

**MTA/RTA
ADA/§504
Reasonable Modification and Accommodation
Policy & Procedures**

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1. Purpose

To define reasonable modification and reasonable accommodation, provide exceptions to what is considered reasonable, and to state MTA/RTA policy and procedures on receiving, processing, and responding to requests for reasonable modification and reasonable accommodation from the general public. For the purpose of this document, reasonable modification and reasonable accommodation requests may be referred to as requests.

2. Definitions

Direct Threat: a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, procedures, or by the provision of auxiliary aids or services.

Disability: a physical or mental impairment that substantially limits one or more major life activities of such individual; a record of such impairment; being regarded as having such impairment.

Field (request): a request that is made in person directly to MTA/RTA operating personnel in the field of operation where the requesting person is requiring a modification or accommodation as an immediate perceived need in order to obtain full access to MTA/RTA services, programs, or activities at that specific time of request.

Reasonable: having sound judgment; appropriate; equitable.

Reasonable Modification (request): a reasonable change to an MTA/RTA policy, practice or procedure for an individual with a disability so that the nature of that person's disability will not preclude MTA/RTA from providing full access to its services, programs, or activities.

Reasonable Accommodation (request): the act of enabling a qualified individual with a disability to obtain full and equal access to MTA/RTA services, programs, or activities subject to the exceptions within this document.

3. Background

The Federal Transit Administration (FTA) rules under the Americans with Disabilities Act (ADA), as amended, and §504 of the Rehabilitation Act of 1973, as amended, require MTA/RTA to make reasonable modifications and accommodations to its policies, practices, and procedures under circumstances that would avoid discrimination to ensure all MTA/RTA services, programs, and activities are accessible to individuals with disabilities. This requirement includes, but is not limited to, the following:

- A public entity providing designated public transportation shall respond to requests for reasonable modification/accommodation to policies and practices.
- The public entity shall make information about how to make requests for reasonable modification/accommodation readily available to the public through the same means it uses to inform the public about its policies and practices.
- The process shall provide a means, accessible to and usable by individuals with disabilities, to request a modification/accommodation in the entity's policies and practices applicable to its transportation services.
- Individuals requesting modification/accommodation shall describe what they need in order to use the service and are not required to use the term 'reasonable modification' or 'reasonable accommodation' when making a request.
- Whenever feasible, requests for modification/accommodation shall be made and determined in advance.
- Where a request for modification/accommodation cannot practicably be made and determined in advance, operating personnel of the entity shall make a determination of whether the modification/accommodation should be provided at the time of the request.
- In any case in which the public entity denies a request, the public entity is required to 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 program provided by the public entity.

Additionally it is required that private entities to “stand in the shoes” of public entities with whom they contract; subcontract; establish other arrangements including, but not limited to a grant; sub-grant or cooperative agreement; to provide transportation services on behalf of the public entity.

4. Policy Statement

It is the policy of MTA/RTA to make reasonable modifications and reasonable accommodations in its policies, practices, and procedures when the modifications and accommodations are necessary to avoid discrimination on the basis of a disability in subject to exceptions set forth in this document; to respond to requests for reasonable modifications and accommodations; to make information available to the public on how to make a request; that upon denial of a request, MTA/RTA 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 and programs provided by MTA/RTA . This policy additionally applies to private entities that contract; subcontract; establish other arrangements including, but not limited to a grant; sub-grant or cooperative agreement; to provide transportation services on behalf of MTA/RTA.

5. Exceptions

MTA/RTA will make reasonable modifications and reasonable accommodations subject to the following (4) four exceptions which apply to both requests made in advance and in the field.

1. Granting the request would fundamentally alter MTA/RTA services, programs, or activities.
2. Granting the request would create a direct threat to the health or safety of others.
3. The requested modification or accommodation would not be necessary to allow the individual with a disability to fully use or participate in MTA/RTA services, programs, or activities for their intended purpose.
4. A request would create an undue financial or administrative burden for MTA/RTA.

6. Determining a Direct Threat

A direct threat refers to a direct threat to other individuals and not to the person with the disability. MTA/RTA is not required to permit an individual to participate in or benefit from the services, programs, or activities of MTA/RTA when that individual poses a direct threat to the health or safety of others.

In determining such threat, MTA/RTA employees must make an individualized assessment, based on reasonable judgment, that relies on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk, the probability that the potential injury will actually occur, and whether reasonable modifications or accommodations of and within MTA/RTA policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

It is not discrimination to refuse MTA/RTA service or program access to an individual with a disability because that individual engages in violent, seriously disruptive, or illegal conduct, or represents a direct threat to the health or safety of others. However, an MTA/RTA employee shall not refuse to provide service or program access to an individual with a disability solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of MTA/RTA or other persons.

7. Process and Procedures

The ADA Coordinator is responsible for processing requests. Field request documentation and those received by private entities that provide transportation services on behalf of MTA/RTA shall also be forwarded to the ADA Coordinator for processing.

Whenever feasible, requests shall be made in advance, before MTA/RTA is expected to provide the modification or accommodation. Requests may be filed by another individual on behalf of the person in need of the modification or accommodation.

