



RESOLUTION NO. 2013-41

**AUTHORIZING THE ADOPTION OF TITLE VI ENVIRONMENTAL
JUSTICE AND FARE POLICIES**

WHEREAS, the Federal Transit Administration (FTA) has issued revised Circular 4702.1B requiring Board adoption of a service change policy, disparate impact policy, disproportionate burden policy, and fare equity analysis policy; and

WHEREAS, COTA staff have updated the service change policy, and developed disparate impact, disproportionate burden, and fare equity analysis policies for Board review; and

WHEREAS, COTA has conducted two public meetings to solicit comments on the proposed policies.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Central Ohio Transit Authority.

Section 1. COTA's Board of Trustees approves the service change policy, disparate impact policy, disproportionate burden policy, and fare equity analysis policy in the attached Exhibit A.

Section 2. That the President/CEO be, and hereby is, authorized to take such further action and execute and deliver such further documents as, acting on the advice of counsel, shall be deemed necessary to carry out the intent of this Resolution.

Section 3. That the Authority finds and determines that all formal deliberations and actions of the Authority concerning and relating to the adoption of this Resolution were taken in an open meeting of the Authority.

Section 4. That this Resolution shall become effective upon its adoption.

Adopted: _____ **June 26, 2013**

Signed: _____
Dawn Tyler We
Chair, Board of Trustees

Attest: _____
[Signature]
President/CEO

CENTRAL OHIO TRANSIT AUTHORITY

STAFF SUMMARY AND COMMENTS

TITLE OF RESOLUTION: AUTHORIZING THE ADOPTION OF TITLE VI AND ENVIRONMENTAL JUSTICE SERVICE AND FARE POLICIES

DATE: JUNE 26, 2013

INITIATOR: DOUGLAS B. MOORE, VP PLANNING AND DEVELOPMENT

BUDGET/FUNDING INFORMATION	
APPROVED BUDGET AMOUNT:	CURRENT PROJECTED AMOUNT:
Operating Funds:	Operating Funds:
Capital Funds:	Capital Funds:
COTA Share \$	COTA Share \$
Federal/State \$	Federal/State \$
TOTAL: \$	TOTAL: \$

PROJECT JUSTIFICATION

The Federal Transit Administration (FTA) has recently changed the requirements related to Title VI of the Civil Rights Act of 1964 and the Executive Order on Federal Actions to Address Environmental Justice in Minority Populations and Low income Populations. Transit providers receiving federal funding are required to adopt policies in response to these requirements as summarized below:

Title VI Major Service Change Policy-establishes a threshold for a "major service change" and defines an "adverse impact" caused by the change.

Title VI Disparate Impact Policy-evaluates the impact of "major service changes" to determine if it disproportionately impacts a group identified by race, color or national origin without substantial legitimate justification and alternatives exist serving the same legitimate objectives with lesser impacts.

Environmental Justice Disproportionate Burden Policy- evaluates the impact of "major service changes" to determine if it disproportionately impacts low income populations.

Fare Equity Analysis Policy-evaluates the impacts of all proposed fare changes with respect to the impact upon minority and low income populations.

The proposed COTA policies are attached. COTA held two public meetings on the proposed policies.

BUDGET IMPACT

There is no budget impact.

DBE PARTICIPATION

Not applicable.

EXHIBIT A

PROPOSED TITLE VI MAJOR SERVICE CHANGE POLICY

COTA proposes to establish the Major Service Change Policy, found below, in compliance with applicable federal requirements under Title VI of the Civil Rights Act of 1964, including 49 CFR Section 21 and FTA Circular 4702.1B.

The FTA requires that recipients of FTA funding prepare and submit service equity analyses for proposed major service changes. The purpose of this policy is to establish a threshold that defines a "major service change" and COTA's definition of an "adverse impact" caused by a major service change.

COTA defines the threshold for a "major service change" as follows: A major service change is any twenty-five percent (25%) addition or reduction in the revenue hours of any line that would remain in effect for twelve or more months. This threshold is selected to yield a meaningful result in light of COTA's service characteristics. COTA shall subject all major service changes to a service equity analysis which includes an analysis of adverse effects on certain service populations.

