WHAT IS ADA REASONABLE MODIFICATION?

Reasonable: fair and sensible; not extreme or excessive; possessing sound judgment.

Modification: the act or process of changing parts of something.

Reasonable modification means that “the nature of an individual’s disability cannot preclude a public transportation entity from providing full access to the entity’s service unless some exception applies.” DCT will make reasonable modifications in policies, practices, or procedures when such accommodations are necessary to avoid discrimination on the basis of disability unless the recipient 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

Reasonable modification is best illustrated with examples. If DCT had a policy of only stopping buses at designated bus stops, this policy would be modified for “an individual using a wheelchair who needs to access the bus even though sidewalk construction or snow prevents the individual from boarding the bus from the bus stop”. In this case the operator of the bus will need to slightly adjust the boarding location so that the individual using a wheelchair may board from an accessible location.

EXAMPLES OF REASONABLE MODIFICATION

1. SNOW AND ICE

Except in extreme conditions that rise to the level of a direct threat to the driver or others, a passenger's request for a paratransit driver to walk over a pathway that has not been fully cleared of snow and ice should be granted so that the driver can help the passenger with a disability navigate the pathway. For example, ambulatory blind passengers often have difficulty in icy conditions, and allowing the passenger to take the driver's arm will increase both the speed and safety of the passenger's walk from the door to the vehicle. Likewise, if snow or icy conditions at a bus stop make it difficult or impossible for a fixed route passenger with a disability to get to a lift, or for the lift to deploy, the driver should move the bus to a cleared area for boarding, if such is available within reasonable proximity to the stop.

2. PICK UP AND DROP OFF LOCATIONS WITH MULTIPLE ENTRANCES

A paratransit rider's request to be picked up at home, but not at the front door of his or her home, should be granted, as long as the requested pick-up location does not pose a direct threat. Similarly, in the case of frequently visited public places with multiple entrances (e.g., shopping malls, employment centers, schools, hospitals, airports), the paratransit operator should pick up and drop off the passenger at the entrance requested by the passenger, rather than meet them in a location that has been predetermined by the transportation agency, again assuming that doing so does not involve a direct threat.

3. PRIVATE PROPERTY

Paratransit passengers may sometimes seek to be picked up on private property (e.g., in a gated community or parking lot, mobile home community, business or government facility where vehicle access requires authorized passage through a security barrier). Even if the paratransit operator does not generally have a policy of picking up passengers on such private property, the paratransit operator should make every reasonable effort to gain access to such an area (e.g., work with the passenger to get the permission of the property owner to permit access for the paratransit vehicle). The paratransit operator is not required to violate the law or lawful access restrictions to meet the passenger's requests. A public or private entity that unreasonably denies access to a paratransit vehicle may be subject to a complaint to the U.S. Department of Justice or U.S. Department of Housing and Urban Development for discriminating against services for persons with disabilities.

4. OBSTRUCTIONS

For fixed route services, a passenger's request for a driver to 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, should be granted so long as positioning the vehicle to avoid the obstruction does not pose a direct threat. To be granted, such a request should result in the vehicle stopping in reasonably close proximity to the designated stop location. Transportation entities are not required to pick up passengers with disabilities at non designated locations. Fixed route operators would not have to establish flag stop or route-deviation policies, as these would be fundamental alterations to a fixed route system rather than reasonable modifications of a system. Likewise, subject to the limitations discussed in the introduction to this appendix, paratransit operators should be flexible in establishing pick up and drop off points to avoid obstructions.

5. FARE HANDLING

A passenger's request for transit personnel (e.g., the driver, station attendant) to handle the fare media when the passenger with a disability cannot pay the fare by the generally established means should be granted on fixed route or paratransit service (e.g., in a situation where a bus passenger cannot reach or insert a fare into the farebox). Transit personnel are not required to reach into pockets or backpacks in order to extract the fare media.

