

# ABQ RIDE SUSPENSION POLICY

## ABQ RIDE Suspension/Trespassing Policy and Procedures

### I. Purpose

The purpose of the Suspension/Trespassing Policy is to provide guidance and a documented procedure for Suspending individuals who engage in inappropriate and disruptive behavior in order to maintain a safe and secure environment for all ABQ RIDE employees, passengers, and visitors at any ABQ RIDE facility. The procedures laid out in this policy will allow the department to enforce a temporary or permanent Suspension on any individual who conducts dangerous behavior and/or commits any crimes, whether verbally or physically at an ABQ RIDE facility, including buses. When possible, taking into consideration one's safety, any person engaging in inappropriate behavior should be given a warning prior to more serious actions taken.

### II. Scope

All employees are responsible for situational awareness of their surroundings and should immediately report suspicious, criminal, or potentially disruptive behavior to a supervisor or other appropriate official for immediate action. ABQ RIDE contracts with private security and works closely with both Metro Security and APD to maintain and enforce law and order on the entire ABQ RIDE system. The use of video may be used to identify and report these incidents.

### III. Overview and Definitions

Inappropriate conduct includes any individual or group activity which is seriously disruptive, harassing, threatening, or injurious to individuals lawfully using transit facilities or services. Inappropriate conduct may also constitute a violation of an ordinance or criminal law. The fact that an individual is or is not charged with or convicted of a crime does not preclude investigation and/or exclusion under this Policy. Upon issuance of a Suspension to any individual, the individual may not be on/in any ABQ RIDE facilities and properties including buildings, structures, buses, shuttles, vehicles, or other real properties until the decision is amended or expires.

“Assault” - [§ 12-2-1 Assault](#).

Assault consists of either:

- (A) An attempt to commit a battery upon the person of another; or
- (B) Any unlawful act, threat, or menacing conduct which causes another person to reasonably believe that he is in danger of receiving an immediate battery; or
- (C) The use of fighting words which by their very utterance are likely to cause an average addressee to fight.

('74 Code, § 12-1-2-1) (Ord. 96-1973) [Penalty, see § 12-1-99](#)

“**Battery**” –Battery is the unlawful, intentional touching or application of force to the person of another when done in a rude, insolent or angry manner.

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(‘74 Code, § 12-1-2-2) (Ord. 96-1973) Penalty, see § 12-1-99

**“Loitering at Bus Stops”** – § 7-2-2-1 Boarding Area Restrictions. Bus stops are reserved for ABQ RIDE passengers only and are intended to be used for boarding and alighting ABQ RIDE buses or shuttles.

**“Employee”** shall mean any part-time or full-time, temporary or regular, exempt or non-exempt, represented or non-represented person, including an intern, contracted party, or agent who is compensated to provide ABQ RIDE services by wages, salary, or other remuneration.

**“Facilities and Properties”** means all property and equipment of ABQ RIDE, including, without limitation, park-and-ride lots, transit centers, bus shelters, bus stops, street furniture and amenities, all transit vehicles, public streets and sidewalks inside and outside areas of ABQ RIDE property, lands, interest in lands, air rights over lands, and rights of way of all kinds that are owned, leased, held, or used by ABQ RIDE for the purpose of providing public transportation services.

### **IV. Level I - Inappropriate Conduct/Emergency Situations.**

The following conduct in or at ABQ RIDE Facilities or Properties, may be cause for police intervention, arrest and/or prosecution. An emergency can be defined as any situation in which an individual’s actions present an imminent danger to the life or safety of him/herself or others, or to ABQ RIDE Facilities or Properties. Employees are authorized to request police assistance. An individual found to have engaged in any of the following activities will be excluded from all Transit Services, Facilities, and Properties for a minimum of 12 months pursuant to Section VII, Exclusion Procedure. Further legal action may be taken as applicable and appropriate. Level I violations include, but are not limited to:

- Disorderly conduct including damaging, destroying, defacing on transit property
- Manufacturing, selling, delivering, or possessing with the intent to manufacture, sell, or deliver a controlled substance, or using, selling or distributing any controlled substance or counterfeit substance on Facilities or Properties;
- Violating any federal, state, or municipal civil or criminal laws
- Engaging in or soliciting sexual activity on Facilities or Properties
- Assault and battery, or threat of same
- Obstructing or interfering with the safe operation of transit vehicles, Facilities or Properties
- Defacing, destroying, or otherwise vandalizing Transit Facilities or Properties Possessing any items of a dangerous nature on transit Facilities or Properties including: flammable liquids; explosives, acid, toxic or poisonous substances; a vessel containing caustic materials, chemicals, alkalis, or other article or material likely to cause harm to others, or sharp objects;
- More than one Level II violation.

