



## **Americans with Disabilities Act of 1990 (ADA)**

### **Purpose:**

The Americans with Disabilities Act of 1990 (ADA) requires that individuals with disabilities receive the same level of service as non-disabled individuals. Services that are “separate but equal” are not acceptable. Section 504 prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance.

This ADA policy is written to establish operating and service guidelines and procedures for the implementation of the requirements of the Americans with Disabilities Act of 1990 (ADA), the U.S. Department of Transportation (U.S. DOT) regulations for implementing ADA (49 CFR Parts 27, 37 and 38), and any applicable state laws and regulations. Access Tusc operates a demand-response service and complies with ADA requirements with respect to such services.

### **Policy:**

It is the policy of Access Tusc to comply with all the legal requirements of federal and state laws and regulations as they pertain to individuals with disabilities. If state laws and federal regulations are contradictory, the federal ADA regulations prevail. The Access Tusc organization provides quality transportation and other services without discrimination to all persons including individuals with disabilities. Discrimination on the basis of disability against any person by Access Tusc employees will not be condoned or tolerated.

**Goals:** Service is provided in a manner that meets the following goals:

1. Provides safe, accessible, and dignified services to all persons, including individuals with disabilities.
2. Expedites the safe and efficient boarding, securing, transporting, and alighting of all passengers, regardless of mobility status.
3. Accommodates a wide range of mobility aids within the confines of available vehicles and commercial standard equipment.

**Applicability:** This policy applies to all employees, services, facilities, and vehicles. It applies equally to all persons needing and/or using the services provided by the system.

### **Definitions:**

**Disability-** With respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

**Fixed Route Service-** Operates along a prescribed route according to a fixed (regular) schedule.

**Mobility Device-** A device that is designed to assist an individual with disabilities with locomotion. Examples include wheelchairs, canes, crutches, and walkers. Also called mobility aid.

**Securement Area or Station-** A designated location for riders using wheelchairs, equipped with a securement system.

**Securement Device, Equipment or System-** Equipment used for securing wheelchairs against uncontrolled movement during transport.

**Service Animal-** Any guide dog, signal dog, or other animal that has been individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

**Wheelchair-** A mobility aid belonging to any class of three- or more- wheeled devices, usable indoors, designed or modified for and used by individuals with mobility impairments, whether operated manually or powered.

## **Procedure or Guideline:**

### **1. Recruitment and Employment**

As stated in the Access Tusc personnel policies, the agency is an Equal Opportunity Employer (EOE) and fully complies with ADA in its recruitment, hiring, and continued employment practices.

### **2. Facility and Vehicle Accessibility**

The transit system, administrative facility, passenger facilities and vehicles shall meet or exceed the requirements of 49 CFR Parts 27, 37 and 38 and requirements of the State of Ohio. If state requirements do not meet federal requirements, the federal ADA regulations prevail. All vehicles purchased for fixed route and route deviation service will be accessible. Vehicles purchased for demand response service will only be non-accessible to the extent that the demand response system, when viewed in its entirety, provides the same level of service for individuals with disabilities as for individuals without disabilities. The transit system will conduct an analysis of service equivalency prior to the acquisition of any inaccessible vehicles for demand-responsive service.

### **3. Vehicle and Route Assignment**

All demand response vehicles operated by Access Tusc are accessible and persons with disabilities, including wheelchair users, can board any vehicle. To the extent possible, the assignment of particular types of vehicles will be based upon rider needs.

### **4. Maintenance of Accessible Features**

Accessibility features on vehicles, including lifts, ramps, wheelchair securement devices and public address systems, will be maintained in operative condition. The preventive maintenance program

of Access Tusc provides for regular and frequent maintenance checks of these features as well as preventive maintenance as recommended by the equipment manufacturers. In addition, the lift must be cycled as part of each pre-trip inspection.

