



Board Report

File #: 2015-1655, File Type: Policy

Agenda Number: 42.

EXECUTIVE MANAGEMENT COMMITTEE
NOVEMBER 19, 2015

SUBJECT: CUSTOMER CODE OF CONDUCT AMENDMENTS - TRANSIT COURT

ACTION: APPROVE AMENDMENTS TO ADMINISTRATIVE CODE

RECOMMENDATION

APPROVING amendment of Title 6, Chapter 6-05 of the Los Angeles County Metropolitan Transportation Authority Administrative Code, otherwise known as the Metro Customer Code of Conduct, as set forth in Attachment A. The amended Code will become effective January 1, 2016.

DISCUSSION

Proposed amendments to the Code are set forth in Attachment A to this Board Report to address several areas:

Loitering

The proposed clarifications are recommended by County Counsel to more closely align our civil language with criminal acts of loitering language.

The proposed amendment will change section 6-05-020(G) and section 120 of the Code to add the bolded underlined language as follows:

6-05-020(G) Definitions

G. "Loitering" means unnecessary lingering in Metro facilities or vehicles or other location where it interferes with a Metro facility or vehicles or use thereof **with the intent to commit a crime.**

6-05-120 Loitering

A. Loitering is prohibited in Metro facilities and vehicles.³³

~~B. Loitering includes the following:~~

- ~~1. Storing personal property in a Metro facility or vehicle.~~
- ~~2. Camping or sleeping in a Metro facility or vehicle when not riding for a transportation~~

purpose.³

~~3. Remaining in a Metro facility or vehicle without a lawful transportation purpose or refusing to provide identification.~~

Bicycles

The Code does not permit tandem, three-wheeled, or fuel-powered bicycles or other wheeled riding devices in Metro facilities or vehicles. Questions and concerns about the safety of Metro patrons have been raised about fuel-powered bicycles and whether this restriction applies outside of Metro vehicles on bus bike racks. The Code does not allow these bicycles to be “in” Metro facilities and vehicles. To clarify that these riding devices are also not permitted “in, attached to, or on” Metro facilities or vehicles, we are clarifying the Code.

The proposed amendment will change section 6-05-040 of the Code to add the bolded underlined language as follows:

6-05-040 Bicycles and Skates

B. Tandem, three-wheeled, or fuel-powered bicycles or other wheeled riding devices, are not permitted in, **attached to, or** on Metro facilities or vehicles. Bicycles or other wheeled riding devices over 6 feet long are prohibited.

Animals

The proposed changes to section 6-05-030 are recommended by the Civil Rights Department to provide direction to our patrons using language consistent with the Americans with Disabilities Act (“ADA”) as interpreted by the Federal Transportation Authority from time to time.

The proposed amendment will change section 6-05-030 of the Code by deleting the strikedthrough language and adding the bolded underlined language as follows:

6-05-030 Animals

A. Animals are not permitted in Metro facilities or vehicles, unless one of the following applies:

1. The animal is in a **fully enclosed and** secure carrier;
2. The animal is a certified police or security animal and is accompanied by a peace officer;⁴
or
3. The animal is a service animal, as defined by the Americans with Disabilities Act, and is accompanied by a patron. A Metro representative may ask whether an animal is a pet **or a service animal required because of a disability** and what service **function** the animal performs **has been trained to perform** for the handler.⁵

B. Handlers shall maintain control of their animals **at all times**. No animal is permitted in a Metro facility or vehicle that is not under the control of its handler or poses a threat to a Metro representative or patron. A non-service animal may be **denied from boarding or** ejected if it unreasonably annoys patrons.

C. Handlers of animals shall promptly remove all animal waste from Metro facilities and vehicles. Leaving animal waste in a Metro facility or vehicle is prohibited.

D. Handlers must ensure that an animal shall not deprive a patron of a seat or block an aisle.

E. Animals carriers must have closable doors that are closed during transport. Purses, backpacks, and other similar items are not considered suitable animal carriers unless they are fully enclosed for animal transport.

