

PUBLIC NOTICE OF PROPOSED RULEMAKING

AGENCY: Rhode Island Public Transit Authority

DIVISION: None

RULE IDENTIFIER: ERLID 1308

REGULATION TITLE: Rhode Island Public Transit Authority Charter Policy

RULEMAKING ACTION: Direct Final

DIRECT FINAL: If no formal objection is received on or before March 31, 2017, Agency will file the repeal without further opportunity for public comment.

TYPE OF FILING: Repeal

DATES: Public Notice Date: February 27, 2017; End of Comment Period Date: March 31, 2017; Hearing Date, if any: TBD

SUMMARY OF PROPOSED RULE:

The purpose of this repeal is to eliminate a regulation that is an internal policy.

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed repeal by March 31, 2017 to the address listed below.

ADDRESS FOR PUBLIC COMMENT SUBMISSIONS:

Benjamin Salzillo, Chief Legal Counsel
Rhode Island Public Transit Authority
705 Elmwood Ave,
Providence, Rhode Island 02907
bsalzillo@ripta.com

PUBLIC HEARING:

In accordance with RIGL § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

FOR FURTHER INFORMATION, CONTACT:

Benjamin Salzillo, Chief Legal Counsel
Rhode Island Public Transit Authority
705 Elmwood Ave
Providence, Rhode Island 02907
(401) 784-9500 ext. 139
bsalzillo@ripta.com

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation:

No economic impact was identified in connection with this repeal.

Authority for This Rulemaking: R.I. General Laws § 39-18-4

Regulatory Findings:

In the development of the proposed repeal consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

The Proposed Action:

Rhode Island Public Transit Authority proposes to repeal ERLID 1308 in its entirety:

~~RHODE ISLAND PUBLIC TRANSIT AUTHORITY CHARTER POLICY~~

Federal Regulation Regarding Charter Service

Federal regulations define ~~Charter Service~~ in the following way:

~~Transportation using buses or vans, or facilities funded under the Acts of a group of persons who pursuant to a common purpose, under a single contract, at a fixed charge (in accordance with the carrier's tariff) for the vehicle or service, have acquired the exclusive use of the vehicle or service to travel together under an itinerary either specified in advance or modified after having left the place of origin. This definition includes the incidental use of FTA funded equipment for the exclusive transportation of school students, personnel, and equipment. CFR-604.5~~

A recipient of FTA funds cannot offer charter service if there is a private charter operator in the area that is willing and able to provide the type of charter service the FTA recipient could provide. However, federal regulations do provide for some exceptions. Recipients of FTA funds can provide charters to public or private organizations that are exempt from taxation under subsection 501(c)(1), 501(c)(3), 501(c)(4), or 501(c)(19) of the Internal Revenue Code if the organization provides certification of one of the following:

- ~~i. (The entity/organization) certifies that it is a government entity or an organization exempt from taxation under subsection 501(c)(1), 501(c)(3), 501(c)(4), or 501(c)(19) of the Internal Revenue Code; there will be a significant number of handicapped persons as passengers on this charter trip; the requested charter trip is consistent with the function and purpose of (the entity/organization); and the charter trip will be organized and operated in compliance with Title VI of the Civil Rights Act of 1964, as amended; and, section 19 of the Federal Mass Transit Act of 1964, as amended, and 49 CFR Part 27; or 45 CFR Part 80.~~
- ~~ii. (The entity/organization) certifies that it is a government entity or an organization exempt from taxation under subsection 501(c)(1), 501(c)(3), 501(c)(4), or 501(c)(19) of the Internal Revenue Code; (The entity/organization) is a qualified social service agency under Appendix A of 49 CFR Part 604, as a recipient of funds, either directly or indirectly, under one or more of the Federal programs listed in Appendix A; the requested charter trip is consistent with the function and purpose of (the entity/organization); and the charter trip will be organized and operated in compliance with Title VI of the Civil Rights Act of 1964, as amended; and,~~

~~section 19 of the Federal Mass Transit Act of 1964, as amended, and 49 CFR Part 27; or 45 CFR Part 80.~~