#### **5. Inoperative Lifts and Ramps**

Drivers are required to report lift or ramp failures immediately. Vehicles with inoperative lifts will be removed from service and replaced with an accessible vehicle until the inoperative lift is repaired. For vehicles equipped with ramps, it may be possible to continue in service as long as the ramp can be and is deployed manually when necessary. If an inoperative ramp cannot be (or is not) deployed manually, the transit agency will apply the policy for a vehicle with an inoperative lift.

#### **6. Wheelchair Accommodation**

All accessible vehicles meet or exceed the requirements of 49 CFR Part 38. Transportation providers are required to carry a wheelchair and its user, as long as the lift can accommodate the size and weight of the wheelchair and its user, and there is space in the securement area for the wheelchair on the vehicle without blocking the aisle. If a vehicle lift/ramp and securement area can accommodate a wheelchair (or other mobility device), Access Tusc will transport the device (and its user).

An individual who uses a wheelchair that, when occupied, exceeds the weight rating of the vehicle lift/ramp, will be offered the opportunity to board and disembark from the vehicle separately from the wheelchair. However, transit agency personnel are not permitted to operate a passenger's wheelchair (i.e. a motorized wheelchair). The individual may travel with another individual who can assist with operating the unoccupied wheelchair to maneuver it on and off the lift/ramp.

#### **7. Boarding**

Drivers and scheduling practices will provide adequate time for a passenger with a disability to board and/or disembark the vehicle, which includes adjusting the schedule if necessary and waiting for passengers to be seated before moving the vehicle. Only a properly trained transit system employee can operate the lift or ramp and secure the wheelchair in the securement station. Passengers may board facing toward or away from the vehicle.

#### **8. Wheelchair Securement**

Access Tusc requires that all wheelchairs be secured. Drivers should not allow a passenger to ride if they are not secured properly unless the securement system will not accommodate the wheelchair. Drivers cannot deny a passenger a ride based on the inability to secure the wheelchair. However, drivers must warn the passengers of the danger of riding in a non-secured wheelchair. Passengers who refuse to allow their wheelchairs to be secured may be denied service.

Securement of wheelchairs is the responsibility of the driver. Drivers are trained in the proper operation of all securement equipment based on the equipment manufacturer's specifications. Drivers will listen to and respect riders' instructions on how to secure their equipment. Drivers cannot be expected to be familiar with each and every wheelchair type that may come aboard, and securement attachment points may differ by wheelchair manufacturer. The rider may be in the best position to instruct the driver on how to properly secure their mobility device.

If the securement system is not compatible with the wheelchair the passenger is using, the driver will still make an attempt to safely secure the wheelchair. If the wheelchair cannot be secured because of the wheelchair design, the passenger still has the right to ride in the vehicle.

Drivers must secure wheelchairs in the designated securement area only, even if the passenger wants their mobility device to be secured in a non-designated area. The wheelchair is not allowed to block the aisle.

In cases where an individual using a wheelchair attempts to board and requires use of a securement location that is currently occupied by another passenger that is not using a wheelchair, the driver will ask that passenger to allow the individual using a wheelchair to use the securement position.

### **9. Seat Belt Usage**

When riding in a Access Tusc vehicle, seat belts and shoulder harnesses are required for ALL passengers.

### **10. Driver Assistance**

Drivers will make themselves available to assist individuals with disabilities and will assist upon request of the passenger. Drivers will assist a passenger with using the vehicle ramp, lift and/or securement systems using the accessibility-related equipment and features on their vehicles.

### **11. Use of Lift or Ramp by Individuals with Disabilities Not Using a Mobility Device**

The driver will deploy the lift or ramp for an individual with a disability who is not using a mobility device to board or alight the vehicle upon request.

### **12. Accommodation of Other Mobility Devices**

Mobility devices that are not wheelchairs, but which are primarily designed to for use by individuals with mobility impairments, will be accommodated to the extent that the ADA-compliant lift or ramp and securement areas can safely do so. However, these devices are the responsibility of the individual passenger, and must be secured in a manner that does not interfere with the safe operation of the vehicles and the transport of other passengers.

