



County of Fairfax, Virginia

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# Major Service Change and Disparate Impact/ Disproportionate Burden Policies

Fairfax County Department of  
Transportation 2023 Title VI  
Program Update

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APRIL 2023





# Outline

- Purpose of Outreach Effort
- Overview of Title VI and Key Definitions
- What is a Major Service Change (MSC) Policy?
- FCDOT's MSC Policy
- What is a Disparate Impact/Disproportionate Burden (DI/DB) Policy?
- FCDOT's DI/DB Policy
- Conclusion



County of Fairfax, Virginia

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# PURPOSE OF OUTREACH EFFORT

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APRIL 2023





# Purpose of Outreach Effort

To review and provide feedback on:

- Title VI equity analyses and how they work.
- Fairfax Connector's service and fare equity policies.



# Public Survey

- Go to <https://www.fairfaxcounty.gov/connector/title/2023-update> to share your thoughts about the policies that are proposed in this presentation



County of Fairfax, Virginia

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# CIVIL RIGHTS ACT & TITLE VI: OVERVIEW

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APRIL 2023





# Title VI of the Civil Rights Act of 1964

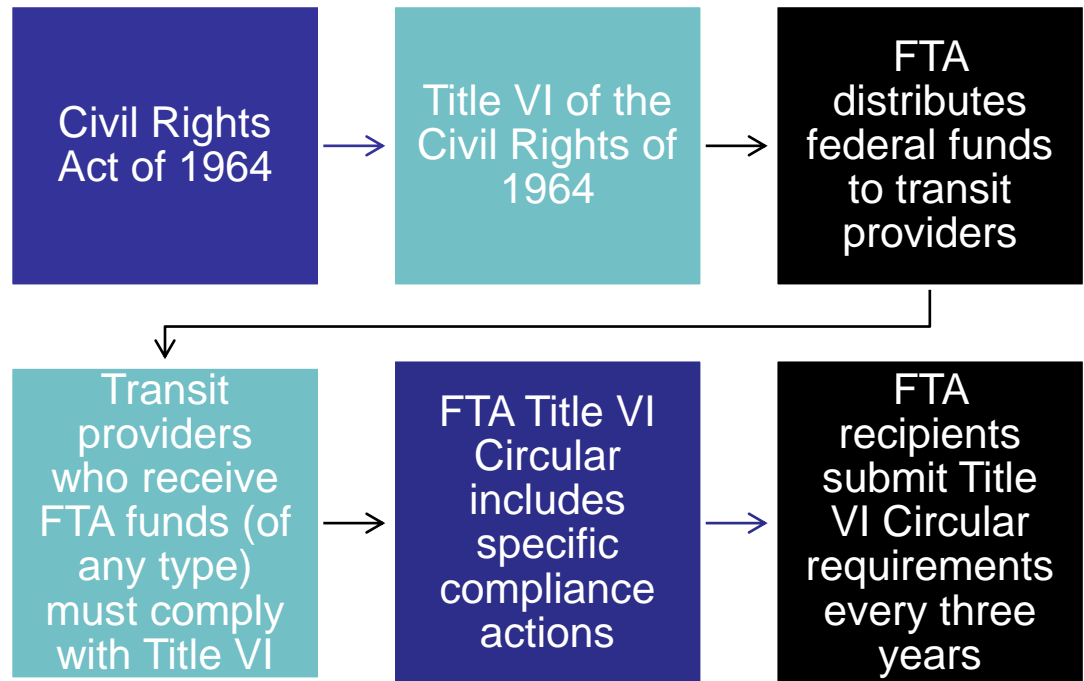
*“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”*



# History – Federal Civil Rights Laws

## Civil Rights Act Titles (or sections)

- Title I – Voting Rights
- Title II – Public Accommodation
- Title III – Public Facilities
- Title IV – Public Education
- Title V – Civil Rights Commission
- **Title VI – Federally Assisted Programs**
- Title VII – Equal Employment
- Title VIII – Voter Registration
- Title IX – Civil Rights Court Cases
- Title X – Community Relations
- Title XI - Miscellaneous







# What Does This Mean?

- Public transportation providers that receive federal funds are required to submit an updated Title VI Program to FTA **every three years.**
- Agencies must document that they are not discriminating on the basis of race, ethnicity, or national origin, and describe the proactive steps they are taking to ensure they do not discriminate in the future.