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### **V. Level II - Inappropriate Conduct using Transit Services, Facilities and Properties.**

The following conduct is prohibited in all Facilities and Properties, including but not limited to, buses, transfer points, park and ride lots, bus stops, and bus shelters, except as specifically limited below. Any individual observed engaging in prohibited conduct may be told by an Employee to leave the facilities immediately and may be subject to Suspension by proper authorities. Any Employee is authorized to request assistance if necessary. These offenses may cause an individual to be Suspended from all Transit Services, Facilities, and Properties for not less than 6 months or more than 12 months. *See* Section VII, Exclusion Procedure; further legal action may be taken as applicable and appropriate. Level II violations include, but are not limited to:

- Lighting an incendiary device (e.g. match, lighter, torch). Nothing herein shall prevent a person from carrying a cigarette, cigar, or pipe lighter
- Indecent exposure as defined by law
- Entering any ABQ Ride vehicle or property with clothing containing blood, urine, vomit, or defecation.
- Possessing or consuming alcoholic beverages
- No Smoking (Cigarettes, E-Cigs or Drugs)
- Entering a Transit Facility or Property after being asked to leave
- Refusing to use appropriate safety restraints or secure mobility device (when applicable) on transit vehicles
- Acting disorderly may create or incite a violent reaction of fear, anger, or apprehension. Acts include but are not limited to: (a) fighting, disorderly conduct, inebriated or drunken conduct, or being under the influence of narcotics; (b) use of epithets, abusive or profane language; (c) conduct that is indecent, profane, or obscene; and (d) otherwise disorderly or inappropriate conduct which is inconsistent with the safe and orderly use of transit facilities for their intended purpose;
- Receiving more than one Level III violation, may result in a Level II Suspension.

### **VI. Level III - Inappropriate Conduct using Transit Services, Facilities, and Properties.**

For any of the following inappropriate conduct on buses, persons will be given a first warning not to engage in the conduct. If the person does not comply with the warning, an Employee is authorized and may elect to ask the person to leave the vehicle or area. If Employees feel there could be a threat to their safety, they should not engage the person, and should instead call ABQ RIDE Dispatch for assistance. Any individual, who declines to leave a bus, shelter, or other facility after being asked to do so by the Employee, may be subject to being Suspended from ABQ RIDE property for a period of time. Repeat infractions may result in exclusion from all Transit Services, Facilities, and Properties for not less than 1 day or more than 6 months. *See* Section VII, Exclusion Procedure. Level III violations include, but are not limited to:

- No Standing in front of the yellow line at the front of the bus near the driver's seat.

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- Do not have distracting conversations with Bus Operators while bus is in motion.
- Hanging or swinging from stanchions or other bus equipment with feet off the floor
- Hanging out, reaching out, or putting anything out of bus windows
- Using a media playing device (e.g. portable radio, laptop, tablet, CD player, etc.) without proper earphones
- Engaging in indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct to cause a disturbance.
- Eating on the bus. Drinks with closed, sealable containers, such as water bottles are permitted. Non-sealable containers such as disposable coffee cups are not allowed on the bus.
- Offensive hygiene (i.e., an individual whose bodily hygiene constitutes a nuisance to others)
- No loitering on Transit services, facilities, and/or properties.
- Shirt, pants and shoes are required to ride. Indecent exposure is prohibited.
- Otherwise disorderly or inappropriate conduct which is inconsistent with the safe and orderly use of transit facilities for their intended purpose;
- Engaging in solicitation or commercial sales of goods of any type without permission is prohibited on all property
- Panhandling at or on ABQ RIDE services, facilities, and or properties.
- Sleeping or Camping on Transit Services, Facilities, or Properties.

### **VII. Exclusion Procedures.**

The following personnel may issue a temporary Suspension notice until a final disposition is made on the incident:

- ABQ RIDE Director or their designee.
- Any manager/supervisor from the Transportation Department
- Local Police (to include or Off-Duty Police), Transit Safety Officers, and Metro Security Officers.

