

The Panel may choose to rescind, uphold, or modify the suspension of service. The Panel's decision is final.

## Resuming MAX Service

When the suspension period is completed, City of Modesto Transit staff will notify the passenger that he or she is eligible for bus service. Notification will be made according to the procedures set forth under "Notice of Suspension."

If there is another documented incident of inappropriate or seriously disruptive behavior, the passenger may be suspended for a longer time period or indefinitely.

**For more information, please contact:  
MAX Office  
1001 9th St, Modesto, CA 95354  
209-521-1274**

This policy was adopted by Modesto City Council Resolution #2013-111 on 3/26/13.

# Passenger Conduct Policy

The City of Modesto operates a fixed route bus service under the name of Modesto Area Express (MAX). The safety and security of all MAX passengers and MAX operators is of the utmost importance to the City of Modesto. Every member of the riding public has an obligation to contribute to the safety of others riding the bus by refraining from inappropriate and seriously disruptive behavior.

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**Any person who exhibits inappropriate or seriously disruptive behavior while boarding a bus, disembarking from a bus, or riding on a MAX bus may lose the privilege of using MAX.**

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## Inappropriate Behavior

Inappropriate behavior is defined as conduct that does not demonstrate respect for the rights and dignity of others, interferes with the orderly operation of transit services, damages public property, is disruptive, or violates the rules of riding the bus.

A passenger engaging in inappropriate behavior not warranting immediate ejection from the bus will receive a verbal warning. The warning will state the reason his or her behavior is inappropriate and the steps the passenger must take to correct the behavior. The MAX driver or other agent will document this verbal warning, indicating the date and time the warning was given.

A MAX operator or supervisor may inform the passenger that his or her inappropriate behavior may jeopardize the passenger's ability to use MAX. A MAX supervisor, or operator with supervisor approval, may require the immediate removal of the passenger from the bus for continued inappropriate behavior.

Any time a passenger is denied service or is removed from the bus, the passenger may be prohibited from riding for the remainder of that day.

## Seriously Disruptive Behavior

Seriously disruptive behavior is defined as conduct that is violent, illegal, or endangers the health or safety of others. Such behavior includes, but is not limited to:

- threats,
- physical or verbal abuse;
- unlawful harassment including unwelcome verbal, nonverbal or physical behavior having sexual or racial connotations;
- public intoxication;
- voluntarily and repeatedly engaging in inappropriate behavior;
- bringing hazardous materials on the vehicle;

## Passenger Conduct Policy

*It's just the right way to ride....*

When you treat others as you would like to be treated, show respect to your fellow passengers, transit employees, and the buses you ride...

Everyone benefits : transit passengers enjoy a safe, secure, comfortable ride and the bus systems runs well.

It only takes one person to ruin a good experience on MAX. That's why we take our passenger conduct policy very seriously. Those in violation may be asked to leave the bus and may lose the privilege to ride MAX.

- bodily fluids or feces released from the passenger, clothing, or mobility device;
- extreme poor personal hygiene;
- passengers with a known airborne communicable disease such as tuberculosis; and
- a service animal not under the control of its handler.
- A passenger who engages in seriously disruptive behavior may have service denied without prior warning or be removed from the bus immediately.

## Suspension

Repetitive inappropriate behavior or any seriously disruptive behavior may result in formal suspension of the passenger from MAX. The length of the suspension will be determined by the severity of the immediate incident, the documented history of previous incidents, and any previous suspensions. Additional occurrences of inappropriate or seriously disruptive behavior after a suspension may result in further suspension from MAX until such time as the passenger can demonstrate he or she will comply with MAX policies and rules.

MAX reserves the right to initiate a suspension without prior warning should it be necessary for the health and safety of the operator and/or passengers.

## Notice of Suspension

Written notice of suspension will be served to the suspended passenger. Service may be accomplished by in-person delivery, delivery by any form of mail providing for delivery confirmation to at least one known address including, but not limited to, the address set forth in any citation or in court records, or any alternate method approved in writing by MAX and the passenger being served.