# Title VI Program Document

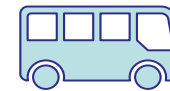
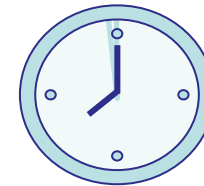
1. Introduction and Description of Service
2. Describing the Service Area and Planning for Title VI
  - Complaint and investigation procedures
  - Demographics and travel patterns
  - Public Participation Plan
  - Language Access Plan
3. Service Standards, Policies, and Monitoring
  - Service Standards and Monitoring
  - **Major Service Change Policy**
  - **Disparate Impact / Disproportionate Burden Policy**



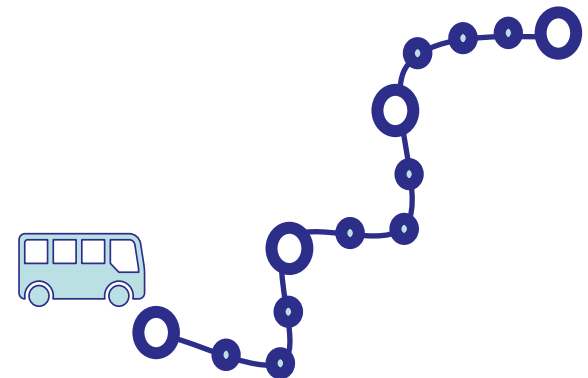
# Key Definitions

- **Revenue Service Hours:** The number of hours a bus operates while carrying paying passengers.

12 Hours



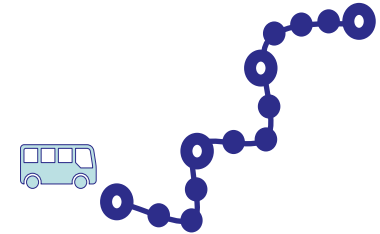
- **Revenue Service Miles:** The number of miles a bus operates while carrying paying passengers.



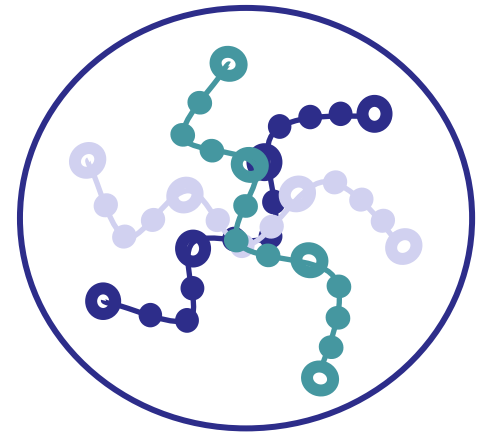


# Key Definitions

- **Route Area:** Geographic area impacted by proposed service changes



- **Service Area:** Geographic area served by the entire transit system





# Key Definitions

- ***Minority population:*** Population who are *not* non-Hispanic white
  - 50% of Fairfax County is minority
- ***Low-income population:*** Households making \$59,999 or less
  - 19% of Fairfax County is low-income



County of Fairfax, Virginia

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Overview and Description of FCDOT Policy

