

# Transportation and ADA: Reasonable Modifications

## Slide 1. 4<sup>th</sup> Thursday ADA Talks

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Hosted by:

University of Kentucky (UK) Human Development Institute, Syracuse University Burton Blatt Institute, Southeast ADA Center.

## Slide 2: Presenter: Maria Kemplin

## Slide 3: What's reasonable in Reasonable Modifications?

- Anchor: our conversation with data.
- Understand: concrete definitions.
- Summarize: the open-ended instructions.
- Evaluate: case study examples to build competency.

## Slide 4: Travel limiting disability

- 25.5 million Americans with disabilities report travel limiting disabilities.
- 3.6 million Americans with travel-limiting disabilities report that they do not leave their homes.

Source: Bureau of Transportation Statistics

## Slide 5: People Reporting Travel-Limiting Disabilities

Figure 1 is from the U.S. Department of Transportation and shows a line graph depicting the percentage of people who report travel-limiting disabilities, which quite steeply increases by age. Before age 50, the percentage is less than 10. It increases to more than 31.9 percent by age 80. Many will experience a travel-limiting disability at some point in life.

Source: DOT Federal Highway Administration, 2017 Household Travel Survey.

## Slide 6: People Reporting Travel-Limiting Disabilities and Use of Medical Devices

**Over half (57.8 percent) of all respondents with disabilities use one or more medical devices:**

- Walking canes (36.7 percent)
- Walkers (22.9 percent)
- Wheelchairs (11.6 percent)
- Motorized scooters (4.4 percent)
- Motorized wheelchairs (3.9 percent)
- Crutches (2.6 percent)
- White canes for visual impairments (1.3 percent)
- Seeing-eye dogs (1.1 percent)

Source: Bureau of Transportation Statistics.

#### Slide 7: Statistically, people with disabilities:

- Shop online less than people without disabilities.
- Smaller percentage have jobs that work from home than non-disabled employees.
- Use/have less access to internet.
- Fewer use/have smartphones or tablets.

#### Slide 8: Annual Household Income for Individuals with Disabilities

Staying with data reported by the US Department of Transportation, this bar graph displays the annual household income for individuals by disability status (age 18-64), 2017. Data shows people with a disability (in purple) versus a household where a disability is not reported (in blue). 51% of households of people with a disability have an income of less than \$25,000 per year. 22% of households of people with a disability have an income of less than \$10,000 a year. Source: DOT Federal Highway Administration, 2017 Household Travel Survey.

#### Slide 9: Employment Data

- Only 20.2 percent of respondents aged 18 to 64 work full- or part-time if they report having disabilities.
- In contrast, 76.6 percent of people in this age group without disabilities work. Source: Bureau of Transportation Statistics.

#### Slide 10: Transportation and Disability Issue

**One of the biggest issues that people with a disability face is transportation.**

#### Slide 11: ADA and Public Transportation (slide 1 of 4)

The Americans with Disabilities Act was signed into law in 1990 to protect Americans with disabilities from discrimination in a variety of areas including employment, public accommodations, public services, and - transportation.

#### Slide 12: ADA and Public Transportation (slide 2 of 4)

The ADA covers both public and private transportation and contains specific requirements. The ADA Amendments Act of 2008 (ADAAA) and subsequent amendments clarified and extended the original Act's protections.

#### Slide 13: ADA and Public Transportation (slide 3 of 4)

Excerpt of ADA Title II and Public Transportation provisions from Office of Civil Right in Department of Transportation.

#### Slide 14: ADA and Public Transportation (slide 4 of 4)

Under Title II of the ADA, public transportation must be usable by people with disabilities. The U.S. Department of Transportation regulations pertaining to transportation (49 CFR Part 37 and 38) are written to create an equal travel environment so that people with disabilities will not be excluded or denied from participation in using transportation systems, facilities, or services.

#### Slide 15: 2015

The ADA was revised in 2015, specifically requiring public transit providers to make **reasonable modifications** to policies and practices so that transportation programs are accessible to individuals with disabilities.

#### Slide 16: Reasonable Modifications

#### Slide 17: Sample Definition of Reasonable Modification

Source: Northeast ADA Center website at: [northeastada.org](http://northeastada.org)

#### Slide 18: Over 300 comments:

The Department of Transportation (DOT) held a public comment period and received over 300 comments. The comments were polarized:

- Disability community commenters were almost unanimous in favor of reasonable modifications.
- All transit industry commenters opposed it.

