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National Aging and Disability Transportation Center

ADA Ask the Expert Podcast Transcript

The following is a transcript of the ADA Ask the Expert Podcast available on the NADTC website (www.nadtc.org).

Julie Dupree: Good afternoon, and welcome to the ADA mini course Ask the Expert podcast, hosted by the National Aging and Disability Transportation Center. My name is Julie Dupree, and I am a Training and Technical Assistance Specialist with Easterseals and the NADTC. I am joined today by my colleague Rachel Beyerle, Director of Communications, and our ADA expert, Ken Thompson. This podcast is designed to answer your questions on the Americans with Disabilities Act. We are so pleased to have Ken Thompson with us today! Ken is a Training and Technical Assistance Specialist with Easterseals. He supports the NADTC by providing technical assistance, training, and information to customers and communities on a variety of issues, including accessible transportation, the Americans with Disabilities Act, veteran's issues, building partnerships, and service planning. Ken holds a Master's in Public Affairs and a B.A. from Hood College in Maryland, and is also a certified ADA Coordinator and Certified Information and Referral Specialist.

A couple of quick housekeeping items for our podcast today:

- We will begin the podcast with a series of questions we've received in the last week or so. We have organized our questions into a few different categories based on the ADA online course flow: service animals, operator assistance, and reasonable modification.
- If at any point you have a question about the ADA for Ken, that you'd like for us to address on this podcast, you can ask him in one of two ways. First, you can email your question to contact@nadtc.org and include "podcast" in the

subject line or you can use the chat feature on www.mixlr.com and search for NADTC podcast. Our staff will be monitoring both of those settings in real time.

- If we run out of time to address all questions, we will reply to your ADA question via email in the next day or two.

So, with that said, we'll get started with our questions!

Service Animals and the ADA

Timepoint: 2:09

Julie Dupree:

The first question is on service animals and the ADA. This question asks, "I run a demand response transportation system. Should we request that our passengers who use service animals call ahead and let us know they'll be traveling with their dog? Or does this violate the ADA?"

Ken Thompson:

Well, that's an interesting question because as I think about that it all depends what kind of demand response transportation you're running. Generally, though, if someone has a service animal and they show up at the corner with their service animal you have to let them ride with that service animal. You can't deny service, but on the other hand, if you are running an ADA paratransit service you may have a question that a person has a service animal and that is only asked more for the reasons of having space in the vehicle or to help boarding order, to help you operationally, but it's not a way to actually change or deny service to a person. So, it's really up to you to think about what you are doing. If you want that information, it's a question really for the purposes of operation or space or is it really used for other reasons. So, if it's asked without any tendency to discriminate or change the way you do operations then it may not be appropriate, so keep in mind that if somebody does show up with a service animal, you want to provide that service for that person.

Operator Assistance

Timepoint: 4:00

Julie Dupree:

Thank you, Ken. This next question is on operator assistance and they ask, "We have a strict no-cash handling policy for our drivers, but sometimes people will ask for

assistance with the fare box. It is hard to tell if they have a disability or not... so how should we be mindful of our passengers' needs while also adhering to our policy?

Ken Thompson:

That's an interesting because people often times do not have an obvious disability. The point that could be raised is that a person may have a hidden disability, and they have not obligation to offer that information to the driver. They could just say I want assistance with using the fare box, and in general, I would think it would be helpful to customers to offer that assistance. There's no way you can really know that a person has a disability, and there's no reason for them to be asked. Generally, though, people will ask for assistance, and it would be helpful from a customer service perspective, also, to provide that assistance, but from a disability perspective, keep in mind that some people may have a hidden disability and need that assistance too.

Reasonable Modification

Timepoint: 5:24

Julie Dupree: Thank you, Ken. Here's a question on reasonable modification. "What does "reasonable modification" actually mean?"

Ken Thompson: That's a big question. Reasonable modification, that's a core concept in disability law, meaning that any organization, business, or program would modify, or in other kinds of language, accommodate a person so that they could have the benefit of that program or service. So, reasonable modification as far as transportation goes means that a provider would say that if you have a request for a modification from a person with a disability, the provider will look at that request and if any way possible to modify our policies and to do some things that clears that up a little bit.

Operator Assistance

Timepoint: 6:24

Julie Dupree: Thank you very much. We have another question here on operator assistance. "What happens if a person's wheelchair is too large to fit onto the bus? What should be done?"