Boarding, Exiting, and Seating

The proposed changes to section 6-05-060 is requested by the Civil Rights Department in an attempt to use more updated language when referring to older adults and individuals with disabilities. This is the same terminology used in the Bus Operator Rulebook and their standard operating procedures. Further, in subsection E, the change directly reflects the recently redesigned Access Services card that provides the customers Personal Care Attendant (“PCA”) status. Formerly, the card would include “PCA” or would not include the designation on the card. The new Access card will now have the words, “PCA YES” or “PCA NO.”

The proposed amendment will change section 6-05-060 of the Code to delete the strikedthrough language and add the bolded underlined language as follows:

6-05-060 Boarding, Exiting, and Seating

The following acts are required in Metro facilities and vehicles:

A. Never go onto a track except through designated crossings and never step or put arms, legs, or objects in the path of a Metro vehicle.¹²

B. Maintain control of children¹² at all times in or on Metro vehicles or facilities including when a Metro vehicle is approaching.

C. Do not signal in the path of or by touching the bus when it is moving.

D. Yield priority, reserved, Wheelchair, or similarly designated seating to ~~senior citizens~~ **older adults** and passengers **individuals** with disabilities.¹³

E. **A** Personal Care Attendants (**“PCA”**) must travel with ~~the a~~ **a** patron who displays the **an** Access Services TAP card **with a PCA eligible designation** ~~marked with “PCA”~~ at all times when using the Metro bus and rail system including boarding and exiting at the same location and traveling in the same bus or rail car.

Disorderly Conduct

The proposed addition is to clarify the language of where the disorderly conduct is prohibited.

The proposed amendment will change section 6-05-100 of the Code to add the bolded underlined language as follows:

6-05-100 Disorderly Conduct

The following acts are prohibited in, **on, or in close proximity to** Metro facilities and vehicles:

- A. Expectorating (spitting).¹⁶
- B. Carrying any explosive, acid, flammable liquid, or toxic or hazardous material.¹⁷
- C. Urinating or defecating, except in a lavatory. This subsection does not apply to a person who cannot comply as a result of disability, age, or a medical condition.¹⁸
- D. Throwing an object at a patron, Metro representative, or a Metro facility or vehicle.¹⁰
- E. Gambling to win money or anything of value.
- F. Hanging from, swinging from, or attaching anything to hand rails. This does not apply to holding a hand rail to stabilize one's body during transit.¹⁹
- G. Inciting violence or posing a clear and present danger to other persons, including making verbal or visual gang affiliation or provocation signs.²⁰
- H. Engaging in or soliciting another person to engage in lewd conduct.²¹
- I. Engaging in or soliciting another person to engage in prostitution.²²
- J. Placing feet or shoes on seats or furnishings.
- K. Defacing with graffiti, vandalizing, damaging, destroying, or tampering with Metro facilities or vehicles.²³
- L. Littering or dumping.²⁴
- M. Injuring another person or damaging another person's property or possessions.²⁵
- N. Throwing an object from a Metro vehicle.²⁶

Food, Alcohol, and Drugs

The proposed addition is to address the newly released Reasonable Modification ADA language that requires that public transit agencies to allow customers to eat or drink if needed due to a disability. This is also addressed in section 6-05-140(G).

The proposed amendment will change section 6-05-110 of the Code to add the bolded underlined language as follows:

6-05-110 Food, Alcohol, and Drugs

The following acts are prohibited in Metro facilities and vehicles:

- A. Eating, drinking, smoking, vaping, or carrying a lit cigar, cigarette of any type, or pipe, except in designated areas permitting that activity **or is required by a disability accommodated pursuant to 6-05-140 Miscellaneous G.**²⁷
- B. Placing chewed gum onto any surface in a Metro facility or vehicle other than into a trash receptacle.
- C. Drinking or possessing in an open container an alcoholic beverage, except in designated areas where there is notice that drinking alcohol is permitted and all required permits have been obtained.
- D. Possessing an illegal drug or substance.²⁸
- E. Being under the influence of alcohol, a drug, a controlled substance, toluene, or any combination of those items, and unable to care for one's own safety or the safety of others, or interfering with the use of a Metro facility or vehicle.²⁹
- F. Creating a public nuisance or a health hazard by dropping food other than in a proper waste disposal receptacle.³⁰

