



DISPARATE IMPACT AND DISPROPORTIONATE BURDEN POLICY

The Federal Transit Administration (FTA) Title VI Circular 4702.1B requires BART to develop a Disparate Impact and Disproportionate Burden Policy for use in the assessment of proposed Major Service Changes or fare changes.

Statement of Policy:

The purpose of the Disparate Impact and Disproportionate Burden Policy is to establish a threshold that defines when impacts of a Major Service Change (see BART's Major Service Change Threshold) or a fare change result in disproportionate impacts on minority or low-income¹ populations or riders. A finding of disproportionate impacts would determine whether BART may need to take additional steps, as defined in this Policy.

Definitions:

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. A Disproportionate Burden refers to a neutral policy or practice that disproportionately affects low-income populations. The thresholds, established by this Policy, will be used to assess impacts on protected populations or riders.

Disproportionate Impact:

The following definitions of disproportionate will apply to determine Disparate Impact and Disproportionate Burden on protected populations or riders.

1. For across the board and other fare changes, BART will compare the changes in the average fare for protected riders and non-protected riders. A fare change will be considered to have a disproportionate impact when the difference between the changes for protected riders and non-protected riders is equal to or greater than 5%. When

¹ Low-income person: BART defines low income as 200% of the federal poverty level. This definition takes into account the high cost of living in the Bay Area and is consistent with the Metropolitan Transportation Commission's definition. For reference, this threshold categorizes a four-person household with an annual income under \$47,100 as low income. When compiling information about the low-income populations within the BART service area using census data, this 200% threshold is used. When compiling information specifically about BART riders using survey data, the low-income definition is expanded to include all riders with annual household incomes under \$50,000. This modified definition approximates the 200% threshold definition using existing survey income categories.

setting new fares, including for new modes, media, or service, a 10% threshold shall apply.

2. For fare changes to individual fare types, BART will assess whether protected riders are disproportionately more likely to use the affected fare type or media. Impacts will be considered disproportionate when the difference between the protected ridership using the affected fare type and the protected ridership of the overall system is greater than 10%. When the survey sample size of the ridership for the affected fare type is too small to permit a determination of statistical significance, BART will collect additional data.
3. Adverse effects of an existing Major Service Change are borne disproportionately by protected populations or riders when impacts experienced by protected populations or riders are equal to or greater than 5%, when compared to the impacts borne by non-protected populations or riders. For the introduction of new service, a 10% threshold shall apply.

Finding a Disparate Impact:

Should BART find that minority populations or riders experience disproportionate impacts from the proposed change, BART may take steps to avoid, minimize, or mitigate disparate impacts. If the additional steps do not mitigate the potential disparate impacts on minority populations, pursuant to FTA Circular 4702.1B, BART may proceed with the proposed major service or fare change if BART can show that:

- A substantial legitimate justification for the proposed major service or fare change exists; and,
- There are no alternatives serving the same legitimate objectives that would have a less disproportionate impact on minority or low-income riders.

Finding a Disproportionate Burden:

Should BART find that low-income populations or riders experience disproportionate impacts from proposed major service or fare changes, pursuant to FTA Circular 4702.1B, BART may take steps to avoid, minimize, or mitigate impacts where practicable. BART shall also describe alternatives available to low-income populations affected by service or fare changes.