

METRO MOBILITY STANDARD OPERATING PROCEDURE

Customer Conduct, Suspensions and Appeals

Date Implemented: January 18, 2019

Purpose: Metro Mobility may suspend or alter access to ADA paratransit for customers who pose a direct threat to the health and safety of others, or engage in violent, seriously disruptive or illegal conduct while using Metro Mobility services. Metro Mobility is entitled to refuse service to such passengers according to the regulations listed below:

“...an entity may refuse service to someone who engages in violent, seriously disruptive, or illegal conduct. If an entity may legitimately refuse service to someone, it may condition service to him(/her) on actions that would mitigate the problem. The entity could require an attendant as a condition of providing service it otherwise had the right to refuse.” [49CFR 37.5 App. D]

“...a person who poses a significant risk to others may be excluded [from service] if reasonable modifications to the public accommodation’s policies, practices, or procedures will not eliminate that risk.” [28CFR 36.208]

This document serves to clarify expectations for customer conduct so that customers, family members, contracted providers, support staff and public understand which types of customer behaviors may result in suspension of service. Investigation, ramification and appeal processes are also outlined.

Types of Offenses: Metro Mobility differentiates between three different levels of offenses. Each is described below, with examples given.

1. Minor Offenses- Behaviors are those that disrupt service without otherwise infringing on the rights of other customers, operators or other employees of Metro Mobility or its contractors. Examples include, but are not limited to:

- Unintentionally damaging or soiling a Metro Mobility vehicle
- Refusing escort without a waiver
- Bringing an excessive number/size of packages on the vehicle
- Failing to control a service animal (non-safety related)
- Smoking or use of other prohibited or illicit substances
- Removing a seatbelt while the vehicle is in motion

- Standing/moving while a vehicle is in motion
- Repeated no-showing or late-canceling of rides
- Delaying vehicle departure
- Elopement
- Listening to music without headphones
- Fare evasion (intentional non-payment of fare)
- Eating or drinking on a vehicle (unless medically necessary)
- Requiring unscheduled stops
- Use of profane language and/or disruptive behavior not directed at an operator, staff, or other customers.
- Exhibiting violent behaviors on a vehicle without striking or attempting to strike an operator or customer.

2. Major Offenses- These behaviors are those that infringe on the rights of other customers, staff or operators, and interfere with the safe operation of the vehicle. Examples include but are not limited to:

- Use of profane and/or threatening language directed at staff, operator or other customer(s).
- Disruptive behavior (ex. yelling, throwing items, banging on windows, etc.) impacting operator, staff, or other customers.
- Falsely booking or cancelling rides for another customer
- Attempting to operate a vehicle
- Intentional damage of property or equipment
- Stealing
- Failure to follow direction of operator
- Disruptive behavior resulting from intoxication
- Other unsafe conduct (determined at Metro Mobility's discretion)

3. Direct Threats- A "direct threat" is defined by Federal regulations [28CFR 36.208] as posing a "significant risk to others". This may include both safety and security issues and/or highly infectious diseases or conditions.

U. S. Department of Justice regulations state in 28 CFR Sec. 36.208b: In determining whether an individual poses a direct threat to the health or safety of others, a public accommodation must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or 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 of policies, practices, or procedures will mitigate the risk. Examples include:

- Assault or attempted assault
- Sexual exposure or unwanted advances

- Serious health-related conditions or conduct impacting public health (bed bugs, TB, spitting intentional discharge of bodily substance, etc.)

Metro Mobility/Provider Response: Contracted service providers will notify Metro Mobility of all issues surrounding customer conduct. Metro Mobility's response will vary based on the type of offense.

For minor offenses other than no-shows Metro Mobility will issue a warning for the first occurrence. Each additional occurrence will result in a 14-day suspension of service. Notification of the suspensions will be sent in writing at least 14 days prior to the start of the suspensions. For no-shows, see Metro Mobility No Show Policy.

For major offenses, a first occurrence will result in a 30-day suspension of service. A second occurrence will result in a 45-day suspension, and any subsequent occurrences a 60-day suspension. Notification of the suspensions will be sent in writing at least 14 days prior to the start of the suspensions. If Metro Mobility is unable to curb major offenses with suspensions or reasonable modifications, it will consider the requirement that the repeatedly offending customer be required to travel with an aide or PCA when accessing service. PCA/aide requirements will be revisited after 6 months and will be removed if the customer in question has had no further conduct violations. Future major violations will result in reinstatement of the requirement.

For direct threat offenses related to behaviors, Metro Mobility's response will be the same as for major offenses, except that suspensions will begin the day after Metro Mobility confirms the offense. The offending customer, their family or support staff will be contacted verbally on the day of the confirmation and provided with the reason for and dates of the suspension. A letter confirming the suspension will be mailed on the same day verbal contact is attempted.

For direct threat offenses related to highly infectious diseases or contagions, a suspension may be shortened if the dangerous condition is remedied prior to the scheduled end of the suspension.

Metro Mobility will notify the provider of all actions related to non-no-show customer conduct issues in writing.

Appeals: Customers have the right to appeal suspensions. For appeal processes for no-show suspensions, see Metro Mobility No Show Policy. For all other suspensions, the customer must request an appeal in writing. Appeals of suspensions related to minor and major offenses must be received before the start of the suspensions. Appeals of suspensions related to direct threat offenses must be received within 2 weeks following the delivery of the letter confirming the suspensions. The suspensions for minor and major offenses will be postponed until the appeal process is completed. Suspensions related to direct threats will not be postponed. Appeal requests should be mailed to:

Metro Mobility Service Center
390 Robert St N
Saint Paul, MN 55101

E-mail: metromobility@metc.state.mn.us

Fax: 651-602-1660

An appeal request may include supporting documentation or a reason for the appeal, but such detail is not required. All appeals are conducted by a paratransit appeal panel. The panel is assembled and overseen by the Metropolitan Council's Office of Equal Opportunity. The appeal panel consists of professionals familiar with the ADA paratransit regulations who are not affiliated with or employed by Metro Mobility or the Metropolitan Council. The panel may meet in person or via telephone conference. Any materials presented as part of the appeal meeting will be distributed to both the customer and to members of the appeal panel. Appeal meetings will be scheduled within 60 days of receiving requests for appeals. Customers will be notified of dates, times and locations at least 14 days prior to the meeting dates.

The customer may attend the appeal meeting in-person or by teleconference but is not required to do so. The customer may also bring or send a representative. The decision of the appeal panel will be final and will be mailed to Metro Mobility and the customer within 30 days of the appeal meeting.