# MAJOR SERVICE CHANGE

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APRIL 2023



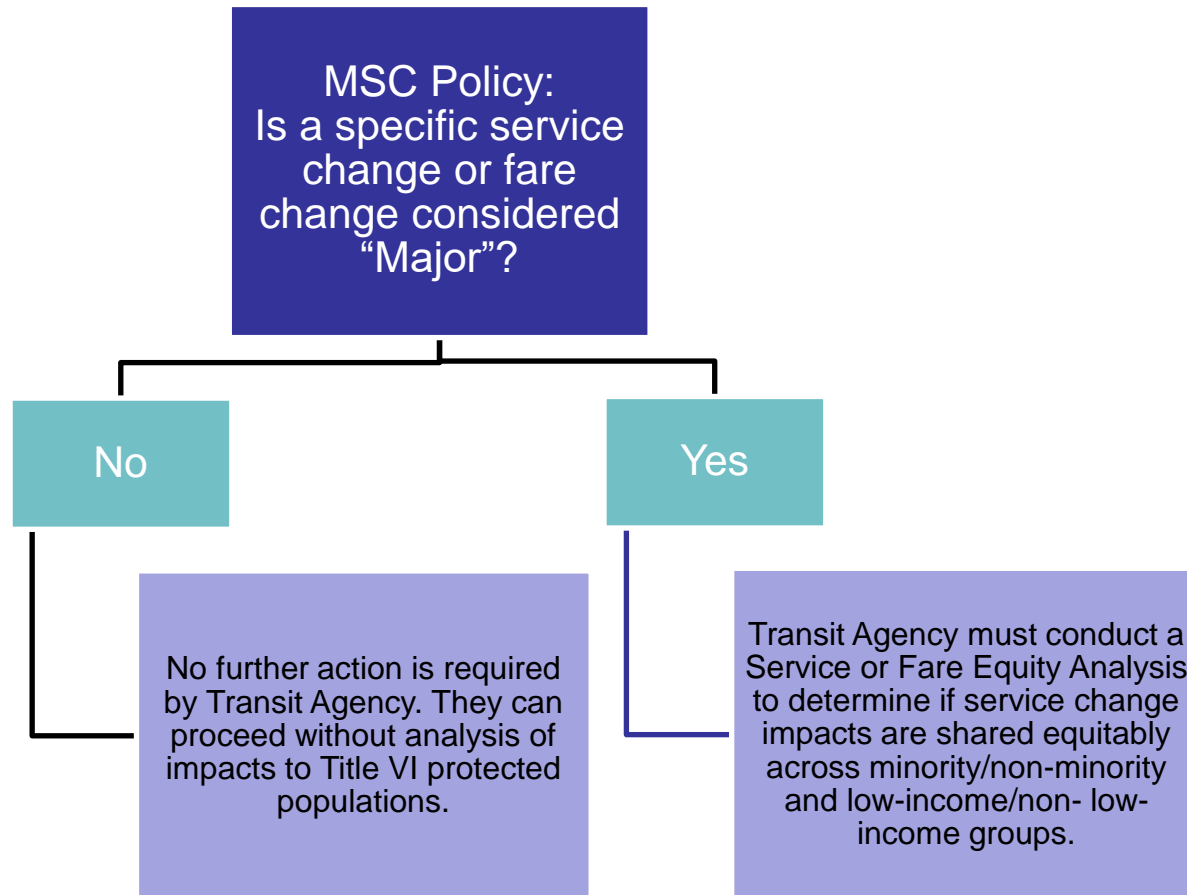


# What is a Major Service Change (MSC)?

- A **Major Service Change** (MSC) is a change that is significant or “major” enough to warrant further analysis.
- Transit agencies must define what changes qualify as MSC in a written policy.
- The further analysis is known as a **Service or Fare Equity Analysis**.



# Major Service Change (MSC) Flow Chart







# What is a Major Service Change (MSC)?

## Quick Facts:

- Agencies set their own MSC policies
- MSC policies often include mention of:
  - Service availability (span and/or service days)
  - Service quantity (frequency and/or revenue miles/hours)
  - Geographic alignments (areas or neighborhoods served)
  - Fares (any change)
- Major service changes can
  - Reduce or remove service
  - Expand or add service
- Agencies are required to revise and conduct outreach on policies with every Title VI Program update (i.e., every three years)



# Major Service Change Exemptions

1. **Seasonal Service Changes:** Adding or removing a route or trips due to seasonal demand; must happen in cycles annually
2. **Pilots or Demonstration Routes:** Creation, modification, or discontinuation of a demonstration route within the first 12 months of operation
3. **Temporary Service Changes:** Diversions, frequency changes, or span modifications due to local events, construction, weather, and emergencies (of fewer than 12 months)





