



<b>LIFT Policy</b>	
<b>Title: Customer No Show/Late Cancellation</b>	<b>ATP-002</b>
<b>Date: December 20, 2018</b>	<b>Page 1 of 8</b>

### **1.0 Purpose**

To encourage responsible trip scheduling and paratransit use, the Americans with Disabilities Act (ADA) provides that public transit systems establish and enforce a No Show policy. TriMet LIFT's ADA Paratransit Customer No Show/Late Cancellation policy is part of an effort to bring our customers more efficient paratransit service, and to be current with Federal Transit Administration findings and best practices.

Sporadic customer no shows, late cancellations, and cancellations at the door are an expected cost of doing business for a paratransit system. However, a pattern and practice of "No Shows", late cancellations and cancellations at the door adversely affect the efficiency and effectiveness of service and significantly add to the cost of providing ADA complementary paratransit service. No Shows and late cancellations result in wasted trips that could have been scheduled for use by other paratransit customers.

No Shows are recorded each time a paratransit customer makes a late cancellation, forgets to cancel, declines their trip at the door, or is not available for pick-up for their scheduled trip. Excessive No Shows may result in suspensions of service as provided below.

### **2.0 Definitions**

**No Show** - a No Show is when all of the following criteria are met:

- A LIFT-eligible customer has a scheduled trip on LIFT; **AND**
- There has been no call by the customer (or the customer's representative) to cancel the scheduled trip 61 minutes or more before the pick-up window; **AND**
- The vehicle arrives at the scheduled pick-up location within the 30-minute pick-up window; **AND**
- The driver cannot locate the customer within 5 minutes, or the driver locates the customer and announces their arrival, but the rider fails to appear within five minutes; **AND**
- LIFT dispatch is notified. At this time, dispatch will verify that the operator is at the correct location.

Late cancellations and cancellations at the door, as defined below, will also be treated as No Shows.

**Advance Cancellation** - when the customer (or the customer's representative) calls and cancels a specific scheduled trip **at least 61 minutes prior** to the pick-up window.

**Late Cancellation** - the customer (or the customer's representative) does not call to cancel a specific scheduled trip at least 61 minutes prior to the pick-up window. Late cancellations will be treated as No Shows.

**Cancellation at Door** - when the vehicle arrives at the location designated for a specific scheduled trip within the 30-minute pick-up window and the customer (or the customer's representative) notifies the driver at that time that they no longer need the scheduled trip. These are considered No Shows.

**Notes on Cancellation:**

- The driver nor dispatcher are responsible for cancelling any other trips booked for that day without notification from the customer or the customer's representative.
- The customer (or the customer's representative) must call TriMet LIFT to cancel other trips for the day.
- TriMet LIFT schedules pick-up and return trips separately, and assumes that all scheduled return trips are needed unless notice is given by the customer or their representative. If a pick-up trip is a No Show, TriMet LIFT will not automatically cancel the return trip. A No Show on the return trip will count as a second No Show for the day.

**3.0 Regulatory Basis**

The U.S. Department of Transportation (DOT) Americans with Disabilities Act (ADA) regulation allows transit agencies to suspend, for a reasonable period of time, the provision of paratransit service to riders who establish a pattern or practice of missing scheduled trips, also known as No-Shows. In permitting suspensions, the DOT ADA regulation acknowledges that paratransit riders who repeatedly fail to appear for their prearranged rides can have a detrimental effect on operational efficiency, cost, and the quality of the service for other riders.

The Americans with Disabilities Act (ADA) Department of Transportation (DOT) regulations at 49C.F.R § 7.125(h) and 49C.F.R. Part 37, App. D, § 37.125 provide this specific guidance.

