


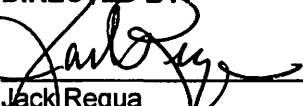
Appendix A4



Washington Metropolitan Area Transit Authority

DEPARTMENT OF ACCESS SERVICES

Standard Operating Procedure

CATEGORY Operations		TOPIC Customer Abusive Behavior	
SOP NO. 128-01	TITLE Abusive Behavior Management Process		
LATEST REVISION NO. Original	ORIGINATION DATE June 20, 2016	DATE REVIEW DUE June 20, 2018	EXPIRATION DATE None
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SOP APPLIES TO: Department of Access Services (ACCS)			
DEPARTMENT/OFFICE/INDIVIDUAL OF PRIMARY RESPONSIBILITY (ACCS) Office of MetroAccess Service (MACS)			
EFFECTIVE PAGES/NOTES			
DISTRIBUTION ACCS / MACS / ADAP / ELIG / MTPD / COUN / SAFE		COORDINATION WITH OTHER PUBLICATIONS MetroAccess Customer Guide; P/I 16.4/1 - Direct Threat/Illegal Conduct/Abusive Behavior Policy; MetroAccess Appeal Process	
APPROVAL:  Christian T. Kent Assistant General Manager, Access Services		DIRECTED BY:  Jack Requa Acting Chief Operating Officer	
Date 6/20/16		Date 6/21/16	

1. PURPOSE

The purpose of this procedure is to outline the specific process used to manage, document and take appropriate action in cases of abusive behavior associated with MetroAccess customers. The process is intended to ensure safe, reliable transportation for MetroAccess customers and ensure the safety of operators. It shall further be construed to provide consideration for the protection of the vehicles used to provide MetroAccess service.

2. SCOPE

This process shall apply to all persons that ride MetroAccess service and will consider all abusive behavior associated with the customer including actions taken or neglected by Personal Care Attendants (PCA), companions, caregivers and other parties associated with the customer, that affect the safety of the customers and operators or the reliability of the service.

The parties involved in the administration of this process include all staff members of the Department of Access Services (ACCS) with primary responsibility resting with the Director, Office of MetroAccess Service.

Resources to manage this process will include the Trapeze system, and DriveCam Online.

3. RESPONSIBILITIES

3.1 Assistant General Manager, ACCS: Overall responsibility for abusive behavior policy and this process.

3.2 MACS Director: Primary responsibility for overall process, and:

3.2.1 Conducting review every two years or sooner if needed;

3.2.2 Ensuring proper review of all cases prior to distribution;

3.2.3 Communicating all actions to the customers in the preferred format in accordance with established ADA process guidelines.

3.3 ADAP Director: Provide review of notifications to ensure compliance with ADA guidelines as needed.

3.3.1 Administer the appeal process.

3.4 ELIG Director: Communicate policy to new applicants during eligibility process.

3.4.1 Support process as needed.

4. DEFINITIONS

4.1 Abusive Behavior: Any intentional or irresponsible behavior or action which endangers the safety of any other customer or employee, is intentionally disrespectful or abusive, attempts to manipulate service or has the effect of disrupting service for other customers. These include but are not limited to the following examples.

4.1.1 Assaulting an Operator: Any unwanted and unwarranted physical contact upon an operator that can reasonably be construed to have resulted in apprehension of immediate and personal violence, or a threat of violence caused by an immediate show of force.

4.1.2 Assaulting a Passenger: Any unwanted and unwarranted physical contact upon another passenger that can reasonably be construed to have resulted in apprehension of immediate and personal violence, or a threat of violence caused by an immediate show of force.

4.1.3 Assaulting a Service Animal: Any unwanted and unwarranted physical contact upon a service animal that can reasonably be construed to have resulted in apprehension of immediate and personal violence, or a threat of violence caused by an immediate show of force.

4.1.4 Fighting Amongst Customers: Any physically violent contact between passengers, irrespective of the initiation of the activity. Solely defensive actions shall not be considered to be applicable to this section.

4.1.5 Indecent Exposure: The intentional display of private body parts in a manner that gives offense against accepted or prescribed behavior.