# FCDOT Major Service Change Policy

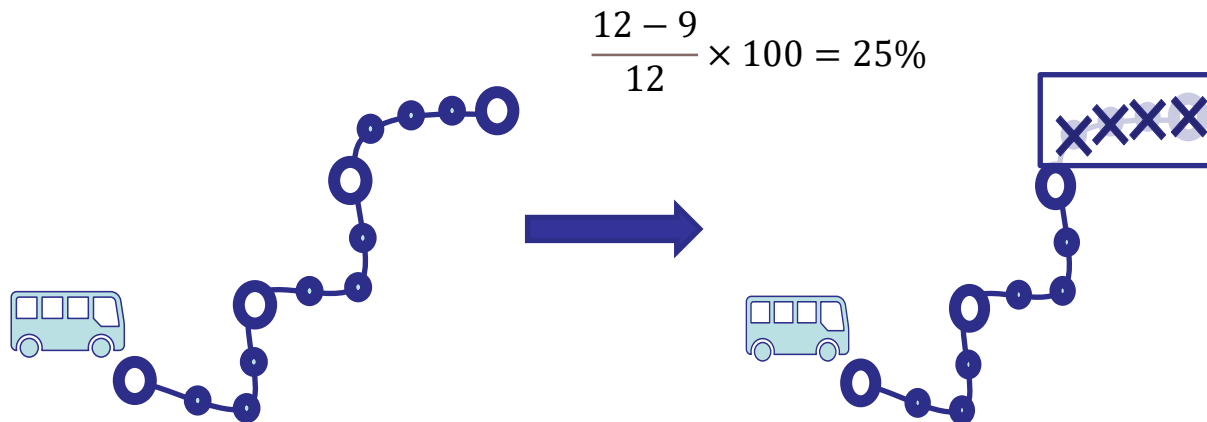
**“A major service change is defined as either an increase or a decrease of 25 percent or more in either daily revenue service hours, revenue service miles, or both for the individual route being modified.”**

**FCDOT does not propose to change this policy from the last Title VI Program.**



# FCDOT Major Service Change Policy

Example 1a: A bus that operated a 12-mile route is shortened, so the route is now only 9 miles.

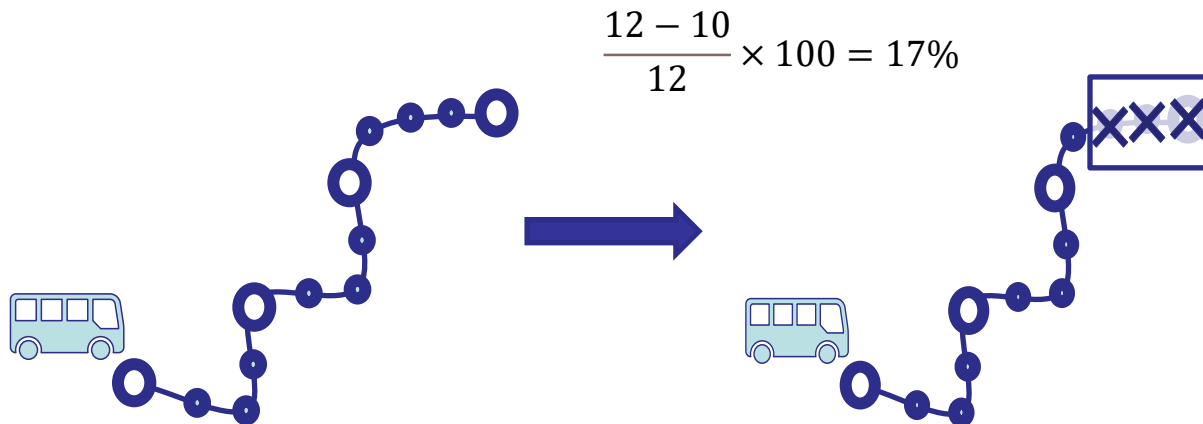


This **would be** considered a major service change since revenue service miles are reduced by 25 percent.



# FCDOT Major Service Change Policy

Example 1b: A bus that operated a 12-mile route is shortened, so the route is now only 10 miles.

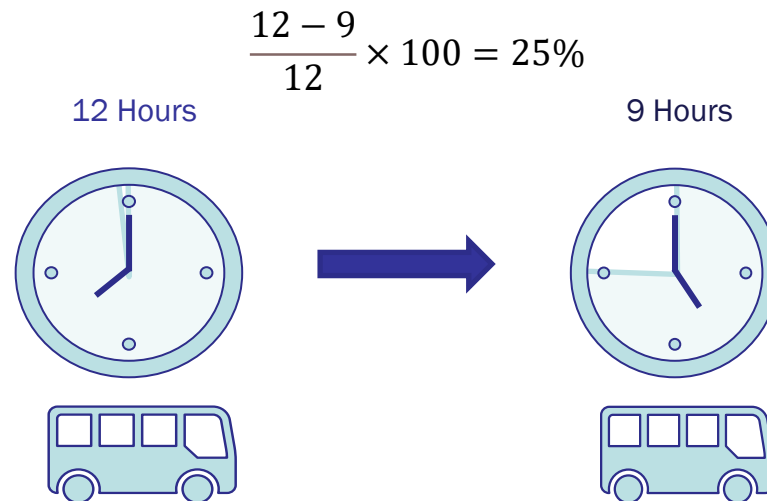


This **would not be** considered a major service change since revenue service miles are reduced by less than 25 percent.



