



February 16, 2021  
*Via Regulations.Gov*

U.S. Department of Transportation  
Docket Operations  
1200 New Jersey Avenue SE  
Washington, DC 20590

**Re: Comments Concerning the Strategic Plan on Accessible Transportation  
Docket No. DOT-OST-2021-0004**

The Consortium for Citizens with Disabilities (CCD) Transportation Task Force Co-Chairs thank you for the opportunity to provide feedback on the US Department of Transportation (DOT) draft Strategic Plan on Accessible Transportation (Strategic Plan). CCD is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

**Background**

Nearly 1 in 5 people in the U.S. has a disability (more than 57 million). In 1990, Congress passed the bipartisan Americans with Disabilities Act (ADA). In enacting the ADA, Congress sought to “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” As a result, 99% of public buses are equipped with ramps, far more curb ramps benefit the public, and there is improved provision of accessible transit to people with sensory disabilities. Yet, significant barriers to accessible, affordable transportation remain across modes.

Many people with disabilities are currently unable to obtain a driver license, and cannot afford to purchase an accessible vehicle. It’s critical that ride-share and on-demand services provide disability access, but many do not. A recent Bureau of Transportation Statistics (BTS) study of adults with disabilities found that roughly half of respondents 18 to 64 reported living in a household with income under \$25,000.<sup>1</sup>

Without affordable, accessible transportation people with disabilities are unable to contribute to and participate in their communities, to go grocery shopping or visit their doctor, drop children off at a school, and, today, many may not be able to travel for a COVID-19 test or vaccine. According to a National Conference on State Legislatures report, in 2012, people with disabilities who were not working reported lack of transportation as one of their biggest barriers to employment. A National Organization on Disability survey found that Income remains a barrier to transportation.<sup>2</sup>

## **Overall**

The CCD Transportation TF Co-Chairs thank DOT for this plan to create a system that is inclusive of people with disabilities. We support and seek to work with DOT to improve and ensure access across modes, including transit, public rights-of-way (PROW), micromobility, on-demand services, including Autonomous Vehicles (AVs), rail and air travel. The rights of people with disabilities must be prioritized, infrastructure drastically improved and accessibility baked in to *any* innovation. Thank you for including many of our member's suggestions provided during this past summer's online dialogue.

CCD Co-Chairs support the strategic plan as a start, and strongly recommends minor, but important, language changes and critical additions. We propose an additional guideline, deadline dates whenever possible, and details to enable a plan that will lead to measurable results and improve quality of life for *all* people with disabilities in the U.S. We also strongly urge DOT to prioritize the availability of accessible transportation options to COVID-19 testing or vaccination sites, and mobile testing and vaccine units.

## **Guiding Principles**

The proposed guiding principles: stakeholder collaboration, innovation, the complete trip and geographic equity are necessary for DOT to reach accessibility goals.

### *Regarding Stakeholder Collaboration*

In line with the principle of geographic equity, we encourage DOT to include Rural Transportation Planning Organizations (RTPOs) as a stakeholder as well.

### *Regarding Innovation*

We note that removing "unnecessary regulatory barriers" is often needed to encourage innovation; however, we encourage DOT not to shy away from the use of regulatory tools to incentivize the expansion of accessibility in all parts of the transportation system. Similarly, when establishing a research program to solve accessibility barriers, consider ensuring accessibility is a priority in all research projects, so that accessibility does not become an afterthought in transportation innovations or siloed in specific research projects.

### *Regarding Geographic Equity*

Please consider including territories and Tribal lands.

### *Recommending a Fifth Principle: Racial Equity*

We strongly encourage DOT to add a fifth principle of Racial Equity. Disabled Black, Indigenous and people of color face additional and systemic barriers to transportation in the U.S. As addressing racial equity is a priority for this administration, we ask that DOT intentionally consider the unique needs of disabled BIPOC in this Strategic Plan and across DOT's efforts.