Source: Department of Transportation.

#### Slide 19: Public comment period , 2010

The comments against implementing reasonable modifications included:

- Not the job of transit providers to surmount barriers existing in communities.
- Too many case-by-case decisions.
- Burdensome in administration.
- Create the potential for litigation.
- Service will become slower and less reliable.

Source: Department of Transportation

#### Slide 20: Safety concerns

- Could result in other passengers being left alone, which could expose them to hazards.
- Drivers leaving a vehicle would have to turn off the engine, resulting in no air conditioning or heating.
- The driver could be exposed to injury outside the vehicle (e.g., from a trip and fall).

#### Slide 21: DOT Rules under the ADA:

##### Summary and Dates

Excerpt Summary and Dates: This rule is effective July 13, 2015.

In July of 2015, the rules under the ADA and section 505 of the Rehabilitation Act, were amended specifically so that transportation providers are required to make “reasonable modifications to policies, practices, and procedures to avoid discrimination and ensure equal access.

## Slide 22: Implementation Instructions

## Slide 23: Exceptions

- When the requested modification is not necessary for the individual to utilize service.
- When the modification would fundamentally alter the nature of the service being provided.
- When the modification would pose a “direct threat” to the health or safety of others.
- When the modification would pose an undue administrative or financial burden on the agency.

**Slide 24: Exception:** Not necessary for the individual to utilize service.

**Slide 25: Exception:** Fundamentally alter the service being provided.

**Slide 26: Exception:** Pose a direct threat to the health or safety of others.

**Slide 27: Exception:** Undue administrative or financial burden on the agency.

## Slide 28: DOT Position of Modifications

“Department of Transportation recognizes that not all requests by individuals with disabilities for modifications of transportation provider policies are, in fact, reasonable.”

## Slide 29: Questions to Ponder

## Slide 30: Appendix E

Department of Transportation

## Slide 31: Appendix E to Part 37

– Reasonable Modification Requests.

Excerpt from Appendix E to Part 37 – Reasonable Modification Requests.

## Slide 32: Disclaimer

We recognize that no list of potential requests can ever be completely comprehensive, since the possible situations that can arise are far more varied than can be set down in any document.

Source: Department of Transportation

## Slide 33: Case Examples

## Slide 34: Case 1

With my low vision, I can't navigate walks when there is snow.  
Can the driver walk me by arm to my door when there is snow?

#### Slide 35: Case 1 Answer

With my low vision, I can't navigate walks when there is snow.  
Can the driver walk me by arm to my door when there is snow?  
Yes – reasonable.

#### Slide 36: Case 2

Bottled water on sale.  
Time to stock up!  
I can't lift. Store employees don't mind helping me carry them out.  
Is it reasonable my paratransit driver help me carry them in?

#### Slide 37: Case 2 Answer

Bottled water on sale.  
Time to stock up!  
I can't lift. Store employees don't mind helping me carry them out.  
Is it reasonable my paratransit driver help me carry them in?  
No – not reasonable.

#### Slide 38: Case 3

The driver drops my daughter off at the East entrance to the mall. She works at a store on the West side. She gets lost easily and can't ask for directions. She needs to be dropped off at the West entrance.

#### Slide 39: Case 3 Answer

The driver drops my daughter off at the East entrance to the mall. She works at a store on the West side. She gets lost easily and can't ask for directions. She needs to be dropped off at the West entrance.  
Yes – reasonable.

#### Slide 40: Case 4

I need to be dropped off at my back door, down a dead-end alley. I can't walk the distance.  
Can the driver pull up to my door, and then back out of the alley?

#### Slide 41: Case 4 Answer

I need to be dropped off at my back door, down a dead-end alley. I can't walk the distance.  
Can the driver pull up to my door, and then back out of the alley?  
No – not reasonable.

#### Slide 42: Case 5

My swim team is using the pool at a gated club.  
Can my bus driver keep an entrance pass so we can drive to my destination?

#### Slide 43: Case 5 Answer

My swim team is using the pool at a gated club.

Can my bus driver keep an entrance pass so we can drive to my destination?

Yes – reasonable.

