



# PARATRANSIT APPEAL PROCESS AND PROCEDURES

PART OF THE PARATRANSIT PLAN AND EFFECTIVE SUMMER 2020

Version: 3

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Owner: Paratransit Services

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## 1.0. Overview

The Rochester-Genesee Regional Transportation Authority (RGRTA) provides complementary paratransit services in Monroe County through RTS Access. This Procedure explains the process for appealing a determination of ineligibility, appealing the type of eligibility, appealing a paratransit service suspension determination based on Repeated Service Infractions, and appealing a paratransit service suspension based on prohibited conduct. This Procedure is in accordance with the provisions of 49 CFR Part 37 Subchapter F.

## 2.0. Policy

Applicants who are found ineligible for paratransit or who dispute the eligibility determination of Conditional or Temporary eligibility shall have the right to appeal the determination. An appeal form is included with the determination.

Certified eligible paratransit customers suspended from service for incurring Repeated Service Infractions shall have the right to appeal the service suspension determination. An appeal form is included with the determination.

Certified eligible paratransit customers suspended from service for 31 days or more due to Prohibited Conduct under the Rules of Conduct shall have the right to appeal the service suspension determination. The customer can submit an appeal in writing.

### 2.1. Definitions

Authority and RGRTA each mean the Rochester-Genesee Regional Transportation Authority and shall include RTS Access. Paratransit means transportation services provided to persons with disabilities pursuant to the Americans with Disabilities Act of 1990 and the provisions of 49 CFR Part 37 Subchapter F.

## 3.0. Appealing a Determination of Ineligibility or a Certification Type

Individuals must mail or deliver the appeal form so that RTS Access receives the appeal form no later than 60 days from the date in the body of the notification letter.

The appellant has the right to be heard in-person for the appeal. At his or her discretion, the appellant may elect to include the reasons for the appeal along with the appeal request form. The appellant may choose to submit written information in advance of a scheduled appeal hearing. The appellant may bring a representative of his or her choice to assist in the presentation of the appeal.

The appellant may elect to submit written basis for the appeal rather than attend the scheduled appeal hearing in person. During the scheduled hearing, the written information will be reviewed.

RTS Access will not provide paratransit service to the appellant while the appeal decision is pending. After the hearing is complete, RTS Access must issue a decision about the eligibility appeal within 30 days. If RTS does not issue the eligibility appeal decision in 30 days, RTS Access must provide paratransit service to the appellant until it issues the decision.

## 4.0. Appealing a Service Suspension Issued for Repeated Service Infractions

Individuals must mail or deliver the appeal form so that RTS Access receives the appeal form no later than 14 days from the date in the body of the service suspension letter. If the individual files an appeal before the suspension start date, RTS Access postpones the suspension during the appeal process. If the individual's suspension included revoking a trip subscription, the revocation is also postponed during the appeal process.

The appellant has the right to be heard in-person for the appeal. At his or her discretion, the appellant may elect to include the reasons for the appeal along with the appeal request form. An appellant may appeal the basis for a proposed suspension even if he or she elects not to dispute any individual Service Infraction. The

appellant may choose to submit written information in advance of a scheduled appeal hearing. The appellant may bring a representative of his or her choice to assist in the presentation of the appeal.

The appellant may elect to submit written basis for the appeal rather than attend the scheduled appeal hearing in person. During the scheduled hearing, the written information will be reviewed.

RTS Access will provide paratransit service to the appellant, including trip subscriptions, while the appeal decision is pending.

### **5.0. Hearings for Eligibility Determinations or for Service Infraction Service Suspensions**

The procedural components in Section 5 apply only to hearings for an appeal of ineligibility, eligibility type, or a service suspension due to Repeated Service Infractions. Section 6 in this document covers the hearing procedures for the appeal of a service suspension due to Prohibited Conduct.