Service of the suspension notice shall be deemed complete on the following date, as applicable: on the date of delivery if delivered in person; on the date of confirmed delivery for any delivery by mail; or as provided in writing for any alternate method of service.

If the individual has no known mailing address or refused to provide a mailing address, all notices, letters, and appeal decisions will be made available for pickup during regular business hours at the City of Modesto Department of Public Works counter located on the fourth floor of 1010 10<sup>th</sup> St, Modesto, CA. The suspension notice will specify the reason for the suspension, the duration of the suspension, and the process for appealing the suspension. The notice will also provide the opportunity to respond in person, by telephone, or in writing.

## Appealing a Suspension

### ***Initial Appeal***

A suspended passenger who wishes to appeal his or her suspension must contact the City of Modesto Transit Administration office (located at 1010 10<sup>th</sup> ST, suite 4500, Modesto CA 95353, PO Box 642, Modesto CA 95353, 209-577-5295) within 5 business days of notification of the suspension. Contact may be by phone, in writing, or in person. The passenger may choose to present information supporting his or her position in writing or have an informal hearing. Appeals will be evaluated by the City of Modesto Director of Public Works or designee. The suspended passenger has the responsibility to establish why the suspension should be revoked.

Suspensions for seriously disruptive behavior remain in effect during appeal.

In considering the appeal, the health and safety of others will be the highest priority. The determination of whether an individual poses a direct threat to the health and safety of others will be made on an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence to ascertain the nature, duration, and severity of the risk; the probability that potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk. If the investigation reveals that the passenger’s disruptive behavior is caused by a disability and beyond the passenger’s control, the Director of Public Works or designee will evaluate whether accommodations can be made to allow the passenger continued access to MAX services. Access to MAX may be conditionally reestablished if an attendant accompanies the passenger to help control his or her behavior. If the required attendant is unable to prevent further instances of seriously disruptive behavior, the passenger may be suspended from MAX indefinitely.

The Director of Public Works or designee will provide the passenger with notification of the appeal decision within 10 business days of receipt of appeal. Notification will be made according to the procedures set forth under “Notice of Suspension.”

### ***Final Appeal***

If the suspended passenger is dissatisfied with the results of the appeal decision, the passenger may request an administrative hearing of the suspension by contacting the City of Modesto Transit office no later than 10 business days after service of the appeal result was deemed complete as described in “Notice of Suspension.” The request may be made by telephone, in writing, or in person.

The passenger will have the choice of a hearing by mail or in person.

Once the hearing request has been received, a Hearing Panel will convene. The Panel will consist of at least three representatives selected from local law enforcement, local social service agencies, and/or local advocacy groups. Convened panels must have a majority of members not employed by the City of Modesto.

A passenger who has requested a hearing by mail shall submit written information supporting his or her position within 10 business days of requesting the hearing. The 10 business day limit begins on the date the passenger telephoned the Transit office, visited the Public Works counter, or mailed the letter requesting the hearing (as evidenced by the postmark date). Failure to submit written information within the required time period will result in forfeiture of the passenger’s right to appeal. The Panel decision will be based on information submitted by the passenger and by MAX. The passenger will be notified by mail of the final disposition of the appeal within 20 business days of receipt of written information from the suspended passenger. Notification will be made according to the procedures set forth under “Notice of Suspension.”

An in-person hearing will be conducted at 1010 10<sup>th</sup> St. Modesto, CA during normal business hours within 15 business days of the hearing request. City of Modesto Transit staff will notify the suspended passenger in writing of the date, time, and location at least 5 business days before the hearing. Notification will be made according to the procedures set forth under “Notice of Suspension.” If the passenger requesting the hearing cannot attend, he or she may have another person represent them at the hearing. If the individual or a designated representative is not present at the hearing, the Panel will base its decision on the documentation available at the time. The suspended passenger will be notified in writing of the panel decision within 5 business days of the hearing. Notification will be made according to the procedures set forth under “Notice of Suspension.”