6. EATING AND DRINKING

If 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, the request should be granted, even if the transportation provider has a policy that prohibits eating or drinking. For example, a person with diabetes may need to consume a small amount of orange juice in a closed container or a candy bar in order to maintain blood sugar levels.

7. MEDICINE

A passenger's request to take medication while aboard a fixed route or paratransit vehicle or in a transit facility should be granted. For example, transit agencies should modify their policies to allow individuals to administer insulin injections and conduct finger stick blood glucose testing. Transit staff need not provide medical assistance, however, as this would be a fundamental alteration of their function.

8. BOARDING SEPARATELY FROM WHEELCHAIR

A wheelchair user's request to board a fixed route or paratransit vehicle separately from his or her device when the occupied weight of the device exceeds the design load of the vehicle lift should generally be granted. (Note, however, that under §37.165(b), entities are required to accommodate device/user loads and dimensions that exceed the former “common wheelchair” standard, as long as the vehicle and lift will accommodate them.)

9. DEDICATED VEHICLES OR SPECIAL EQUIPMENT IN A VEHICLE

A paratransit passenger's request for special equipment (e.g., the installation 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 Americans with Disabilities Act or the Department's rules. Likewise, a 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) can be denied. In all of these cases, the Department views meeting the request as involving a fundamental alteration of the provider's service.

10. EXCLUSIVE OR REDUCED CAPACITY PARATRANSIT TRIPS

A passenger's request for an exclusive paratransit trip may be denied as a fundamental alteration of the entity's services. Paratransit is by nature a shared-ride service.

11. OUTSIDE OF THE SERVICE AREA OR OPERATING HOURS

A person's request for fixed route or paratransit service may be denied when honoring the request would require the transportation provider to travel outside of its service area or to operate outside of its operating hours. This request would not be a reasonable modification because it would constitute a fundamental alteration of the entity's service.

12. PERSONAL CARE ATTENDANT (PCA)

While PCAs may travel with a passenger with a disability, transportation agencies are not required to provide a personal care attendant or personal care attendant services to meet the needs of passengers with disabilities on paratransit or fixed route trips. For example, a passenger's request for a transportation entity's driver to remain with the passenger who, due to his or her disability, cannot be left alone without an attendant upon reaching his or her destination may be denied. It would be a fundamental alteration of the driver's function to provide PCA services of this kind.

13. INTERMEDIATE STOPS

The Department views granting a paratransit passenger's request for a driver to make an intermediate stop, where the driver would be required to wait, as optional. For example, a passenger with a disability arranges to be picked up at a medical facility and dropped off at home. On the way, the passenger with a disability wishes to stop by a pharmacy and requests that the driver park outside of the pharmacy, wait for the passenger to return, and then continue the ride home. While this can be a very useful service to the rider, and in some cases can save the provider's time and money (by scheduling and providing a separate trip to and from the drug store), such a stop in the context of a shared ride system is not required. Since paratransit is, by its nature, a shared ride system, requests that could disrupt schedules and inconvenience other passengers could rise to the level of a fundamental alteration.

14. PAYMENT

A passenger's request for a fixed route or paratransit driver to provide the transit service when the passenger with a disability cannot or refuses to pay the fare may be denied. If the transportation agency requires payment to ride, then to provide a free service would constitute a fundamental alteration of the entity's service.

15. CARING FOR SERVICE ANIMALS

A paratransit or fixed route passenger's request that the driver take charge of a service animal may be denied. Caring for a service animal is the responsibility of the passenger or a PCA.

16. OPENING BUILDING DOORS

For paratransit services, a passenger's request for the driver to open an exterior entry door to a building to provide boarding and/or alighting assistance to a passenger with a disability should generally be granted as long as providing this assistance would not pose a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.1 Note that a request for “door-through-door” service (i.e., assisting the passenger past the door to the building) generally would not need to be granted because it could rise to the level of a fundamental alteration. 1Please see guidance issued on this topic. U.S. Department of Transportation, Origin-to- Destination Service, September 1, 2005, available at http://www.fta.dot.gov/12325_3891.html (explaining that, “the Department does not view transit providers' obligations as extending to the provision of personal services. . . . Nor would drivers, for lengthy periods of time, have to leave their vehicles unattended or lose the ability to keep their vehicles under visual observation, or take actions that would be clearly unsafe.