Ken Thompson: That's another interesting question and seems to be fairly common now. When a wheelchair is too big to fit on the bus, the transit operator is really obligated to provide service to those wheelchairs that can fit under those design constraints for that vehicle. So, if you have a vehicle that has a certain ramp or lift width then if it can handle that wheelchair, then you must provide that service, but the

other issue would be if you're talking about a large wheelchair that's too heavy, you want to look at the design load capacity for that lift or that ramp as far as whether you should provide service. If you have a ramp or lift that's 600 pounds, which the older ones were, and the person in the wheelchair might be heavier than that, then you're under no obligation to provide that service based on those design load restrictions. Now, what some transit systems do is they try to work and make it possible to find a way around those design loads to make the trip possible for that person, but it's up to what your vehicle can handle. If you can fit it on your bus, if the weight capacity is correct then you should make every effort to make that trip possible for the person.

Service Animals

Timepoint: 8:16

Julie Dupree: Thank you, Ken. Here's another question on service animals and the ADA. They ask, "We have a passenger who uses a service animal and insists that the animal ride on the seat next to her. What does the ADA say about this?"

Ken Thompson:

The ADA is interesting on that. You have a service animal that wants to ride in a seat. The general feeling is that seats are for people, and service animals are trained to either ride in the lap of a person or sit on the floor. So you could have the policy that no animal will ride on a seat including a service animal. On the contrary, you could have a policy that animals can sit wherever they want. That's a policy up to you. The ADA really just says that animal must be under the control of the owner but it really doesn't say that you have to have an animal in the seat but a service animal is generally trained so that they don't sit in the seat, but they will ride on the floor at the feet of the owner or sometimes in the lap of an owner. Just think you could have a policy that says no animals on the seat and that would be perfectly fine.

Operator Assistance

Timepoint: 9:32

Julie Dupree: Here's another question on operator assistance. "We have a rider who uses our paratransit service and isn't fully ready in the mornings. She asks our drivers to help her put on her socks and shoes. Some of my drivers have expressed concern that they think this isn't part of their job. Is this an ADA issue?"

Ken Thompson: Well, this could be an ADA issue when you think about operator assistance because when you think of things like getting dressed and fairly personal activities, that's not really the role of the driver or of the operator. Getting dressed

could be something the driver could do, but as a general rule the driver is not really trained to help a person get dressed. An action, like putting on socks and shoes, would be better done by someone accompanying the person, like a personal care assistant or someone else, and leave the driver to doing the task of driving the vehicle.

Reasonable Modification

Timepoint: 10:50

Julie Dupree: Here's a question on reasonable modification. "What happens if a passenger thinks an accommodation is reasonable, but we as a transit provider do not? For example, we recently had someone ask a fixed-route operator to help them carry their groceries off the bus and stated that it should have been an ADA accommodation."

Ken Thompson: What a great question. Carrying groceries off the bus. This goes to the question of what's your policy in terms of general assistance to customers. If you have a customer policy where you offer some assistance regards disability in terms of carrying a couple items, you'd have to have that same policy for people with disabilities. On the other hand, you could have a policy where you say, no we don't assist with packages, and that policy would be perfectly fine. You could also include people with disabilities, and you would not be discriminatory if it was the same policy between the two. The other question would be that some people with disabilities some assistance more with their mobility device than with boarding and deboarding the vehicle, the ADA really says that clearly that type of assistance should be provided by the operator, but it doesn't say anything about assisting for packages. You might want to think about assisting with packages--what's your general policy for people with disabilities and without and go with the same type of policy.

Service Animals

Timepoint: 12:33

Julie Dupree: Here's a question again on service animals. "What questions are my drivers allowed to ask about service animals? What can't they ask?" We're looking for specifics for training on this topic.

Ken Thompson: There are actually a couple of questions that can be asked. Two questions that come to mind that a driver can ask is, "Is your animal a service animal?" number one, and then the other question would be, "What tasks does that service animal perform?" Those are your two questions. You can't ask whether the animal is

certified or that it has some type of papers that say it's an official service animal. You can ask those other two questions. Some service animals are in fact trained by their owners, and sometimes service animals are trained by other people. There's no official training. One task would be to assist a person with a disability and it could be tasks that are not even occurring in the transit system or on the vehicle. Going to and from the transit system some service animals actually provide tasks at a place of work or in the home, but they are still service animals providing assistance that is valuable to that person with a disability.