# FCDOT Major Service Change Policy

Example 2a: A bus route that operated from 8:00 AM to 8:00 PM with a single vehicle will now operate from 8:00 AM to 5:00 PM.



This **would be** considered a major service change since revenue service hours are reduced by 25 percent.





Overview and Description of FCDOT Policy

# **DISPARATE IMPACT & DISPROPORTIONATE BURDEN (DI/DB) POLICIES**





# Major Service Change Equity Evaluations

- Every Major Service Change requires a **Service Equity Analysis**
  - Service changes can have a **disparate impact (DI)** on minority riders
  - Service changes can have a **disproportionate burden (DB)** on low-income riders
- DI/DB policies help determine when a Major Service Change may result in inequities





## Disparate Impacts and Disproportionate Burdens

- **Disparate Impact:** A policy that appears neutral but whose impacts *affect racial, ethnic, or national origin groups* in a substantially non-neutral way
- **Disproportionate Burden:** A policy that appears neutral but *impacts low-income populations* far more than non-low-income populations



## Disparate Impacts and Disproportionate Burdens

- Dis/DBs can occur when **service is removed or reduced**
- Service changes that can result in a DI/DB include:
  - Service changes that **remove service** disproportionately used by minority or low-income communities
  - **Fare/fare media changes** that disproportionately negatively impact minority or low-income communities



# Disparate Impacts and Disproportionate Burdens

- Dis/DBs can occur when **service is expanded or added**
- Service changes that can result in a DI/DB include:
  - Service changes that **add service** disproportionately used by non-minority or non-low-income communities
  - **Fare/fare media changes** that disproportionately benefit non-minority or non-low-income communities



# Disparate Impacts and Disproportionate Burdens

Service Reduction or Removal	Service Expansion or Addition
<ul style="list-style-type: none"><li>• Service changes that <b>remove service</b> disproportionately used by minority/low-income communities</li><li>• <b>Fare/fare media changes</b> that disproportionately negatively impact minority/low-income communities</li></ul>	<ul style="list-style-type: none"><li>• Service changes that <b>add service</b> disproportionately used by non-minority/non-low-income communities</li><li>• <b>Fare/fare media changes</b> that disproportionately benefit non-minority/non-low-income communities</li></ul>

Both types of changes could have a DI or DB finding



# How to Determine a DI or DB has Occurred?

- How much will a service change impact minority or low-income populations in the *route area* relative to minority or low-income populations in the *service area*?
- Percentage thresholds determine what counts as a disparate impact or disproportionate burden
  - Calculation is different based on whether a change adds or removes service
  - Federal guidance: transit provider thresholds should be “tripped” sometimes



# What Happens When a DI or DB is Found?

- When a Service Equity Analysis determines that a proposed Major Service Change will create a Disparate Impact or Disproportionate Burden, it **does not** mean that a transit provider cannot make this change.
- The transit agency **can still make the change, if they meet two conditions:**
  - ☑ Show the “substantial legitimate justification” for the change
  - ☑ Prove that there are no alternatives that would reduce the harm to the affected community
- The transit provider must provide this documentation as part of its Service Equity Analysis



# FCDOT's DI Policy

## Disparate Impact

A disparate impact (DI) occurs under the following circumstances:

- For a proposed service increase or fare reduction, calculate service area minority population percent minus route area minority population percent. If the result is greater than or equal to +10%, then a DI has occurred.
- For a proposed service reduction or fare increase, calculate route area minority population percent minus service area minority population percent. If the result is greater than or equal to +10%, then a DI has occurred.

