



# Kansas RTAP Fact Sheet

A Service of The University of Kansas Transportation Center for Rural Transit Providers

## Local Transit Policy Development: Ensuring Accessibility

By Anne Lowder

In our RTAP training sessions, I ask drivers how they would handle situations based on their agency's policies. Does your agency policy allow a person to choose to board inward or outward facing when using the lift? Does your agency policy allow a non-wheelchair customer to board using the lift? Does your agency policy allow a customer to board if the mobility chair they are using is made from a lawn chair with castor wheels? The answers given by the drivers are often based on personal opinion and not on agency policy, and many of the answers are in conflict with the Americans with Disabilities Act (ADA). Developing agency policies and procedures that comply with federal and state mandates, properly training employees and informing customers, and enforcing compliance are tools that ensure that your agency operates above reproach and in the best interest of your customers.

For example, an egregious failure to follow policy was reported by ABC news on July 27, 2013. A partially paralyzed man was forced to crawl on and off connecting flights on a major U.S. airline because he wasn't provided with the equipment he needed to board and exit the plane. The only thing the airline offered him was a piece of cardboard to put down so his clothes wouldn't get dirty on the tarmac.

The passenger had called weeks before his flight to let them know he needed an aisle chair and a lift to get off the plane and into his wheelchair. The airline told him he'd be accommodated upon his arrival. (This is required under

the Air Carrier Access Act.) But when his flight landed he was told by a flight attendant that the airline didn't have the equipment he needed and that the crew couldn't get him off the plane. As a result, the passenger was forced to crawl down the aisle of the airplane, down the stairs of the aircraft and across the tarmac to his wheelchair without any assistance.

Just a year before, the same airline received no less than 5,000 complaints against it for mistreatment of disabled passengers.

If only the airline had trained and retrained its employees on ADA, Air Carriers Access Act, and the airline's policies and procedures. If only the airline consistently enforced federal regulations concerning reasonable accommodation. Well-thought-out policies are important, but communicating, training and enforcing are just as important, whether you are an airline or a transit agency. This article will discuss policies, drivers' training and customer education necessary to ensure compliance under the Americans with Disabilities Act.

### Policies and procedures

Policies are the rules and mechanisms that govern your agency, and procedures are specific operational steps or methods employees use to perform a task. Policies need to follow federal and state guidelines and should follow industry best practices. Having well-documented policies and procedures ensures that everyone has the same understanding of how things work in your agency. They provide clear instruction and ensure that tasks are performed consistently. Each

employee should be presented with a copy of your policies and procedures and then sign an acknowledgement of receipt stating that he or she is held responsible for the content.

A policies and procedures handbook is your "go-to-tool" to promote a safe transit system through operational consistency and to help management identify areas where an employee may need more training.

### Handling unique situations

A handbook will not be able to capture every possible situation your employee may encounter, but it should explain your agency's expectations, allow your employee to use professional discretion in handling unique situations, and describe the steps to take when unsure of the correct response.

An example of a unique situation is an operator who is aware that the agency policy is curb-to-curb, but makes a reasonable modification to assist a rider from her door to the vehicle due to inclement weather (snow and ice) that creates a treacherous path. The modification is reasonable and necessary for the rider to be able to use the service. The decision to help the rider did not pose a direct threat or a fundamental alteration of the services (Americans with Disabilities Act 49 CFR Part 37, 38, 27).

### Policy development

An Easter Seals Project Action webinar divides local agency accessibility policy development into three categories. 1) a Statement of Compliance with the ADA; 2) instructions to customers on how to

## Easter Seals Project Action: 7 Steps to Policy Development for Accessibility

**1. Define the Challenge.** Policy development is influenced by past and prevailing practices and present challenges. The participation of key managers, supervisors, and workers, the disability community, and the public at large will generally make policies better and more effective. Sample policies from other transit agencies can be useful references.

**2. Develop a draft of the policy.** To be effective, policies need to be well communicated. They should substantially reflect feedback obtained in Step 1, above. Policies should also adhere to federal, state and local government regulations such as compliance with the ADA. Written policies and procedures are a strong defense against complaints of ignorance by customers and staff. Handbooks should be well-organized and readable.

**3. Review the policy.** Policies constructed without sufficient deliberation may be regretted later. Review your draft policies and procedures with key stakeholders and use legal counsel if you think it is necessary. Solicit input from affected parties such as your board, supervisors, employees, advisory committee and the public at large.

**4. Make final revisions.** Compile all feedback on the draft and decide what you will include based on state and federal regulations and reasonable accommodation. Make revisions and create a final version of your policies and procedures handbook.

**5. Inform customers of the new policies.** This is a crucial step. People can only follow a policy if they are aware of it. Create informational materials (e.g. flyers, PSAs, talking points for operators, etc.). Training employees is also crucial. Giving your employees a policy and procedure handbook, without training, is impersonal and the handbook is unlikely to be read. Meetings provide you a chance to encourage and answer your employees' questions.

**6. Implement the policies.** Once communicated, policies may do more harm than good if ignored. Train and educate staff on the new policies and procedures handbook and create a time line for implementation. Remember to consistently enforce your policies (which may include retraining employees). Follow the time line and monitor progress until your service has adapted to the new policies and procedures.

