

Shelby Public Transit
Policy and Procedures Manual
413 S. VanDemark Road, Sidney, Ohio 45365

Subject:	Americans with Disabilities Act: Reasonable Accommodations	Section:	System Information
Effective Date:	September 12, 2022	Replaces:	May 6, 2021
Approved by:	Sidney City Council		
Approval Date:	September 12, 2022	Policy:	1-6

Directive:

To ensure that Shelby Public Transit offers equal and effective opportunities and access to public transportation services for persons with disabilities in full compliance with the provisions of the Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973.

Procedure:

Shelby Public Transit is committed to providing equal access and opportunity to qualified individuals with disabilities in all programs, services and activities. Shelby Public Transit recognizes that in order to have equally effective opportunities and benefits, individuals with disabilities may need reasonable modifications to policies and procedures. Shelby Public Transit will adhere to all applicable federal and state laws, regulations and guidelines with respect to providing reasonable modifications, as necessary, to afford equal access to programs for persons with disabilities. Shelby Public Transit does not discriminate on the basis of disability in admission to, participation in, or receipt of services and benefits under any transit program or activity. Shelby Public Transit will take appropriate steps to ensure that persons with disabilities have an equal opportunity to participate.

No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of Shelby Public Transit, or be subject to discrimination by Shelby Public Transit.

In compliance with 49 CFR, Subtitle A, Parts 27 and 37, public transportation entities receiving Federal financial assistance are required to make reasonable accommodations or modifications to their policies, practices and procedures to ensure program accessibility to persons with disabilities.

A reasonable modification is a change or exception to a policy, practice, or procedure that allows disabled individuals to have equal access to programs, services, and activities. Shelby Public Transit will make reasonable modifications to policies, practices and procedures when necessary to ensure access to transit services for individuals with disabilities, unless:

- Making the accommodation would fundamentally alter Shelby Public Transit's services, programs, or activities.

- Making the accommodation would create a direct threat to the health or safety of others.
- The individual with a disability is able to fully use Shelby Public Transit's service without the accommodation being made.
- Making the accommodation creates an undue financial burden on the transit system.

This policy applies to all safety-sensitive transportation vehicle operators including full time, part time, and those staff that may be required to operate the vehicle. For the purposes of this policy, the term "reasonable accommodation" shall be interpreted in a manner consistent with the term "reasonable modifications" as set forth in the Americans with Disabilities Act Title II regulations at 28 CFR, Chapter 1, Part 35, Subpart B, Section 35.130(b)(7), and not as it is defined or interpreted for the purposes of employment discrimination under Title I of the ADA, 42 USC, Subchapter 1, Sections 12111 and 12112 and its implementing regulations at 29 CFR, Subtitle B, Chapter XIV, Part 1630.

An individual is eligible to be considered to receive a reasonable modification if that individual: has a physical or mental impairment that substantially limits one or more of the major life activities of such individual; has a record of such impairment; or has been regarded as having such impairment.

Shelby Public Transit shall make information about how to contact Shelby Public Transit to make requests for reasonable modifications readily available to the public. Shelby Public Transit shall follow these procedures in taking requests:

- Individuals requesting modifications shall describe what they need in order to use the service.
- Individuals requesting modifications are not required to use the term "reasonable modification" when making a request. Personnel at Shelby Public Transit will determine if the request represents a reasonable modification and proceed in accommodating the request accordingly.
- Whenever feasible, Shelby Public Transit requests that individuals make such requests for modifications before Shelby Public Transit is expected to provide the modified service.
- 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 trip of which the individual with a disability was unaware until arriving), operating personnel shall make a determination of whether the modification should be provided at the time of the request. Operating personnel may consult with Shelby Public Transit's management before making a determination to grant or deny the request.

Requests for accommodation may be made either orally or in writing. The reasonable accommodation process begins as soon as the request for accommodation is made.

The request can be submitted in any written format. Alternative means of filing a request, such as personal interviews, phone calls, or taped requests, will be made available for persons with disabilities if unable to communicate their request in writing or upon request.

When a request for accommodation is made, Shelby Public Transit and the individual requesting an accommodation must engage in a good faith interactive process to determine what, if any accommodation shall be provided. The individual and Shelby Public Transit must communicate with each other about the request, the process for determining whether an accommodation will be provided, and the potential accommodations. Communication is a priority throughout the entire process.

Shelby Public Transit will process requests for reasonable accommodation and then provide accommodations, where appropriate, in as short a time frame as reasonably possible. Shelby Public Transit recognizes, however, that the time necessary to process a request will depend on the nature of the accommodation(s) requested and whether it is necessary to obtain supporting information.

As soon as Shelby Public Transit determines that a reasonable accommodation will be provided, that decision shall be immediately communicated to the individual. This notice must be in writing in order to maintain the required information for reporting purposes. Upon request, alternative means of response will be provided.

