

POLICY: REASONABLE MODIFICATION FOR TRANSPORTING INDIVIDUALS WITH DISABILITIES

DATE: September 6, 2019

OBJECTIVE/PHILOSOPHY:

On March 13, 2015, as part of the Federal Register Vol. 80, No. 49 (80FR13253), the Federal Department of Transportation (DOT) issued a Final Rule effecting 49 CFR Parts 27 and 37: Transportation for Individuals with Disabilities; Reasonable Modification of Policies and Practices. 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.”

REFERENCE: South Dakota Department of Transportation: Air, Rail and Transit Division Policy

PROCEDURE/CONTENT:

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

No qualified 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 Standing Rock Public Transit, or be subject to discrimination by Standing Rock Public Transit.

Reasonable Modifications

A reasonable modification is a change or exception to a policy, practice, or procedure that allows disabled individuals to have equal access to programs, services, and activities. Standing Rock Public Transit will make reasonable modifications to policies, practices, and procedures when necessary to ensure access to transit services for qualified individuals with disabilities, unless:

- Making the accommodation would fundamentally alter the nature of the public transportation service.
- Making the accommodation would create a direct threat to the health or safety of other passengers.

- The individual with a disability is able to fully use Standing Rock Public Transit service without the accommodation being made.
- Where granting the request would cause an undue financial and administrative burden.

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 been regarded as having such impairment.

Requests for Reasonable Modifications

Standing Rock Public Transit provides information about how to make requests for reasonable modifications readily available to the public through its website and policy guidelines. Standing Rock Public Transit will follow these procedures when taking requests:

- Individuals requesting modifications shall describe what they need in order to use the service.
- Individuals requesting modifications are not required to use the term “reasonable modification” when making a request. Personnel at Standing Rock Public Transit will determine if the request represents a reasonable modification and proceed in accommodating the request accordingly.
- Whenever feasible, Standing Rock Public Transit requests that individuals make such requests for modifications before Standing Rock Public Transit is expected to provide the modified service.
- 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 will consult with Standing Rock Public Transit’s management before making a determination to grant or deny the request.

Requests for accommodation can be submitted in any written format (i.e. letter, email). 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. The reasonable accommodation process begins as soon as the request for accommodations is made.

Interactive Process

When a request for accommodation is made, Standing Rock Public Transit will make every effort to engage in a good faith interactive process with the individual requesting an accommodation to determine what, if any accommodation shall be provided. Communication will be a priority throughout the entire process. That communication will include information

about the request, the process for determining whether an accommodation will be provided, and the potential accommodations.

Time Frame for Processing Requests and Providing Reasonable Modification

Standing Rock Public Transit will process requests for reasonable accommodation and then provide accommodations, where appropriate, in as short a time frame as reasonably possible. Standing Rock Public Transit recognizes, however, 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.

Granting a Reasonable Modification Request

As soon as Standing Rock Public Transit determines 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 addition to the written response.

In choosing among alternatives for meeting nondiscrimination and accessibility requirements with request to new, altered, or existing facilities, or designated or specified transportation services, Standing Rock Public Transit 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.

Denying a Reasonable Modification Request

As soon as Standing Rock Public Transit determines a request for reasonable accommodation will be denied, Standing Rock Public Transit will communicate the basis for the decision in writing to the individual requesting the modification. The explanation for the denial will clearly state:

- a. specific reasons for the denial;
- b. any alternative accommodation that may create the same access to transit services as requested by the individual; and
- c. the opportunity to file a complaint relative to Standing Rock Public Transit's decision on the request.

Complaint Process

Any person who believes she or he has been discriminated against in obtaining a reasonable modification may file a formal complaint. Standing Rock Public Transit has a process for recording, investigating, and tracking complaints from qualified individuals (Public Transportation Complaint and Incident Reporting Policy, March 2009). Requests for a complaint form are taken by Standing Rock Public Transit dispatch via telephone. In addition, individuals can request a complaint form via email to infotransit@sittingbull.edu. Alternative means of filing complaints, such as personal interviews or taped requests, will be made available for persons with disabilities if unable to communicate their request in writing or upon request.

Standing Rock Public Transit investigates complaints within 20 working days after receipt. If more information is needed to resolve the complaint, Standing Rock Public Transit may contact the complainant. If the information is not received within 30 days from the date of the original complaint, the complaint will be marked undetermined and closed.

After Standing Rock Public Transit investigates the complaint, a decision will be rendered in writing to the complainant. Standing Rock Public Transit will issue either a Letter of Closure or Letter of Finding.

- a. *Letter of Finding* – This letter will summarize the complaint, any interviews conducted regarding the complaint, and explain what actions will be taken by Standing Rock Public Transit to address the complaint.
- b. *Letter of Closure* – This letter will explain why Standing Rock Public Transit has determined 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 Standing Rock Public Transit, an opportunity to appeal the decision may be pursued provided the notice of appeal is received within 21 days of the initial decision by Standing Rock Public Transit.

In the event of appeal, the complainant will be granted all due process; including the ability to present additional evidence, present the case in person during an appeal hearing, and to be represented by counsel.

Designated Employee

Standing Rock Public Transit's designated official responsible for processing reasonable modification requests and handling complaints is:

Pam Ternes, Transit Director
Standing Rock Public Transit
9299 Highway 24
Fort Yates, ND 58538
(701) 854-8090
infotransit@sittingbull.edu

Record Retention

Standing Rock Public Transit will maintain all records related to reasonable modification requests and denials for at least three (3) years.