



ADA Complaint Process for Transportation: Tips for Riders and CILs



advocacy | action | answers on aging

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Conference***

Introduction

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- Provides training and technical assistance
- Focuses on transportation accessibility, ADA issues, planning and operations



Important reminder

NADTC strives to provide accurate information on the Americans with Disabilities Act (ADA).

What we provide is technical assistance and not legal advice.



Session objectives

- The ADA complaint process for transportation
- Reasonable modification requirement and implementation

Complaints

Title II, State & Local Government Entities, subpart B, public transportation.

Enforced by the DOJ, regulated by the DOT

Title III, Public Accommodations for private transportation.

Primarily engaged in transportation, such as taxis, limos, TNC's? and

- Not Primarily engaged in transportation, such as hotel shuttles

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Complaints

- Can use existing transit provider complaint process.
- Complaints are necessary to resolve service issues and discrimination
- Process is local: Does not have to be approved in advance by the Federal Transit Administration.
- CIL's often assist with the process and information.

Complaint Procedure

- Adopt complaint procedures that provide prompt and equitable resolution
- Use an interactive process for investigation
- Maintain a record of follow-up communication
- Maintain a copy of all complaints for 1 year
- Maintain a summary of complaints for 5 years (spreadsheet with details and resolution)

Additional procedures

- Designate one employee to be responsible for implementation
- Create a policy and procedure
- Develop a decision process and timeline (set deadlines)
- Communicate with person making complaint in an interactive process
- Advertise complaint process
- Ensure information us accessible

Complaint: Rider Information

- Date, time, and location (cross intersections helpful)
- Mobility aid information
- Mode and route along with vehicle ID
- Personnel names and ID numbers
- Clear description and immediate follow-up actions
- Video or recordings

Complaint: Provider Information

- Date complaint received
- Date assigned for investigation and whom
- Dates of communications with rider
- Date of resolution
- Final resolution notice to rider

Communicate with transit to verify

- Communicate when the complaint is received
- Communicate actions involving other staff
- Clarify information such time, date, bus/vehicle involved

Verify

- Driver, supervisors, or police involved
- Other passengers as witnesses
- Description and details of the event
- Amended information as provided

Situation: Van does not arrive

- Trip missed by provider
- Time of scheduled trip
- Period of time rider in waiting for trip
- Time provider contacted
- Response from provider
- Anyone waiting with rider?

Situation: Service dog refusal

Providers are prohibited from denying service dogs under ADA regulations.

- Facts about incident, driver refusal and statement
- Time of scheduled trip and incident
- Vehicle number, type and color
- Driver name and ID number
- Anyone waiting with rider?

FTA Complaint Form (Public transportation)

In the FTA complaint investigation process, we analyze the complainant's allegations for possible deficiencies by the transit provider. If deficiencies are identified, they are presented to the transit provider and assistance is offered to correct the inadequacies within a predetermined timeframe.

Address:

Director, FTA Office of Civil Rights East Building
5th Floor – TCR 1200 New Jersey Ave., SE
Washington, DC 20590

FTA Complaint Form

Link for

<https://cms7.fta.dot.gov/regulations-and-guidance/civil-rights-ada/fta-civil-rights-complaint-form>

DOJ Complaint Form (Private transportation)

- DA complaints may be filed with the U.S. Attorney's Office
- Email to ada.complaint@usdoj.gov
- Online form at <https://civilrights.justice.gov/report/>
- Call ADA line for assistance at 800-514-0301

Questions



FTA ADA Circular

ADA Circular

- [Americans with Disabilities Act: Guidance](#) (PDF)
- [Americans with Disabilities Act: Guidance](#) (Word version)

DOT Final Rule

Issued March 6, 2015
Effective July 13, 2015

Final Rule effecting 49 CFR Parts 27 and 37:
Transportation for Individuals with Disabilities;
Reasonable Modification of Policies and Practices.

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.

Appendix E of Final Rule

- Lists examples and typical situations.
- Providers must make their own determinations.
- Examples provides some general guidance.

Reasonable Modification

- Applies to fixed-route, demand responsive, private shuttles, and complementary paratransit
- Requires a local process to be set by the transportation provider
- Is most likely something many providers do in some form, already

Must be Made Unless Doing So...

- Would fundamentally alter the nature of the program, service, or activity
- Would result in a direct threat to the health or safety of others

Or ...

- Without the requested modification, the individual with a disability is able to fully use the entity's services, programs or activities for their intended purpose.

What is “Reasonable”?

- Reasonable is defined as fair and sensible;
- not extreme or excessive;
- possessing sound judgment.

(John Day, FTA, presentation, 2015)

Fundamental Alteration of Service

A modification that is so significant that it alters the essential nature of the goods, services, facilities, privileges, advantages, or accommodations offered.

Provider Example Policy

A general statement representing your position on providing reasonable modification:

“We provide reasonable modification of policy and practice upon request to ensure that our transportation services are accessible to people with disabilities.”

Example Process

- Information about the process made available to the public.
- The request process must be accessible.
- The process must provide for situations in which making an advance request is not feasible.
- Allow operators to make ad hoc determinations.
- Operators may contact supervisors for assistance.