#### **5.1. Paratransit Appeals Committee**

RTS Access shall develop a pool of Paratransit Appeals Committee members (hereafter referred to as “the Committee”). RTS Access may recruit members from any source that RGRTA deems appropriate so long as the individuals selected are not involved in the RTS Access initial determination processes for eligibility or for service suspension. Due to the nature of the information that will be presented during hearings for Appeals of Eligibility, all Committee members will be required to sign a non-disclosure agreement.

#### **5.2. Scheduling an In-Person Hearing**

The Committee shall meet at least once per month. Appeals received by RTS Access shall be scheduled to be heard at the next scheduled meeting of the Committee.

RTS Access will work with the appellant to find a mutually convenient time for the hearing. Once a hearing is scheduled, it cannot be rescheduled unless the appellant provides justification for why he or she is unavailable on the scheduled hearing date. RTS Access reserves the right to request evidence of the appellant’s unavailability including letters from doctors, employers or other professionals. If the appellant is unavailable on the originally scheduled hearing date and can provide a justifiable cause, RTS Access will reschedule the hearing for the following month. RTS Access will allow one such scheduling exception per appeal.

#### **5.3. Advance Notice of the Scheduled Hearing**

RTS Access shall provide appellants with advance notice of the hearing date in an accessible format. The notice shall communicate the following information:

1. The date, time, and location of the scheduled hearing; and
2. The appellant may elect to bring a representative of his or her choosing to assist in the appeal; and
3. The appellant has the right to present any new evidence, orally or in written form, that he or she believes supports his or her eligibility for paratransit services, or which supports his or her right to continued paratransit services.

#### **5.4. Missing the Scheduled Hearing**

If an appellant requests to appear in person for the hearing, but does not appear for the scheduled hearing, the appellant must contact the Paratransit Appeals Coordinator at 585-654-0200 within 24 hours of the missed hearing date and provide justification for the absence. If the appellant provides sufficient justification for the absence, the hearing will be rescheduled for the following month. RTS Access will allow one such scheduling exception per appeal.

If the appellant does not contact the Paratransit Appeals Coordinator within 24 hours of the hearing and provide sufficient justification for the absence:

1. The appellant will waive the right to appear in person for a hearing on his or her appeal of a service suspension or an eligibility decision; and

2. The Committee will base its decision on the appeal's merit and the decision will stand.

### 5.5. Prior to the Hearing

RTS Access shall select three members from the Committee pool to preside over each Committee hearing in advance of the hearing. Prior to the scheduled hearing, RTS Access shall provide each member with the docket of appeals to be heard. RTS Access may elect to provide the Committee members with information regarding the scheduled appeals in advance of the hearing. If RTS Access elects to provide such information, the same information shall also be provided to the appellant.

RTS Access shall require that each Committee member inform RTS Access of any personal, financial, or professional relationships the member has with the appellant.

If a Committee member declares a personal, financial, or professional relationship with an appellant, RTS Access shall remove the member from the panel hearing the individual's appeal, and shall replace the member with another member who does not have any personal, financial, or professional relationship with the appellant.

### 5.6. During the Hearing

Hearings shall be conducted in a manner that provides the appellant with a fair opportunity for presenting reasons or evidence that support his or her position. The appellant must be given the opportunity to respond directly to each reason cited by RTS Access to justify an eligibility determination or order of service suspension.

During the hearing, the Committee will consider the appeal based on the merits of the appeal, written evidence (if available), and in-person statements (if available).

The regular order of the hearing will be as follows:

1. Opening of hearing;
2. Introduction of parties;
3. Presentation of RTS Access ineligibility, eligibility type, or suspension rationale;
4. Presentation of the appellant's rationale for his or her position;
5. Questions from the Committee members;
6. Closing of the hearing, including an explanation of the decision issuance process.

The hearings are intended to be informal proceedings. No formal rules of evidence or formal administrative law or judicial procedures apply. The regular order of the hearing outlined herein shall not preclude the Committee from deviating from it in cases where doing so is in the best interests of fairness, or necessary to obtain the information to render an informed decision.