**7. Follow-up and evaluation.** If frequent exceptions occur to a specific policy, you may need to change the policy. It is much better for your agency to review and update policies periodically than to operate either in violation or without them entirely. To be effective, policies need to be adjusted to meet the changing needs of your agency and customers, as long as you continue to comply with federal and state policies.

use the system—more of a ride guide than a policy; and 3) detailed policies that outline expected actions for both customers and transit personnel.

### Statement of Compliance

This is a public document required by the Americans with Disabilities Act (ADA) 28CFR 35.106. Your agency is required to include relevant information regarding Title II of the ADA, and how it applies to the programs, services, and activities of the public entity.

You must have a targeted audience, include information on how you comply (your policies and procedures), and include information on how ADA-related information will be provided to your audience (handouts, posted, given upon request, for example). Regardless of the size of your agency (one employee or one hundred employees) an ADA Statement of Compliance is required. The ADA Statement of Compliance requirement also applies to all state and local governments covered. If your agency is

under a local government you do not need to separate statements of compliance.

The ADA Statement of Compliance is intended to reach a target audience that includes transit applicants, riders, your employees, and other people interested in your programs, activities, or services. The audience includes everyone with whom you interact—or would potentially interact.

The Statement of Compliance should not be lengthy. An effective notice states the basics of what the ADA requires of the state or local government without being too wordy, legalistic, or complicated. It should include the name and contact information of the ADA Coordinator for your agency or government body. The ADA Coordinator is the person to which an agency or government body assigns the responsibility to handle ADA compliance. For example, if your agency is part of the county government, the county government would have an ADA coordinator responsible for compliance.

A model "Notice under the Americans with Disabilities Act" created by the Department of Justice can be found at <http://www.ada.gov/pcatoolkit/chap2toolkit.htm>. It is a one page document in a standard font, and includes brief statements about:

- employment,
- effective communication,
- making reasonable modifications to policies and programs,
- not placing surcharges on modifications or auxiliary aids and services, and
- filing complaints.

### ADA compliance, your policies and your customers

According to the ADA, policy information must be provided to passengers when it impacts the level of service they will receive. An example is information on appeals procedures to customers who you have determined ineligible for paratransit. Policies addressing how your agency provides transportation service to customers with disabilities need to be developed and made available to the public and to your

personnel. Modifications to policies may need to be considered on a case-by-case basis to avoid discrimination on the basis of disability.

For example, you have a customer that has a large and heavy wheelchair. This customer rides a fixed route vehicle normally serviced by a 600 lb capacity lift. A modification to policy that would not alter your business and still be able to service your customer would be to change out the current bus for one with a larger capacity lift on that route.

Another example, your agency policy states that the operator cannot assist with depositing the fare into the receptacle. A reasonable modification is to make an exception for the passenger with a disability who needs assistance with this task.

An example of *not* changing policy would be if your operator is asked by a rider to administer his or her medication. Your operator declines because this is not a reasonable modification of transit service; this is a fundamental alteration to your service. What if it is a life threatening situation? The best practice and policy is to call 911 to get help on the way as soon as possible. Transit drivers are not trained as medical professionals.

### **Customer information: The Ride Guide**

Some policies need to be provided up-front to employees. These include topics such as driving and routes, securement, compliance with the ADA, reduced fare programs, stop announcements, origin and destination service and eligibility determination process. Having your agency policies in

writing (and, in some cases, reinforced with signage on the bus) educates your customers for a safe and enjoyable ride.

### **ADA compliance, operator training and consistency**

Make sure your policies and procedures comply with federal and state regulations. For example, under the ADA it is the operator's responsibility to use the paratransit wheelchair lift/ramp upon request of the customer. That is a federal mandate. You cannot have a policy that states "Only people in wheelchairs may board by using the lift/ramp." My brother, a newly prosthetic-fitted double amputee, asked to ride the lift to board a vehicle to go to his physical therapy. If the operator had refused he would have been in the same situation as the airline passenger mentioned at the beginning of this article. He would have had to bump himself up the steps and drag himself into a seat. This would not have been respectful and sensitive to a person with a disability using transit services.

The ADA, on the other hand, does not require an operator to go inside someone's house and help them with putting on their coat and shoes. If you have a curb-to-curb policy and drivers are going into the customer's house, there is a conflict between the driver's actions and policies and procedures. Having policies that comply with government regulations helps to ensure your agency operates legally and consistently to avoid the penalties associated with violations.

Once your agency has implemented your policies and procedures handbook, the next step is follow-up and evaluation.

Once again, seek feedback from your board, supervisors, employees, your advisory committee, and the public at-large. Ask, in your evaluation, "Is the policy addressing the original cause of concern?" Finally, you might hold a review prior to your annual board meeting at which the board approves any revisions to your policies and procedures handbook.

In summary, do not be an "if only" agency. Accept the challenge of getting your agency's policies and procedures in writing. Start with a Statement of Compliance with the ADA and identify your policies and procedures for both your customers and your employees.

After you have developed your policies and procedures, review them regularly and make sure they are current. Solicit input from the disability community and obtain feedback from all affected parties. Finally, don't forget to communicate your policies and procedures in a variety of formats and be sure to create (and use) an implementation time line.

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## **Sources**

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