**No Shows Beyond Customer's Control**

---

The ADA does not allow transit agencies to base a suspension of service on any trips missed by a rider for reasons beyond his or her control, including trips missed due to transit agency error or lateness. Those trips may not be a basis for determining that a pattern or practice of missing scheduled trips exists. Therefore, trips cancelled for reasons that are beyond the customer's control will not be considered by TriMet LIFT as No Shows. This includes, but is not limited to:

- Family emergency
- Illness that precluded the rider from calling to cancel
- Personal attendant or another party who didn't arrive on time to assist the rider
- Rider's appointment ran long and did not provide opportunity to cancel in a timely way
- Another party cancelled rider's appointment
- Rider's mobility aid failed

- Sudden turn for the worse in someone with a variable condition
- Adverse weather impacted rider's travel plans, precluding the rider from cancelling in a timely manner

Additional issues beyond the rider's control, include Transit agency error, which may not be counted as a rider no-show, and includes but is not limited to:

- Vehicle arrived late, after the pickup window
- Vehicle arrived early, before the pickup window, and rider was not ready to go
- Vehicle never arrived
- Vehicle went to the wrong location
- Driver didn't follow correct procedures to locate the rider
- Rider cancelled in a timely way but the cancellation was not recorded correctly or wasn't transmitted to the driver in time

Although No Shows will not be issued for reasons beyond the customer's control, the customer should always make every effort to cancel scheduled trips in a timely manner. It is the customer's responsibility to provide the reasoning for not canceling a trip. Contact should be made with TriMet LIFT as soon as reasonably possible so that No Shows occurring beyond a customer's control can be excused. Lack of any contact will result in a No Show record remaining intact and may lead to a service suspension as detailed below.

#### **4.0 Responsibilities:**

##### **No Show Notifications**

---

Customers with three or more no-shows in a given month that exceed 10 percent of scheduled trips will receive a No Show suspension notification warning for their first violation in a rolling 12 month period. For second or subsequent violations in a rolling 12 month period, of three or more no-shows in a given month that exceed 10 percent of scheduled trips, customer will receive a No Show suspension in accordance with the table on page four (4).

Customers will receive a No Show notification door hanger for no-shows from a customer's home address. Customers may also be contacted by email, phone or interactive voice response (IVR). Communications will list the total number of No Shows and the percent of No Shows in reference to the total number of trips booked in the period. Specific dates, times and locations of each No Show in the period will be provided in writing.

##### **Pattern and Practice of No Shows**

---

Customers may be suspended from paratransit service when they show a "pattern and practice" of No Shows, which occurs when:

- a. three or more no-shows occur in a given month that exceed 10 percent of scheduled trips;  
**AND**
- b. The reason for the No Show/Late Cancellation was NOT beyond the rider's control.

The following are examples of what **would** and **would not** constitute a pattern and practice of No Shows:

**Example 1:** A customer books 20 trips in a 30-day period and misses three trips. This customer **will** have a pattern and practice of No Shows because (a) the customer had three No Shows, and (b) those No Shows represent 15% of the total trips booked;

**Example 2:** A customer books 5 trips in a 30-day period and misses two trips. This customer **will not** have a pattern and practice of No Shows because the customer did not have three or more No Shows in the 30-day period. (Note that because there were not at least three No Shows, the fact that the customer missed 40% is irrelevant for purposes of determining whether there has been a pattern and practice of No Shows.)

**Example 3:** A customer books 75 trips in a 30 day period and misses 6 trips. This customer **will not** have a pattern and practice of No Shows because although the customer had three or more No Shows in the 30-day period, the customer only missed 8% of their scheduled trips.

A customer who shows a pattern and practice of No Shows may be subject to a suspension of service, as shown in the table below.

Consequences for Pattern and Practice of No Shows		Alternate fine
<b>1st Violation*</b>	Letter of warning	An <i>alternate fine</i> may be <b><i>paid in lieu of a suspension</i></b> , which will equal the current LIFT Fare (\$2.50) multiplied by the number of trips missed by the rider for the calendar month.
<b>2nd Violation*</b>	7 Day Suspension	
<b>3rd Violation*</b>	14 Day Suspension & Loss of Subscription Service	
<b>4th+ Violation*</b>	30 Day Suspension & Loss of Subscription Service	
* A "Violation" equates to three or more no-shows in a given month that exceed 10 percent of scheduled trips.		
<b>Violation history covers a 12-month floating period.</b>		

If a customer has a pattern and practice of No Shows as provided above, they will receive a suspension letter or email, proposing to suspend service within fifteen (15) days and outlining the administrative review and appeals process. Suspension of service privileges will be postponed pending completion of the appeals process, if requested.