Bus Operations

Timepoint: 14:04

Julie Dupree: Here's a question we received. "Can a driver pass a wheelchair at a bus stop when the bus is full?"

Ken Thompson: That's a common question also. Can a driver pass a wheelchair? Now, if you have a full bus and it's truly full, and the securement locations are full then a bus driver or a bus could pass but not just pass by and wave. I think the bus should be slowing down, stopping, and offering some information to that person in the wheelchair so that they know that bus is full. They should be informing the individual that that bus is full and also should be providing information to that person as to when the next bus is coming. If that next bus is coming sometime within the next thirty minutes or so then there's no need for any other kind of action from the transit system, but if it's going to be more than 30 minutes for the next bus, the transit system is obligated to provide either a follow-along vehicle to pick that person up in the wheelchair. This can be done by the driver contacting dispatch to say, "We have a wheelchair sitting here. The next bus is going to be 40 minutes from now. We need someone to pick the person up so that they can be on their way in a reasonable amount of time." That's the kind of information that needs to be given to that customer in a wheelchair so that they don't have any sense that they're going to be stranded there. Keep that in mind when you do your training.

Timepoint: 15:49

Julie Dupree: Similar to that question, "What happens if someone who uses a wheelchair is already on the bus and another person who is also using a wheelchair also needs to board that same bus? What process should our drivers follow if it becomes an issue of a second chair not fitting?"

Ken Thompson: You have a wheelchair that's already on the bus. If you have two securement places on your bus, buses should be designed so that two wheelchairs fit.

Now, if you have only one securement area, it might be a smaller bus, so if you have a smaller bus with one securement area, then I think the discussion we just had previously with the next bus or some other type of follow-up vehicle could occur because you would have a full bus. A full size bus must have two securement areas, now if there are both full, it goes back to that same issue I just spoke about that's a full bus, you should notify the customer that the next bus is coming in so many minutes. If not, then information that they have called into dispatch for a follow-along vehicle to provide rides. It's very similar to that question or answer to that question I gave previously.

Service Animals

Timepoint: 17:30

Julie Dupree: Thank you, Ken. Here's another question on service animals and the ADA. "Can a person travel with more than one service animal and still claim to the driver that both animals are service animals?"

Ken Thompson: The more than one service animal question. The ADA does not say how many service animals a person can have. There's no limitation, so a person could have two service animals. They may have more. The thing about what a service animal is used for...one service animal could be used for some sort of guidance or navigation for a person, could pull a wheelchair, but the other service animal could be used for example, to retrieve items from a backpack or pick up dropped items, so it could be possible that a person has two service animals and both have two specific roles. It's interesting, if you ever get a chance to see a retriever service animal, they are very keen animals where if somebody drops something on the floor, the animal is trained to actually stop and they look at their owner to see if they need to go retrieve it. So the owner will say yes throughout a motion or tapping, whatever, and the dog will go down, pick up that item, and bring it to the owner. It's interesting to watch. That's a task that that service animal performs. Likewise, another animal that's brought on the trip can provide different tasks. Yes, a person could have two service animals.

Reasonable Modification

Timepoint: 19:15

Julie Dupree: Here's another question on reasonable modification. "Would it be a reasonable modification to let someone eat on the bus? And, if so, do we need any paperwork from them documenting their medical need for that or is their word enough?"

Ken Thompson: Under the reasonable modification of policy rules from U.S. DOT, you could have a request needed for someone [passenger] to put in writing that they would like to have a policy modified so they can eat on the bus due to this condition that is disability related, and then the transportation system would recognize that. On the other hand, you could have a little more informal structure to your policy if it works for you, where you could say, "Oh, yes, we recognize the person when they request it to the driver." It's really up to the transit system where they want to go with it. A more formalized process could be helpful to at least have a record of that request, but some transit systems will say that they'll take the customer's word and go with that as far as eating on the bus. A question would be, how does it affect your operations. The other issue would be what does your local disability community think as to what works best for them too, so you want to have some communication with your folks in the community as to how they wish to handle that policy and what works for people with disabilities in the community.

Operator Assistance

Timepoint: 21:03

Julie Dupree: Great, thank you again. Here is another one on operator assistance. "Can you talk a little bit about if a person can travel with more than one Personal Care Attendant (PCA)? If so, how?"

