

Effective Date:	8/1/17
Updated:	

CITY OF BERLIN
SHARED-RIDE TAXI SERVICE
DISRUPTIVE BEHAVIOR & CONDUCT POLICY

This policy provides for an administrative process for sanctioning ADA and Shared-Ride Program Riders who engage in violent, seriously disruptive or illegal conduct while using **SHARED-RIDE TAXI SERVICE**, and/or who pose a significant risk to others. According to the Code of Federal Regulations (CFR):

- ❖ **49 CFR § 37.5 – Appendix D:** If a person is violent, seriously disruptive, or engaging in illegal conduct...the provider may, consistent with established procedures for all riders, refuse to carry the passenger.
- ❖ **29 CFR § 36.208:** ...a person who poses a significant risk to others may be excluded [from service] if reasonable modifications to the public accommodation’s policies, practices, or procedures will not eliminate that risk.

1. DEFINITIONS

The following definitions are applicable throughout this document:

Contractor relates to the service provider that is contracted to carry out the Shared-Ride Taxi Service for the City of Berlin.

Contractor Manager relates to the Chief Officer or Manager of the Contracted service.

Prohibited Conduct includes:

- Destruction of public property (vehicle, and/or its furnishings; Shared-Ride Taxi Service facilities)
- Performing violent acts to others or oneself
- Behavior that is seriously unruly, disruptive, threatening, or frightening to others
- Behavior that interferes with the safe operation of the vehicle
- Violating Shared-Ride Taxi Service animal policy by failing to control one’s service animal
- Violating any governing Shared-Ride Taxi Service operating rules
- Engaging in illegal conduct
- Other conduct judged by Shared-Ride Taxi Service Contractor to represent an actual or potential threat to the health, safety or wellbeing of oneself, the operator, other passengers, and/or Shared-Ride Taxi Service personnel

Provider relates to the City of Berlin as provider and grant recipient of shared-ride taxi service.

Rider relates to passenger of Shared-Ride Taxi Service program.

2. DEFINED RESPONSIBILITIES

- A. Decisions about refusing service to shared-ride program Riders are left to the Contractor's discretion. Shared-ride program regulations contain no prohibition against requiring Riders to be accompanied by a personal care attendant. This policy applies to both ADA and shared-ride program Riders.
- B. Only the Contractor has the right to suspend service or impose sanctions on Riders. Contractor is required to protect their own and Provider vehicles and property, document all incidents, and report these promptly to the Provider.
- C. Contractor shall record all Rider incidents under this policy and keep on file.
- D. Provider and Contractor must be mindful of the critical importance of maintaining confidentiality concerning information about Riders' identity, personal circumstances, disability status, etc.

3. LEVELS OF OFFENSES

- A. **Level One Offenses:** This category principally includes conduct that interferes with the safe operation of a vehicle or conduct offenses that do not threaten others.
 - Fare evasion or fare non-payment related incident
 - No show/late cancellations
 - Use of alcohol or other illicit substance
 - Equipment tampering
 - Actions which impede or deny other Rider's access to service
 - Threatening/abusive telephone calls; intentionally tying up telephone lines
 - Interfering with the safe operation of the vehicle. Examples include, but are not limited to:
 - Disruptive behavior (ex. yelling, throwing items, banging on windows, etc.)
 - Removing seat belt; leaving seat
 - Loud, abusive language; loud music
 - Littering, creating an unsanitary environmental condition
 - Smoking, having an open flame
 - Failure to follow direction of Driver
 - Exhibiting inappropriate personal hygiene, i.e. an individual whose bodily hygiene is so offensive as to constitute a nuisance to other Riders
 - Other unsafe conduct as determined by the Contractor
- B. **Level Two Offenses:** This category principally includes circumstances representing direct threat and may result in refusal of further shared-ride taxi service. Conduct that threatens the safety or wellbeing of others includes but is not limited to:

- Assault of driver or other passenger(s)
- Physical aggression or intimidation
- Verbal or Sexual harassment
- Serious health-related conditions or conduct impacting public health. Examples include, *but are not limited to*: bed bugs, TB or other contagious conditions, spitting, urinating/defecating, discharge of bodily fluids, open wounds
- Failure to maintain control of a service animal
- Vandalism/Destruction or damage to property
- Unauthorized operation (or attempt to operate) a shared-ride taxi vehicle
- Serious infractions of Shared-Ride Taxi Service operating rules
- Any criminal conduct