**FCDOT is proposing this updated language for this policy.**





# DI Threshold: Examples

## Example 1: Service Reduction or Removal

- Service area is **50% minority**
- The transit agency wants to **eliminate** a route
- As long as fewer than  $50\% + 10\% = 60\%$  of **people living in the area of the affected route** are minority, the service change passes the service equity test



# DI Threshold: Examples

## Example 1a: Service Reduction or Removal

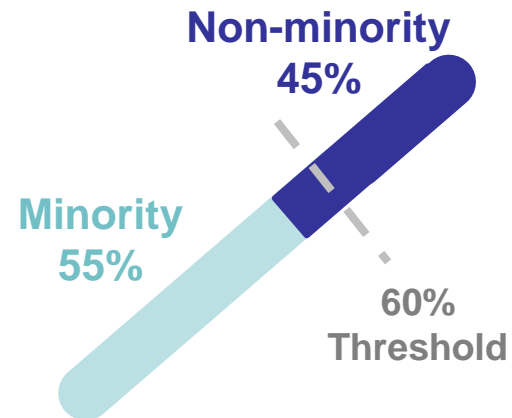
Route area under consideration:

Minority: 55%

Non-minority: 45%

- Service area is **50% minority**
- The transit agency wants to **eliminate** a route
- As long as fewer than  $50\% + 10\% = 60\%$  of people living in the area of the **affected route** are minority, the service change passes the service equity test

Route Area with a Service Reduction or Removal



✓ Service Change is Equitable



# DI Threshold: Examples

## Example 1b: Service Reduction or Removal

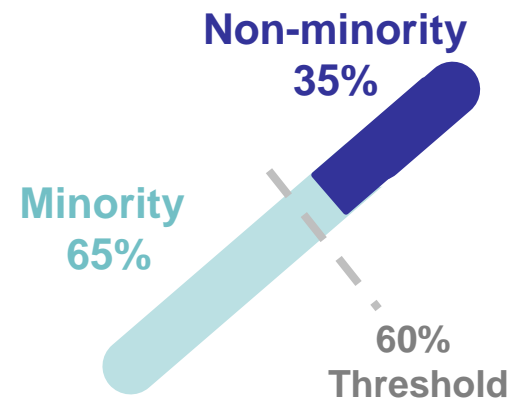
Route area under consideration:

Minority: 65%

Non-minority: 35%

- Service area is **50% minority**
- The transit agency wants to **eliminate** a route
- As long as fewer than  $50\% + 10\% = 60\%$  of people living in the area of the **affected route** are minority, the service change passes the service equity test

Route Area with a Service Reduction or Removal



**X** Service Change is not Equitable



# DI Threshold: Examples

## Example 2: Service Expansion or Addition

- Service area is **50% minority**
- The transit agency wants to **add** a new route
- As long as more than  $50\% - 10\% = 40\%$  **people living in the area of the affected route** are minority, the service change passes the service equity test



# DI Threshold: Examples

## Example 2a: Service Expansion or Addition

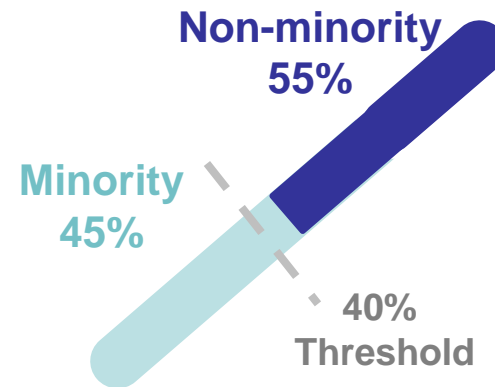
Route area under consideration:

Minority: 45%

Non-minority: 55%

- Service area is **50% minority**
- The transit agency wants to **add** a new route
- As long as more than  $50\% - 10\% = 40\%$  of people living in the area of the affected route are minority, the service change passes the service equity test

Route Area with a Service Expansion or Addition



✓ Service Change is Equitable



# DI Threshold: Examples

## Example 2b: Service Expansion or Addition

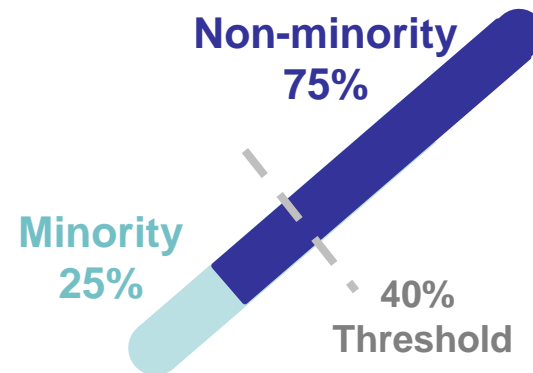
Route area under consideration:

Minority: 25%

Non-minority: 75%

- Service area is **50% minority**
- The transit agency wants to **add** a new route
- As long as more than  $50\% - 10\% = 40\%$  of **people living in the area of the affected route** are minority, the service change passes the service equity test

Route Area with a Service Expansion or Addition



**X** Service Change is not Equitable



# FCDOT's DB Policy

## Disproportionate Burden

A disproportionate burden (DB) occurs under the following circumstances:

- For a proposed service increase or fare reduction, calculate service area low-income population percent minus route area low-income population percent. If the result is greater than or equal to +10%, then a DB has occurred.
- For a proposed service reduction or fare increase, calculate route area low-income population percent minus service area low-income population percent. If the result is greater than or equal to +10%, then a DB has occurred.

**FCDOT is proposing this updated language for this policy.**



# DB Threshold: Examples

## Example 3: Service Reduction or Removal

- Service area is **19% low-income**
- The transit agency wants to **eliminate** a route
- As long as fewer than  $19\% + 10\% = \mathbf{29\%}$  of people **living in the area of the affected route** are low-income, the service change passes the service equity test





# DB Threshold: Examples

## Example 3a: Service Reduction or Removal

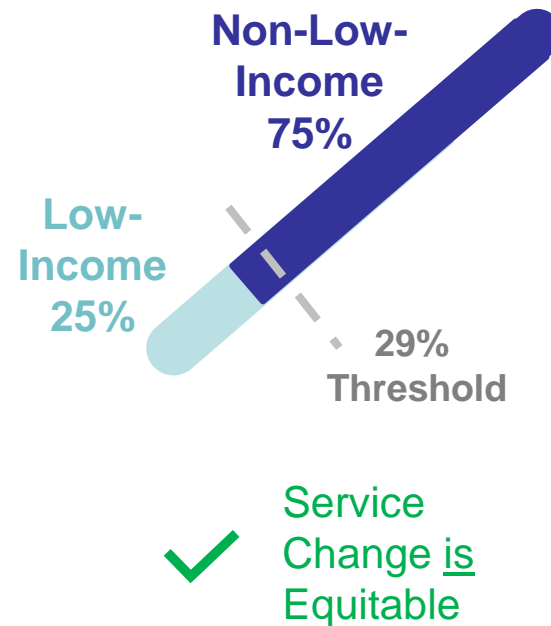
Route area under consideration:

Low-Income: 25%

Non-Low-Income: 75%

- Service area is **19% low-income**
- The transit agency wants to **eliminate** a route
- As long as fewer than  $19\% + 10\% = 29\%$  of people living in the area of the **affected route** are low-income, the service change passes the service equity test

Route Area with a Service Reduction or Removal





# DB Threshold: Examples

## Example 3b: Service Reduction or Removal

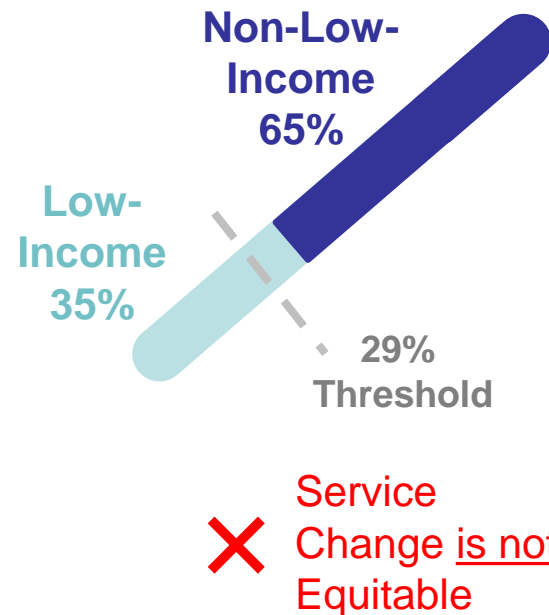
Route area under consideration:

Low-Income: 35%

Non-Low-Income: 65%

- Service area is **19% low-income**
- The transit agency wants to **eliminate** a route
- As long as fewer than  $19\% + 10\% = 29\%$  of people living in the area of the **affected route** are low-income, the service change passes the service equity test