### **13. Transfer to Fixed Seating**

All passengers using wheelchairs have an option of transferring to fixed seating once on board the vehicles. Drivers may recommend, but never require, wheelchair users to transfer to fixed seating. No waivers are allowed to be required.

### **14. Accommodation of Portable Oxygen**

Individuals are allowed to travel with respirators and portable oxygen supplies on board, consistent with applicable U.S. DOT rules on the transportation of hazardous materials in 49 CFR Subtitle B, Chapter 1, Subchapter C.

### **15. Priority Seating**

With the exception of the wheelchair securement stations, the transit system does not require any passenger to sit in designated seating.

Priority seating for seniors and individuals with disabilities is to be designated by permanent signage in each vehicle. In cases where an individual with a disability requests use of priority seating that is currently occupied by another passenger, the driver will ask that passenger to move so as to allow the individual with a disability use of the priority seating. In cases where a wheelchair user requires the use of a securement location, the driver will ask any passenger (including other passengers with disabilities) to vacate the securement location.

## **16. Service Animals**

In compliance with 49 CFR Part 37, the transit system allows trained service animals to accompany passengers with disabilities. The driver will not ask for proof of the qualifications of the animal but may ask what tasks the animal has been trained to perform. Access Tusc does not impose species or breed restrictions. However, any animal which is not under the passenger's control, or which becomes a direct threat to the health or safety of other passengers may be restricted from riding. Emotional support animals or "comfort animals" are not service animals within the context of the US DOT ADA regulations.

## **17. Alighting**

It is the responsibility of the driver to determine that the location for passenger alighting is safe. For fixed route, the driver will allow a passenger who uses the lift or ramp to alight at any stop, unless the lift or ramp cannot be deployed, will be damaged if deployed, or conditions at the stop would present unsafe conditions for all passengers. Only the driver will unsecure the wheelchair and operate the lift or ramp to return the passenger to the ground level.

## **18. Staff Training**

All drivers and transit system staff are trained to proficiency in use of accessibility equipment, the operating policies related to each of the service requirements described, and in properly and respectfully assisting and treating individuals with disabilities with sensitivity. Mechanics are also trained to properly maintain lifts and other accessibility equipment. All Access Tusc employees will be trained on this policy annually.

## **19. Rider Information**

All printed informational materials are made available in accessible formats upon request, for example, large print for individuals with low vision or audio for blind individuals, as well as accessible electronic formats.

## **20. Personal Care Attendants**

Under the ADA, an agency cannot require a passenger to have a personal care attendant (PCA). If a PCA accompanies a passenger, the PCA will ride free of charge. A family member or friend is not considered a PCA, unless that individual is acting in that capacity.

## **21. Stop Announcements**

Access Tusc does not operate a deviated-fixed route.

## **22. Complaint Procedure**

All complaints of discrimination on the basis of disability will be promptly and objectively investigated and forwarded to the [Manager] and promptly and objectively investigated. Complaints are also be submitted to the ODOT Civil Rights Office.

Access Tusc will promptly communicate its response to the complaint allegations, including its reasons for the response, to the complainant. The response will be documented. Corrective or disciplinary action will be taken for behavior prohibited by this policy, up to and including termination of employment.

Documentation of each complaint will be kept on file for a minimum of one year, and a summary of all complaints will be kept for at least five years. This meets DOT regulations that require FTA grantees to

maintain all complaints of noncompliance with 49 CFR Part 27 for one year, and a record of all such complaints, which is permitted to be in summary form, for five years.

## **A. Reasonable Modification Policy**

### **Purpose:**

The purpose of the reasonable modification policy is to ensure that Access Tusc offers equal and effective opportunities and access to public transportation services as well as all services, for persons with disabilities and 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.

### **Policy:**

This policy applies to all safety-sensitive transportation vehicle operators including full, part time and those staff that may be required to operate the vehicle. For the purposes of this section, 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 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 U.S.C. 12111–12112) and its implementing regulations at 29 CFR part 1630.

