Equity Analysis.

Service and Fare Equity Analyses will compare existing service or fares to the proposed changes being contemplated, and calculate the absolute change as well as the percent change experienced by both minority and non-minority populations or riders.

For Service and Fare Equity Analyses, a Disparate Impact threshold of 2% will be used to determine if minority riders are more adversely affected, or less positively affected by the proposed change.

- Service or fare changes are determined to have a Disparate Impact on minority populations if the adverse impacts experienced by minority riders is greater than 2% when compared to the adverse impacts experienced by non-minority populations.
- Additionally, if benefits associated with service or fare changes accrue to non-minority populations greater than 2% when compared to minority populations, then this change will be determined to have a Disparate Impact.

4.1.

DISPARATE IMPACT MITIGATIONS

Should a proposed Major Service Change and/or Fare Change result in a Disparate Impact, CapMetro will consider modifying the proposed change to avoid, minimize or mitigate the Disparate Impact of the change. If CapMetro finds potential Disparate Impacts and then modifies the proposed changes in order to avoid, minimize, or mitigate Disparate Impacts, CapMetro will reanalyze the proposed changes in order to determine whether the modifications actually removed the potential Disparate Impacts of the changes.

After analyzing proposed mitigations, if a less discriminatory alternative does not exist, CapMetro may implement the proposed change only if:

- CapMetro has a substantial legitimate justification for the proposed change; and
- CapMetro can show that there are no alternatives that would have a less disparate impact on minority riders but would still accomplish CapMetro's legitimate program goals.

Where disparate impacts are identified, CapMetro will provide a meaningful opportunity for public comment on any proposed mitigation measures, including the less discriminatory alternatives that may be available.

5. DISPROPORTIONATE BURDEN POLICY AND USE

The Disproportionate Burden Policy establishes a threshold that identifies when the adverse effects of a Major Service Change (defined above) as well as any fare changes are borne disproportionately by low-income populations, discovered through the conduct of a Service or Fare Equity Analysis. While low-income populations are not a protected class under Title VI, there is a recognized overlap in environmental justice principles and the 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.

Equity Analyses will compare existing service or fares to the proposed changes and calculate the absolute change as well as the percent change experienced by both low-income and non low-income populations or riders.

For Service and Fare Equity Analyses, a Disproportionate Burden threshold of 2% will be used to determine if low-income riders are more adversely affected, or less positively affected, by the proposed change.

- Service or fare changes are determined to have a Disproportionate Burden on low income populations if the adverse impacts experienced by low-income riders is greater than 2% when compared to the adverse impacts experienced by non low-income populations.
- Additionally, if benefits associated with service or fare changes accrue to non low-income populations is greater than 2% when compared to low-income populations, then this change will be determined to have a Disparate Impact.

5.1.

DISPROPORTIONATE BURDEN MITIGATIONS

Should a proposed Major Service Change and/or Fare Change result in a Disproportionate Burden, CapMetro will take steps to avoid, minimize or mitigate impacts when practicable. CapMetro should also describe the alternatives available to low-income riders affected by service changes.