In addition, we encourage DOT to consider the impact of income, and also the benefits transportation can have on employment, and the potential to employ people with disabilities in transportation industries. We further applaud DOT's inclusion of spontaneous and independent travel as a facet of the principles. The inability to travel spontaneously is a significant barrier for many people with disabilities.

### **Goals**

Goals 1 and 2 refer to the removal of *unnecessary* barriers. We propose reframing and setting as a goal removal of *all* barriers to people with disabilities. We struggle to identify any barriers that are necessary.

### ***Goal 1. Remove Unnecessary Barriers for People with Disabilities to Seek Licensure for, operate, and/or Ride in Passenger and Commercial Motor Vehicles***

*Regarding Strategy 1.1.1 Advance solutions that can further enable people with physical, sensory, and cognitive disabilities to use automated vehicles.*

We encourage the DOT to ensure that Vehicle Accessibility is not limited to automated vehicles and to elevate concerns about affordability and digital inclusion when considering the deployment of new technologies that empower new networks, operational models, and vehicle types.

*Regarding Strategy 1.1.4. Pave the way for safe deployment of new technologies that increase accessibility in transportation by evaluating relevant regulations and eliminating unnecessary regulatory barriers.*

The Strategic Plan must ensure the needs of disabled passengers and pedestrians are explicitly considered in Federal Motor Vehicle Safety Standard (FMVSS) reforms. The National Highway Traffic Safety Administration (NHTSA) is currently reviewing FMVSS to ensure regulations are in line with the future of mobility and AV design. This is an opportunity to make sure vehicles are safe and accessible for everyone. Side impact standard waivers should be reconsidered for newly designed vehicles and any new standards taking into consideration non-traditional

seating arrangements in AVs must include reference to wheelchair users and other people with disabilities.

In addition, NHTSA research programs and its Office of Civil Rights must be fully staffed with a budget for fully qualified expert full time employees for compliance reviews on a continuous basis, and research and regulation reform to ensure inclusivity now and in the future.

*Regarding Objective 1.2. Driver Licensure.*

Thank you for considering the needs of people with disabilities who seek to obtain a driver license, and operate or ride in a passenger or commercial motor vehicle. Many people with disabilities who seek a driver license face discrimination during the licensing process. Vigorous complaint and remediation processes, and compliance with the ADA is still required. Also, any licensing requirements for AVs must not discriminate based on disability.

*Regarding Objective 1.3 Commercial Motor Vehicle Licensure.*

Please consider the CCD Transportation Task Force' prior recommendations to eliminate discrimination and remove barriers to commercial driver licenses (CDLs) in manned and automated commercial driving systems for Deaf and Hard of Hearing drivers, and all people with disabilities.<sup>3</sup> We also note the current Federal Motor Carrier Safety Administration notice of proposed rulemaking on the Qualifications of Drivers; Vision Standard [Docket No FMCSA-2019-0049]. The proposed rule would replace the current vision exemption program for CDL applicants.

**Goal 2. Remove Unnecessary Barriers to Multimodal Accessibility of Public Rights-of-Way**

*Regarding Strategy 2.2.2. Facilitating implementation of State ADA Transition Plans*

Please include support for curb ramp and sidewalk surveys and identifying sources of funding for both repair and expansion of the sidewalk network.<sup>4</sup>

*Regarding Objective 2.3. Standards.*

We strongly encourage adoption of standards that are substantially similar to the Access Board's PROW 2011 guidelines with their input. Adoption should take place as soon as possible. Stakeholder engagement on future standards would be worthwhile.

*Regarding Objective 2.5. Transportation Workforce Development.*

Please include as a priority training and hiring of people with disabilities across the transportation industry, in DOT and state departments of transportation. Consider collaborations with Vocational Rehabilitation programs and emerging apprenticeship opportunities to create additional pathways to the transportation workforce.