Access Tusc is committed to providing equal access and opportunity to individuals with disabilities in all programs, services and activities. Access Tusc recognizes that in order to have equally effective opportunities and benefits, individuals with disabilities may need reasonable modifications to policies and procedures. Access Tusc 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. Access Tusc 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. Access Tusc will take appropriate steps to ensure that persons with disabilities have an equal opportunity to participate.

No 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 Access Tusc, or be subject to discrimination by Access Tusc.

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

- ◆ Making the accommodation would fundamentally alter the nature of the public transportation service/other service.
- ◆ Making the accommodation would create a direct threat to the health or safety of other passengers/other participants.
- ◆ The individual with a disability is able to fully use Access Tusc’s service without the accommodation being made.
- ◆ Making the accommodation creates an undue financial burden on the transit system or other applicable Access Tusc program.

**Procedure:**

1. ELIGIBILITY CRITERIA

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
- ◆ A record of such impairment
- ◆ Or has been regarded as having such impairment.

2. REQUESTS FOR REASONABLE MODIFICATION

Access Tusc shall make information about how to contact Access Tusc to make requests for reasonable modifications readily available to the public through its website, brochures, and other rider policy guidelines. Access Tusc shall follow these procedures in taking requests:

- a. Individuals requesting modifications shall describe the modification to service needed in order to use the service.
- b. Individuals requesting modifications are not required to use the term “reasonable modification” when making a request. Personnel at Access Tusc will determine if the request represents a reasonable modification and proceed in accommodating the request accordingly.
- c. Whenever feasible, Access Tusc requests that individuals make such requests for modifications before Access Tusc is expected to provide the modified service.
- d. 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 paratransit, demand response, or fixed route 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 Access Tusc’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.

### 3. INTERACTIVE PROCESS

When a request for accommodation is made, Access Tusc 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 the Access Tusc 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.

### 4. TIME FRAME FOR PROCESSING REQUESTS TO PROVIDE REASONABLE MODIFICATION

Access Tusc will process requests for reasonable accommodation and then provide accommodations, where appropriate, in as short a time frame as reasonably possible. Access Tusc 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.

### 5. GRANTING A REASONABLE MODIFICATION REQUEST

As soon as Access Tusc 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, Access Tusc 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.

### 6. DENIAL OF REASONABLE MODIFICATION REQUEST

As soon as Access Tusc determines that a request for reasonable accommodation will be denied, Access Tusc 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 the Access Tusc's decision on the request.

### 7. COMPLAINT PROCESS



Access Tusc has a process for investigating and tracking complaints from qualified individuals. These procedures shall be posted on the Access Tusc's website and will be provided to any individual where the Access Tusc has denied a request for accommodation. The process and any forms necessary to file a complaint are readily available from the web. 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 by completing and submitting a Access Tusc's Reasonable Modification Complaint Form. Access Tusc investigates complaints received no more than 30 days after receipt. Access Tusc 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, Access Tusc may contact the complainant. The complainant has 30 business days from the date of the letter to send requested information to Access Tusc.

If Access Tusc is not contacted by the complainant or does not receive the additional information within 30 business days, the Access Tusc may administratively close the complaint. In addition, a complaint may be administratively closed if the complainant no longer wishes to pursue their case.

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

- ◆ **Letter of Finding** – This letter will summarize the complaint, any interviews conducted regarding the complaint, and explains what actions will be taken by Access Tusc to address the complaint.
- ◆ **Letter of Closure** – This letter will explain why Access Tusc 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 Access Tusc, an opportunity to appeal the decision may be pursued provided the complaint files notice of appeal within 21 days of the initial decision of Access Tusc.

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.

#### 8. DESIGNATED EMPLOYEE

Access Tusc shall designate one official within the organization responsible for processing reasonable modification requests and handling complaints. This individual is:

Access Tusc  
1458 5th St. NW, New Philadelphia, Ohio, 44663  
234-801-8007

#### RECORD RETENTION

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

## **B. No-Show Policy – Access Tusc Transit Program**

### **Policy:**

This policy is intended to address the actions by habitual abusers of service scheduling and provide clear protocols for addressing passengers who fail to show for their scheduled trip without properly canceling the trip. This policy is intended to address those repeat offenders, and not the occasional incident that may occur with some passengers.