17. EXPOSING VEHICLE TO HAZARDS

If the passenger requests that a vehicle follow a path to a pick up or drop off point that would expose 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, the request can be denied as creating a direct threat.

18. HARD-TO-MANEUVER STOPS

A passenger may request that a paratransit vehicle navigate to a pick-up point to which it is difficult to maneuver a vehicle. A passenger's request to be picked up in a location that is difficult, but not impossible or impracticable, to access should generally be granted as long as picking up the passenger does not expose the vehicle to hazards that pose a direct threat (e.g., it is unsafe for the vehicle and its occupants to get to the pick-up point without getting stuck or running off the road).

19. SPECIFIC DRIVERS

A passenger's request for a specific driver may be denied. Having a specific driver is not necessary to afford the passenger the service provided by the transit operator.

20. LUGGAGE AND PACKAGES

A passenger's request for a fixed route or paratransit driver to assist with luggage or packages may be denied in those instances where it is not the normal policy or practice of the transportation agency to assist with luggage or packages. Such assistance is a matter for the passenger or PCA, and providing this assistance would be a fundamental alteration of the driver's function.

21. REQUEST TO AVOID SPECIFIC PASSENGERS

A paratransit passenger's request not to ride with certain passengers may be denied. Paratransit is a shared-ride service. As a result, one passenger may need to share the vehicle with people that he or she would rather not.

22. NAVIGATING AN INCLINE, OR AROUND OBSTACLES

A paratransit passenger's request for a driver to help him or her navigate an incline (e.g., a driveway or sidewalk) with the passenger's wheeled device should generally be granted. Likewise, assistance in traversing a difficult sidewalk (e.g., one where tree roots have made the sidewalk impassible for a wheelchair) should generally be granted, as should assistance around obstacles (e.g., snowdrifts, construction areas) between the vehicle and a door to a passenger's house or destination should generally be granted. These modifications would be granted subject, of course, to the proviso that such assistance would not cause a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.

23. EXTREME WEATHER ASSISTANCE

A passenger's request to be assisted from his or her door to a vehicle during extreme weather conditions should generally be granted so long as the driver leaving the vehicle to assist would not pose a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time. For example, in extreme weather (e.g., very windy or stormy conditions), a person who is blind or vision-impaired or a frail elderly person may have difficulty safely moving to and from a building.

24. UNATTENDED PASSENGERS

Where a passenger's request for assistance means that the driver will need to leave passengers aboard a vehicle unattended, transportation agencies should generally grant the request as long as accommodating the request would not leave the vehicle unattended or out of visual observation for a lengthy period of time, both of which could involve direct threats to the health or safety of the unattended passengers. It is important to keep in mind that, just as a driver is not required to act as a PCA for a passenger making a request for assistance, so a driver is not intended to act as a PCA for other passengers in the vehicle, such that he or she must remain in their physical presence at all times.

25. NEED FOR RETURN TRIP ASSISTANCE

A passenger with a disability may need assistance for a return trip when he or she did not need that assistance on the initial trip. For example, a dialysis patient may have no problem waiting at the curb for a ride to go to the dialysis center, but may well require assistance to the door on his or her return trip because of physical weakness or fatigue. To the extent that this need is predictable, it should be handled in advance, either as part of the eligibility process or the provider's reservations process. If the need arises unexpectedly, then it would need to be handled on an ad hoc basis. The paratransit operator should generally provide such assistance, unless doing so would create a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.