G. Smoking or vaping is also not allowed within 20 feet of any Metro facility entrance, exit or operable window.³¹

Reasonable Modification

The Civil Rights Department has recommended edits to section 6-05-140(G) of the Code. The changes reflect the newly released Reasonable Modification language added to the ADA requiring public transit agencies to consider revising their policies and procedures in order to allow access to services by individuals with disabilities. The new contact for complaints is the Customer Relations Department while previous language had listed the Civil Rights Department.

The proposed amendment will change section 6-05-140 of the Code to delete the ~~strikedthrough~~ language and add the **bolded underlined** language as follows:

6-05-140 Miscellaneous

- A. The Code is not intended to affect lawful activity or first amendment rights protected by state or federal law, including laws related to collective bargaining, labor relations, or labor disputes.
- B. Metro reserves the right to suspend, waive, modify, limit, or revoke the application of the Code.
- C. Metro may refuse service, or access to Metro facilities or vehicles, including eject or exclude, to any person who does not comply with the Code or applicable laws.
- D. The Code incorporates all relevant applicable legislative changes that occur after the date the Code is adopted.
- E. Acts prohibited under the Code are permitted if authorized by agreement, permit, license, or a writing signed by an authorized Metro representative.
- F. The Code applies with equal force to any person who aids or abets in any of the acts prohibited by the Code or in the avoidance of any of the requirements of the Code.
- G. Individuals with disabilities may **visit Metro.net for information and** request a reasonable modification ~~or accommodation~~ of the provisions of this Code. Whenever possible a request for a reasonable modification ~~or accommodation~~ shall be made in advance to the Metro at accessibility@metro.net, 213-922-6919, or at MS 99-21-5, 1 Gateway Plaza, Los Angeles 90012. If a request for a modification ~~or accommodation~~ is made to a Metro operator or other Metro representative the employee may contact his or her supervisor or control center for guidance.

Requests for reasonable modifications ~~or accommodations~~ will not be approved if the request would: fundamentally alter the nature of the service, program, or activity; create a direct threat to the health or safety of others; result in an undue financial and administrative burden; or the individual would be able to fully use the services provided by Metro without the modification. Individuals with disabilities may file complaints regarding reasonable modification or accommodation with Metro **Customer Relations by telephone at 800-464-2111 or via email at customerrelations@metro.net** ~~at accessibility@metro.net, 213-922-6919, or at MS 99-21-5, 1 Gateway Plaza, Los Angeles 90012, online at Metro.net, or in-person at 1 Gateway Plaza,~~

Los Angeles.

Odors

The proposed addition is to address the newly released Reasonable Modification ADA language.

The proposed amendment will change section 6-05-160 of the Code to add the bolded underlined language as follows:

6-05-160 Odors

A. A person may not be in a Metro facility or vehicle with an unavoidable grossly repulsive odor so extreme it causes a nuisance, unreasonably interferes with the use, operation, or enjoyment of the Metro facilities or vehicles for Metro representatives or patrons, or creates an unsafe condition.³⁰ **Notwithstanding the foregoing, this subsection shall not apply to persons with odors directly related to a disability or medical condition unless the odor is so severely disruptive that it interferes with the use or operation of the Metro facility or vehicle by Metro representatives or patrons, or creates direct threat or an unsafe condition.**

B. Extreme odors may arise from a variety of sources, including one's body, possessions, clothing, food, chemicals, or accompanying animals.

Solicitation

The proposed addition is to address the distinction between what is allowed and the aggressive types of solicitation behavior that is not allowed by recent case law.

The proposed amendment will change section 6-05-210 of the Code to add the bolded underlined language as follows:

6-05-210 Solicitation

A. No person shall **aggressively** solicit money or other things of value in a Metro facility or vehicle.³⁸ **Aggressive solicitation includes the following:**

- 1. At or near an ATM or ticket vending machine;**
- 2. Using insults, profanity or threats;**
- 3. Repeated requests to the same person who has refused; or**
- 4. Making demands while blocking access to a facility such as a building or restroom.**

Fares

The proposed addition is to facilitate accurate citation data entry and collection of fines through the use of posted signs.