4. PENALTIES FOR OFFENSES

A. Level ONE Offenses:

- 1st offense: Contractor issues warning notification letter notifying Rider of incident and advising of Shared-Ride Taxi Service Policy and informing that if another incident occurs, sanctions will be imposed as follows:
- 2nd offense (within 2 yrs): 14 day Suspension (subject to appeal)
- 3rd offense (within 2 yrs): 30 day Suspension (subject to appeal)
- Subsequent offenses (within 2 yrs): 90 day Suspension (subject to appeal); further suspensions up to and permanent revocation of riding privileges will be determined at the exclusive discretion of Contract Manager or designee.

B. Level TWO Offenses: Immediate suspension pending outcome of investigation; offenders may be subject to additional suspension up to and including permanent suspension and possible criminal prosecution.

- 1st offense: 30 day Suspension (subject to appeal)
- 2nd offense (within 5 yrs): 90 day Suspension (subject to appeal)
- Subsequent offenses (within 5 yrs): Further suspensions up to and including permanent revocation of riding privileges will be determined at the exclusive discretion of Contract Manager or designee.
- Cases of infectious disease or other health related conduct will result in suspension until documentation attests that contagion is no longer a risk.

5. SUSPENSION PROCEDURES

A. Level One Offenses:

1. Riders will be given a first warning by the Driver not to engage in the conduct.

2. If Rider fails to comply, Driver must report incident to Supervisor and must document incident.
3. If necessary, the Driver may contact Supervisor to be called to the scene.
4. Supervisor informs Rider of infraction and notifies if future trips are being suspended.
5. Supervisor records incident in Rider's file; issues letter informing Rider of violation and penalty (if any).

B. Level Two Offenses:

1. Driver must report incident to Supervisor.
2. Driver is authorized to request police assistance if necessary.
3. Contract Manager must report incident to City of Berlin immediately.
4. Contract Manager must document incident.
5. Contract Manager informs Rider of infraction and notifies if future trips are being suspended.
6. Contract Manager records incident in Rider's file, issues letter informing Rider of violation and penalty (if any).

Any notice to Rider must identify the basis for the proposed action with specifics and describe the proposed sanction. It must notify the Rider of his/her right to appeal and how to file an appeal.

6. CONTINGENCY TO REFUSAL OF SERVICE

49 CFR § 37.5 – Appendix D: A requirement for a personal care attendant is inconsistent with the general nondiscrimination principle that prohibits policies that unnecessarily impose requirements on individuals with disabilities that are not imposed on others.... If an entity may legitimately refuse service to someone, it may condition service to him on actions that would mitigate the problem.

- A. In the case of subsequent and repeated offenses, Contractor may offer continued service provided the individual be accompanied by a personal care attendant. This offer is a contingency to lengthy suspension or refusal of service if such a remedy will mitigate future conduct violations.
 - Contingency to be offered in letter informing Rider of penalty
 - Contingency may not be offered if presence of a personal care attendant cannot reasonably eliminate risk of recurrence.
- B. If it has been determined that a Rider may be refused transportation and Rider has accepted and agreed to service contingent upon conditions set by Contractor, Contractor will not transport Rider when they are not accompanied by a personal care attendant.

- C. Offer of contingency and conditions of service provision may be reviewed when Contractor receives adequate documentation that effective steps have been taken to mitigate further conduct violations.
- Contractor will permit Rider to resume travel without personal care attendant upon receipt of satisfactory proof of action taken and sustained efficacy of action.
 - Further conduct incidents will result in refusal of service
- D. In the case of a customer with an aggressive, threatening, or disruptive personal care attendant or companion, USDOT regulations permit the following:
- Denial of transportation to offending party should they seek to accompany eligible Rider on a vehicle as a companion or personal care attendant.
 - Eligible Rider must be given advanced written notice indicating party is not permitted to accompany them on vehicles due to the specified actions by him/her.
 - Contractor, Provider, or both may seek to prosecute the offending party.