***Goal 3. Enhance Opportunities for People with Disabilities to Walk, Roll, Cycle, and Use Micromobility Services and Other Innovative Mobility Technologies to the Greatest Extent Possible***

Thank you for considering the needs and challenges faced by people with disabilities walking, rolling, and using micromobility and other innovative modes. We recommend support for state and local agencies to fully utilize available funding sources to improve access to PROW, including Section 402 funds available through NHTSA's safety program. Currently, the funds may be directed to police for traffic stops and enforcement. Black drivers or pedestrians are more likely to be stopped by police than white drivers or pedestrians. Such enforcement has and can lead to permanent disability and even death of those stopped.<sup>5</sup> In addition, we note that 33-50 percent of police use-of-force incidents involve a person with a disability.<sup>6</sup> CCD encourages safety program funding be redirected towards infrastructure improvements and ADA compliance efforts.

Please include identifying ways to ensure access to broadband and any necessary technology for people with disabilities, especially those who may be low income or live in areas without broadband access. In the absence of expanding access to broadband and technology, please continue to encourage the development of low- or no-tech solutions to accessibility barriers.

*Regarding Strategy 3.2.1. Promoting Pedestrian and Bicyclist Accessibility and Safety.*

Please include being aware of racial and geographic inequities in terms of accessible infrastructure and the potential for racially biased police interactions and violence, and negative interaction for people with disabilities and police generally. We also encourage education of micromobility providers on the dangers of scooters and bikes which block PROW, and solutions, including provider in-app penalization options for micromobility abusers.

*Regarding Strategy 3.2.2. Evaluate research gaps regarding accessibility and safety for pedestrians and bicyclists with disabilities.*

Consider additional strategies to assess the inclusion of people with disabilities in national transportation surveys, such as also using Census Bureau definitions of disability to facilitate understanding how different disability types may impact travel and to promote comparisons across national data sources where appropriate.

*Regarding Strategy 3.3.1, sharing best practices on powered, unpowered, and adaptive micromobility devices, and work to full research gaps.*

We know that adaptive options have been designed, and where they have not, it is a matter of priority and potential (lack of) imagination. Encouraging inclusivity and reminding state and local DOTs of ADA obligations will aid in ensuring access for all in the future.

Finally, Strategy 3.3.1 refers to people with ‘differing abilities’. This phrase is considered to many to be euphemistic, and to some, offensive. Please refer to people with disabilities or disabled travelers.

***Goal 4. Support the Nation’s Public Transit Systems and Mobility Providers in Enhancing Accessibility for People with Disabilities***

*Regarding 4.1.1. Increase the number of accessible rail transit stations.*

The Strategic Plan states that the Federal Transit Administration and Federal Railroad Administration will prioritize making stations accessible. We recommend a survey of all inaccessible Amtrak and legal rail stations, and a detailed plan with deadlines to ensure full accessibility in the future.

Thank you for Strategy 4.3.1, collaborating with stakeholders to review accessibility standards for vehicles and systems.

*Regarding Strategy 4.4.1, improving collaboration between Federal aid recipients and secondary providers (eg, transit agencies and transportation network companies like Uber or Via).*

Please prioritize these services complementing rather than supplanting any existing transit service. Please also ensure on demand service providers (including AV providers) and government partners are aware that they must provide accessible, equitable service, and, at a minimum, compliance with the ADA’s equivalent service standard<sup>7</sup> for wheelchair users at the start. We strongly recommend updating the 2016 Dear Colleague Letter on Shared Mobility (Equity, Access for Shared Mobility Initiatives) as soon as possible.<sup>8</sup>

*Regarding Strategy 4.4.4. Improve mobility for individuals with disabilities and older adults by removing barriers to transportation service and expanding transportation mobility options*

Thank you for your continued support of Section 5310 programs. We also strongly encourage DOT’s continued support for and participation in the Coordinating Council on Access and Mobility.

***Goal 5. Advance Accessible Air, Motorcoach, and Rail Intercity Transportation Systems for People with Disabilities***

Air travel is inaccessible to many people with disabilities due to poor training and inaccessible aircraft and systems. The civil rights law protecting passengers with disabilities in air travel is the Air Carrier Access Act (ACAA), a weaker law compared to the Americans with Disabilities Act (ADA). The ADA specifies standards of access and a path of travel that transportation systems must adhere to as a way to provide equal access for people with disabilities. The U.S. Access Board issues the ADA Accessibility Guidelines (ADAAG) which define specific access to motorcoaches and passenger rail/Amtrak.