In choosing among alternatives for meeting nondiscrimination and accessibility requirements with respect to new, altered, or existing facilities, or designated or specified transportation services, Shelby Public Transit shall give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate to the needs of individuals with disabilities.

As soon as Shelby Public Transit determines that a request for reasonable accommodation will be denied, Shelby Public Transit will communicate the basis for the decision in writing to the individual requesting the modification. The explanation for the denial will clearly state:

- the specific reasons for the denial;
- any alternative accommodation that may create the same access to transit services as requested by the individual; and
- the opportunity to file a complaint relative to Shelby Public Transit's decision on the request.

Shelby Public Transit has a process for investigating and tracking complaints from qualified individuals. These procedures and any forms necessary to file a complaint will be provided to any individual where Shelby Public Transit has denied a request for accommodation. Alternative means of filing complaints, such as personal interviews, phone calls, or taped requests, will be made available for persons with disabilities if unable to communicate their request in writing or upon request.

Any person who believes she or he has been discriminated against in obtaining a reasonable modification may file a complaint. The complaint can be submitted in any written format. Alternative means of filing a complaint, such as personal interviews, phone calls, or taped requests, will be made available for persons with disabilities if unable to

communicate their complaint in writing or upon request. Shelby Public Transit investigates complaints received no more than 30 days after receipt. Shelby Public Transit will process complaints that are complete. Once the complaint is received, the complainant will receive an acknowledgement of receipt. If more information is needed to resolve the complaint, Shelby Public Transit may contact the complainant in writing. The complainant has 30 business days from the date of the letter to send requested information to Shelby Public Transit.

If Shelby Public Transit is not contacted by the complainant or does not receive the additional information within thirty business days, Shelby Public Transit may administratively close the complaint. In addition, a complaint may be administratively closed if the complainant no longer wishes to pursue the case.

After Shelby Public Transit investigates the complaint, a decision will be rendered in writing to the complainant. Shelby Public Transit will issue either a Letter of Closure or Letter of Finding.

- Letter of Finding – This letter will summarizes the complaint, any interviews conducted regarding the complaint, and explains what actions will be taken by Shelby Public Transit to address the complaint.
- Letter of Closure – This letter will explain why Shelby Public Transit has determined that the complaint does not merit accommodation under the Americans with Disabilities Act and that the complaint will be closed.

If the complainant disagrees with the decision of Shelby Public Transit, an opportunity to appeal the decision may be pursued provided the complainant files notice of appeal within 21 days of the initial decision of Shelby Public Transit.

In the event of appeal, the complainant will be granted all due process, including the ability to be present additional evidence, present the case in person during an appeal hearing, and to be represented by counsel.

Shelby Public Transit will maintain all records related to reasonable modification requests and denials for at least three (3) years.

References:

A copy of the Americans with Disabilities Act of 1990, as amended is available at:
https://www.ada.gov/ada_intro.htm.

A copy of the Rehabilitation Act of 1973, Section 504 is available at:
<https://www.ada.gov/cguide.htm#anchor65610>.

A copy of 49 CFR, Subtitle A, Part 27 is available at:
<https://www.ecfr.gov/current/title-49 subtitle-A/part-27>.

A copy of 49 CFR, Subtitle A, Part 37 is available at:
<https://www.ecfr.gov/current/title-49 subtitle-A/part-37>.

A copy of 28 CFR, Chapter 1, Part 35, Subpart B, Section 35.130(b)(7) is available at:
<https://www.ecfr.gov/current/title-28/chapter-I/part-35/subpart-B/section-35.130>.

A copy of 42 USC, Subchapter 1, Sections 12111 and 12112 is available at:
<https://www.law.cornell.edu/uscode/text/42/chapter-126/subchapter-I>.

A copy of 29 CFR, Subtitle B, Chapter XIV, Part 1630 is available at:
<https://www.ecfr.gov/current/title-29.subtitle-B/chapter-XIV/part-1630?toc=1>.

A copy of the USDOT Reasonable Accommodation Standards is in Attachment 3 of this manual.

A copy of the Shelby Public Transit ADA Plan is available in the Transit Manager's office.

Responsibilities:

The Transit Manager is responsible for processing reasonable modification requests and handling complaints.

