

LIFT Paratransit Service Refusal and Suspension Standard Operating Procedures

Bases for Suspension of Service

A. The ADA regulations expressly authorize a public transit agency to suspend a paratransit customer's service because of "no-shows."

B. The ADA regulations expressly authorize a public transit agency to refuse or suspend service to a paratransit customer if the customer engages in conduct that is violent, seriously disruptive, or illegal.

C. Examples: Below is a list of examples of behavior and conduct that, generally speaking, would and would not meet the ADA's "violent, seriously disruptive or illegal conduct" standard. These examples serve as a starting point for the case-by-case determination required by the Service Refusal and Suspension Policy and should not be viewed as a basis for automatic service suspension or refusal. In addition, this is not an exhaustive list of conduct and behaviors that might be encountered on the LIFT system. These examples serve as representative illustrations of conduct and behavior that is potentially within the scope of the Service Suspension Policy and should be evaluated according to that policy's requirements.

1. Violent:

Physical actions toward operators or other passengers, such as striking, biting, kicking, and spitting.

Causing damage to vehicles (tearing seats, breaking windows, breaking seatbelts, removing or disabling equipment, and similar conduct).

2. Seriously Disruptive:

Demonstrated pattern of "no-shows." Note that under the ADA, no-shows are expressly mentioned as a basis for refusing or suspending paratransit service.

Demonstrated pattern of refusal to travel safely, such as refusal to remain seatbelted, refusal to remain in an upright position with feet on the floor, refusal to remain seated, refusal to have mobility device secured, throwing items at other passengers or operator, boarding or attempting to board with an unsafe mobility device.

Demonstrated pattern of uncontained incontinence biohazard.

Isolated instances or demonstrated pattern behaviors causing service disruption, i.e., that result in the bus operator having to interrupt service for a significant time period or having to put the vehicle out of service, preventing pick-up or drop-off of other customers, or results that have a similarly disruptive effect on service. Such behaviors include but are not limited to continuous shouting, screaming, banging the windows, upsetting other passengers, causing other passengers to engage in seriously disruptive conduct, a demonstrated pattern of “no one to receive” incidents, and opening emergency windows.

Demonstrated pattern of behaviors causing service disruption or inappropriate use of public resources, e.g. scheduling an excessive number of trips and taking few or none of them.

Isolated instances or a demonstrated pattern of causing damage to vehicles, such tearing seats, breaking windows, breaking seatbelts, removing or disabling equipment, and similar conduct.

3. Illegal:

Isolated instances or a demonstrated pattern of unlawful behavior, such as possession of drugs or an open container of alcohol, smoking, exposing oneself, urination in LIFT vehicles, sexual harassment of LIFT customers or employees, and any other illegal behavior.

Isolated instances or a demonstrated pattern of causing damage to vehicles, such tearing seats, breaking windows, breaking seatbelts, removing or disabling equipment, and similar conduct

4. “No Shows”

Must be a documented pattern or practice of not canceling in advance, and/or not being present to take trips scheduled by the customer or the customer’s representative, as opposed to isolated incidents.

Trips scheduled and not taken due to circumstances understood to be beyond the customer’s control, such as a medical emergency, are not counted as a no-show against a customer.

5. Not sufficient to support service suspension or refusal:

Abusive or profane outbursts.

Language or comments that are offensive, annoying or embarrassing to LIFT operators or staff.

Constant talking.

Refusal to follow LIFT guidelines pertaining to grocery bags or luggage.

Refusal Procedures

A. Service refusal is intended to address conduct or behavior occurring at the time of service delivery but for which a suspension would not be appropriate. For example, a LIFT customer who on a particular occasion insists on boarding with an unsafe device or object, or who is engaging in violent conduct, may be refused service on that occasion.

B. The operator must immediately notify dispatch of the service refusal and the reason(s) for the service refusal. This should include a detailed factual description of the conduct or behavior upon which the operator based the decision to refuse service. LIFT operations shall document the incident.

C. Where appropriate, alternative transportation arrangements must be made for a LIFT customer to ensure the customer's safety. For example, service refusal at a customer's place of residence would not require alternative transportation. However, a service refusal at a non-home location could require that such arrangements be made.

D. Service refusals may not be used as a substitute for a service suspension. Behavior occurring repeatedly should be reviewed and addressed in accordance with the guidelines for service suspensions.

Suspension Procedures

A. Investigation

1. Reports of inappropriate conduct must be investigated to the extent practicable to determine the facts of the events giving rise to the report.

2. If the investigation confirms that the conduct did occur, the investigator must then determine whether the conduct rises to the level of violent, seriously disruptive, or illegal.

a. In making this determination, the cause of the conduct should be considered; if information is brought forward indicating the customer's conduct is asserted to be involuntary due to their disability. In such circumstances, the relationship of the disability condition to the conduct at issue must be considered.

b. If the available information shows the conduct is involuntary and caused by the customer's disability, we must consider whether the conduct is such that some reasonable modification would enable the individual to use the service. If reasonable modification is not

possible, or if the conduct is not involuntary or caused by the customer's disability, reasonable modification would not be required.

c. If appropriate, continued use of paratransit service may be conditioned upon the customer's compliance with measures reasonably calculated to ensure the safety of the customer, other passengers, or employees.