26. FIVE-MINUTE WARNING OR NOTIFICATION OF ARRIVAL CALLS

A passenger's request for a telephone call 5 minutes (or another reasonable interval) in advance or at time of vehicle arrival generally should be granted. As a matter of courtesy, such calls are encouraged as a good customer service model and can prevent “no shows.” Oftentimes, these calls can be generated through an automated system. In those situations where automated systems are not available and paratransit drivers continue to rely on hand-held communication devices (e.g., cellular telephones) drivers should comply with any State or Federal laws related to distracted driving.

27. HAND-CARRYING

Except in emergency situations, a passenger's request for a driver to lift the passenger out of his or her mobility device should generally be denied because of the safety, dignity, and privacy issues implicated by hand-carrying a passenger. Hand-carrying a passenger is also a PCA-type service which is outside the scope of driver duties, and hence a fundamental alteration.

REQUESTING A REASONABLE MODIFICATION

DCT is required to make reasonable modifications to policies, practices, and procedures to avoid discrimination and ensure that programs are accessible to individuals with disabilities.

Individuals requesting modifications shall describe what they need in order to use the service. The individual does not need to use the term reasonable modification when making a request.

Whenever feasible, requests for modifications shall be made and determined in advance, before DCT is expected to provide the modified service, for example, during the paratransit eligibility process, through customer service inquiries, or through DCT's complaint process.

Where a request for modification cannot practicably be made and determined in advance (e.g., because of a condition or barrier at the destination of a paratransit or fixed route trip of which the individual with a disability was unaware until arriving), operating personnel of DCT shall make a determination of whether the modification should be provided at the time of the request. DCT's Operating personnel (drivers) will need to consult with DCT's management and/or dispatch office before making a determination to grant or deny the request.

Individuals requiring a reasonable modification are encouraged to advise DCT in advance so the necessary determinations can be made. This is appropriate where a permanent or long-term condition or barrier is the basis of the request. (e.g. difficulty in access to a complementary paratransit vehicle from the passenger's residence, or lack of an accessible path of travel to a designated bus stop due to sidewalk or road construction, resulting in a request to have the bus stop a short distance from the bus stop location).

DCT does not need to establish a separate process for handling reasonable modification requests; procedures already in place may suffice. In many cases, DCT will handle requests for modifications during the paratransit eligibility process, customer service inquiries, and through the complaint process. Making provisions for situations in which an advance request and determination are not feasible. In these situations, DCT's operating personnel are to make the determination of whether the modification should be provided at the time of the request. These situations are sometimes more difficult to handle than advance requests, but responding to them is necessary.

DCT will provide an accessible means by which individuals with disabilities can request a reasonable modification. Requests for reasonable modifications may be mailed to: 119 Henderson Ct. Delaware, Ohio 43015. You may contact the Mobility Management office by email: ADACRO@delcotransit.com, by phone 740-363-3355 or you may find this information by visiting DCT's website at www.delcotransit.com. If the reasonable modification needs to be made immediately, the bus operator will contact the DCT dispatch office via radio and a decision will be made.

EXCEPTIONS TO GRANTING REASONABLE MODIFICATION REQUESTS

Requests for modification of DCT's policies and practices may be denied on one or more of the following grounds:

1. Granting the request would fundamentally alter the nature of DCT's services, programs, or activities; (e.g. a request for a dedicated vehicle, a request for a fixed route bus to deviate from its normal route to pick up someone)

2. Granting the request would create a direct threat to the health or safety of others; (e.g., a request that would require a driver to engage in a highly hazardous activity in order to assist a passenger, such as having to park a vehicle for a prolonged period of time in a no parking zone on a high-speed, high-volume highway that would expose the vehicle to a heightened probability of being involved in a crash)

3. Without the requested modification, the individual with a disability is able to fully use DCT's services, programs, or activities for their intended purpose. (e.g., the modification might make transportation more convenient for the passenger, who could nevertheless use the service successfully to get where he or she is going without the modification)

4. For FTA recipients, a request may also be denied if it would create an undue financial or administrative burden

In any case where DCT denies a request for reasonable modification, DCT will 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 DCT.