



## Board Report

**File #:** 2017-0206, **File Type:** Ordinance / Administrative Code

**Agenda Number:** 38.

**REVISED**  
**EXECUTIVE MANAGEMENT COMMITTEE**  
**APRIL 20, 2017**

**SUBJECT: CUSTOMER CODE OF CONDUCT AMENDMENTS - TRANSIT COURT**

**ACTION: APPROVE AMENDMENTS TO ADMINISTRATIVE CODE**

### RECOMMENDATION

APPROVE amendment of Title 6, Chapter 6-05 of the Los Angeles County Metropolitan Transportation Authority (“Metro”) Administrative Code (the “Code”), otherwise known as the Metro Customer Code of Conduct, as set forth in Attachment A. The amended Code will become effective May 1, 2017.

### DISCUSSION

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

#### Enforcement of Minors Citations

On December 1, 2016, agenda item 44 by Directors Ridley-Thomas, Kuehl, Fasana, and Garcetti directed the Chief Executive Officer and relevant stakeholders to report back in writing in 160 days on an implementation plan to completely decriminalize fare evasion amongst youth transit users. This board report addresses that motion.

The following summarizes key activities that have already occurred to further the objectives of this motion:

1. Transferring Fare Evasion Citations to Civilian Transit Security Personnel instead of Law Enforcement Officials: Seventy-seven new transit security personnel have been hired to perform fare compliance checks and provide customer assistance. Law Enforcement personnel will no longer have fare compliance as a primary job duty. This supports the decriminalization of fare evasion as Transit Security Personnel will not be performing background checks as common protocol for every fare evasion citation.
2. Meetings with Key Stakeholders: Meetings have occurred with community stakeholders such as the Los Angeles Conservation Corps, Children’s Defense Fund - California, and the Los Angeles County Department of Public Health to receive their input on March 2, 2017 and March 8, 2017.

The following summarizes Transit Security’s next steps to achieve the objectives of the motion:

- Implement a non-fine based Transit Fare Resolution Program: Under the new approach, minors will be given multiple warnings. Transit school, referrals to community service for chronic offenders, and exclusions, will be pursued if necessary, instead of being asked to pay a fine or referred to the Probation Department, as is current practice. A fine will only be required when the youth, parent or guardian refuses non-fiscal remedies. If exclusion is necessary, exceptions will be made so that youth will not be prevented from riding the system to and from school (K-12).

- Increase Targeted Efforts to Direct Youth to Fare Subsidy Programs: As part of the Youth Fare Resolution Program, increased efforts will be made starting at the initial fare evasion attempt, to enroll youth who can't afford payment into student or other low cost pass programs.
- Utilize Diversion Programming to Address Chronic Fare Evasion Amongst Youth: Youth who continue to engage in non-compliance with fare payments will be directed to community service or other programs in lieu of a fine. A new Transit Fare Resolution Program, housed in Metro Transit Court, will be responsible for promoting education, awareness and enrollment in student and other low income fare programs, transit school, community service, and other remedies to resolve fare non-compliance as well as enable resolution in an informal setting.
- Update the Transit Security guidelines as follows:

Metro fare compliance officers may exercise the following options when encountering a minor without valid proof of fare. Officers may elect to: a) issue a verbal warning and direct the minor to the nearest ticket vending machine for payment; b) issue a written warning informing the minor and or the minor's parents about Metro's discounted monthly student pass; or c) after multiple written warnings refer the minor to Metro's Transit Fare Resolution Program administered through Transit Court. Metro staff will meet with the minor and/or the minor's parents to resolve the fare compliance issue in a non-punitive manner. Meeting times will be flexible to accommodate school and work schedules.

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

#### Definitions

##### 6-05-020 Definitions

The following terms, whenever used in this chapter, shall be construed as defined in this section:

**L. "Minor" means a person under the age of 18.**

The proposed amendment will change section 6-05-150 of the Code to add the bolded and underlined language and delete the language shown by strike through as follows:

##### 6-05-150 Noise

The following acts are prohibited in Metro facilities and vehicles:

A. Disturbing others by engaging in ~~boisterous or~~ unruly behavior.

B. **Failing to comply with a warning by a Metro representative to cease creating loud, boisterous or unreasonable** noise, including unnecessary cell phone or other conversation, that is so loud, lengthy, sexually explicit, threatening, violent, or disruptive, that it causes a nuisance or unreasonably interferes with the use, operation, or enjoyment of the Metro facilities or vehicles for Metro representatives or patrons, or creates an unsafe condition, such as distracting operators of Metro vehicles.

C. Playing a sound device, except when using headphones or earphones that make the sound inaudible to others unless a permit has been issued for usage of such sound device by Metro.

