**Americans with Disabilities Act (ADA) Reasonable Modification**

 **Background of Reasonable Modification Regulations**

On July 13, 2015 as part of the Federal Register Vol. 80, No. 49, the Federal Department of Transportation issued a Final Rule effecting 49 CFR Parts 27 and 37: Transportation for Individuals With Disabilities; Reasonable Modification of Policies and Practices. This final rule stemmed from a prior Notice of Proposed Rule Making (NPRM) issued February 27, 2006 (71 FR 9761).

The purpose behind this final rule is,

*“…specifically to provide that transportation entities are required to make reasonable modifications/accommodations to policies, practices, and procedures to avoid discrimination and ensure that their programs are accessible to individuals with disabilities.”*

**Requirements**

1. Federal funding recipients must ***make reasonable accommodations*** in policies, practices, or procedures when necessary to avoid discrimination on the basis of disability unless recipients can demonstrate that making the accommodations would fundamentally alter the nature of the service, program, or activity or result in an undue financial and administrative burden.
	1. This requirement applies to both fixed-route and paratransit services.
2. When considering changes to facilities or transportation services, entities must consider the most integrated setting appropriate for individuals with disabilities.
	1. However, entities can refuse to provide service to an individual that engages in violent, seriously disruptive, or illegal conduct, or represents a direct threat to the health or safety of others.
	2. Entities cannot refuse to provide service to an individual with disabilities solely because the individual’s disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.
3. Transportation agencies must provide "Origin-to-destination service" for paratransit *Origin-to-destination service* means providing service from a passenger’s origin to the passenger’s destination. Under this new definition, ***a provider may provide ADA complementary paratransit in a curb-to-curb or door-to-door mode*;** however,
	1. For **curb-to-curb** service: a provider must provide assistance to those passengers who need assistance beyond the curb in order to use the service unless such assistance would result in a fundamental alteration of the service, or present a direct threat to the driver, other riders/individuals, or the paratransit vehicle.

**Agency Procedures for Accommodating Reasonable Modification**

 All requests for reasonable modification (fixed route, paratransit or facilities) will be processed in the following manner.

1. Requests may be submitted via the website at [www.tuscaloosatransit.com](http://www.tuscaloosatransit.com), by email, written mail to 601 23rd Ave, Tuscaloosa, AL 35401 or by phone at (205-343-2300). All requests will be logged into a Reasonable Modification/Accomodation spreadsheet noting the requestors name, date, contact information and specific modification request being made.
2. Information regarding requesting reasonable modifications will be available on the Tuscaloosa transit Authority’s website ([www.tuscaloosatransit.com](http://www.tuscaloosatransit.com)) as well as within the various printed materials normally provided by the agency (i.e. riders guides, notices).
3. Individuals requesting modifications will be asked to supply sufficient detail within the request so that agency staff may effectively evaluate the request. Individuals are not required to use the term “reasonable modification” when requesting modifications or accommodations.
4. Whenever feasible, requests for modifications shall be made in advance, before the requested modification is expected to be provided in service. Tuscaloosa Transit acknowledges that, due to the unpredictable nature of transportation, some requests for reasonable modification may be made while in transit. As such, operating personnel shall make a determination of whether the modification should be provided at that time.
5. All requests for modifications (reasonable or otherwise) will be assigned to the agency Point of Contact (POC) for review and evaluation. Prior to determination, the POC will consult with agency operations staff regarding requests for reasonable modification.
6. Note that some requests for reasonable accommodations may be submitted during the paratransit eligibility process or through other customer service inquiries, and as such, operating personnel are trained and are empowered to determine whether the request should be granted at the time of the request or whether the request needs to be escalated to operations/agency management before making a determination to grant or deny the request.
7. Training regarding these procedures will be provided to agency staff who interact with the public; specifically, office assistants, dispatchers, schedulers and supervisors.
8. All reasonable modification requests will be acknowledged within 3 business days of receipt. The resolution and response to the person who submitted a request will be made timely, within 15 business days, and the response must explain the reasons for the resolution. The response must be documented in the Reasonable Modification/Accommodation log. Any requests requiring more than 15 business days to resolve must be reviewed at Executive Director level and documented as to why the resolution requires additional time for full resolution.

 **Complaint Response Procedures**

1. Complaints may be submitted via the website at [www.tuscaloosatransit.com](http://www.tuscaloosatransit.com), by email, written mail to 601 23rd Ave., Tuscaloosa, AL 35401 or by phone at (205) 343-2300. All complaints will be logged into a Reasonable Modification/Accomodation spreadsheet noting the complainant name, date, contact information and specific complaint being made as well as the original request for modification associated with the complaint.
2. All complaints will be reviewed by the RouteCoordinator.
3. All complaints will be acknowledged within 3 business days of receipt. The resolution and response will be made timely, within 15 business days, and the response must explain the reasons for the determination. The response must be documented in the Reasonable Modification/Accommodation log, referencing the original request for modification. Any complaint responses requiring more than 15 business days for resolution must be reviewed by the Executive Director and documented as to why the resolution requires additional time for full resolution.