A. Warning: Generally, a service suspension should be implemented only after the customer has been given at least one (1) written warning regarding the conduct or behavior for which a service suspension is contemplated.

1. A warning should describe the behavior or conduct for which the warning is given. This description should include the specifics of the behavior or conduct involved; the time, date and location of the conduct; and any other relevant facts.

2. A warning should advise the customer that the behavior or conduct must cease or be corrected, and of the consequences of failure to cease or correct the behavior or conduct.

3. If appropriate, the warning should include a description of the conduct expected of the customer in the future or of the modification offered or required as a condition of continuing to provide LIFT service.

4. LIFT staff shall consider whether a warning itself or the corrective action suggested or the modification offered should be discussed with the LIFT customer or his or her representative.

B. Notice of Service Suspension: A service suspension should be implemented only after customer has been given the opportunity to be heard on the issue for which LIFT is contemplating a service suspension (a "pre-suspension meeting").

1. Notice of the proposed service suspension must be in writing.

2. The notice must include identification of the prior warning(s) given regarding the conduct at issue. For each warning listed in the notice, the date of the warning, the behavior or conduct for which the warning was issued, and the customer's attempts to cease or correct the behavior or conduct shall be summarized.

3. The notice must include a description of the immediate behavior or conduct which prompted the Notice of Service Suspension. This description should include the specifics of the behavior or conduct involved; the time, date and location of the conduct; and any other relevant facts.

4. The notice must advise the customer of his or her opportunity to be heard in-person or to submit written information for TriMet's consideration regarding the proposed suspension. The notice shall advise the customer that the customer or the customer's representative must contact LIFT's designated representative by a date certain to request an in-person meeting. The name of and phone number for the designated representative shall be stated in the notice. If the customer prefers instead of an in-person meeting to submit a written response to the proposed suspension, the notice shall advise the customer of the date by which the written response must be received by TriMet. Extensions of this date may be allowed for good cause.

C. Pre-Suspension Meeting

1. If the customer has timely requested an in-person meeting regarding the proposed suspension, the LIFT designated representative shall notify the customer of the date and time for the meeting. The meeting shall occur at the ATP offices unless a different location is agreed upon by the LIFT designated representative and the customer. If necessary, paratransit service shall be provided to the customer, to and from the place of the pre-suspension meeting.

2. The pre-suspension meeting shall be informal. The customer shall be given the opportunity to provide the LIFT designated representative with the customer's account, orally and by documents and other information, of the incident(s) upon which the proposed suspension is based. The customer may also present any other information relevant to the incident(s) upon which the proposed suspension is based. The customer may present his or her account and related information through a representative.

3. Once the pre-suspension meeting is complete or the customer's written submission has been received and reviewed, or alternatively, the customer has neither requested a pre-suspension meeting nor provided a written submission by the specified date, the LIFT designated representative shall review the available information and decide whether or not to suspend service and, if service is to be suspended, determine the length of the suspension. The customer shall be notified in writing of the decision, and the basis for the decision shall be explained. If the decision is to suspend the customer's LIFT service, the customer shall also be advised of his or her right to appeal the service suspension to the Appeals Panel. A description of the procedure for requesting an appeal of a service suspension shall also be included.

D. Duration of Service Suspension: A service suspension should be "for a reasonable period of time."

1. "Reasonable period of time" depends on the facts of the specific incident. In determining the length of the service suspension, the following factors should be considered:

>The need to protect other customers, employees or system safety;

>The seriousness of the risk created or harm caused by the customer's behavior or conduct;

>The number of prior warnings given and the period of time over which those warnings were given; and

>The likely corrective effect of the suspension on the customer's future behavior or conduct, in light of the customer's particular condition.

3. Generally, similar situations should be addressed by similar suspensions.

E. Exceptional conduct: Conduct that inflicts serious harm on another customer or a TriMet LIFT operator or employee, results in serious damage to TriMet property, or creates an immediate actual risk to safety, may warrant immediate suspension of service without prior warning or a pre-suspension hearing.

1. As soon as practicable following imposition of a suspension for exceptional conduct, the customer should be advised in writing of the basis for the suspension, including a description of the behavior or conduct involved; the time, date and location of the conduct; and any other relevant facts. The customer should also be advised of the opportunity for a pre-suspension meeting, as described above for Notice of Service Suspension. The procedures for convening a pre-suspension meeting outlined above should then be followed.

2. A suspension for exceptional conduct should be based on behavior or conduct that is extreme or egregious. A suspension under this provision should be the exception, not the rule, and should be used sparingly to address only the most severe and immediately dangerous or threatening actions.

Requests for Appeals

A. LIFT staff is responsible for receiving requests for appeals of service suspensions and timely advising the Appeals Panel of such requests.

B. LIFT staff shall coordinate an appeal date and time with the LIFT customer and the appeals panel. If the LIFT customer declines an in-person hearing, LIFT staff shall inform the customer of the date by which the customer must submit any written materials the customer wishes the Appeals Panel to consider.