4.1.6 Sexual Assault: Any type of sexual contact or behavior that occurs without the explicit and competent consent of the recipient. This includes, but is not limited to, such activities as: forced sexual intercourse; manipulative exploitation of persons of diminished capacity; forcible sodomy; child molestation; incest; fondling; and attempted rape.

4.1.7 Verbal Assault: Any oral utterance that can reasonably be construed to create, or intend to create, intimidation or a fear of physical harm.

4.1.8 Failure to Maintain Control of a Service Animal: Failure to maintain control of the service animal, allowing a service animal onto a vehicle seat, allowing the service animal to roam the vehicle, or allowing the service animal to display aggressive or disruptive behavior.

4.1.9 Intentional Service Disruption: Any case where the intentional act(s) of a passenger or caregiver serve to cause the suspension of the vehicle's ability to proceed, thereby disrupting service. These include, but are not limited to, the following.

4.1.9.1 No One Able to Receive Customer: Any case where a customer can reasonably be assumed to be unable to be left unattended, AND an established precedent of a caregiver meeting the vehicle exists, AND no caregiver is present to receive the customer. This shall include instances where the destination is a facility entrusted to the care of the passenger.

4.1.9.2 Failure to Exit the Vehicle When Required: The intentional refusal to exit the vehicle when required. This includes, but is not limited to: arrival at destination; transferring from an out-of-service vehicle to a replacement vehicle; and failure to produce fare on outbound trip if still at pickup location.

4.1.9.3 Boarding Delay: Failure to reasonably proceed directly with the boarding process once having presented for boarding. This includes, but is not limited to: failure to pay fare; failure to produce ID; returning to retrieve additional items; or to wait for a companion or PCA to get ready to travel.

4.1.9.4 Failure to Comply with Securement Policy: Failure to properly wear, or intentional removal of, any seat belt, shoulder harness or other appropriate securement device (including child safety seats) except: as allowed by the appropriate approved seat belt or shoulder harness waiver; OR to immediately adjust and reconnect the safety belt.

4.1.9.5 Intentionally Supplying False Information: Intentional misrepresentations of identification; providing incorrect companion/PCA or mobility device type information at time of booking in a manner that reserves more space than is used; failure to disclose the use of a service animal; and providing false phone numbers or addresses.

4.1.10 Communication of a Threatening Nature: Any communication, whether oral or written and whether in person, by electronic means, or by mail that conveys an intent to do harm or damage, to a person, a vehicle, a building, a service, an animal or to one's self.

4.1.11 Illegal Conduct: Any conduct or action that is in violation of any statute of the applicable jurisdiction(s).

Note: The individual illegal activity itself may have far greater ramifications than simply the fact that illegal conduct has occurred. Illegal conduct that falls under another category shall be addressed under that category.

4.1.12 Intentional Misuse of Telephone System: Any action which results in multiple and repetitive phone calls that can reasonably be construed to be intended to deny or reduce the ability of the phone system and associated personnel to provide service to other customers.

4.2 Present for Boarding: All customers must present themselves for boarding within five (5) minutes of the operator's arrival within the pickup window. The customer must present in person, with proper identification. Having another party, PCA, companion, aide, staffer or

any person other than the customer claim presence for boarding, even with the customer's ID, does not meet this requirement.

- 4.3 No Show/Late Cancellation (NSLC):** These items are covered under a separate policy. They are noted here solely for reference.

4.3.1 A "No-Show" (NS) occurs when customers do not present themselves for boarding the vehicle within five minutes of the vehicle's arrival within the 30-minute pickup window.

4.3.2 A "Late Cancellation" (LC) occurs when a customer cancels a trip less than two hours before the start of the 30-minute pick-up window.

- 4.4 Suspension:** An interruption in the use of MetroAccess service, for a time communicated by properly formatted notification, due to actions contrary to MetroAccess service rules.

- 4.5 Appeal:** A process through which customers, who assert that the reported facts of the abusive behavior report case are not correct, OR believe that they should be excused for said violation of the abusive behavior policy, may seek reversal or reduction of the suspension.

- 4.6 Warning Letter:** A formal communication to the customer that a violation of the abusive behavior policy has occurred that falls *below* the threshold for suspension. Such communication will detail the behavior and the consequences for future occurrences.