 **Reasonable Modification Request Point of Contact**

1. The Tuscaloosa Transit Authority’s Request Point of Contact shall be assigned to the position of Route Coordinator.

 Name: Mr. Jesse White

 Ph: (205) 343-2300

 Email: jwhite@tuscaloosa.com

2. Requests may be reviewed by the following agency staff, Transit Supervisor, Scheduler and Executive Director.

 **Denying Request for Modification**

1. Requests for modification of Tuscaloosa Transit Authority’s policies and practices may be denied only on one or more of the following grounds:

* 1. Granting the request would fundamentally alter the nature of Tuscaloosa Transit’s services, programs, or activities;
	2. Granting the request would create a direct threat to the health or safety of others (including drivers and other passengers, but not including the requesting party);
	3. Without the requested modification, the individual with a disability is able to fully use Tuscaloosa Transit’s services, programs, or activities for their intended purpose; or
	4. In the case of recipients of federal financial assistance, granting the request would cause an undue financial and administrative burden.
1. If Tuscaloosa Transit denies a request for a reasonable modification, Tuscaloosa Transit shall take, to the maximum extent possible, any other actions (that would not result in a direct threat or fundamental alteration) to ensure that the individual with a disability receives the services or benefit provided by Tuscaloosa Transit.

**Examples**

The DOT has provided a helpful summary of examples of reasonable modification requests and which requests may/may not be denied because they would result in a fundamental alteration of service or direct threat. For more details regarding examples summarized below, please refer to Appendix E to Part 37 (80 FR 13253).

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| **AM I REQUIRED TO GRANT THIS REQUEST?** |
| **YES, UNLESS*****Granting the request (a) poses a direct threat (including resulting in a vehicle being left unattended or out of visual observation for a UlengthyU period of time), or (b) is a fundamental alteration of service*** | **NO, YOU HAVE THE OPTION TO DENY** |
| ***Getting On and Off the Vehicle & to the Door: Paratransit*** |
| Request to be picked up at the front door of their home. |  |
| Request for the driver to open an exterior entry door to a building to provide boarding and/or alighting assistance. | Request for ‘‘door-*through*-door’’ service (*i.e.,*assisting the passenger past the door to thebuilding). |
| Request for a driver to help navigate an incline (*e.g.,* a driveway or sidewalk) with the passenger’s wheeled mobility device. |  |
| Assistance in traversing a difficult sidewalk (*e.g.,* one where tree roots have made the sidewalk impassible for a wheelchair). |  |
| Assistance around obstacles (*e.g.,* construction areas) between the vehicle and the door of a passenger’s origin or destination. |  |
| Request to be assisted between an origin/destination and vehicle during extreme weather conditions. |  |
| A passenger’s request for assistance means that the driver will need to leave passengers aboard a vehicle unattended (other than for an extended period of time or resulting in loss of the driver's visual contact with the vehicle). |  |
| ***Getting On and Off the Vehicle & to the Door: Paratransit & Fixed Route*** |
| Wheelchair user requests to board a vehicleseparately from his or her device when theoccupied weight of the device exceeds the designload of the vehicle lift. |  |
|  | Request for a driver to assist with luggage orpackages may be denied in those instanceswhere it is not the normal policy or practice ofthe transportation agency to assist withluggage or packages. |
|  | Except in emergency situations, a passenger’srequest for a driver to lift the passenger out ofhis or her mobility device should generally bedenied. |
| ***Positioning the Vehicle: Fixed Route*** |
| Position the vehicle to avoid obstructions to the passenger’s ability to enter or leave the vehicle at a designated stop location, such as parked cars, snow banks, and construction. | Establish flag stop or route-deviation policies to avoid obstructions. |
| ***Positioning the Vehicle: Paratransit*** |
| Pick up and drop off at the entrance requested by the passenger, rather than at a location that has been predetermined by the transportation agency. |  |
| Pick up on private property with a security barrier. Yes, and operator should work with passenger to get permission of the property owner to access the private property. | Violate the law or lawful access restrictions to meet the passenger’s requests to pick them up on private property with a security barrier. |
| Request that a paratransit vehicle navigate to apick-up point to which it is difficult to maneuver avehicle, but not impossible or impracticable toaccess (*e.g.,* it is unsafe for the vehicle and itsoccupants to get to the pick-up point without getting stuck or running off the road). | Request exposes the vehicle and its occupants to hazards, such as running off the road, getting stuck, striking overhead objects, or reversing the vehicle down a narrow alley. |
| ***Fares: Paratransit and Fixed Route*** |
| Handle fare media when the passenger with a disability cannot pay the fare by the generally established means (*e.g.,* in a situation where a bus passenger cannot reach or insert a fare into the farebox). | Reach into pockets or backpacks in order to extract the fare media. |
|  | Pay the fare for the passenger when the passenger cannot or refuses to pay the fare. |
| ***Food, Medicine & Special Requests: Paratransit and Fixed Route*** |
| A passenger with diabetes or another medical condition requests to eat or drink aboard a vehicle or in a transit facility in order to avoid adverse health consequences. |  |
| Allow individuals to take medicine including administering insulin injections and conducting finger stick blood glucose testing. | Provide medical assistance. |
|  | Request for service outside the service area or operating hours. |
| Request for Personal Care Attendant to travel witha passenger. | Request that a transportation agency provide aPersonal Care Attendant. |
|  | Care for a service animal. |
|  | Request for a specific driver. |
| Provide otherwise-allowed assistance for a return trip regardless of whether the passenger needed it on the initial trip (*e.g.,* reasonable modifications for a dialysis patient who just received treatment). |  |
| Passenger requests a telephone call 5 minutes (or another reasonable interval) in advance or at time of vehicle arrival. |  |
|  | Request for special equipment (*e.g.,* theinstallation of specific hand rails or a front seat in a vehicle for the passenger to avoid nausea or back pain) can be denied so long as the requested equipment is not required by the ADA or DOT rules |
|  | Request for a dedicated vehicle (*e.g.,* to avoid residual chemical odors) or a specific type or appearance of vehicle (*e.g.,* a sedan rather than a van, in order to provide more comfortable service). |
|  | Request for an exclusive paratransit trip. |
|  | Request for a driver to make an intermediate stop that would disrupt schedules and inconvenience other passengers. |