The proposed amendment will change section 6-05-230 of the Code to add the bolded underlined

language as follows:

6-05-230 Fares

- A. Patrons who ride Metro vehicles or use Metro services must pay all applicable fares and fees.⁴¹
- B. Patrons shall show proof of payment of fare upon request by a Metro representative.⁴¹
- C. Evading payment of a Metro fare is prohibited.⁴¹ Fare evasion includes the following:
 - 1. Boarding a Metro vehicle or entering a Metro facility platform or other fare-required zone, without proof of valid fare media or without paying the fare upon boarding a Metro bus.
 - 2. Duplicating, counterfeiting, altering, or transferring any nontransferable fare media without Metro authorization.⁴¹
 - 3. Placing anything other than valid coin, tokens, United States currency or other valid fare media, into a fare box, ticket machine, pass reader, or other fare validation or collection device.⁴¹
 - 4. Falsely representing oneself as eligible for a waiver or a special or reduced fare, or obtaining fare media by making a false or misleading representation.⁴²
 - 5. Refusing to show proof of valid, validated, unexpired fare media upon request by a Metro representative. **Patrons shall show identification upon request for the purpose of accurate completion of citation data entry in accordance with posted policies.**⁴³
 - 6. Misusing fare media with the intent to evade payment of a fare.
 - 7. Unauthorized use of a discount ticket or failing to present upon request by Metro or within 72 hours thereafter, acceptable proof of discount eligibility to use a discount ticket **and show identification in accordance with posted policies.**⁴²

Enforcement

The proposed addition is to clarify the authority in which the Code operates and to add consistency to language regarding the resolution of citation in addressing enforcement issues.

The proposed amendment will change section 6-05-240(A) and section 6-05-240(D) of the Code to delete the strikethrough language and to add the bolded underlined language as follows:

6-05-240(A) Enforcement

A. Violations

A person who violates the Code is subject to a notice of violation and imposition of any and all remedies, fines, criminal sanctions, damages, and penalties available by law. Enforcement of any provisions of the Code involving the payment of any fees, penalties or other administrative amounts, or community service, by adults based on California Penal Code section 640 (b) and (c), shall be **pursuant to the authority and** according to the procedures, **herein and as** set forth in the California Public Utilities Code including section 99580 et seq. The procedures set forth in section 99580 et seq. shall not apply to minors, whose violations shall be subject to enforcement as criminal matters in Superior Court as provided by law.⁴⁵

6-05-240(D) Enforcement

D. Exclusion

1. A person, who violates the Code or a law in a Metro facility or vehicle, may be excluded from all or part of Metro facilities and vehicles either indefinitely or for a period of time specified in the Metro penalty schedule or notice of exclusion provided pursuant to subsection E below.

2. Any person to whom a notice of violation or Penal Code citation pertaining to an offense which occurred on or in a public transit facility or vehicle was issued, and **a. who has received a citation for the same violation at least 3 times in the prior 12 months; or b.** who has failed to pay any applicable fines, fees, penalties or other administrative amounts by the due date, or otherwise resolve the violation **citation or** who has otherwise failed to pay any fine, fee, or penalty when such payment was due; or **c.** who is the subject of any outstanding warrant with respect to any Penal Code offense that is alleged to have occurred on or in a public transit system facility or vehicle, is subject to exclusion, and may receive a notice of exclusion pursuant to Subsection E below.

Penalty Schedule

The Penalty Schedule for the Code currently does not include a fee for certain violations. We are now adding the standard fine amount to blocking, operating or obstructing Metro vehicle, occupying more than one seat, impeding safe boarding, hazardous materials, urinating, defecating, throwing an object, gambling, hanging from rails, inciting violence, lewd conduct, prostitution, placing feet or shoes on seats, vandalizing/tampering, littering, injuring person or property, loitering, signs, and solicitation violations.