~~iii. (The entity/organization) certifies that it is a government entity or organization exempt from taxation under subsection 501(c)(1), 501(c)(3), 501(c)(4), or 501(c)(19) of the Internal Revenue Code; (the entity/organization) either receives or is eligible to receive, either directly or indirectly, from a State or local governmental body public welfare assistance funds for purposes whose implementation may require the transportation of a group of transit-advantaged or transit-dependent persons; following a petition presented by the State in which the entity or organization resides, FTA has determined in writing that an FTA recipient may contract directly with the entity or organization for charter services; the requested charter trip is consistent with the functions and purpose of the entity or organization; and the charter trip will be organized and operated in compliance with Title VI of the Civil Rights Act of 1964, as amended; and, section 19 of the Federal Mass Transit Act of 1964, as amended, and 49 CFR Part 27; or 45 CFR Part 80.~~

~~iv. (The entity/organization) certifies that it is a government entity or an organization exempt from taxation under subsection 501(c)(1), 501(c)(3), 501(c)(4), or 501(c)(19) of the Internal Revenue Code; more than 50% of the passengers on this charter trip will be elderly; the requested charter trip is consistent with the function and purpose of (the entity/organization); and the charter trip will be organized and operated in compliance with Title VI of the Civil Rights Act of 1964, as amended; and, section 19 of the Federal Mass Transit Act of 1964, as amended, and 49 CFR Part 27; or 45 CFR Part 80.~~

II. RIPTA Charter Policy

~~In accordance with federal regulations, RIPTA will only provide charter service to entities or organizations that are able to make one of the above certifications or other parties whose needs cannot be met by one of the private operators providing charter service in Rhode Island.~~

~~II a. Availability of Charter Service~~

~~Given RIPTA's peak bus requirements, RIPTA will generally only charter vehicles in off-peak hours of operation (weekdays 9:00 a.m. to 3:00 p.m. and 6:00 p.m. to 12:00 a.m., Saturdays, Sundays).~~

~~The origin and destination of all chartered trips must be within the State of Rhode Island.~~

~~// b. — Eligibility for Charter Service~~

~~A party requesting charter service must demonstrate eligibility to do so under this policy by providing RIPTA with either a signed Charter Exception Certification Form along with certification of tax exempt status or written notification of inability to provide service from all local private charter operators that possess the type of vehicle requested. RIPTA will provide parties requesting charter service a list of known local operators and the authorized signatories for those operators. Notwithstanding, it will be the requestor's responsibility to fully canvass the available private carrier market.~~

~~Companies operating private charter service in Rhode Island that are in need of additional equipment will also be eligible to charter RIPTA vehicles. The private charter operators will be charged the same rate as other eligible parties chartering RIPTA vehicles. It will be required that a RIPTA driver operate the chartered RIPTA vehicle.~~

~~All parties chartering RIPTA vehicles will be required to sign a liability agreement provided by the RIPTA Risk Management Department.~~

~~// c. — Capacity — Seating~~

~~The seating capacity of RIPTA vehicles range from 16 to 44 passengers. In compliance with the Americans With Disabilities Act (ADA), RIPTA is able to provide the following equipment:~~

- ~~1. Kneeling vehicle — The operator can lower the front of the bus to accommodate those requiring assistance to step onto the vehicle.~~
- ~~2. Wheel-chair equipped vehicle — RIPTA vehicles can accommodate and lock in two (2) wheel chairs. When requesting such a vehicle for wheel chair use, if either of the wheel chair locks are used, (4) seats will be required.~~

~~// d. — Rate~~

~~The hourly rate charged for charter service will be set by the Director of Specialized Transportation, in consultation with the Chief Financial Officer, approved by the General Manager, and will be evaluated and modified (if necessary) on an annual basis. Rates will be established for full size coaches, vans, and trolley vehicles.~~

~~The cost of all bridge and highway tolls, entrance charges, and parking expenses shall be added as separate charges to the rate. RIPTA reserves the right to pass on to the chartering party any increases after initial quotations.~~

~~II e. — Payments~~

~~Upon approval of charter service, an authorized agent of the chartering party will be required to sign a Charter Service Agreement which will list the initial cost estimate. Incidental costs (as described above) may be added after the service has been provided. A deposit equaling 25% of the initial cost estimate is required when the Charter Service Agreement is signed.~~

~~The chartering party will be invoiced for the balance due after service has been provided.~~

