

Chapter 2

Relevant Legislation and Eligibility

Chapter 2 Overview

- ✓ Outlines **federal legislation and regulations** including: Section 5310 and 5311, TEA-21, the Older Americans Act, Americans with Disabilities Act, Commercial Motor Vehicles Safety Act, the Social Security Act and IRS regulations.
- ✓ Outlines **state legislation** including: the Elderly and Disabled Public Transportation Assistance Act, Motor Carrier regulations, and the Coordinated Transit District Act.
- ✓ Outlines **provider and coordinated transit district roles and responsibilities** in administering transit programs.

NOTES

Agencies receiving funds from KDOT and the FTA are required to comply with a number of federal and state regulations associated with the transit program. This section discusses the major legislative acts that a provider will need to be familiar with. The information presented is a broad overview of the programs and policies that may impact transportation activities. Some of these programs are funding programs, while others discuss accessibility or safety issues.

A. Federal Legislation

- ◆ ***Federal laws that affect transit agencies:***
 - ✓ Section 5310 and 5311,
 - ✓ the Americans with Disabilities Act (ADA),
 - ✓ the Older Americans Act (OAA),
 - ✓ Medicaid,
 - ✓ Commercial Drivers License Act (CDL),
 - ✓ the Intermodal Surface Transportation Efficiency Act (ISTEA), and
 - ✓ the Transportation Equity Act for the 21st Century.

All of the above legislation provides funding for transportation programs with the exception of ADA and CDL legislation. The ADA and CDL are non-funded regulatory requirements to which states and individual providers must adhere. Table 2.1 covers relevant federal and state legislation.

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Table 2.1: Relevant Federal and State Legislation

	Legislation	Major Provisions
Federal	Section 5310	◆ Furthers the access of the elderly and disabled to mass transportation facilities and services.
	Section 5311	◆ Assists in the development, improvement and use of public transit in rural and small urban areas with less than 50,000 population.
	Transportation Equity Act for the 21 st Century (TEA-21)	◆ Continues and improves current, successful ISTEA programs while working to improve safety, strengthen communities, and increase economic growth by providing efficient and flexible transportation possibilities. TEA-21 guarantees funding for highway and transit programs through Fiscal Year 2003.
	Older Americans Act	◆ Enhances the quality of life for older Americans by increasing access to services and public facilities.
	Americans with Disabilities Act	◆ Ensures Americans with disabilities equal and accessible transportation.
	Commercial Motor Vehicle Safety Act	◆ Provides a uniform federal standard for Commercial Drivers' Licenses (CDL), ensuring that operators of commercial and public transportation vehicles are competent to operate large product and passenger vehicles.
	Social Security Act	◆ Designed to assist low-income individuals, the elderly, and persons with disabilities obtain essential health care.
State	The Elderly and Disabled Public Transportation Act	◆ Established the Elderly and Handicapped Public Transportation Assistance Fund, which provides financial and administrative assistance to public and private transportation providers.
	Coordinated Transit District Act	◆ Enhances coordination and management of state and federal transportation funds.

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- ◆ ***Roles for providers and the CTDs in the administration of Federal programs:***
 - ✓ contract with KDOT to provide transportation and oversight services for funding and
 - ✓ may also become the designated fund recipients for some federal funds such as Medicaid and Older Americans Act funds.

- ◆ ***Section 5311 Program***
 - ✓ Section 5311 distributes federal funds to each state on a formula basis. These funds improve public transportation in non-urbanized areas.
 - ✓ Regulations for the 5311 program can be found in the 49 U.S.C. 5311 Circular or in the Kansas Department of Transportation State Management Plan for Kansas Public Transportation Programs.
 - ✓ The funds are apportioned to Kansas on a population-based formula and may be used for all projects.
 - ✓ The state's annual program of projects requires maximum feasible coordination with transportation services assisted by other Federal sources.
 - ✓ ***Eligible Assistance Categories:***

An amount not to exceed 15 percent of the state apportionment may be used for state administration, planning, and technical assistance activities. Funds may be used for rural and small urban areas of less than 50,000 population.

 - planning,
 - capital,
 - operating, and
 - administrative assistance
 - ✓ ***Eligible Recipients***
 - state agencies,
 - local public bodies,
 - nonprofit organizations,
 - Indian tribes and groups, and
 - operators of public transportation services.