The proposed amendment will add the bolded and underlined language to include section 6-05-050 (A)-(I), section 6-05-100(B)-(N), section 6-05,120(A), section 6-05-200(A)-(D), and section 6-05-210 (A)-(B) of the Code to the Penalty Schedule as follows:

6-05-050	Blocking					
6-05-050.A-I	<u>Blocking, operating or obstructing Metro vehicle, occupying more than one seat, impeding safe boarding</u>	> <u>Notice of violation \$75 fine</u> > <u>Ejection</u>	> <u>Notice of violation \$75 fine</u> > <u>Ejection</u>	> <u>Notice of violation \$75 fine</u> > <u>Ejection</u> > <u>Exclusion for 30 days</u>	> <u>Notice of violation \$75 fine</u> > <u>Ejection</u> > <u>Exclusion for 60 days</u>	> <u>Notice of violation \$75 fine</u> > <u>Ejection</u> > <u>Exclusion for 90 days</u>

6-05-100	Disorderly Conduct					
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6-05-100.A-N	Spitting, hazardous material, urinating, defecating, throwing an object, gambling, hanging from rails, inciting violence, lewd conduct, prostitution, placing feet or shoes on seats, vandalizing/tampering, littering, injuring person or property	> Notice of violation \$75 fine > Ejection	> Notice of violation \$75 fine > Ejection	> Notice of violation \$75 fine > Ejection > Exclusion for 30 days	> Notice of violation \$75 fine > Ejection > Exclusion for 60 days	> Notice of violation \$75 fine > Ejection > Exclusion for 90 days
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6-05-120	Loitering					
6-05-120.A	Loitering	> Notice of violation \$75 fine > Ejection	> Notice of violation \$75 fine > Ejection	> Notice of violation \$75 fine > Ejection > Exclusion for 30 days	> Notice of violation \$75 fine > Ejection > Exclusion for 60 days	> Notice of violation \$75 fine > Ejection > Exclusion for 90 days

6-05-200	Signs					
6-05-200.A-D	Post, destroy, failure to obey signs	> Notice of violation \$75 fine > Ejection	> Notice of violation \$75 fine > Ejection	> Notice of violation \$75 fine > Ejection > Exclusion for 30 days	> Notice of violation \$75 fine > Ejection > Exclusion for 60 days	> Notice of violation \$75 fine > Ejection > Exclusion for 90 days

6-05-210	Solicitation					
6-05-210.A-B	Solicitation	> Notice of violation \$75 fine > Ejection	> Notice of violation \$75 fine > Ejection	> Notice of violation \$75 fine > Ejection > Exclusion for 30 days	> Notice of violation \$75 fine > Ejection > Exclusion for 60 days	> Notice of violation \$75 fine > Ejection > Exclusion for 90 days

Ejection Schedule

Section 6-05-200(A) and section 6-05-200(C)-(D) are included as a violation subject to ejection from the system. Section 6-05-200(B) is missing as a violation subject to ejection. The proposed amendment will add the bolded and underlined language to include section 6-05-200(B) of the Code to the Ejection Schedule as follows:

6-05-200	Signs				
6-05-200.A,	Posting signs, stickers in Metro facilities or on Metro vehicles	Warning, and/or Ejection	Warning, and/or Ejection	Warning, and/or Ejection	Warning, and/or Ejection
6-05-200.B,	<u>Destroy Metro sign, ad, notice</u>	<u>Warning, and/or Ejection</u>	<u>Warning, and/or Ejection</u>	<u>Warning, and/or Ejection</u>	<u>Warning, and/or Ejection</u>
6-05-200.C-D	Failure to obey signs	Warning, and/or Ejection	Warning, and/or Ejection	Warning, and/or Ejection	Warning, and/or Ejection

NEXT STEPS

Following Board approval of the recommended amendments to the Code, Transit Court staff will continue to work with Metro Communications, Operations and Transit Security Officers, as well as the Los Angeles County Sheriff's Department, to communicate the Code including amendments to the public to promote awareness, compliance, and enforcement.

ATTACHMENTS

Attachment A - Code Amendments

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