~~II f. — Time — Computation~~

~~The number of hours of charter service will be calculated from the time the chartered vehicle leaves the dispatching point on route to the chartering party's requested point of origin to the time it returns to a RIPTA garage or the point where the vehicle engages in another service.~~

~~II g. — Claims~~

- ~~1. RIPTA endeavors to maintain the time of arrival at points of destination but does not guarantee to arrive at or depart from any point at a specific time.~~
- ~~2. RIPTA shall not be liable for delays caused by accidents, breakdowns, road conditions, storms and other circumstances beyond its control.~~
- ~~3. RIPTA assigns qualified operators that have been instructed to drive at a speed within limits prescribed by law, and compatible with safe operations.~~
- ~~4. RIPTA shall not be held responsible for personal property when left on the vehicle by passengers when disembarking.~~

~~II h. — Operator Assignments~~

~~RIPTA reserves the right to assign bus operators to a specific job at all times, and to substitute or replace operators without notice. Wherever possible, requests for specific bus operators will be honored, but cannot be guaranteed.~~

~~II i. — Equipment — Vehicles~~

~~Wherever possible, requests for specific vehicles will be honored, but cannot be guaranteed. Equipment furnished by RIPTA is thoroughly inspected before assigned to ensure uninterrupted operation. Should mechanical failure of equipment make it necessary for the replacement of a vehicle originally assigned to the service, the replacement vehicle may be of a different type. Every effort shall be made by RIPTA to provide equipment as similar to the original as possible.~~

~~All costs of repairing damage to vehicles resulting from acts of members of the chartering party shall be charged to the chartering party.~~

~~II.j. — *Baggage*~~

~~Baggage will not be checked. Only hand baggage or property in custody of the passengers on the bus will be carried. The amount of such baggage or property carried shall be limited in the amount, weight, and size to the available safe capacity of, or space available on, the vehicle. Any such article that creates, in the opinion of the operator of the vehicle or other RIPTA employee, a hazardous condition or is likely to damage the vehicle will not be transported. Inflammable or other dangerous substances or articles shall not be brought on board the vehicle.~~

~~II.k. — *Animals*~~

~~Animals shall not be transported with the exception of a trained “service animal” for the assistance of a passenger with a disability.~~

III. — Vehicle Operation

~~During charter service RIPTA Operators must be in uniform at all times and must abide by all rules of regular service operation.~~

IV. — Employee Requests

~~Employees of RIPTA requesting charter service will need to go through the same application process described above. The party on whose behalf the RIPTA employee is acting will need to meet the same standards as all applicants. The chartering party will be charged the same hourly rate as all parties. The operator may not donate his/her time. The chartering party must be billed for the service. The driver may elect to donate his/her pay from the service to the chartering party to offset their costs for the service.~~

V. — Public Relations Related Service

~~RIPTA can provide special service for any RIPTA hosted event or for any public relations function directly related to RIPTA business. The use of RIPTA vehicles for these events must be requested by the Director of Marketing and Communications and will need to be approved by the Director of Specialized Transportation and the General Manager.~~

~~The General Manger will establish a budget for Public Relations Related Service on an annual basis. Any Public Relations Related Service will be deducted from this budget item. The CFO must be notified by memo when a Public Relations Service is being provided. The CFO will also determine the public relations value of the service to report the benefit to the Authority to the RIPTA Board of Directors.~~

~~VI. — Volunteer or Donated Services~~

~~Other than Public Relations Services and Parade service (described below), all operational expenses will be charged to the recipients of special service. RIPTA will also not request volunteer drivers for any services.~~

~~VII. — Other Special Services~~

~~*VII a. Educational Events*~~

~~RIPTA vehicles may be used for events during which RIPTA employees educate groups of people on how to use the RIPTA system. The use of a vehicle for this type of event needs to be requested by a RIPTA Director or higher and approved by the Director of Specialized Transportation. The Director of Specialized Transportation will confirm vehicle availability. The curriculum for this event will need to be approved by the Director of Specialized Transportation.~~

~~*VII b. Stationary Vehicles*~~

~~RIPTA vehicles may be used for any event at which the vehicle will be stationary and no passengers will be carried. The use of a vehicle for this type of event needs only to be requested by a RIPTA Director or higher and approved by the Director of Specialized Transportation. The Director of Specialized Transportation will confirm vehicle availability.~~