- 4.7 Preferred Format:** Standard written communication shall be the format of choice unless the customer has communicated to MetroAccess, during the registration/eligibility process, or updated subsequently, that an alternative communication format is needed. MetroAccess must honor the alternative format, in addition to written communication, in order to meet ADA requirements under ADA Title II. MetroAccess is NOT required by ADA mandate to honor the request if another equally effective means of communication is available; use of the means chosen would result in a fundamental alteration in the service, program, or activity; or the means chosen would result in an undue financial and administrative burden.

- 4.8 Immediate Suspension:** A suspension of service that is in direct response to an action that is construed to be a Direct Threat to the safety or health of any customer, passenger, operator or the general public. Such action will suspend the service "where is; as is" and may include a waiver of the "no strand" provision. This *immediate* action may ONLY be exercised by the Director, Office of MetroAccess Service. Furthermore, an immediate suspension cannot be postponed by filing an appeal. Only at the conclusion of the period of suspension, or upon reversal at appeal, can the customer's MetroAccess service resume.

- 4.9 Direct Threat:** Direct Threat means that the actions of a passenger, or other party associated with the customer, pose a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation, as set forth in 29 C.F.R. § 16.02.

- 4.10 Rolling Year:** A period of 365 days that includes the day of the incident as day 365.

- 4.11 Competent Consent:** A level of informed consent whereby the consenting individual possesses the capacity to understand the nature, purpose, risks, and benefits of that to which consent is being given.
- 4.12 Customer Guide Text:** The portion of the *Customer Guide to MetroAccess* notifying customers of the existence of this policy. In the November 2015 edition (page 18), it reads “MetroAccess service may be suspended or terminated due to inappropriate, aggressive, threatening or abusive behavior toward other customers or MetroAccess employees; any illegal conduct; intentionally providing incorrect information during the reservation process such as the wrong customer name, ID, address, phone number, mobility device, or presence of PCA or companion(s); and non-payment of MetroAccess fare. Service suspensions may also result from abusive behaviors such as verbal assault, intentionally tying-up MetroAccess telephone lines and repeat violations of MetroAccess policies. This policy is not only limited to customers, but also to those acting on behalf of the customers, such as PCAs. If you dispute a suspension under this policy, you have the right to file an appeal. Appeal Requests must be filed in writing, by the deadline and per the instructions within the appeal packet. A copy of the appeal process will be sent to you with your suspension letter.”
- 4.13 Personal Care Attendant (PCA):** An attendant is a person who provides personal care and/or assistance to an individual with a disability.
- 4.14 Projects Control Officer (PCO):** The Projects Control Officer is an employee in the Office of MetroAccess service that oversees the database of record and can invalidate a suspension should it be overturned on appeal.

5. ABBREVIATIONS and ACRONYMS

ACCS:	Department of Access Services
MACS:	Office of MetroAccess Service
ELIG:	Office of Eligibility Certification and Outreach
ADAP:	Office of ADA Policy and Planning
MTPD:	Metro Transit Police Department
OCC:	Operations Control Center
NSLC:	No Show / Late Cancellation

6. PROCEDURES

- 6.1 Determination of Direct Threat:** Upon learning of a report of potential abusive behavior, the Field Operations Manager shall consider whether the actions could reasonably be construed to represent a Direct Threat to any other party.