Americans with Disabilities Act (ADA) Reasonable Accommodation Standards

United States Department of Transportation (USDOT) regulations provide examples demonstrating what is or is not considered reasonable accommodation for individuals with a disability, as follows:

1. **Snow and Ice.** A passenger's request for an operator to walk over a pathway that has not been fully cleared of snow and ice shall be granted so that the operator can help the passenger with a disability navigate the pathway, except in extreme conditions that rise to the level of a direct threat.
2. **Service Stops at Locations with Multiple Entrances.** A passenger's request for service at a specific location among multiple locations, whether at the passenger's home or at a public location, shall be granted as long as the requested service stop location does not pose a direct threat.
3. **Private Property.** A passenger's request for a service stop on private property shall be granted when possible. An operator shall make every reasonable effort to gain access to private property when a service stop request is made, including working with the passenger to get the permission of the property owner to permit access for the vehicle. Private property may include a gated community or parking lot, a mobile home community, or a business or government facility where vehicle access requires authorized passage through a security barrier. An operator is not required to violate the law or lawful access restrictions to meet the passenger's request.
4. **Obstructions.** A passenger's request for a service stop location to avoid obstructions shall be granted when possible.
5. **Fare Handling.** A passenger's request for an operator to reach into pockets or backpacks in order to collect fares may be denied as a fundamental alteration of service.
6. **Eating and Drinking.** A passenger's request to eat or drink aboard the vehicle to avoid adverse health consequences shall be granted.
7. **Medicine.** A passenger's request to take medication aboard the vehicle to avoid adverse health consequences shall be granted, including administering an insulin injection or finger stick blood glucose testing. A passenger may not assist another passenger in taking medication. A passenger's request for an operator to provide medical assistance may be denied as a fundamental alteration of the operator's function.
8. **Service Stops Requiring Lifts.** A passenger's request to enter or leave a vehicle separately from the passenger's mobility device when the occupied weight of the mobility device exceeds the design load of the lift shall be granted.
9. **Dedicated Vehicles.** A passenger's request for a dedicated vehicle or a specific type or appearance of vehicle may be denied as a fundamental alteration of service.
10. **Special Equipment in a Vehicle.** A passenger's request for special equipment to be provided or installed in a vehicle may be denied as a fundamental alteration of service, so long as the special equipment is not required by the ADA or USDOT rules.
11. **Exclusive or Reduced Capacity Trips.** A passenger's request for an exclusive or reduced capacity trip may be denied as a fundamental alteration of service.

12. **Trips Beyond the Service Area or Outside Operating Hours.** A passenger's request for a trip beyond the service area or outside operating hours may be denied as a fundamental alteration of service.
13. **Personal Care Attendant.** A passenger's request to provide a personal care attendant may be denied as a fundamental alteration of service. A passenger's request for an operator to provide personal care attendant services may be denied as a fundamental alteration of the operator's function.
14. **Intermediate Stops.** An operator is not required to honor a passenger's request for an intermediate stop between the passenger's origin and destination locations unless instructed to do so by dispatch. Dispatch may allow intermediate stops where the operator will need to wait unless the schedule disruption rises to the level of a fundamental alteration of service.
15. **Fare Payment.** A passenger's request for service without paying the fare for such service may be denied as a fundamental alteration of service.
16. **Caring for Service Animals.** A passenger's request for an operator to care for or take charge of the passenger's service animal may be denied as a fundamental alteration of the operator's function.
17. **Opening Building Doors.** A passenger's request for an operator to open an exterior door to a building to provide assistance to a passenger shall be granted, as long as providing this assistance does not pose a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time. A passenger's request to provide door-through-door service may be denied as a fundamental alteration of service.
18. **Exposing Vehicle to Hazards.** A passenger's request for an operator to follow a path that would expose the vehicle and its occupants to hazards, such as running off the road, getting stuck, striking overhead objects, or backing the vehicle down a narrow path or alley may be denied as a posing a direct threat.
19. **Difficult Service Stop.** A passenger's request for a service stop that is difficult, but not impossible or impractical, to access shall be granted as long as the service stop does not expose the vehicle to hazards that pose a direct threat.
20. **Specific Operator.** A passenger's request for a specific operator may be denied as unnecessary to afford the passenger the service provided.
21. **Luggage or Packages.** A passenger's request for assistance with luggage or packages outside of current policies, practices, or procedures may be denied as a fundamental alteration of the operator's function.
22. **Request to Avoid Specific Passengers.** A passenger's request not to ride with specific passengers may be denied as a fundamental alteration of service.
23. **Navigating an Incline, or Around Obstacles.** A passenger's request for an operator's assistance to navigate an incline, a difficult walkway, or around obstacles shall be granted, as long as providing this assistance does not pose a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.
24. **Extreme Weather Assistance.** A passenger's request for an operator's assistance during extreme weather conditions shall be granted, as long as providing this assistance does not pose a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.
25. **Unattended Passengers.** A passenger's request for an operator's assistance which will leave other passengers unattended shall be granted, as long as providing

this assistance does not pose a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.

26. **Need for Return Trip Assistance.** A passenger's request for an operator's assistance on a return trip, even when no assistance was needed on the initial trip, shall be granted, as long as providing this assistance does not pose a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.
27. **Notification of Arrival Calls.** A passenger's request for a telephone call in advance of, or at the time of, vehicle arrival shall be granted.
28. **Hand-Carrying.** A passenger's request for an operator to lift the passenger out of the passenger's mobility device may be denied as a fundamental alteration of service, except in emergency situations.