#### Slide 44: Case 6

I can see so much better out the window of the new buses.

I want to only ride in the new buses. It will help me learn the city again after my TBI.

#### Slide 45: Case 6 Answer

I can see so much better out the window of the new buses.

I want to only ride in the new buses. It will help me learn the city again after my TBI.

No – not reasonable.

#### Slide 46: Case 7

Sometimes I get tired of waiting on the city bus and I just start walking home. When I see the bus pass by, I want to have it stop for me if I wave. It would be easy for the driver to just stop. Is this reasonable?

#### Slide 47: Case 7 Answer

Sometimes I get tired of waiting on the city bus and I just start walking home. When I see the bus pass by, I want to have it stop for me if I wave. It would be easy for the driver to just stop. Is this reasonable? No.

#### Slide 48: Case 8

A snowman is blocking the path to the bus stop. Can the driver stop farther down so I can get on and off the bus?

#### Slide 49: Case 8 Answer

A snowman is blocking the path to the bus stop. Can the driver stop farther down so I can get on and off the bus?

Yes – reasonable.

#### Slide 50: Case 9

The bus driver is always getting onto me for eating on the bus. My blood sugar is low! Isn't this reasonable?

#### Slide 51: Case 9 Answer

The bus driver is always getting onto me for eating on the bus. My blood sugar is low! Isn't this reasonable? Yes.

#### Slide 52: Case 10

I am mad at another rider. Can you make sure we are never on the same bus?

This is for my mental health.

#### Slide 53: Case 10 Answer

I am mad at another rider.

Can you make sure we are never on the same bus?

This is for my mental health.

No – not reasonable.

#### Slide 54: Case 11

I'm taking paratransit home from the hospital. The medicine I will need is ready for me at a pharmacy on the route home. Is stopping for a minute for my medication a reasonable modification?

#### Slide 55: Case 11 Answer

I'm taking paratransit home from the hospital. The medicine I will need is ready for me at a pharmacy on the route home. Is stopping for a minute for my medication a reasonable modification?

Maybe reasonable?

#### Slide 56: Process for Providing Reasonable Modifications

Transit providers must implement their own process for making decisions and providing reasonable modifications.

The rule does not prescribe the exact process to adopt or require DOT approval.

#### Slide 57: Example of Website:

##### Public Transit Reasonable Accommodation

This example is from Frankfort Public Transit in Frankfort, Kentucky. Their website has Reasonable Accommodation policies and procedure that is clear and easily available.

#### Slide 58. Example Transit Reasonable Modification/Accommodation Form

Source: Frankfort Transit.

#### Slide 59: Example Request Form for Transit Service

The form from Frankfort Public Transit is available on their website and is processed within 2 business days. You will notice that their transportation superintendent shares her direct phone number if any assistance is needed.

#### Slide 60: Oversight

The DOT delegated oversight of what is "reasonable" in modification to the transportation operator.

"While the DOT agencies retain the authority to review an entity's process as part of normal program oversight" §37.169

"The Department intends decisions on individual requests for modification to be addressed at the local level."

Assumption of good faith.

### Slide 61: ADA Centers: Technical Assistance

- The ADA Center technical assistance line provides free, confidential information at 1-800-949-4232.
- The ADA Centers do not enforce the law - they help individuals and businesses understand how the ADA applies to them.

### Slide 62: DOT ADA Regulations:

#### To File a Complaint

- Certified Mail:  
Director, FTA Office of Civil Rights  
East Building – 5<sup>th</sup> Floor, TCR  
1200 New Jersey Ave. SE, Washington, DC 20590
- Email: [FTA.ADAAssistance@dot.gov](mailto:FTA.ADAAssistance@dot.gov)
- ADA TA Line: 1-888-446-4511
- Web: [www.dot.gov/accessibility](http://www.dot.gov/accessibility)

Source: Cornell University, ADA National Network.

### Slide 63: Southeast ADA Center

**Phone:** 404-541-9001 or 1-800-949-4232

**E-mail:** [adasoutheast@syr.edu](mailto:adasoutheast@syr.edu)

**Web:** [adasoutheast.org](http://adasoutheast.org)

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### Slide 64: University of Kentucky (UK)

Human Development Institute

**Web:** [www.hdi.uky.edu](http://www.hdi.uky.edu)

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