- 6.1.1** If the initial finding is that Direct Threat is a *possible* finding, the Field Operations Manager shall determine whether or not the alleged offender is currently in transit on a MetroAccess vehicle, or scheduled for transit later in the same day. If either is affirmative, all available pertinent information is to be immediately conveyed to the MACS Director. Furthermore, Metro Transit Police is to be notified at once if the situation so warrants.
- 6.1.2** If Direct Threat is a possible finding, but the alleged offender is not currently in transit, nor scheduled for transit later in the same day, the Field Operations Manager shall determine the timing of the next scheduled trip and include that information in an interim report to the MACS Director within two hours.
- 6.1.3** The Director will review and determine whether *immediate* suspension is warranted and, if so determined, will execute such a suspension.
- 6.2** **Investigation of Allegation:** If no finding of Direct Threat is possible, the Field Operations Manager shall review all submitted reports, ask additional questions, and gather additional information to conduct a thorough investigation. The investigation will include the records of abusive behavior reports, warnings and suspension in the previous 365 days.
- 6.3** **Investigation Report:** Upon completion of the investigation, the Field Operations Manager shall prepare a brief report detailing the nature of the allegation, the finding and the history of previous abusive behavior in the preceding 365 days using the format in the appendix. This report shall include a recommendation for action and a justification for that recommended action. This report shall be submitted to the MACS Assistant Director for approval.
- 6.3.1** Upon review and concurrence, the MACS Assistant Director shall direct the Field Operations Manager to prepare a draft of the appropriate letter that will communicate the proposed action. The Assistant Director will convey the report and draft letter to the Directors of both MACS and ADAP.
- 6.4** **Determination of Appropriate Action:** Appropriate action decisions regarding warning letter versus suspension and length of suspension shall be governed by the guidelines in Appendix C.
- 6.5** **Suspension Process:** If a suspension is to be initiated, the Assistant Director will direct the Field Operations Manager execute the action and convey to the MACS OCC & Projects Control Officer (PCO) teams for required actions within the dispatch system. The Field Operations Manager shall hand deliver the written letter, along with any other required communication format, to the customer. In addition, a certified copy of the letter will be mailed to the address of record. The Field Operations Manager shall sign and date the report fields, indicating the success or failure of the delivery and that the letter was properly mailed.

- 6.5.1** A hard copy and electronic copy of report and the letter shall be transmitted to ADAP.
- 6.6** **Warning Letter:** Where the action is to issue a warning letter, the Field Operations Manager shall prepare the letter for review by the Assistant Director and, upon approval, shall send a certified copy of the warning letter to the address of record.
- 6.7** **Recordkeeping:** All material related to any allegation, whether substantiated or not, shall be retained in both hard copy and electronic PDF format. Each customer shall have a folder created upon the first allegation of abusive behavior. All files related to a particular incident will include the date of the incident and the customer number in the filename.
- 6.8** **Tracking:** Each customer's folder shall have a tracking sheet that contains details regarding ONLY substantiated allegations. The details shall include the following fields: date; type of incident; class of incident; and action taken. If and only if the suspension is overturned, the line item for that incident shall be lined out, indicating that it is not to be used in cumulative calculation.
- 6.9** **Appeal Management:** In cases where no immediate suspension was issued, ADAP shall notify MACS in writing if an appeal is filed. MACS will lift the suspension until such time as the appeal is heard. Upon issuing a decision on appeal, ADAP will inform MACS of the decision, and MACS will reinstate the suspension if upheld, delete it if overturned, or adjust the length if reduced.
- 6.9.1** ADAP shall not overturn a suspension unless the finding is that the decision to suspend was procedurally flawed. Rather, if ADAP decides to take action to restore system use to a customer, the action would be to reduce the suspension length rather than overturn.

7. REFERENCES

- 7.1 P/I 16.4/1 - Direct Threat/Illegal Conduct/Abusive Behavior Policy
- 7.2 Policy/Instruction 16.2/0 – Producing and Issuing Materials in Accessible Formats for People with Disabilities
- 7.3 Customer Guide to MetroAccess
- 7.4 MetroAccess Appeal Process

8. ATTACHMENTS

- 8.1 Appendix A: Direct Threat Worksheet
- 8.2 Appendix B: Record of Investigation and Action Taken
- 8.3 Appendix C: Classification of Abusive Behavior and Progression of Actions
- 8.4 Appendix D: Warning Letter Template (General)

- 8.5 Appendix E: Warning Letter Template (No one able to receive)
- 8.6 Appendix F: Direct Threat Suspension Letter Template
- 8.7 Appendix G: Suspension Letter Template

Appendix A: Direct Threat Determination Worksheet

Customer Name: _____

Customer # _____

- | | | |
|--|-----|----|
| 1. Might the reported behavior constitute a Direct Threat? | Yes | No |
| 2. If yes, is the customer currently in transit? | Yes | No |
| 3. If no, is the customer scheduled for transit later today? | Yes | No |

If a Direct Threat is possible, and the answer to either #2 or #3 is yes, complete the initial section below and contact the MACS Director immediately.