Process considerations

- Review and track all requests for reasonable modification to ensure transportation is accessible.
- Appoint a single lead staff person: ADA Coordinator or accessibility manager
- Formal process for tracking requests
- Formal process for responding to requests

More points on the process

- Bus drivers, operation staff, road supervisors, dispatchers, and customer service personnel on recognizing requests
- Time line and deadlines for completing reasonable modification requests
- Communication with customer and staff
- Decision may involve management input (safety, operations, etc.)
- Grant request or denial

Advance Requests

- Requests for reasonable modification may be made in advance via e-mail, phone, web site, in writing, etc.
- Someone will contact you via ... for additional information.
- A decision will be made in 'X' business days.
- A written decision will be sent to you via ...

Question

If a person is requesting a reasonable modification to policy, should we ask if that person has a disability?

Additional Requirements

1. Information about the process and how to use it must be made available to the public.
2. The request process must be accessible.
3. The process must provide for situations in which making an advance request is not feasible –
 - Allowing operators to make a determination.
 - Contacting supervisors for assistance.

Policies that may Require Modification

- Snow and Ice
- Handling Fare
- Eating and Drinking
- Dedicated Vehicles or Special Equipment

Luggage or Packages

- And others...

Policy: No food or drink

Customers with diabetes or other medical conditions should generally be allowed to eat or drink on vehicles or at stops and stations to avoid adverse consequences even when there is a strict no drinking or eating policy.

Requests for special equipment

Requests for special equipment, such as a front seat or handrails, or for dedicated vehicles to avoid nausea or back pain should generally be granted under the new reasonable modification final rule.

Adjusting boarding location

When scheduling a trip, a passenger may request the bus operator to slightly adjust the boarding location of a designated pick-up or drop-off so that an individual with a disability using a wheelchair may board from an accessible location.

Intermediate stops on a commuter bus: bathroom break

- Impacts for rider?
- Is it reasonable?
- Fundamental Alteration?



Adjusting time of pick-up after dialysis

Impacts for rider?

A dialysis session may end at a scheduled time but the rider may need to rest before the ride.



Long driveway

Impacts for rider?

Reasonable
Modification
Ideas?



Summary

- Reasonable modifications are made on a case-by-case basis through an interactive process.
- Communication is key.
- It's about filling in the gaps of accessibility with good customer service flexibility.

Reasonable modification request and process can be result of a complaint

- Work with provider on accommodating specific needs
- Focus on ways to make a ride possible
- Be flexible and creative
- Communicate through an interactive process

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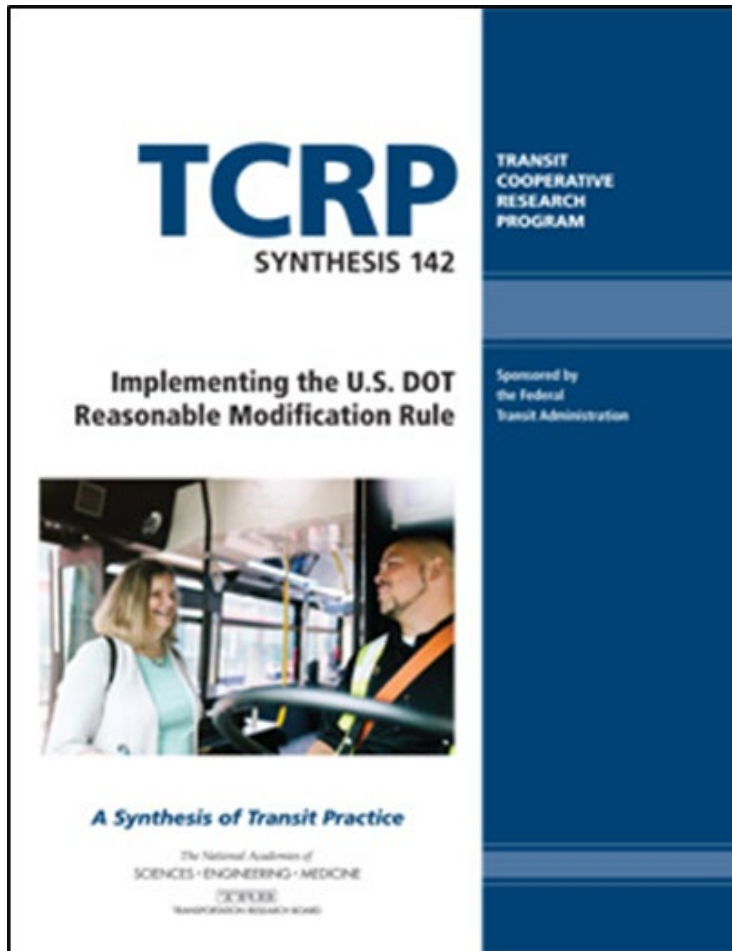
NADTC Resource

2017 Trends Report Topic Spotlight: ADA Complaint Process

Link to pdf version, <https://www.nadtc.org/wp-content/uploads/NADTC-2017-Trends-Report-Topic-Spotlight-ADA-Complaint-Process.pdf>

Link to page, <https://www.nadtc.org/resources-publications/resource/2017-trends-report-topic-spotlight-ada-complaint-process/>

TCRP Resource



TCRP Synthesis 142 *Implementing the U.S. DOT Reasonable Modification Rule*

[http://www.trb.org/Publications/
Blurbs/179001.aspx](http://www.trb.org/Publications/Blurbs/179001.aspx)



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Thank-you!



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