Route Area with a Service Reduction or Removal





# DB Threshold: Examples

## Example 4: Service Expansion or Addition

- Service area is **19% low-income**
- The transit agency wants to **add** a new route
- As long as more than  $19\% - 10\% = \mathbf{9\%}$  of **people living in the area of the affected route** are low-income, the service change passes the service equity test



# DB Threshold: Examples

## Example 4a: Service Expansion or Addition

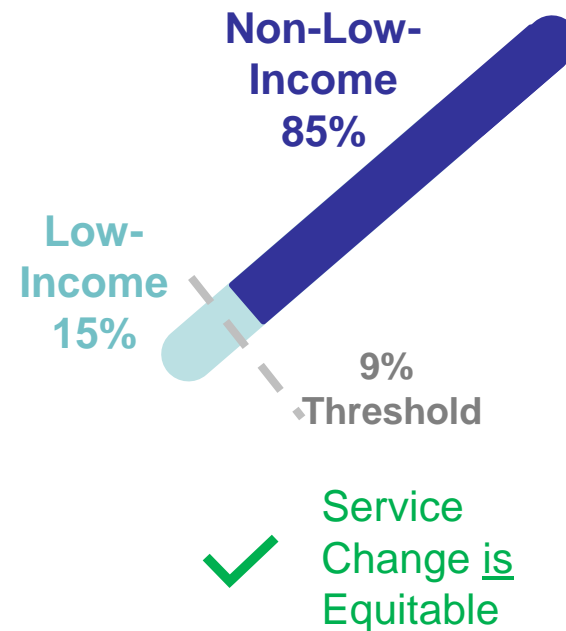
Route area under consideration:

Low-Income: 15%

Non-Low-Income: 85%

- Service area is **19% low-income**
- The transit agency wants to **add** a new route
- As long as more than  $19\% - 10\% = 9\%$  of people living in the area of the affected route are low-income, the service change passes the service equity test

Route Area with a Service Expansion or Addition





# DB Threshold: Examples

## Example 4b: Service Expansion or Addition

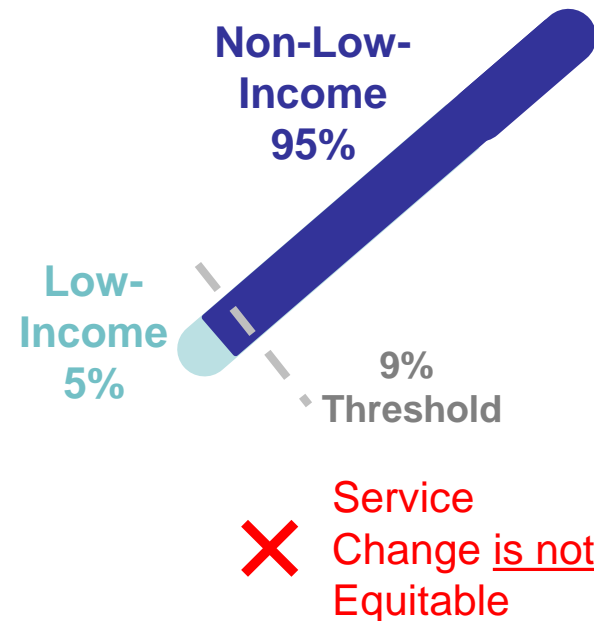
Route area under consideration:

Low-Income: 5%

Non-Low-Income: 95%

- Service area is **19% low-income**
- The transit agency wants to **add** a new route
- As long as more than  $19\% - 10\% = 9\%$  of **people living in the area of the affected route** are low-income, the service change passes the service equity test

Route Area with a Service Expansion or Addition





# What Happens When a DI or DB is Found?

- When a Service Equity Analysis determines that a proposed Major Service Change will create a Disparate Impact or Disproportionate Burden, it **does not** mean that a transit provider cannot make this change.
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  - ☑ Show the “substantial legitimate justification” for the change
  - ☑ Prove that there are no alternatives that would reduce the harm to the affected community
- The transit provider must provide this documentation as part of its Service Equity Analysis



# CONCLUSION



# Public Survey

- Go to <https://www.fairfaxcounty.gov/connector/title/2023-update> to share your thoughts about these proposed policies

Thank you!