By contrast, the ACAA does not have defined standards of access to ensure safe and accessible egress into an airplane. Instead, it relies upon a paternalistic system of people with disabilities being physically lifted by other human beings and carried onto the plane. Before entering the plane, a person who uses a wheelchair has to transfer onto an “aisle chair” which airline personnel pull backwards into the plane to the passenger’s assigned seat. The aisle chair is an assistive device only designed to traverse a short distance. It has no padding or customized seating to ensure correct and healthy seating posture; no means of independent mobilization; and in many cases, requires being physically lifted / transferred onto it from the person’s personal wheelchair. Throughout this process to board and deplane an aircraft, many passengers with disabilities say that they have incurred bodily harm, including bumps, bruises, broken bones, and skin sores. The individual’s personal wheelchair is then taken away and typically stowed in the belly of the airplane for the flight. Airlines are required to return a person’s assistive device in the same condition in which it was received; yet, all too often the wheelchair comes back with broken parts, especially power wheelchairs. This violation leaves the person with a disability in some cases immobile and totally dependent until repairs can be completed.

The ACAA also fails to mandate textual access to PA announcements for deaf and hard of hearing passengers as well as captioning for in-flight entertainment.

Under the ACAA, there is very limited recourse that a person with a disability has when these violations occur. First, they can file a complaint with the airline; the airline is responsible for all damage to an assistive device and will make restoration. Second, the aggrieved can file a complaint with the Department. The Department will review the complaint and notify the airline of the complaint and then only if the Department feels the violation is egregious or is part of a pattern or practice by the airline will it issue a civil fine against the airline. There are no further means to ensure the person with a disability is made whole.

Unless and until these grave deficiencies with the ACAA regulations and the Department’s enforcement of the law are addressed, air travel for passengers with disabilities will remain an inherently unequal and inferior experience.

*Regarding Strategy 5.1.1. Speedily investigate disability-related complaints against airlines.*

The DOT’s Office of Aviation Consumer Protection (OACP) should respond within 90 days to disability-related complaints.

*Regarding Strategy 5.1.2. Promote passenger outreach and education.*

To ensure full access, OACP must ensure DOT websites meet Sec. 508 compliance standards and that all stakeholder meetings are conducted in a manner than is accessible for all participants.

FAA training must ensure airports recognize their responsibility to accommodate people with disabilities as a public service and public accommodation as required by Section 504 of the Rehabilitation Act of 1973 and the ADA. Airport facilities need to comply with ADAAG Standards. The U.S. Access Board also needs to issue, and the Department must adopt, standards of access for aisle chairs designed for boarding and deplaning.

Finally, FAA OCR must ensure airports are held in compliance for accessible transit systems of hotels and commuter transport shuttles that pick up and drop off on a fixed route or through demand response.

*Regarding Strategy 5.1.3. Improve guidance and regulation to foster an accessible air transportation system.*

The OACP must finalize the rule on Accessible Lavatories on Single-Aisle Aircraft: Part I (RIN 2105-AE88) and publish for notice and comment Accessible Lavatories on Single-Aisle Aircraft: Part II (RIN 2105-AE89) to ensure lavatory access for passengers with disabilities. The rules were the subject of a negotiated rulemaking in 2016 and have yet to be finalized.

OACP must also finalize the rule on captioning for in-flight entertainment, which was part of the 2016 negotiated rulemaking. Additionally, we urge OACP to publish a notice-and-comment on textual access to PA announcements, which was discussed during the aforementioned negotiated rulemaking but did not proceed as far as other topics of negotiation did.

