



# **Appendix H: Major Service Change, Disparate Impact and Disproportionate Burden Policies**



# MARIN TRANSIT

## MAJOR SERVICE CHANGE POLICY

Policy #:	CR-01
Subject:	Major Service Changes (Title VI)
Effective Date:	April 21, 2014
Revision Date:	April 3, 2023

## Major Service Change Policy

This policy defines what constitutes a “major service change” for Marin Transit. For any major service change, staff must hold a public hearing and conduct an equity analysis to determine if a proposed change would result in an unequal distribution of burdens or benefits. See Public Hearing Policy (AD-02) for protocols on public hearings and see *Policy for Establishing Disparate Impact or Disproportionate Burden Policy* (CR-02) to understand thresholds for equity analyses and how to apply them.

A proposed change in service will be considered a “major service change” if it meets one of the following criteria:

1. **Changes to revenue hours:** Any aggregate change of 30 percent or more of the number of transit revenue hours of a route for the day of the week for which the change is proposed. Transit revenue hours refers to the amount of time that a bus is available to carry passengers.
2. **Changes to routing:** Any changes in the routing of a bus route that alters 40 percent or more of the route’s path (deadhead path not included).
3. **New transit service:** Any new transit service on a local street for one-quarter mile or more and that includes one or more bus stops. This only applies to new service on streets that have not previously been used by any transit route, that are not major arterial streets nor designated truck routes.

The following do not constitute a “major service change” and therefore do not require a public hearing nor an equity analysis:

- **Changing route numbers:** Changing route numbers, including splitting or combining two or more routes, does not constitute a new transit route. However, if the reassignment will impact the number of transit revenue hours or the route path, the criteria above should be considered.
- **Standard seasonal variations:** Standard seasonal variations do not constitute a major service change, unless the variations, as compared to operations during the previous season, fall within the definition of major adjustments in transit service listed in the criteria above.
- **Very low-frequency services:** Changes to service on routes with fewer than 1,000 total revenue hours in a year does not constitute a major service change.
- **Demonstration/Pilot Services:** Introduction or discontinuation of short- or limited-term service as long as the service will be or has been operated for no more than twelve months.<sup>1</sup> These may include promotional, demonstration, seasonal or emergency service changes, or service provided as a mitigation or diversion for construction or other similar activities. Emergency service changes include changes to routes or service frequencies that result from a disaster that severely impairs public health or safety; changes in access to public streets (such as street closures); or the ability of District equipment to travel on public streets.

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<sup>1</sup> FTA Circular 4702.1B specifies, Chapter VI, page 13: A transit provider may exempt a temporary addition of service (e.g., demonstration projects), including those that would otherwise qualify as a major service change, from its definition of major service change. If a temporary service addition or change lasts longer than twelve months, then FTA considers the service addition or change permanent and the transit provider must conduct a service equity analysis if the service otherwise qualifies as a major service change.



**MARIN TRANSIT  
POLICY FOR ESTABLISHING  
DISPARATE IMPACT OR  
DISPROPORTIONATE BURDEN**

Policy #:	CR-02
Subject:	Disparate Impact and Disproportionate Burden (Title VI)
Effective Date:	April 21, 2014
Revision Date:	April 3, 2023

## Introduction

Title VI of the federal Civil Rights Act of 1964<sup>2</sup> prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. Those characteristics are considered protected, and persons with those characteristics are referred to as a protected class. As a recipient of Federal Transit Administration (FTA) funding, Marin Transit is required to comply with Title VI of the Civil Rights Act of 1964 and Executive Order 12898 on Environmental Justice<sup>3</sup> as defined in 42 U.S.C Section 2000d.

Title VI requires Marin Transit to conduct service and fare equity analyses prior to implementing major service changes or fare changes (except promotional/temporary changes) to determine whether the proposed changes will have a disparate impact on the basis of race, color, or national origin and to mitigate those impacts where possible. In addition, although low-income populations are not a protected class under Title VI, FTA Circular 4701.1B states that there is an “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.”<sup>4</sup>

Title VI requires the following policies to be adopted:

- *Major Service Change Policy*: Defines what constitutes a “major service change” for Marin Transit; only “major service changes” are subject to a service equity analysis.
- *Disparate Impact Policy*: This policy establishes a threshold for determining when adverse effects of proposed service or fare changes are borne disproportionately by minority populations.
- *Disproportionate Burden Policy*: This policy establishes a threshold for determining when adverse effects of proposed service or fare changes are borne disproportionately by low-income populations.

The *Major Service Change Policy* is Marin Transit Policy CR-01, a separate, but related Title VI Policy. This policy, CR-02, encompasses both the *Disparate Impact Policy* and *Disproportionate Burden Policy*.

## Purpose

Transit operators are required to evaluate the impacts of proposed major service changes or fare changes on minority and low-income populations and to establish specific measures to avoid, minimize and mitigate inequitable impacts that may be experienced by these populations due to these changes.

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<sup>2</sup> U.S. Department of Justice Title VI of the Civil Rights Act of 1964: <https://www.justice.gov/crt/fcs/TitleVI>.

<sup>3</sup> The requirements described here apply only to transit providers that operate 50 or more fixed route vehicles in peak service and are located in a UZA of 200,000 or more in population. If at any point Marin Transit does not meet these thresholds, these policies should be revisited.