### **Definitions:**

**No-Show-** Any passenger who is unavailable for pick-up of a scheduled trip that has not notified Access Tusc to cancel that trip. Trips in which passengers will not be picked up due to circumstances related to service will not be considered a no-show.

### **Procedure:**

1. The transit operator will wait for passengers for 5 minutes beyond the early arrival pick-up time window. The transit operator will make reasonable attempts to locate the passenger. If the passenger cannot be located within the established 5 minutes, the transit operator must contact the Dispatcher with the no-show. Passengers who do not make themselves available within that window will be considered a no-show. The Dispatcher has the responsibility to determine if the transit operator is to continue without the passenger.
2. Upon permission to continue without the passenger, the transit operator is to record the arrival time, departure time, and vehicle mileage on the Daily Manifest.
3. Scheduled trips are to be cancelled at least one (1) hour prior to the time of the trip request. Any scheduled trip not cancelled within that window will be considered a no-show and will be logged as such. A no-show designation for a trip will be monitored to determine the habitual nature of no-shows associated with a passenger.
4. Exceptions may be made for passengers who are unduly delayed due to medical appointments or procedures and other circumstances beyond their control. The passenger will be required to contact Access Tusc as soon as practicable following the missed trip and a new driver will be dispatched as soon as possible if applicable.

### **HABITUAL NO-SHOW PROCEDURE**

1. Passengers who have no-shows equal to or greater than 20% of the scheduled trips in a Sixty (60) day period service will be suspended for 10 days.
2. All penalties imposed under this policy are first subject to an appeals process (see Suspension Appeals Process). Before any suspension, the potentially affected individual will receive written notice that transportation service will be suspended beginning fourteen (14) days from the date of notice. The individual will receive a copy of the appeals process that details passenger rights

in this situation. The written notice of suspension will contain instructions and materials necessary to challenge or appeal the suspension decision.

3. Access Tusc will continue to serve passengers appealing pending suspensions until all appeals have been settled. For passengers who do not choose to appeal, suspensions will commence on the date specified in the written notice.
4. Subscription/Standing Order reservations may be denied upon a second suspension in any consecutive 12-month period. Privileges may be reinstated without guarantee of the original subscription/standing order.

#### Suspension Appeals Procedure

1. A suspension may result from violations of passenger behavior rules, violation of the no-show policy, or for other inappropriate or disruptive behavior. Regardless of the reason for suspension, each passenger has a right to appeal the decision through an appeals process.
2. Appeals must be submitted in writing to Jessica Kinsey, Executive Director, by mail at 1458 5th St. NW, New Philadelphia, Ohio, 44663, or by email at [Jessica@accesstusc.org](mailto:Jessica@accesstusc.org) within 14 days of notification of suspension. All passengers will be permitted to continue using service during the appeals process. Access Tusc management will inform all schedulers/dispatchers that the suspension is pending an appeal and to allow service to continue for the affected passenger.
3. An Appeals Committee will review all applicable information from Access Tusc and the involved passenger. All passengers will be offered the opportunity to speak directly with Committee members and/or the Transit Manager regarding the submitted appeal and/or circumstances that led the suspension and subsequent appeal.
4. After a thorough review of all available information and testimony, the Appeals Committee will have 72 hours in which to issue a recommendation to sustain or reverse the suspension. The Committee recommendation will be forwarded to the Transit Manager for final review and implementation.
5. The Access Tusc administration will have three (3) days to issue a final suspension decision in writing to the passenger involved. All final decisions will be implemented within seven (7) days of passenger notification.
6. All communications will be made available in alternate format upon request.

#### **Addendum(s):**

ADA/Title VI Complaint Form

#### **References:**

Americans with Disabilities Act of 1990