Is a road supervisor on scene?	Yes	No	In-route		
Is law enforcement on scene?	Yes	No	In-route		
Assault?	Yes	No	Inappropriate act?	Yes	No

Next scheduled trip: _____

Previous history of customer related behavior:

Brief description of incident:

For MACS Director Use Only:

Is immediate suspension warranted?

Yes

No

Director

Date

Time

Action taken:

Appendix B: Record of Investigation and Action Taken

Customer Name: _____ Customer # _____

Date _____ Time _____ Provider _____ Route _____ Vehicle _____

Name of Operator: _____ Name of Road Supervisor: _____

Location type: ☐ On or ☐ Off vehicle Name(s) of other customers involved: _____

Detailed description of incident: (attach separate report)

Class of incident: (Circle One) 1 2 3 4 Direct Threat? (Circle One) Yes No

Previous incidents in the same class and actions taken in previous 365 days.

Previous incidents in the other classes and actions taken in previous 365 days.

Action recommended:

Action taken:

Certified letter mailed: _____
Initials Date

Letter hand delivered – Successful / No answer / Wrong address / N/A _____
Initials Date

File attachment list:

- 1.
- 2.
- 3.

Approved Date

Appendix C: Classification of Abusive Behavior and Progression of Actions

Direct Threat: Abusive Behavior where the actions of a passenger, or other party associated with the customer, pose a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation, as set forth in 29 C.F.R. § 16.02. All Class 1 behaviors have the capacity for presenting a Direct Threat. Class 2 behaviors, in some circumstances could meet such a definition. All Direct Threats finding require immediate removal from service and must be approved by the MACS Director. The initial action duration of record for any abusive behavior found to be a Direct Threat is twice what it otherwise be, absent the finding.

Class 1: Abusive Behavior incidents where violence, anger, hostility, or some other uncontrolled or uncivil behavior is alleged to have occurred. In each case, there is the possibility that a Direct Threat MIGHT have occurred and must be considered. Specific behaviors always in this class are:

- Assaulting an Operator
- Assaulting a Passenger
- Assaulting a Service Animal
- Indecent Exposure
- Sexual Assault

For any item in this category, a finding of Direct Threat supersedes the standard progression of actions. Absent such a finding, the progression of actions is as follows:

- First Offense in a 365 day period – Two (2) week suspension of service
- Second Offense in a 365 day period – Four (4) week suspension of service
- Third Offense in a 365 day period – Eight (8) week suspension of service
- Fourth Offense in a 365 day period – Six (6) month suspension of service with recommendation to ADAP for further action

Class 2: Abusive Behavior incidents where disruptive physical or verbal altercations between customers occur in MetroAccess service. In these cases, Direct Threat cannot be ruled out but is generally not considered to be a likely finding. Specific categories that would be in this class are:

- Fighting Amongst Customers
- Verbal Assault
- Failure to Maintain Control of a Service Animal

- (Where animal is a threat of harm to another party)
- Communication of a Threatening Nature
- Illegal Conduct

For any item in this category, a finding of Direct Threat supersedes the standard progression of actions. Absent such a finding, the progression of actions is as follows:

- First Offense in a 365 day period – One (1) week suspension of service
- Second Offense in a 365 day period – Two (2) week suspension of service
- Third Offense in a 365 day period – Four (4) week suspension of service
- Fourth Offense in a 365 day period – Eight (8) week suspension of service with recommendation to ADAP action

Class 3

Abusive Behavior incidents where the primary result is that MetroAccess service is adversely impacted, affected, OR disrupted in such a manner that causes resources such as telephone systems, vehicles or other assets to be made unavailable for continuous service to other customers. This can include intentional acts as well as irresponsible acts.

- Intentional Service Disruption
- Intentional Misuse of Telephone System
- Failure to Maintain Control of a Service Animal
 - (Where animal is a NOT a threat of physical harm to another party)

For any item in this category, the progression of actions is as follows:

- First Offense in a 365 day period – Warning Letter
- Second Offense in a 365 day period – Three (3) day suspension of service
- Third Offense in a 365 day period – One (1) week suspension of service
- Fourth Offense in a 365 day period – Two (2) week suspension of service
- Fifth Offense in a 365 day period – Four (4) week suspension of service

Appendix D: Warning Letter Template (General)
(To be printed onto WMATA Letterhead)

<Date>

<Customer Name>

<Address>

<City, State Zip>

MetroAccess ID # <00000>

Dear <Customer Name> or Guardian,

This correspondence is to alert you that your MetroAccess service will be suspended in the future if you continue to violate the MetroAccess Abusive Behavior Policy. This warning is a result of your actions on <date>. On the date indicated, you <describe/document behavior>. You also <add additional information if warranted>.