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- ◆ ***Section 5310 Program***
 - ✓ The Section 5310 Program is designed to further the access of elderly persons and persons with disabilities to mass transportation facilities and services.
 - ✓ Regulations for the 5310 program can be found in the 49 U.S.C. 5310 Circular or the Kansas Department of Transportation State Management Plan for Kansas Public Transportation Programs.
 - ✓ ***Eligible Assistance***

Funds for the Section 5310 program may be used for capital assistance programs in urban, small urban, or rural areas. Examples of acceptable expenses are the purchase of buses, vans or other paratransit vehicles, radios and communications equipment, wheelchair lifts and restraints, and computer hardware or software. The Federal share of eligible capital costs is not to exceed 80 percent of the net cost of the program.
 - ✓ ***Eligible Recipients***
 - Private Nonprofit Agencies
 - Public Bodies
 - 1.) If they are approved by the state to coordinate services for elderly and persons with disabilities.
 - 2.) If they certify that no nonprofit organizations are readily available to provide the service.
- ◆ ***Transportation Equity Act for the 21st Century (TEA-21)***
 - ✓ TEA-21, signed into law June 9, 1998, represents the largest public works act in U.S. history and replaces the previous Intermodal Surface Transportation Efficiency Act (ISTEA).

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- ✓ **Provisions**
 - Continues and improves current, successful ISTEA programs while working to improve safety, strengthen communities, and increase economic growth by providing efficient and flexible transportation possibilities.
 - Guarantees funding for highway and transit programs through Fiscal Year 2003.
 - For rural transportation, TEA-21 increases funding for Section 5311 programs by 32 percent.

- ◆ **The Older Americans Act of 1965 (OAA)**
 - ✓ **Objective and Policy**
 - The overall objective of the OAA is to enhance the quality of life for older Americans by increasing access to services and public facilities.
 - To achieve this objective, local governments and transportation agencies are required to provide specific services and to guarantee access to all types of facilities.
Transportation is an eligible program for funding under Title III and Title IV.
 - Title III provides grants for community planning, services and training. Title III funds can be used to pay for part of the expenses of providing supportive services, in-home elder services, multipurpose senior centers and the delivery of legal services.
Transportation, in the form of taking individuals to and from service sites and in delivering in-home programs, is eligible for funds.
 - ✓ The CTD may prioritize and apply for OAA funds on behalf of various members.

- ◆ **Americans with Disabilities Act of 1990 (ADA)**
 - ✓ ADA is a civil rights bill which contain strict mandates for all types of public and private entities.

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- ✓ **Provisions**
 - Ensures Americans with disabilities equal transportation.
 - Ensures Americans with disabilities accessible transportation.
- ✓ **ADA Legislation**
 - The majority of ADA regulations are located in Title II and Title III of the ADA bill, which discuss transportation services for fixed-route and demand response systems.
- ✓ **Distinguishing between various services and providers**
 - The ADA has different requirements for public and private transit providers.
 - ADA also distinguishes between fixed-route and demand responsive services.

◆ Table 2.2 distinguishes between demand responsive and fixed-route services.

Table 2.2: Demand Response and Fixed-Route Services

Service Type	Characteristics
Demand Responsive	<ul style="list-style-type: none"> ◆ If a phone call is necessary to access the system, the service is demand response. ◆ Demand response services are not required to establish a separate complementary paratransit service.
Fixed-Route	<ul style="list-style-type: none"> ◆ Fixed-route services are initiated independently from public requests and follow a regular, predetermined route, stopping at designated points along the route. ◆ Any transit provider that operates a fixed-route service must provide a complementary paratransit service for those persons with disabilities who are unable to ride on the fixed route or get to the bus stop.

- ✓ Provider agencies are responsible for ensuring compliance with the appropriate ADA requirements.
- ◆ **Commercial Motor Vehicle Safety Act of 1986**
 - ✓ The Commercial Motor Vehicle Safety Act of 1986 provides a uniform Federal standard for Commercial Drivers' Licenses (CDL), ensuring that operators of commercial and public

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transportation vehicles are competent to operate large product and passenger vehicles.

- ✓ ***Federal Regulations***
 - Federal law mandates that any vehicle over 26,001 pounds or which is designated to carry 16 or more passengers including the driver must be operated by an individual with a CDL.
 - When a vehicle is in use that does not have a passenger capacity rating by the manufacturer, the number of seats in the vehicle must be counted.
 - In the case of modified vehicles with extended jump seats, all the seats must be extended and counted.
 - In addition to the Federal regulations, the State of Kansas recognizes the need for a CDL if the vehicle is transporting any hazardous material.
- ✓ ***CDL Testing and Eligibility***
 - Drivers may receive a CDL after passing a written test and a driving test designed specifically for commercial and public transit licensing.
 - To be eligible for the test, an individual must be 18 years of age to transport passengers or property and 21 years of age if they require a CDL with a certificate to transport hazardous waste.
 - The driving test must be taken either in the vehicle that the individual will be driving to transport persons or property or a vehicle of comparable size.
 - Provider agencies are responsible for ensuring that appropriate drivers have received a CDL and will also ensure that the license renewal is kept current.
- ◆ ***The Social Security Act of 1965—Medicaid***
 - ✓ Medicaid, also known as Title XIX, was created as a part of the Social Security Act of 1965 and was designed to assist low-income individuals, the elderly, and persons with disabilities obtain essential health care. With new regulations in

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1969, states were required to ensure access for all eligible recipients, incorporating a transportation component to the law.

