

FTA

FEDERAL TRANSIT ADMINISTRATION

Reasonable Modification of Policy: *New Final Rule*

ALRAP/ALDOT Spring Meeting
Orange Beach, AL
May 2018

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U.S. Department of Transportation
Federal Transit Administration

Topics Covered

Reasonable modification: What is It?

Exceptions to granting RM requests

Local process for handling RM requests

FTA's oversight role

Rulemaking

DEPARTMENT OF TRANSPORTATION

49 CFR Parts 27 and 37

[Docket OST–2006–23985]

RIN 2105–AE15

**Transportation for Individuals With
Disabilities; Reasonable Modification
of Policies and Practices**

AGENCY: Office of the Secretary (OST),
U.S. Department of Transportation
(DOT).

ACTION: Final rule.

- Effective July 13, 2015
- Basic tenet of RM already in sec. 504, Air Carrier Access Act, passenger vessel regs, DOJ ADA regs

Reasonable Modification: What is It?

- *Agencies are required to make reasonable modifications to policies, practices, and procedures to avoid discrimination and ensure that their programs are accessible to individuals with disabilities*
- Appendix E provides a framework with examples



Reasonable Modification: What is It?

- Applies to an agency's policies / practices, not the regulations themselves
- E.g., Not a need to exceed minimum service criteria

Appendix E



“Importantly, reasonable modification applies to an entities’ own policies and practices, and not regulatory requirements contained in 49 CFR parts 27, 37, 38, and 39, such as complementary paratransit service going beyond 3/4 mile of the fixed route, providing same day complementary paratransit service, etc.”

Origin-to-Destination

- No change to the longstanding origin-to-destination requirement under 37.129(a)
- Base curb-to-curb policy ok, but modification of that policy would be needed on an individual basis, consistent with 2005 DOT law guidance

New definition



§ 37.3 Definitions.

* * * * *

Origin-to-destination service means providing service from a passenger's origin to the passenger's destination. A provider may provide ADA complementary paratransit in a curb-to-curb or door-to-door mode. When an ADA paratransit operator chooses curb-to-curb as its primary means of providing service, it 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 or direct threat.

RM Requests Likely to Be Granted

General

- Have operator pull up a reasonable distance from obstructed bus stop
- Help rider with fare media
- Allow beverages
- Allow rider to board separately from wheelchair

****Unless there is an exception****

Origin-to-destination

- Pick up at hard to maneuver spots
- Pick up at specific entrances
- Assist in extreme weather



Exceptions

1. **Fundamental alteration** of service
2. **Direct threat** to the health or safety of others
3. **Not needed** by the requester to use the service
4. Undue financial / administrative burden



****But . . . obligation exists to identify any possible workaround****

1. Fundamental Alteration

- A change so significant that it alters the nature of the service
- Key starting points:
 - The service is shared-ride public transportation to get people from point A to point B
 - Role of the vehicle operator in public transit
- Examples in Appendix E:
 - Specific vehicle requests (e.g., sedans)
 - Exclusive rides
 - PCA functions like carrying packages, staying with unattended passengers
 - Operating outside service area or hours

2. Direct Threat

- A significant risk to the health or safety of others
- See 37.3, 37.5(h) and Appendix D for “direct threat” concept



Examples in Appendix E:

- Exposing the vehicles to hazards (reversing down a narrow alley, striking overhead objects, etc.)
- Leaving a vehicle unattended for a lengthy period

3. Not Needed

- 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



Local Process Requirement

- Transit providers must implement their own process for making decisions and providing reasonable modifications (sec. 37.169)
 - The rule does not prescribe the exact process to adopt or require DOT approval
- Existing local processes may suffice – no separate process for RM
 - Complaint process
 - Paratransit eligibility process
 - Customer service
 - Operating personnel (when advance notice is impracticable)

Basic Process Requirements

- Information on RM process is **readily available** to the public
- Process is **accessible**
- Require **advance notice**; but when feasible, **flexibility** needed in handling requests only practicable on the spot

- **Requesters** must describe what they need to use the service
- **Requesters** do not need to use the phrase, “reasonable modification”

Local Complaint Procedures: Change

- Existing complaint requirement in sec. 27.13 revised.
 - Previously said agencies must “promptly resolve” complaints
- Now, must also:
 - “Promptly communicate” the response to the complainant, including the reasons for the response, and “document” the response
 - Advertise the complaint process
 - Ensure procedures are accessible
- Mirrored in new sec. 37.13



Federal Oversight

- Oversight focus is on local process
 - “DOT agencies retain the authority to review an entity’s process as part of normal program oversight” sec. 37.169
- RM requests to be handled locally
 - “[T]he Department intends decisions on individual requests for modification to be addressed at the local level”

Conclusion

- Effective date: July 13
- Sign up for updates to FTA's ADA website to receive an e-mail blast on new information and upcoming events
- Questions? FTA's "Contact Us" tool



The screenshot shows the top portion of the FTA website. At the top left is the FTA logo, a stylized 'T' inside a circle. To its right, the text reads "U.S. Department of Transportation" and "Federal Transit Administration". Below this is a navigation bar with links for "News", "Grant Programs", "Funding & Finance", "Regional Offices", "Contact Us", and "About FTA". The main content area has a breadcrumb trail: "Home Page >> Civil Rights >> Americans with Disabilities Act". The title of the page is "Americans with Disabilities Act". Below the title is a red envelope icon followed by the text "Sign up for email updates on this topic." and a paragraph: "The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity and access for persons with disabilities."



Federal Transit Administration

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Contact Us Tool on FTA Website

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