For technical purposes, one revenue hour represents a coach being on the road for one hour. Three revenue hours represents one coach being on the road for three hours or three coaches being on the road for one hour each. By using revenue hours instead of revenue dollars, COTA can control for currency inflation and can better prepare for and evaluate major service changes.

COTA defines an "adverse effect" as follows: An adverse effect is a geographical or temporal reduction in service which includes but is not limited to: elimination of a line; shortening a line; re-routing an existing line; and an increase in coach headways. COTA recognizes that additions to service may also result in disparate impacts and disproportionate burdens, especially if the additions come at the expense of reductions in service on other lines. COTA shall consider the degree of adverse effects and analyze those effects when planning major service changes.

COTA shall engage the public in the decision-making process prior to adopting, altering, or amending this Major Service Change Policy and prior to implementing any major service change.

PROPOSED TITLE VI DISPARATE IMPACT POLICY

COTA proposes to establish this Disparate Impact Policy in compliance with applicable federal requirements under Title VI of the Civil Rights Act of 1964, including 49 CFR Section 21 and FTA Circular 4702.1B.

The FTA requires that recipients of FTA funding prepare and submit service equity analyses for proposed major service changes (defined in COTA's Major Service Change Policy). The purpose of this policy is to establish a threshold which identifies when the adverse effects (defined in COTA's Major Service Change Policy) of a major service change are borne disproportionately by minority populations.

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, where COTA'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.

COTA defines the threshold for a "disparate impact" as follows: Should the impact of any major service change require a minority population to bear adverse effects twenty percent (20%) or greater

than those adverse effects borne by the non-minority population, that impact will be deemed a disparate impact.

Should a proposed major service change result in a disparate impact, COTA will consider modifying the proposed change to avoid, minimize, or mitigate the disparate impact of the change. If COTA finds potential disparate impacts and then modifies the proposed changes to avoid, minimize, or mitigate potential disparate impacts, COTA will reanalyze the proposed changes to determine whether the modifications actually removed the potential disparate impacts of the changes.

In accordance with FTA guidance, COTA will not alter this Disparate Impact Policy until its next Title VI Program Submission, though COTA maintains the freedom to select the most appropriate and informative dataset for use in minority population service equity analyses.

COTA shall engage the public in the decision-making process prior to adopting, altering, or amending this Disparate Impact Policy.

PROPOSED ENVIRONMENTAL JUSTICE DISPROPORTIONATE BURDEN POLICY

COTA proposes to establish this Disproportionate Burden Policy in compliance with applicable federal Environmental Justice requirements under Executive Order 12898 and FTA Circular 4702.1B

The FTA requires that recipients of FTA funding prepare and submit service equity analyses for proposed major service changes (defined in COTA's Major Service Change Policy). The purpose of this policy is to establish a threshold which identifies when the adverse effects (defined in COTA's Major Service Change Policy) of a major service change are borne disproportionately by low-income populations.

A "disproportionate burden" refers to a facially neutral policy or practice that disproportionately affects low-income populations more than non-low-income populations.

For purposes of this policy, "low-income population" is defined as follows: A low-income population is any readily identifiable group of households who live in geographic proximity and whose median household income is at or below 150% of the Department of Health and Human Services Poverty Guidelines.

COTA defines the threshold for a "disproportionate burden" as follows: Should the burden of any major service change require a low-income population to bear adverse effects twenty percent (20%) or greater than those effects borne by the non-low-income population, that impact will be considered a disproportionate burden.

Should a proposed major service change result in a disproportionate burden, COTA will consider modifying the proposed change to avoid, minimize, or mitigate the disproportionate burden of the change. If COTA finds a potential disproportionate burden and then modifies the proposed changes to avoid, minimize, or mitigate potential disproportionate burdens, COTA will reanalyze the proposed changes to determine whether the modifications actually removed the potential disproportionate burden of the changes.