A complete request requires a description of what is needed for the individual with a disability to use MTA/RTA services and/or participate in its programs. Requestors are not required to use the term 'reasonable modification' or 'reasonable accommodation' when making a request. In the case where a Requestor is unable or incapable of providing a written request, a verbal request may be made to the MTA/RTA ADA Coordinator. Under these circumstances, the Requestor will be interviewed, and the MTA/RTA ADA Coordinator will assist the Requestor, to the best of their ability, in converting the verbal request to writing.

7.1 Requests in Advance

Anyone may submit a request to MTA/RTA for an ADA/§504 reasonable modification or accommodation by completing and submitting MTA/RTA ADA/§504 Reasonable Modification/Accommodation Request Form ("Request"). The Requestor must state in detail what accommodation/modification s/he requires to equally access MTA/RTA services or programs. If the Request lacks the requisite detail, the Requestor may be contacted for additional information. A Request may be administratively closed if the Requestor cannot provide the requested information or if the Requestor no longer wishes to pursue their request.

Once a proper Request is received, MTA/RTA will determine if it has authority and jurisdiction to consider the Request. The Requestor will receive acknowledgment of the Request from MTA/RTA within ten (10) business days and should be informed of any portion of the Request where MTA/RTA does not have authority to act.

In the event MTA/RTA has full or partial authority and jurisdiction to act, MTA/RTA will review the Request to determine if it is reasonable. MTA/RTA is not required to make modification or accommodation if the same: (i) results in the fundamental alteration of the applicable services, programs or activities; (ii) creates a direct threat to the health or safety of others; (iv) is not necessary to allow the individual to fully use or participate in MTA/RTA services, programs, or activities for their intended purpose; or (v) if it would create an undue financial or administrative burden for MTA/RTA .

MTA/RTA will summarize the results of its decision and provide a response to the Requestor within thirty (30) days from receipt of the complete Request. The response will include the original request, summary of relevant analysis, and MTA/RTA final determination along with the right to appeal and process for doing so. Should a Request be denied, in whole or in part, MTA/RTA will recommend alternative accommodation/modifications to the Requestor.

7.2 Field Requests

Field requests apply to all operational services provided by MTA/RTA or private entities providing service on MTA/RTA behalf. Operational services include fixed route, paratransit, etc.

Where a request cannot practicably be made and determined in advance, operating personnel may determine whether a modification or accommodation can be reasonably and safely provided to the public at the time of the request.

It is the responsibility of the Operations Department to establish protocols for each operational service by which their staff and operating private entity, if applicable, receive; process; document; reasonably determine; and respond to such requests. All applicable protocols must be in full compliance with this policy and must include a means by which the Requestor may appeal the field request determination. MTA/RTA ADA Coordinator shall review all established protocols to ensure compliance with ADA regulations.

8. Public Notice

The process for requesting reasonable modification or accommodation, including the contact information of the ADA Coordinator, shall be sufficiently advertised to the public. This information shall be published on the MTA/RTA web site and on the ADA Public Notice posted in all public areas of MTA/RTA facilities.

9. Disputes, Appeals, and Lawsuits

Individuals have the right to dispute the above procedures and decisions by contacting the ADA Coordinator. Individuals also have a right to appeal by contacting the Federal Transit Administration at FTA Office of Civil Rights, 1200 New Jersey Avenue SE, Washington, DC 20590 or by visiting <http://www.fta.dot.gov> . Should MTA/RTA receive a complaint, dispute, or appeal in the form of a formal charge or lawsuit, MTA/RTA legal counsel shall be responsible for the investigation and maintaining a log as described above.

10. Recordkeeping

MTA/RTA shall keep on file a record of all such requests, which may be in summary form, for five (5) years. MTA/RTA shall keep all pertinent and associated records for review by and submittal to FTA or other responsible governmental official as prescribed. In the case in which a MTA/RTA extends Federal financial assistance to any other recipient, per §27.121(b), that recipient shall also submit reasonable modification and accommodation request reports to MTA/RTA . These reports shall be forwarded to the MTA/RTA ADA Coordinator.

11. Confidentiality

All personally identifiable information within requests must remain confidential and limited to only those persons receiving, documenting, and/or reviewing the request.

12. Surcharges

MTA/RTA, its contractors, nor subcontractors may place a surcharge on a particular individual with a disability, or any group of individuals with disabilities, to cover any costs associated with determining or providing reasonable modifications or reasonable accommodations.

13. Accessible Formats

MTA/RTA documents and information can be made available to the public in accessible formats upon request by contacting MTA/RTA ADA Coordinator at:

MTA/RTA ADA Coordinator

Nashville MTA / RTA
430 Myatt Drive
Nashville, TN 37115
ph: (615) 862-5950

<http://www.nashvillemta.org/>

14. Accountability

Any employee found to have violated this Policy may be subject to disciplinary action up to and including termination of employment.

Cross Reference

DOT Final Rule for Reasonable Modification
FTA C4710.1