The proposed amendment will change section 6-05-240 of the Code to add the bolded and underlined language and delete the language shown by strike through as follows:

##### 6-05-240 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.~~ **Parents or guardians shall also be responsible in addition to the minor for any fees, penalties, or fines incurred or damages caused by their minor in connection with a citation.**

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 **or a written warning** pertaining to an offense which occurred on or in a public transit facility or vehicle, was issued, and a. who has received a citation **or written warning** 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 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, **pending trial, or convicted** 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.
3. A person excluded under the Code may not enter a Metro facility or vehicle during the period of exclusion. Metro may take any reasonable steps necessary to enforce an order of exclusion, including criminal arrest or such other remedies as may be available at law.

F. Review Request

An excluded person may request a review of the exclusion. The exclusion shall be suspended upon Metro's receipt of a request for review of a notice of exclusion, and until the review is decided and **notice of the decision or review is** received by the excluded person. The request for review must be made in writing, and may be submitted by mail, or in person or as otherwise provided in the notice of exclusion, within five (5) days after the Notice of Exclusion is received from Metro. A request for review **or notice of decision or review** is deemed to be received on the date it is personally delivered, or if mailed, five (5) days after the date of the postmark. The excluded person will be notified of the date for public hearing by mail or in person. The excluded person may request that the exclusion be rescinded or waived for good cause, that the places of exclusion be altered, or that the duration of exclusion be reduced **or waived based on participation in any diversion program available by Metro for which such persons are eligible.** The request should include a copy of the notice of exclusion or the number assigned to the notice, a request for review, the current mailing address and signature of the excluded person, and any written statement (and supporting documentation) to explain why the exclusion should be rescinded, waived, altered, reduced, or otherwise modified. **Students shall receive modification of an exclusion to enable them to commute to or from school.**

G. Administrative Review

The hearing shall be conducted by a Hearing Officer who is fair and impartial. The excluded person is

not required to attend the hearing, and shall have the choice of the hearing being conducted by mail or in person. No Metro representative shall be required to attend the hearing. Metro may submit a copy of the notice(s) of violation, any notice of exclusion, and any documentation or statement by the Metro representative(s) issuing the notice(s) of violation or notice of exclusion. Any notice(s) of violation and/or notice of exclusion shall be received into evidence. Other relevant evidence submitted may be received into evidence at the determination of the presiding Hearing Officer. Copies of the notice(s) of violation and/or notice(s) of exclusion shall be prima facie evidence of the facts stated therein and shall establish a rebuttable presumption supporting the exclusion of the individual. At the hearing, the Hearing Officer will review the prima facie validity of the Notice of Exclusion. Metro and the excluded person may present evidence including witness testimony to the hearing officer and may question witnesses who are present at the hearing. The Hearing Officer's decision shall be based on a preponderance of the evidence. Hearing officers shall have the discretion to dismiss or reduce the fines or other penalties, cancel the Notice of Exclusion, and make necessary modifications in the interests of justice **including permitting enrollment in an appropriate Metro diversion program for which such person is eligible**, in accordance with any policies or procedures adopted by the Metro Hearing Unit. Continuances of the appeal hearing are disfavored but may be ordered by the hearing officer. The hearing officer may authorize the recording of the hearing. The decision of the hearing officer shall be made in writing. The decision of the Hearing Officer shall be deemed in full effect upon personal service to the excluded person or five days after the mailing of the decision to the address provided by the excluded person.

The proposed amendment will change the Code Chapter 6-05 Penalty Schedule to add a \$40 fine for minors as set forth in Attachment A (intended for non-fare evasion citations, or ~~for fare evasion related citations when a parent or minor declines non-fiscal remedies~~ and for the purposes of calculating the number of ~~community service~~ diversion program hours or for fare evasion related citations when a parent or minor declines non-fiscal remedies.)

### Penalty and Ejection Schedules

The Penalty Schedule and Ejection Schedule for the Code currently do not include a fine for failing to obtain a permit to engage in commercial activity, failing to comply with commercial activity permit rules, and for engaging in commercial activity in a prohibited area.

The proposed amendment will add the bolded and underlined language to include a fine for violations of section 6-05-090(A)-(C) of the Code to the Penalty Schedule and Ejection Schedule as set forth in Attachment A.

### **NEXT STEPS**

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

Metro's law enforcement and transit security division will also be trained on the new policy including the ultimate goal of decriminalizing fare evasion and supporting youth ridership to commute to school, jobs and other community activities. Metro staff will provide a written report back to the Board upon finalization of the Youth Fare Resolution Program, which will define the types of diversion programs available for youth.

Metro staff will monitor the amount of fare enforcement encounters that take place with minors and report on a bi-annual basis to the Board regarding the number of warnings and escalations that have occurred. This data will be disaggregated based on demographic characteristics. This analysis will also assess whether modifications to Metro's fare subsidy programs should be considered.

Metro staff will meet quarterly or as requested with a round table of stakeholders to provide updated information on the Youth Fare Resolution Program.

## **ATTACHMENTS**

### A. Code Amendments

Prepared by: Julie Chang, Principal Hearing Officer, Metro Transit Court

Approved by: Karen Gorman, Chief Hearing Officer



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Karen Gorman  
Inspector General/Chief Ethics Officer/  
Chief Hearing Officer