Your behavior caused a disruption in MetroAccess service and will not be tolerated.

You have a right to appeal this decision. I have enclosed a copy of the MetroAccess Abusive Behavior Appeal process for your review.

Sincerely,

<Name>

<Title>

Office of MetroAccess Service

Enclosure: MetroAccess Abusive Behavior Appeal Process

Appendix E: Warning Letter Template
(No one able to receive)
(To be printed onto WMATA Letterhead)

<Date>

<Customer Name>

<Address>

<City, State Zip>

MetroAccess ID # <00000>

Dear <Customer Name> or Guardian,

This correspondence is to alert you that your MetroAccess service will be suspended in the future if you continue to violate the MetroAccess Abusive Behavior Policy. This warning is a result of your actions on <date>. On <Same date> no one was available to assume custody of you at <your drop off location>. As such, a MetroAccess vehicle stayed on location unnecessarily. That action caused a disruption of service and caused unnecessary delays for other customers of the MetroAccess system.

We suggest that in the future someone is available to assume custody of you to prevent another disruption of service. This policy is referenced on page 16 of the ***Customer Guide to MetroAccess***¹. If this behavior is repeated, suspension of your service might be deemed necessary.

You have a right to appeal this suspension. I have enclosed a copy of the MetroAccess Appeal process for you review.

Sincerely,

<Name>

<Title>

Office of MetroAccess Service

Enclosure: MetroAccess Abusive Behavior Appeal Process

¹ MetroAccess drivers are strictly prohibited from waiting with customers at their destination.

Appendix F: Direct Threat Suspension
(To be placed on WMATA Letterhead)

<Date>

<Customer Name>

<Address>

<City, State Zip>

MetroAccess ID # <00000>

Dear <Customer Name> or Guardian,

This correspondence is to inform you that your MetroAccess service has been suspended for violating the MetroAccess Abusive Behavior Policy. This decision was based upon your actions on <date>, <describe/document actions supporting a direct threat finding>. This action constitutes a *direct threat* to other MetroAccess customers as well as MetroAccess operators. Because your actions constitute a *direct threat*, the suspension is to begin *immediately*.

Due to this incident, and in lieu of an indefinite denial of service as is permitted by the regulations governing the provision of paratransit service, you will be suspended for <state duration>. Your suspension will begin <start date> and will continue through <last date>. Your service will resume on <resumption date>.

Any future disruptive actions in relation to MetroAccess service may result in you being indefinitely suspended from MetroAccess service. You have a right to appeal this suspension. I have enclosed a copy of the MetroAccess Abusive Behavior Appeal Process for your review.

Sincerely,

<Name>

<Title>

Office of MetroAccess Service

Enclosure: MetroAccess Abusive Behavior Appeal Process

Appendix G: Suspension
(To be placed on WMATA Letterhead)

<Date>

<Customer Name>

<Address>

<City, State Zip>

MetroAccess ID # <00000>

Dear <Customer Name> or Guardian,

This correspondence is to notify you that your MetroAccess service has been suspended for violating the MetroAccess Abusive Behavior Policy. This suspension is in response to your actions on <date>. On the date indicated, you <describe/document actions>. Your inappropriate behavior caused a disruption in MetroAccess service and will not be tolerated.

Due to this incident, and in lieu of an indefinite denial of service as is permitted by the regulations governing the provision of paratransit service, you will be suspended for <state duration>. Your suspension will begin <start date> and will continue through <last date>. Your service will resume on <resumption date>.

Any future disruptive actions in relation to MetroAccess service may result in you being indefinitely suspended from MetroAccess service. You have a right to appeal this suspension. I have enclosed a copy of Metro's Appeal process for your review.

Sincerely,

<Name>

<Title>

Office of MetroAccess Service

Enclosure: MetroAccess Abusive Behavior Appeal Process