Loss of subscription service takes effect with three violations in a floating 12-month period, and will not be removed until the customer has three consecutive months without any No Shows or late cancellations.

An alternate fine may be paid in lieu of a suspension, which will equal the current LIFT Fare (\$2.50) multiplied by the number of trips missed by the rider for the calendar month. However, a financial penalty is permitted by the ADA only as *an option instead of a suspension*. A fine or financial penalty may not be mandatory, and may not be charged in addition to a suspension.

## 5.0 “Due Process” Requirement

### Administrative Review and Appeal Process

---

A customer (or a customer's representative) may file a request for an Administrative Review for an *individual* No Show issued by contacting TriMet LIFT Customer Service. The customer should provide LIFT with any information they believe will support his/her request for review pertaining to the No Shows or Late Cancels being outside the rider's control.

Designated TriMet LIFT staff will review the information provided by the customer (or the customer's representative) and make a decision to either uphold the individual No Show or to excuse it. This decision will be made within ten business days.

If No Shows have accumulated to a point where a suspension will be imposed, the customer (or the customer's representative) may file a verbal or written request for an Appeal by contacting TriMet LIFT. Service will continue while the outcome of the appeal is decided.

Upon receiving the Notice of Suspension letter, a customer has the right to an Administrative Review of the suspension. The following outlines the steps for requesting an Administrative Review and the basic procedure governing the appeal process.

To request an Administrative Review the customer (or their representative) must contact the LIFT Service Quality Administrator. The call, letter or fax must be received no later than 15 days following the date of the Notice of Suspension letter, which contains the exact date by which the Administrative Review must be received.

**By phone:**

503-962-5438

503-962-8058 (TTY text telephone only)

**By fax:**

503-962-8250

**By mail:**

TriMet LIFT Program

Attn: Service Quality Administrator

2800 NW Nela St

Portland, OR 97210

Once a timely Administrative Review request is received, LIFT staff will request information for the review. The Administrative Review is an opportunity for the customer and/or the customer's representative to provide additional information relevant to the proposed suspension. When the Administrative Review is completed, LIFT staff shall promptly advise the customer regarding the resolution. In most cases, the Administrative Review is conducted by telephone and will be followed up by written correspondence within 10 days with a final resolution.

### **Right to request appeal of suspensions**

If the customer is not satisfied with the outcome of the Administrative Review, the customer has a right to request an appeal hearing; or an appeal without hearing, within 10 calendar days following the resolution of the Administrative Review. Customers will be granted a stay-of-suspension while a “no show” suspension appeal is pending.

TriMet will evaluate such requests for a stay-of-suspension based on the facts of the suspension and notify customer of the decision.

### **Requesting an Appeal**

The Appellant shall make the appeal in writing via letter, fax, email or verbally via telephone. TriMet must receive the request for appeal not later than the 10<sup>th</sup> calendar day after the date that the Appellant receives the Administrative Review’s written resolution. For purposes of this requirement, TriMet assumes that the Appellant will have received the decision not later than three calendar days after the date the decision was mailed to Appellant’s address of record. TriMet mails all written resolutions via regular U.S. first-class mail, unless the Appellant requests otherwise.

The 10-day appeal period begins to run on the third calendar day after the date the decision was mailed. For example, if the decision was mailed on June 1, the 10-day appeal period begins to run on June 4, and expires on June 14.

#### **By mail:**

TriMet LIFT Program  
Attn: LIFT Appeals  
2800 NW Nela Street  
Portland, OR 97210

#### **By fax:**

The Appellant shall timely fax a request for appeal to  
(503) 962-8250

#### **By email:**

The Appellant shall timely email a request for appeal to [LIFTServiceAppeals@trimet.org](mailto:LIFTServiceAppeals@trimet.org)

#### **By phone:**

The Appellant may timely call and leave a message requesting an appeal to:  
LIFT Service Suspension Appeals at 503-962-5438.