<sup>4</sup> FTA Circular 4702.1B - Title VI Requirements and Guidelines for Federal Transit Administration recipients, issued October 1, 2012; Chapter IV, Section 7. [https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA\\_Title\\_VI\\_FINAL.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA_Title_VI_FINAL.pdf)

The purpose of this *Policy for Establishing Disparate Impact or Disproportionate Burden* is to establish thresholds for determining if a major service change or fare change proposal would result in a fair distribution of positive and negative effects on minority and low-income populations or if it would result in a disparate impact<sup>5</sup> on minority populations or a disproportionate burden<sup>6</sup> on low-income populations, as defined by FTA Circular 4702.1B.<sup>7</sup>

## Conducting Equity Analyses

A typical measure of disparate impact involves a comparison between the proportion of persons in the protected class (minority) who are affected by the service or fare change to the proportion of persons not in the protected class that are affected by the service of fare change (non-minority).<sup>8</sup> Analysis should compare both adverse impacts and benefits. For disproportionate burden, the same comparison would be undertaken, comparing the share of low-income persons affected to the share of non-low-income persons affected. After conducting the analysis, a comparison to the thresholds below should be conducted.

### Data sources

For service changes, this analysis can be done using one of two data sources:

- Passenger survey data by route or
- Census data for block groups within walking distance of the affected stops/routes.

For fare changes, this analysis can be done using passenger survey data by fare payment type.

### Disparate Impact on Minority Populations

Fare or major service change proposals are determined to have a *Disparate Impact* on minority populations if, cumulatively, the benefits of the changes accrue to minority populations 20% less than to non-minority populations, or the adverse effects of the changes accrue to minority populations 20% more than to non-minority populations.

### Disproportionate Burden on Low-Income Populations

Fare or major service change proposals are determined to have a *Disproportionate Burden* on low-income populations if, cumulatively, the benefits of the changes accrue to low-income populations 20%

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<sup>5</sup> Disparate impact refers to a neutral policy or practice that disproportionately affects members of a group identified by race, color, or national origin, where the transit provider's policy or practice lacks a substantial legitimate justification and where there exist 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.

<sup>6</sup> 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 burden requires the transit provider to evaluate alternatives and mitigate burdens where practicable.

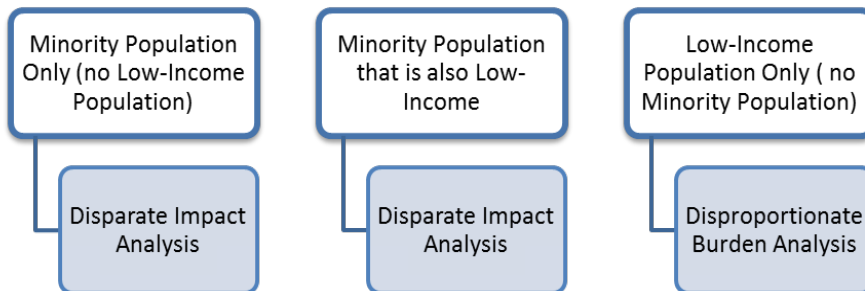
<sup>7</sup> "The...threshold defines statistically significant disparity and may be presented as a statistical percentage of impacts borne by minority [and low income] populations compared to impacts borne by non-minority [and non-low income] populations. The...threshold must be applied uniformly...and cannot be altered until the next Title VI Program submission."

<sup>8</sup> FTA C4702.1 B: Chapter IV-14

less than to non-low-income populations, or the adverse effects of the changes accrue to low-income populations 20% more than to non-low-income populations.

## Applying Policies

When minority populations significantly overlap with low-income populations, Marin Transit will choose to use the disparate impact analysis as outlined in FTA Circular 4702.1B, as illustrated below.



Source: FTA Circular 4702.1B

## Mitigating Impacts

Where Marin Transit identifies disparate impacts on minority populations due to proposed fare and major service changes, the District will take steps to avoid, minimize or mitigate the impacts including revising the fare or service change proposal to address the impacts. If Marin Transit finds that they are unable to mitigate a disparate impact after considering other service or fare change proposals, Marin Transit can only implement the service or fare change if they have a substantial legitimate justification for the service or fare change or the District can demonstrate that there are no alternatives available that would have a less disparate impact on minority riders.

Where Marin Transit identifies a disproportionate burden on low-income populations due to a proposed fare or service change, the District will take steps to avoid, minimize or mitigate the impacts where practicable. The District will describe alternatives available to low income riders affected by the service or fare change.

Marin Transit will provide a meaningful opportunity for public comment on any proposed mitigation measures. This will include discussion of less discriminatory alternatives that may be available, in advance of any action on the proposals that the Board of Directors may approve.

## Definitions

**Adverse Impact:** Adverse impacts includes, but is not limited to:

- Service: Reduction of service frequency or span of service
- Fares: Increase in fares, decrease in fare discount, or reduction in access to fare media.

**Major Service Change:** What constitutes a major service change is defined by the *Major Service Change Policy*, CR-01. As defined in that policy, only major service changes require an equity analysis; as such,

the exceptions listed there – of the types of changes that do not constitute a major service change – do not require an equity analysis.

**Fare Changes:** A fare equity analysis is required for any increase or decrease in fares, regardless of the magnitude, with the following exceptions:

- Spare the Air Days, or other limited-duration instances when Marin Transit and/or a local municipality or agency has declared that all passengers ride free.
- Temporary fare reductions that are mitigating measures for other actions or extenuating conditions.
- Promotional fare reductions that last less than 6 months.

**Low-Income:** For the purposes of this policy, definition of low-income should adhere to regional definition of low-income, which is 200% of the Federal Poverty Guidelines at time of writing per MTC Clipper START policy.

**Walking Distance:** For the purposes of this policy, walking distance is defined as one-quarter mile.