Once it has been determined that there have been serious incidents of inappropriate conduct by an individual, as described in Levels II and I, or repeated Level III violations, and it is determined that the individual involved should be excluded from Transit Services, Facilities, and Properties, or that conditions should be placed on the individual's continued use thereof, the individual will be verbally informed they are being Suspended from all ABQ RIDE property until a written exclusion letter/notice can be issued. The Chief of Transit Security or other assigned designee will issue, or cause to be issued, to the individual involved a written exclusion letter from ABQ RIDE Facilities and Properties. The ABQ RIDE employee will identify the individual, if possible, by name, address, date of birth, telephone number, and if available, a picture.

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When a person is Suspended, the ABQ RIDE employee or agent will document the incident on ABQ RIDE Occurrence Report, providing all facts and circumstances of the incident to include all identifiers of the individual, location, date, time, bus route, bus number, witnesses, and a narrative of the incident to include all actions taken (i.e. arrest, removed from property, Suspended).

The exclusion letter shall indicate the reasons for the exclusion, the time of the exclusion, and the facilities and/or services to which the exclusion order applies. If continued use of transit Facilities and/or Properties is made subject to safety conditions or restrictions (e.g. presence of a parent or guardian in the case of a juvenile; accompaniment by a personal care attendant or aide), a conditional exclusion letter may be issued specifying that the individual will be subject to exclusion unless the imposed restrictions are complied with. The letter shall also advise the individual of his/her right to appeal the decision and include a copy of the appeal procedure. A copy of the letter and all documentation will be forwarded to the ABQ RIDE Chief of Transit Security (or other designee appointed by Transit Director) and the Public Safety Manager.

Level 1 - minimum 12 months from all Transit Services and Facilities;

Level 2 - minimum 6 months but no more than 12 months from all Transit Services and Facilities;

Level 3 - minimum 1 day but no more than 6 months from all Transit Services and Facilities.

### **Non-Compliance with Exclusion Order: Trespassing.**

When any individual remains on or is later located on ABQ RIDE property after being issued a Suspension notice, whether verbal or written, before the return date listed in the exclusion letter or otherwise communicated to the individual, police may be called, and the individual may be subject to further action, up to and including arrest for trespassing.

### **VIII. Appeal Process**

Any appeal by or on behalf of the party subject to an exclusion order shall be submitted in writing to the Transit Exclusion Appeals Board within ten (10) calendar days after notice to the individual.

Appeals shall be submitted to:

ABQ RIDE  
Attention: Suspension Review Board/Public Safety and Security  
100 1<sup>st</sup> St SW  
Albuquerque, New Mexico 87102

The communication shall state with specificity the grounds for the appeal. The Appeals Board shall hold a hearing within 30 days after the notice has been filed. Notice of the hearing, including a statement of the time, place, and nature of the hearing shall be mailed to the

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aggrieved party at least ten (10) days prior to the hearing. Exclusion orders for Level III violations shall be stayed pending appeal to the Appeals Board hearing. Exclusion orders for Level II and Level I violations shall not be stayed pending an appeal, unless the Appeals Board finds that a stay is warranted and necessary under the circumstances. A request for stay shall be made in writing by the aggrieved party, stating the specific reasons for the request. The Appeals Board consists of individuals appointed by the Director of ABQ RIDE.

Hearing - At the hearing, the appellant may be represented by counsel, may present evidence, and may call and examine witnesses and cross-examine witnesses of the other party. The Appeals Board shall review any evidence deemed necessary or relevant to the violation at the hearing. The Appeals Board hearing may be audio recorded.

Decision - Within 30 days of the completion of the hearing, the Appeals Board shall issue a written decision either upholding or overturning the Suspension, and stating the reasons therefore. The Board shall make a finding on whether it is more probable than not that the excluded individual engaged in the conduct which was the basis for the exclusion. Based on testimony and the evidence in the record, the Board shall have the power to affirm or reverse the written determination, or to remand it to the Chief of Transit Security with instructions for reconsideration consistent with the Board's decision. The decision, except in the case of remand, shall be a final determination for judicial review.

If the subject of the Suspension cannot be contacted to arrange an appeal hearing within 15 business days, the appeal will be considered null and void.

### **IX. Statement of Rights**

In accordance with the provisions of the Americans with Disabilities Acts and Civil Rights Act of 1964, ABQ RIDE does not discriminate based on disability, race, color, national origin, or gender, or on the basis of membership in any other protected class or category. For more information about these statutes, or to file a complaint, contact ABQ RIDE Transit's designated Disability Rights and Title VI Coordinator.



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