In addition, the Final Rule on Traveling by Air with Service Animals (in effect Jan. 11, 2021) requires service animal handlers to provide written attestation to the behavior, health and training of their service animal. Although we believe that DOT should revise the rule to remove allowances for documentation related to health, behavior, and training, DOT must immediately ensure that airlines are providing the written attestation forms in accessible formats and assist passengers with completing the forms when necessary. DOT should review the forms to ensure they do not place an unnecessary burden on service animal handlers by requesting information that goes above and beyond the two questions that may be asked of a service animal handler in accordance with the ADA. DOT should also revise the rule to ensure access for larger service animals, and provide access for emotional support animals.

Finally, FAA should establish a staffed “hotline” for passengers with disabilities to call for assistance and to report violations.

*Regarding Strategy 5.1.4. Ensure airport operators’ compliance with Federal accessibility law*

The FAA’s Office of Civil Rights Airport Disability Compliance Program (ADCP) must be fully staffed with a budget to ensure compliance reviews on a continuous basis as required by the FAA Civil Rights business plan. FAA investigations must be completed within 90 days.

*Regarding Strategy 5.3.2. Improve the accessibility of passenger rail cars*

DOT should work with the U.S. Access Board to incorporate updated standards for fully accessible restrooms providing adequate turning radius for wheelchair users in rail car restrooms based on current data on accessibility needs rather than just focusing on under sink accessibility from a seated position from the toilet. New and refurbished Intercity passenger railcars also need to provide multimode information systems to provide information to all passengers. DOT should also study and encourage adoption of appropriate means to provide level entry boarding and alighting from intercity trains at stations with significant ridership rather than using 20th century portable platform lifts.

The CCD Transportation Task Force Co-Chairs thank you for the opportunity to provide feedback on the Strategic Plan. Please do not hesitate to contact us with any questions. We look forward to continuing to work with DOT in the implementation of the plan. Thank you for your commitment to ensuring people with disabilities have access to all transportation modes today and in the future.

Sincerely,

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<sup>1</sup> *Travel Patterns of American Adults with Disabilities*. Bureau of Transportation Statistics, 2018.

<https://www.bts.gov/travel-patterns-with-disabilities>

<sup>2</sup> *Getting to Work: Effective State Solutions*, National Conference of State Legislatures. May 2015.

<http://www.ncsl.org/research/transportation/getting-to-work-effective-solutions-to-help-people-with-transportation-challenges-access-jobs.aspx>

<sup>3</sup> CCD Transportation Task Force (July 19, 2019). *Comments concerning safe integration of automated driving systems-equipped commercial motor vehicles*, Docket Number: FMCSA-2018-0037-0136. Available at:

<http://www.c-c-d.org/fichiers/CCD-Transp-TF-Comments-FMCSA-2018-0037-0136-072919.pdf>

<sup>4</sup> See the Massachusetts Pedestrian Transportation Plan as an example of a plan that incorporates curb ramp and sidewalk analysis. Available at: <https://www.mass.gov/doc/ped-plan-initiatives-and-actions/download>

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<sup>5</sup> Pierre Thomas, Yun Choi, Jasmine Brown, and Pete Madden (September 9, 2020). *Driving while Black: ABC News analysis of traffic stops reveals racial disparities in several US cities*. ABC News. Available at: <https://abcnews.go.com/US/driving-black-abc-news-analysis-traffic-stops-reveals/story?id=72891419>

<sup>6</sup> Sarah Jones (June 19, 2020). *33-50 percent of police use-of-force incidents involve a person who is disabled*. 13 WTHR. Available at: <https://www.wthr.com/article/news/33-50-percent-of-police-use-of-force-incidents-involve-a-person-who-is-disabled-has-disability/531-011bddff-a5f0-4d2a-9ad2-6964623bc32d>.

<sup>7</sup> See 49 CFR 37.105

<sup>8</sup> DOT Dear Colleague Letter on Shared Mobility (Equity, Access for Shared Mobility Directives) (December 5, 2016). Available at: <https://www.transit.dot.gov/sites/fta.dot.gov/files/Dear%20Colleague%20Letter%20re%20Shared%20Mobility.pdf>