

EMBARC

Americans with Disabilities Act (ADA)

Reasonable Modification Policy and Procedures

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1.1 Background of Reasonable Modification Regulations

On March 13, 2015 as part of the Federal Register Vol. 80, No. 49 (80FR13253), the Federal Department of Transportation issued a Final Rule effecting 49 CFR Parts 27 and 37: Transportation for Individuals With Disabilities; Reasonable Modification of Policies and Practices. This final rule stemmed from a prior Notice of Proposed Rule Making (NPRM) issued February 27, 2006 (71 FR 9761).

The purpose behind this final rule is,

“...specifically to provide that transportation entities are required to make reasonable modifications/accommodations to policies, practices, and procedures to avoid discrimination and ensure that their programs are accessible to individuals with disabilities.”

1.2 Reasonable Modification Requirements

1. Federal funding recipients must ***make reasonable accommodations*** in policies, practices, or procedures when necessary to avoid discrimination on the basis of disability unless recipients can demonstrate that making the accommodations would fundamentally alter the nature of the service, program, or activity or result in an undue financial and administrative burden.
 - a. This requirement applies to both fixed-route and paratransit services.
2. When considering changes to facilities or transportation services, entities must consider the most integrated setting appropriate for individuals with disabilities.
 - a. However, entities can refuse to provide service to an individual that engages in violent, seriously disruptive, or illegal conduct, or represents a direct threat to the health or safety of others.
 - b. Entities cannot refuse to provide service to an individual with disabilities solely because the individual’s disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.
3. Transportation agencies must provide "Origin-to-destination service", for paratransit *Origin-to-destination service* means providing service from a passenger’s origin to the passenger’s destination. Under this new definition, ***a provider may provide ADA complementary paratransit in a curb-to-curb or door-to-door mode***; however,
 - a. For **curb-to-curb** service: a provider must provide assistance to those passengers who need assistance beyond the curb in order to use the service unless such assistance would result in a fundamental alteration of the service, or present a direct threat to the driver, other riders/individuals, or the paratransit vehicle.

1.3 Reasonable Modification Policy

EMBARC will make all reasonable modifications to policies and procedures to ensure that people with disabilities have an equal opportunity to utilize all programs, services and activities. For example, individuals with service animals are permitted in EMBARK vehicles, facilities, and administrative offices even when pets are prohibited.

The ADA does not require EMBARK to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Anyone who requires a modification of policies or procedures to participate in a program, service, or activity of EMBARK, should submit their requests via the website at embarkok.com, by email to specialservices@okc.gov, by mail to Reasonable Modification Coordinator, 2000 S. May Avenue, Oklahoma City, OK 73108 or by phone at (405) 297-3705.

1.4 Reasonable Modification Process

All requests for reasonable modification (fixed route, paratransit or facilities) will be processed in the following manner.

1. All requests will be logged into a Reasonable Modification/Accommodation Request spreadsheet noting the requestor's name, date, contact information and specific modification request being made.
2. Individuals requesting modifications will be asked to supply sufficient detail within the request so that agency staff may effectively evaluate the request. Individuals are not required to use the term "reasonable modification" when requesting modifications or accommodations.
3. Whenever feasible, requests for modifications shall be made in advance, before the requested modification is expected to be provided in service. EMBARK acknowledges that, due to the unpredictable nature of transportation, some requests for reasonable modification may be made while in transit. As such, operating personnel shall make a determination of whether the modification should be provided at that time.

1.5 Reasonable Modification Coordinator

1. Coordination of EMBARK's Reasonable Modification Request Process shall be assigned to the position of Special Services Manager.
2. Requests may also be assigned to, or reviewed by the following EMBARK staff: Operations Manager, Route Supervisor, Scheduling Manager, Assistant Director and Director.

1.6 Procedure for Reasonable Modification Requests

1. Most requests for modifications (reasonable or otherwise) will be assigned to the Reasonable Modification Coordinator for review and evaluation. Prior to determination, the Coordinator will consult with operations staff regarding requests for reasonable modification. The Coordinator may consult with one or more of the following staff: Operations Manager, Route Supervisor, Scheduling Manager, Assistant Director and Director.
2. Note that some requests for reasonable accommodations may be submitted during the paratransit eligibility process or through other customer service inquiries, and as such, operating personnel are trained and are empowered to determine whether the request should be granted at the time of the request or whether the request should be escalated to operations/ management before making a determination to grant or deny the request.
3. Training regarding these procedures will be provided to staff who interact with the public; specifically, office assistants, dispatchers, schedulers and supervisors.
4. All reasonable modification requests will be acknowledged within 3 business days of receipt. The resolution and response to the person who submitted a request will be made within 15 business days; and the response must explain the reasons for the resolution. The response must be documented in the Reasonable Modification log. Any requests requiring more than 15 business days to resolve must be reviewed by the Assistant Director and documented as to why the resolution requires additional time for full resolution.

1.7 Procedure for Response to Modification Complaints

Complaints may be submitted via the website at embarkok.com, by email to specialservices@okc.gov, by mail to Reasonable Modification Coordinator, 2000 S. May Avenue, Oklahoma City, OK 73108 or by phone at (405) 297-3705.

1. All complaints will be logged into a Reasonable Modification/Accommodation Complaint spreadsheet noting the complainant name, date, contact information and

specific complaint being made as well as the original request for modification associated with the complaint.

2. All complaints will be reviewed by the Assistant Director.
3. All complaints will be acknowledged within 3 business days of receipt. The resolution and response will be made within 15 business days; and the response must explain the reasons for the determination. The response must be documented in the Reasonable Modification/Accommodation log, referencing the original request for modification. Any complaint responses requiring more than 15 business days for resolution must be reviewed by the Assistant Director and documented as to why the resolution required additional time for full resolution.

1.8 Denial of Request for Modification

Requests for modification of EMBARK policies and practices may be denied only on one or more of the following grounds:

- a. Granting the request would fundamentally alter the nature of EMBARK services, programs, or activities;
- b. Granting the request would create a direct threat to the health or safety of others (including drivers and other passengers, but not including the requesting party);
- c. Without the requested modification, the individual with a disability is able to fully use EMBARK services, programs, or activities for their intended purpose; or
- d. Granting the request would cause an undue financial and administrative burden.

If EMBARK denies a request for a reasonable modification, EMBARK shall take, to the maximum extent possible, any other actions (that would not result in a direct threat or fundamental alteration) to ensure that the individual with a disability receives the services or benefit provided by EMBARK.