



## Board Report

**File #:** 2016-0918, **File Type:** Ordinance / Administrative Code

**Agenda Number:**

**REVISED**  
**EXECUTIVE MANAGEMENT COMMITTEE**  
**JANUARY 19, 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 February 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

With the passage of recent amendments to the law, specifically California Senate Bill 413 (“SB 413”) and California Senate Bill 882 (“SB 882”), the following proposed changes will update the noise section of the Code and provide for an administrative process for minors that is similar to what is currently in place for adults for fare evasion and passenger misconduct citations to comply with these changes in the law.

As background, the decriminalization of citations for minors was raised in motion item 55 by the Board on May 22, 2014. A response to that motion was provided by staff on September 18, 2014 agenda item 71 which included a presentation on the Feasibility for Decriminalization / Options for Minors Programs and recommended a working group and exploring further the issue. Thereafter, a Youth on Transit Workshop was held on February 23, 2015, where Los Angeles Unified School District representatives and others discussed alternative options such as community service, Transit School, and payment plans. Thereafter meetings with youth advocacy groups were also conducted.

On December 1, 2016, a motion agenda item 44 by Directors Ridley-Thomas, Kuehl, Fasana, and Garcetti on December 1, 2016 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.

Minors are currently issued citations by the Los Angeles County Sheriff’s Department under California Penal Code section 640. These citations are forwarded to a diversion program administered by the Los Angeles County Probation Department.

Notwithstanding that the current practice may be legally sufficient and satisfy the new law, the following proposed language is recommended to allow for the decriminalization of minors citations in compliance with the new law. The citations will be administered in Metro Transit Court to promote education and other remedies as well as enable resolution in an informal setting. Therefore, minors will no longer be referred to the Los Angeles County Probation Department with

respect to any violation of the code of conduct, including fare evasion.

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 to 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 to 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 be responsible for any fees, penalties, or fines incurred 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 be permitted to participate 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.

#### 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

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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.

### 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 \$75 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.

### 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