Ken Thompson: On paratransit, one PCA rides free, and generally, that's all the requirement is. Somebody could, in theory, have more than one PCA, and so you would have to work it out by talking to that individual. There's no requirement to have more than one PCA ride free. One PCA, by the regulations, will ride free. You'd have to really talk to the person and understand what their needs are with that PCA. It's kind of like when you think about service animals and having more than one, a person could possibly have a PCA that is along for different reasons, but there's no obligation for the transit system to provide service to a PCA on ADA paratransit for free.

Service Animals

Timepoint: 22:22

Julie Dupree: Thank you, Ken. Speaking of service animals, we have another question on that topic, and that is, "We would like to simplify the paratransit recertification process and certify service animals as service animals during that recertification process. Is this okay as I've been told it is a violation of the ADA?"

Ken Thompson: That's a big question. Transit really shouldn't be in the business of certifying service animals. What happens I think with some transit agencies there not certifying the service animal to ride but as a point of information this person travels with a service animal so that we know when picking them up that the service animal may be waiting with the person, and it may have some bearing on space issues in smaller vehicles, but in general, a transit agency really shouldn't be in that business because the service animal and what they do for that person with a disability is really a personal issue between the individual with a disability and how they want to use that animal for their needs. My thought really is that transit is not a service animal certifier, so you probably want to stay away from that if at all possible, but you could have for at least information that that person travels with a service animal. The question would be, like I said at the beginning, how do you use that information. Are you using it for other reasons or is it more for just that you 'd like to know how much space you have so that when people are boarding if there's no space, you're not going to deny the person, but it may alter your boarding sequence for people on a smaller vehicle.

Service Animals

Timepoint: 24:31

Julie Dupree: We have time for two more questions. The first is on service animals. "We have a rider who says that they use a service cat and boards the bus with the service cat. While we are careful not to deny the ride, our operators have expressed some concern regarding allergies. Any advice would be greatly appreciated."

Ken Thompson: Under the U.S. DOT regulations, there is no defining of service animals as a specific animal or breed, so a service animal can ride under DOT regulations. As far as allergies go, again, the regulations are very clear that you cannot deny rides because of allergies. Some people may have allergies, some drivers may have allergies, but service animals still must travel with that person, and allergies can't be used as a reason for denying the trip.

Reasonable Modification

Timepoint: 25:44

Julie Dupree: Our final question for today's podcast deals with reasonable modification, and that is, "Is it considered a reasonable modification to let someone ride our system for free if they claim to have a disability and no money to pay their fare?"

Ken Thompson: That’s an interesting question. The question would be do they have no money because it is disability related? That would be a tough one to get into. It’s really a local policy. Generally, your policy for everyone on the bus is that riders pay fares. If you’re going to ride, part of the deal is that you have to pay some kind of fare. So my thought is that under, if you think of it as a reasonable modification to policy, the way that you do business is that if you don’t pay fare, you can’t ride. If you wanted to have that kind of policy, it would be interesting to see the results, but I think fundamentally you could argue that, no, everyone who rides has to pay some kind of fare, and it might be a stretch to figure out how does disability comes into play as the reason for the person not paying the fare. There are many people without disabilities who can still pay fare or they can work through other programs where they get bus passes for reduced fare or some other way to make that happen, so you want to think about that whole connection between the disability and not having to pay fare—is that even possible—and the other thing to think about is that the fundamental part of your program is that fare payers get to ride, and that’s something that may not be easily negotiated as far as providing those trips. So, a few things to think about.

Timepoint: 28:03

Julie Dupree: Thank you for that answer, Ken, and for all of your in-depth answers on these questions that we received. Thank you so much for sharing your knowledge and expertise with us, and for those of you who don’t know, if you call NADTC and have a question about the ADA, chances are you might get Ken. So, for any questions or needs you might have, Ken is here to help. We’re all here as a team to help you problem solve some of the ADA questions and experiences you might be having. So, again, thank you so much Ken, and thank you to my NADTC colleagues. Thanks for joining us today. If you have any questions that we haven’t answered for you, you can always email us at contact@nadtc.org or post them in the course forum. Thank you again to everyone for tuning in today and have a great rest of the day.

Contact the NADTC

To reach Ken or any member of the NADTC technical assistance and information and referral staff, call toll-free (866) 983-3222 or email contact@nadtc.org.