~~*VII c. Parades*~~

~~RIPTA vehicles may be used as a feature in a parade if the general public is not being carried and RIPTA is providing the vehicle free of charge. This service would need to be requested by the Director of Marketing and Communications and approved by the Director of Specialized Transportation and the General Manager. If RIPTA is charging for the use of the vehicle and/or the general public will be carried on the vehicle, the parade organizers must complete the charter services application process outlined above. The same hourly rate will be charged for parades as for any other charter service.~~

~~*VII d. Supplementary Service*~~

~~If RIPTA is informed of an event where a group will be boarding at a regular RIPTA stop at a regularly scheduled time and alighting at a RIPTA stop along the route, also at a regularly scheduled time, RIPTA may add extra vehicles to the trip to handle an overcrowding that may occur. These vehicles will need to be signed as a regular route and must be opened to the public.~~

VIII. — Internal Charter Procedure

~~The Director of Specialized Transportation will designate a RIPTA staff person to handle inquiries for charter service. The RIPTA staff person will inform inquirers about RIPTA's policy and will provide them with an Exception Certification Form and a list of local private operators.~~

~~If the applicant meets one of the exceptions described above, an authorized agent of the government agency or non-profit organization will need to complete the Charter Exception Certification Form and provide certification of tax-exempt status.~~

~~If the party requesting charter service does not meet any of the requirements for an exception, RIPTA will provide the party with a list of private charter operators providing service in Rhode Island. If the party requesting the charter can provide written confirmation that all private operators providing charter service in Rhode Island, that possess the type of vehicle requested, are unable to provide the service, RIPTA will entertain their application for charter service.~~

~~The RIPTA staff person responsible for charters (as designated by the Director of Specialized Transportation) will then determine the eligibility of the applicant. If the RIPTA staff person deems the applicant ineligible, they will notify the applicant of the decision and the reason for the decision. If the applicant is deemed eligible, vehicle availability for the vehicle type requested during the time and date specified will be confirmed with the Transportation Department. RIPTA may deny any request based on vehicle availability.~~

~~The route by which the chartered vehicle will travel will be determined by the RIPTA staff person designated by the Director of Specialized Transportation. The route will be described on the Application for Charter Service. The route may not leave the State of Rhode Island.~~

~~The application and the information provided by the applicant will then be forwarded to the Director of Specialized Transportation to approve or deny the application for charter service and the route described on the application. If approved, the RIPTA staff person designated by the Director of Specialized Transportation will then create a paddle for the chartered service and provide it to the Transportation Department.~~

Date: _____

To: _____

Dear _____:

~~Enclosed please find a copy of the Rhode Island Public Transit Authority's (RIPTA) Charter Service Policy. Federal regulations are very specific about when publicly funded transit operators can and cannot offer charter service. Please review the policy and if you feel your organization is eligible to charter a RIPTA vehicle please contact the Specialized Transportation Department at RIPTA at (401) 784-9500, ext. 140.~~

Sincerely,

Edward Scott
Director of Specialized Transportation

~~RHODE ISLAND PUBLIC TRANSIT AUTHORITY~~
~~Charter Service Application~~

Requesting _____ Organization: _____

Address: _____

Authorized Agent: _____

Title: _____

Date of requested service: _____

Origin of trip: _____ Time: _____

Destination of trip: _____ Time: _____

Round trip? Yes No Time of return trip: _____

_____ Purpose of trip _____

Number of passengers: _____ Number of disabled passengers: _____

Type of vehicle requested: _____

For RIPTA use only

Routing: _____

Time leaves garage: _____ Time returns to garage: _____

Availability of type of vehicle requested: Available Not Available

Confirmed by: _____
Transportation Department

Eligibility: Exception Certification with certification of tax exempt status
 Private operator notification of inability to provide service

Approved: _____

Director of Specialized Transportation

Approved: _____

General Manager

Denied: _____

Director of Specialized Transportation

Reason for denial: _____

~~RHODE ISLAND PUBLIC TRANSIT AUTHORITY CHARTER EXCEPTION CERTIFICATION FORM~~

Please mark the statement that applies to your organization:

~~_____ (The entity/organization) certifies that it is a government entity or an organization exempt from taxation under subsection 501(c)(1), 501(c)(3), 501(c)(4), or 501(c)(19) of the Internal Revenue Code; there will be a significant number of handicapped persons as passengers on this charter trip; the requested charter trip is consistent with the function and purpose of (the entity/organization); and the charter trip will be organized and operated in compliance with Title VI of the Civil Rights act of 1964, as amended; and section 19 of the Federal Mass Transit Act of 1964, as amended, and 49 CFR Part 27; or 45 CFR Part 80.~~

~~_____ (The entity/organization) certifies that it is a government entity or an organization exempt from taxation under subsection 501(c)(1), 501(c)(3), 501(c)(4), or 501(c)(19) of the Internal Revenue Code; (The entity/organization) is a qualified social service agency under Appendix A of 49 CFR Part 604, as a recipient of funds, either directly or indirectly, under on or more of the Federal programs listed in Appendix A; the requested charter trip will be organized and operated in compliance with Tile VI of the Civil Rights Act of 1964, as amended; and, section 19 of the Federal Mass Transit Act of 1964, as amended, and 49CFR Part 27; or 45 CFR Part 80.~~

~~_____ (The entity/organization) certifies that it is a government entity or an organization exempt from taxation under subsection 501(c)(1), 501(c)(3), 501(c)(4), or 501(c)(19) of the Internal Revenue Code; (The entity/organization) either receives or is eligible to receive, either directly or indirectly, from a State or local governmental body public welfare assistance funds for purposes whose implementation may require the transportation of a group of transit-advantaged or transit-dependent persons; following a petition presented by the State in which the entity or organization resides, FTA has determined in writing that an FTA recipient may contract directly with the entity or organization for charter services; the requested charter trip is consistent with the functions and purpose of the entity or organization; and the charter trip will be organized and operated in compliance with Title VI of the Civil Rights Act of 1964, as amended; and, section 19 of the Federal Mass Transit Act of 1964, as amended, and 49 CFR Part 27; or 45 CFR Part 80.~~

~~_____ (The entity/organization) certifies that it is a government entity or an organization exempt from taxation under subsection 501(c)(1), 501(c)(3), 501(c)(4), or 501(c)(19) of the Internal Revenue Code; more than 50% of the passengers on this charter trip will be elderly; the requested charter trip is consistent with the function and purpose of (the entity/organization); and the charter trip will be organized and operated in compliance with Title VI of the Civil Rights Act of 1964, as amended; and, section 19 of the Federal Mass Transit Act of 1964, as amended, and 49 CFR Part 27; or 45 CFR Part 80.~~

~~I certify that the statement marked above is true about the organization I represent, and that the service requested by the organization I represent will be run in accordance with the above statement.~~

Signature

Title, Organization

Please return this form to RIPTA Specialized Transportation Department along with Certification of tax-exempt status.

Date: _____

Charter Service Provider

Charter Service Provider Address

Dear _____:

This is to inform you that _____ cannot
(Charter Service Provider)

provide a _____ to transport
(Vehicle Type)

_____ passengers between _____ and
(#) (Origin Point)

_____ on _____
(Destination Point) (Date)

Thank you for your inquiry.

Sincerely,

Authorized Signatory

Title

**RHODE ISLAND PUBLIC TRANSIT AUTHORITY
CHARTER SERVICE AGREEMENT**

The Rhode Island Public Transit Authority (RIPTA) will provide _____
(# vehicles)

on _____
(Type of vehicle) _____ (Date)

for _____
(Chartering Organization)

The RIPTA vehicle(s) will pick up _____ passengers at
(#)

at _____
(Pick up point) _____ (Time)

and will drop off passengers at _____
(Drop off point)

The RIPTA vehicle(s) will then pick up passengers at _____
(Return trip pick up point)

at _____ and drop off passengers at _____
(Time) _____ (Return trip drop off point)

The total number of hours of charter service will be _____
(# of hours)

The _____ agrees to
(Chartering Organization)

pay \$ _____ for the above described service.
(amount)

Breakdown of service charges

_____ Hours at \$ _____ per hour = \$ _____

Tolls and fees \$ _____

Initial cost estimate \$ _____

RIPTA reserves the right to pass on to the chartering party any increases after initial quotation.

Signature of Authorized Agent

Title, Organization