### 5.7. After the Hearing

After the hearing closes, the Committee shall deliberate until it reaches a decision regarding the appeal. The Committee shall exclude both the appellant and staff presenting RTS Access's position from the deliberative process.

The Committee may elect to have an RTS Access staff person present to provide administrative support. Any RTS Access staff present 1) shall not have any relationship with the processes for determining ineligibility, eligibility type, or service suspension; and 2) shall not be a supervisor or subordinate of the person making the ineligibility, eligibility type, or service suspension determination.

A decision shall be reached by majority vote of the three-person panel. In reaching a decision, the Committee shall consider the RTS Access paratransit eligibility guidelines, applicable RTS Access rules and procedures, and all evidence presented by RTS Access and by the appellant. Each Committee member shall indicate his or her vote and rationale on a form provided by RTS Access. The Committee's decision shall be final.

RTS Access shall issue a written decision in an accessible format to the appellant within 30 days of the hearing date. The decision letter shall be prepared by an individual whom is neither 1) involved in the ineligibility, eligibility type, or suspension determination; nor 2) a supervisor or subordinate of the person making the determination. The decision letter shall accurately reflect the decision of the Committee. If the decision upholds RTS Access's initial determination of ineligibility, eligibility type, or service suspension, the written decision shall explain in detail the Committee's rationale for the decision.

If a written decision pertaining to an appeal of ineligibility is not issued within 30 days of the hearing, RTS Access shall deem the individual eligible for paratransit services until a written decision is issued.

### 5.8. Maintaining a Record of the Hearing

RTS Access shall maintain a complete and accurate record of each appeal hearing. The official record of each appeal hearing shall include:

1. A copy of the ineligibility, eligibility type, or suspension determination;
2. A copy of all notices issued related to the appeal;
3. A copy of all evidence presented by RTS Access in support of the ineligibility, eligibility type, or suspension determination;
4. A copy of all evidence presented by the appealing individual in support of his or her position;
5. A copy of each Committee member's appeal decision form;
6. A copy of the appeal decision letter; and
7. A written or electronically recorded transcript of the appeal hearing.

### 6.0. Appealing a Service Suspension Issued for Prohibited Conduct

RTS Access shall enforce, exclude from service, and provide notice of exclusion (suspension) in accordance with the procedures identified in RGRTA's [Rules of Conduct for Transit Vehicles, Facilities, and Properties](#) ("Rules").

The appeals process shall be provided to any person excluded (suspended from service) for a period of 31 days or more due to prohibited conduct.

Not later than ten calendar days after commencement of the suspension, an excluded person may appeal in writing to the RGRTA Chief Executive Officer or designee, for a new review of the suspension. Commencement of the suspension shall be the date upon which the suspension became effective and shall be determined by RGRTA's official records. The appellant may request a hearing or may request review without a hearing based on a written statement setting forth the reasons why the suspension is invalid or improper. If the excluded person is unable to respond in written format, RGRTA will make reasonable accommodation to allow due process. The Chief Executive Officer shall convene a Hearing Panel comprised of three persons selected as follows:

1. The Manager of Transit Center Operations or designee;
2. The Manager of Service Delivery or designee;
3. The Director of Service Delivery or designee; or
4. A person selected from the RGRTA staff by the Chief Operating Officer or designee.

The said RGRTA staff person shall be a person other than the Chief Executive Officer. The decision of the majority of the members of the Hearing Panel shall be the decision of the Hearing Panel. The Hearing Panel shall hear the appeal, or if no hearing is requested, review the matter based upon the record, and render a written decision within twenty calendar days after the receipt of the appeal. The decision of the Hearing Panel shall be final.



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If a hearing is requested, the hearing shall be held within twenty calendar days after receipt of the appeal, and a written decision shall be rendered within twenty calendar days after the hearing.

RTS Access will provide paratransit service to the appellant while the appeal decision is pending, including transportation to the hearing if necessary.