If a request or notice for appeal is received, LIFT staff shall: (1) promptly advise the Appeal Panel of a timely request for an appeal; (2) if the Appellant requests a hearing, coordinate a hearing date, time, and location with the Appellant and the Appeal Panel, and notify the parties in writing; and (3) reserve sufficient time for the hearing. If necessary, LIFT staff shall arrange for the Appellant to receive LIFT transportation to and from the place of hearing at no charge.

### **Appeal with Hearing**

Prior to Hearing, Appellant may request copies of documents relating to the decision being appealed. The Appeal Panel or its designee shall promptly consider and decide all requests for documents. The Appeal Panel shall timely provide all requested documents or items to the Appellant that are relevant and non-privileged.

Appellant may request the appearance of other individuals who have knowledge of information relevant to the decision being appealed. The Appeal Panel or its designee shall promptly consider and decide all requests for the appearance of witnesses, considering the witness's relevance to the decision being appealed or the likelihood that the witness will assist the Appeal Panel in deciding the appeal. The Appeal Panel does not have subpoena power to order the appearance of witnesses.

Appellants may submit not later than three days before the appeal hearing, including the date of the hearing, written arguments, evidence, and any other information the Appellant wishes the Appeal Panel to consider before the hearing. The Appeal Panel may consider written arguments, evidence, and any other information presented for good cause shown by the Appellant, for the first time at the hearing.

### **At Hearing**

The Appellant may represent themselves at hearing, or may be represented by an attorney, paralegal or legal assistance, caseworker, care provider, or other person designated by the Appellant to present the Appellant's case.

The parties may present documents and offer other oral, written or recorded information to support their respective positions or to respond to each other's positions. TriMet shall present its position first, then the Appellant may present. As required or appropriate, the parties shall be permitted to present additional documents.

The Appeal Panel may for good cause continue a hearing or permit the post-hearing submission of additional evidence, information and arguments. If a continuance or post-hearing submission is permitted, the Appeal Panel shall promptly advise the parties of the date, time and location of the continued hearing or the date by which the post-hearing submission must be received by the Appeal Panel. The hearing will be electronically recorded.

### **Appeal without Hearing**

If the individual declines an in-person appeal hearing, LIFT staff shall inform the Appellant of the date by which the Appellant must submit to TriMet any written materials the Appellant wishes the Appeal Panel to consider in determining the Appellant's appeal. Extensions of this date may be allowed for good cause.

Following the submission date, the Appeal Panel shall review the Appellant's file and written submissions, if any, and decide the matter.

### **Evidentiary Burden and Standard**

TriMet shall have the burden of demonstration that the Appellant's suspension of paratransit service was appropriately determined. This burden must be satisfied by a preponderance of all the evidence submitted in connection with the appeal or otherwise in the Appellant's record. The standard of admissibility for evidence and information presented in connection with an appeal shall be whether the evidence or information is of the type that a reasonable person would rely upon in making decisions about their personal affairs. The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.

### **Decision and Notification of Decision**

The Appeal Panel may uphold or overturn the suspension determination or, modify the suspension determination.

The Appeal Panel shall notify the individual of its decision and the reasons for its decision in writing, not later than 15 days after the date of the appeal hearing, including the date of the hearing. Or, if the individual declined a hearing, the Appeals Panel shall notify the individual of its decision and the reasons for its decision in writing not later than 15 days after the date the Appeals Panel reviewed and considered the matter.

If no decision is made on an appeal of suspension determination within 15 days of the date of the appeal hearing, or within 15 days of the date of the Appeals' Panel consideration without the attendance of the Appellant, or within 15 days of the receipt of requested additional documents and information, the Appellant will be eligible for LIFT service beginning the 16th day, until and unless a decision otherwise is rendered by the Appeals Panel. TriMet shall immediately inform the individual that he/she is presumptively eligible for LIFT service first by telephone and then follow up with a written communication to the individual's last known address of record.

This document will be provided to customers requesting an appeal. It is also available by calling LIFT Customer Service at 503-962-8000, option 2, or from TriMet's website, [www.trimet.org](http://www.trimet.org).

###