COTA maintains the freedom to select the most appropriate and informative dataset for use in low-income population service equity analyses. COTA shall, however, use the same comparison population data in low-income population service equity analyses as it uses for minority population service equity analyses. For example, if COTA uses ridership surveys to determine the comparison population in minority population service equity analyses, COTA will also use ridership surveys to determine the comparison population for low-income service equity analyses.

COTA shall engage the public in the decision-making process prior to adopting, altering, or amending this Disparate Impact Policy.

PROPOSED FARE EQUITY ANALYSIS POLICY

COTA proposes to establish this Fare Equity Analysis Policy in compliance with applicable federal requirements under Title VI of the Civil Rights Act of 1964, including 49 CFR Section 21, as well as Environmental Justice requirements under Executive Order 12898 and FTA Circular 4702.1B.

Except for those limited and unique conditions noted below, the FTA requires that recipients of FTA funding prepare and submit fare equity analyses for all proposed fare changes, regardless of increase or decrease. As with the service equity analyses required under Title VI and federal Environmental Justice guidelines, the FTA requires COTA to evaluate the effects of fare changes on minority populations and low-income populations. COTA's Fare Equity Analysis Policy is a stand-alone provision, separate from COTA's Major Service Change Policy. COTA's Fare Equity Analysis Policy operates in tandem with any other COTA policies for changing the fare structure, fare media, or fare price.

For purposes of this policy, "minority population" is defined as follows: A minority population is any readily identifiable group of minority persons (persons identified by race, color, or national origin) who live in geographic proximity.

For purposes of this policy, "low-income population" is defined as follows: A low-income population is any readily identifiable group of households who live in geographic proximity and whose median household income is at or below 150% of the Department of Health and Human Services Poverty Guidelines.

This policy incorporates by reference the definitions of "disparate impact" and "disproportionate burden" from COTA's Title VI Disparate Impact Policy and COTA's Environmental Justice Disproportionate Burden Policy, respectively.

This policy incorporates by reference the percentage thresholds for "disparate impact" and "disproportionate burden" from COTA's Title VI Disparate Impact Policy and COTA's Environmental Justice Disproportionate Burden Policy, respectively.

For proposed changes that would increase or decrease the fares on the entire system, or on certain transit modes, or by fare payment type or fare media, COTA shall analyze any available information generated from ridership surveys indicating whether minority and/or low-income riders are disproportionately more likely to use the mode of service, payment type, or payment media that would be subject to the fare change.

COTA shall then—

- (i) Determine the number and percent of users of each fare media being changed;
- (ii) Review fares before the change and after the change;
- (iii) Compare the percentage differences for each particular fare media between minority users and overall users; and
- (iv) Compare the percentage differences for each particular fare media between low-income users and overall users.

Should a proposed fare change result in a disparate impact, COTA will consider modifying the proposed changes to avoid, minimize, or mitigate the disparate impact of the change. If COTA finds a potential disparate impact and then modifies the proposed changes to avoid, minimize, or mitigate

potential disparate impacts, COTA will reanalyze the proposed changes to determine whether the modifications actually removed the potential disparate impacts of the changes.

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

If COTA chooses not to alter the proposed fare changes despite the disparate impact on minority ridership, or if COTA finds, even after the revisions, that minority riders will continue to bear a disproportionate share of the proposed fare change, COTA may implement the fare change only if:

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

If at the conclusion of the analysis, COTA finds that low-income populations will bear a disproportionate burden of the proposed fare change, COTA will consider modifying the proposed changes to avoid, minimize, or mitigate the disproportionate burdens of the change, where practicable.

Exceptions. COTA will not require a fare equity analysis for the following conditions:

- (i) "Spare the air days," snow emergencies, or other instances when COTA had declared that all passengers ride free;
- (ii) Temporary fare reductions that are mitigating measures for other actions; and
- (iii) Promotional fare reductions that last less than six months in duration.

COTA shall engage the public in the decision-making process prior to adopting, altering, or amending this Fare Equity Analysis Policy.