

THE ADA
&
WHEELCHAIRS



Old Definition



“A common wheelchair is a wheelchair that does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied. Wheelchairs are defined to include both three-wheeled and four-wheeled mobility aids. Three-wheeled ‘scooters’ and other non-traditional designs that fit within these standards must be transported”

New Definition



“Section 37.3 of the DOT regulations implementing the Americans with Disabilities Act defines a ‘wheelchair’ as a mobility aid belonging to a class of three or more wheeled devices usable indoors, designed or modified for and used by individuals with mobility impairments, whether operated manually or powered”

These are Not Common Wheelchairs



You May Not



- ❧ Deny service if the lift and vehicle can physically accommodate the wheelchair
- ❧ Deny service if you cannot secure the wheelchair to your liking
- ❧ Deny service if you fear driver injury
- ❧ Require an attendant to secure the device

You May...



- ❧ Deny service if carrying the wheelchair and its occupant would be inconsistent with legitimate safety requirements
 - ❧ For Example: if a wheelchair blocks the aisle or would interfere with the safe evacuation of the vehicle
- ❧ Deny service if the device is designed to be used outdoors

Other Issues



Origin to Destination



- ❧ Providers of ADA paratransit must provide Origin to Destination Service upon request
- ❧ Do you have a written policy on:
 - ❧ A clear safe path of travel
 - ❧ Line of sight
 - ❧ Standard ramp
 - ❧ Carrying the device up the stairs
- ❧ A driver should never go into an individual's house

Use of the Lift/Ramp



- ❧ “The entity shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle”
- ❧ “Section 38.23(b)(11) specifically requires lifts to accommodate both inboard and outboard facing (i.e., front- or rear-facing) use”

Driver's Assistance



§37.165(f) - “Where necessary or upon request, the entity’s personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts.... The Appendix to this section clarifies: “On a vehicle which uses a ramp for entry, the driver may have to assist in pushing a manual wheelchair up the ramp (particularly where the ramp slope is relatively steep)”

Moving to a Seat



“Section 37.165(e) of the DOT ADA regulations allows persons who use wheelchairs to transfer to a vehicle seat, if one is available. Such a move is the rider’s decision and the operator cannot force a rider to transfer to a vehicle seat, although the operator can suggest a transfer in a non-coercive way.”

Use of Seatbelt and Shoulder Straps

☞ “Section 38.23(d)(7) requires a seatbelt and shoulder harness to be provided as part of the wheelchair securement system, passengers with disabilities cannot be required to use the seatbelt and shoulder harness unless all passengers are provided with seatbelts and shoulder harnesses and are required to use them”

Use of Seatbelt and Shoulder Straps

- ❧ Some ADA providers in CT have such policies requiring all passengers to use seat belts. In accordance with Connecticut's seatbelt law, exemptions are made for medical excuse
- ❧ What if you have some buses in your fleet that have seat belts and some that don't ?

Attachments to the Wheelchair

- ❧ You may require an individual to remove an attachment such as a flag from their wheelchair if it poses a safety risk to the driver or other passengers
- ❧ “The ADA regulations do not specify any particular equipment required for personal mobility devices, including brakes.”

Broken Wheelchairs



❧ “Even though the mechanical condition of a wheelchair may be considered “poor,” if the wheelchair is sufficiently mobile and meets the dimensional standards so that it can be transported on a lift or ramp into the vehicle, service cannot be refused”

Cleanliness of Equipment



- ❧ Occasionally there have been situations that went beyond offensive to being a health hazard
- ❧ Such cases created the need to remove the vehicle from service creating a serious disruption of service
- ❧ Individuals were denied service until the equipment was properly cleaned

Powered Wheelchairs



“The regulation does not specifically require bus drivers to push inoperable motorized wheelchairs. It may be appropriate to provide such one-time assistance as may reasonably be needed to ensure that a passenger is not stranded indefinitely in a station, at a bus stop, or aboard an out-of-service bus or train. However, passengers who use motorized wheelchairs should not expect such assistance on a continuing basis.”

Dangerous or Illegal Behavior



- ❧ Section 37.5(h)- “It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct”
- ❧ What do you do?

Call the Police



Reminders....



Policy, Policy, Policy



- ❧ What is your policy?
- ❧ Is it written down ?
- ❧ Do you consistently enforce it?

Remember....



I AM IN A
WHEELCHAIR,
IT IS NOT WHO I
AM,
IT IS JUST HOW I
GET AROUND.