✓ ***Becoming a Certified Medicaid Transportation Provider***

- A provider must contact the Area Office of the Department of Social and Rehabilitation Services (SRS) for application information. Information concerning specific eligible trips and reimbursement schedules is outlined in the State Management Plan.

✓ ***Eligible Transit Services***

- Ambulance Service to Eligible Recipients
- Non-ambulance service to eligible recipients. Under the non-ambulance category, providers are generally classified as commercial or non-commercial.

✓ ***Eligible Providers for Medicaid Certification***

- *Commercial Providers*
 - Nonprofit Providers
 - For-profit providers such as taxi or wheelchair van companies.
- *Non-commercial Providers* who transport a recipient to a medically necessary appointment when no eligible commercial providers exist in the area, including:
 - Friends,
 - Families, or
 - Neighbors

✓ ***Eligible trip purposes for medically necessary purposes***

- *In-town trips*

Trips to clinics, health care for children, and other eligible health care services are covered by the in-town designation.
- *Out-of-town trips*

Transferring a rural resident to an urban treatment facility is covered by the out-of-town designation.

- ✓ Rates are set through negotiations with each individual SRS office based on rate guidelines set by **Medical Services** in Topeka. However, a rate negotiated with one area office is valid for transit providers throughout the state.

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- ✓ In the instance when the CTD becomes the designated recipient for Medicaid funding, the CTD may receive a provider number from Medical Services so that it can perform billing for Medicaid trips. The CTD will then be responsible for gathering together all the reimbursable charges for each of the member providers.

B. IRS Regulations

◆ *IRS Form 990 and 990 EZ*

- ✓ *Required 990 Filing*
 - An IRS Form 990 or Form 990 EZ is filed by a nonprofit organization in lieu of an income tax form and is required by US Section 6033.
 - All organizations exempt from income tax under IRS Section 501(c) or 4947(a)(1) are required to file a 990 form for information purposes, with exceptions being churches and organizations with annual receipts totaling less than \$25,000.
 - Although nonprofit organizations are not expected to pay taxes, those that meet a certain revenue threshold are required by federal law to file these standardized financial statements with the IRS.
- ✓ *Information Required*
 - Statement of revenue,
 - expenses,
 - changes in assets,
 - program service accomplishments,
 - balance sheets, and
 - reconciliation information.
- ✓ *Public Availability of Information*

Recent legislation has further required that these 990 forms be made readily available to the public. Nonprofits are required to provide 990 information for the previous three years to any public body requesting the information. Prepared 990 forms are available on the Internet.

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C. State Legislation

- ◆ ***The Elderly and Disabled Public Transportation Assistance Act***
 - ✓ The Elderly and Disabled Public Transportation Assistance Act established the Elderly and Handicapped Public Transportation Assistance Fund, which provides financial and administrative assistance to public and private transportation providers.
 - ✓ Eligible Assistance Categories
 - Coordinated development
 - Improvement of transportation for the elderly and persons with disabilities

- ◆ ***Motor Carrier Regulations***
 - ✓ Since different types of carriers are subject to different regulations for legal operation, it is important to become familiar with legislative requirements for passenger vehicles. Legislation can be found in the Kansas Statutes Annotated, Chapter 66-1 and Chapter 8.

- ◆ ***Coordinated Transit District Act***
 - ✓ In 1992, the Kansas legislature passed the Coordinated Transit District Act that authorized the formation of CTDs in Kansas.
 - ✓ The purpose of this act is to enhance coordination and management of state and federal transportation funds.
 - ✓ ***CTD Responsibilities***
 - The CTD is the designated recipient of operational funds for the Section 5310 and 5311 programs.
 - The CTD collects and prioritizes applications for funds from transit providers.
 - The CTD monitors provider compliance.

Chapter 2 Checklist

- Does your agency comply with all applicable federal and state legislation?
- Is your agency eligible for Medicaid transportation and have you followed the appropriate steps to become a certified Medicaid provider? 2-8