

**Office of  
The City Attorney  
City of San Diego**

**MEMORANDUM  
MS 59**

**(619) 533-5800**

**DATE:** July 16, 2015  
**TO:** Misty Jones, Director, San Diego Public Library  
**FROM:** City Attorney  
**SUBJECT:** Reasonable Accommodations for Library Patrons with Large Carts

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**INTRODUCTION**

Some library patrons have asked to bring all of their belongings, including 4 foot tall rolling carts containing boxes and bedrolls, into the Mission Valley Branch Library computer lab and the San Ysidro Branch Library. The patrons indicated that they have disabilities and keep their medicine in the carts. You have asked what the City's legal responsibility is with regard to providing reasonable accommodations under the Americans with Disabilities Act (ADA).

**BACKGROUND**

Current Library Rules of Conduct prohibit patrons from bringing rolling carts into the library unless the cart is used for mobility purposes and is no higher than 18 inches. Specifically, the Library's Department Instruction, DI-14-1, entitled "Rules of Conduct for Library Patrons," dated October 2006 and most recently amended on November 2011, sets forth library policy for patrons. The applicable sections state:

In order to allow library patrons and staff to use the library's facilities without disturbance or undue interference, and to provide a clean, pleasant and safe environment, please consider your fellow library users and staff and refrain from the following in the library:

7. Bringing any containers, packages, briefcases, parcels, or bundles into the library which singly or collectively exceed 24" x 18" x 6". All items not prohibited are subject to inspection.

8. Bringing shopping carts or wheeled conveyances into the building, with the exception of wheelchairs and baby strollers/ carriages used for the actual transport of a person or child or wheeled backpacks and book carriers not exceeding 24" x 15" x 12" (excluding handles).

10. Bringing sleeping bags, bed-rolls, or blankets into the building (blankets for small children are acceptable).

14. Interfering with another person's use of the library, or the library staff's performance of their duties.<sup>1</sup>

The Mission Valley Branch permits patrons to bring their carts inside the building entrance, but not inside the library itself. Branch Manager Karen Reilly has also offered the patrons the ability to use two computers in the Teen Area 25 feet away from the building entrance so that the patrons can watch their carts. In addition, it was offered to allow the patrons to bring their carts into the ICan Center of the Central Library. The patrons initially refused all of the offered accommodations but now desire to accept the offer of bringing their carts inside the door of the Mission Valley Branch, but only if they can chain the carts to the inside of the building. They also want to bring their carts and belongings into the San Ysidro Branch. They request an exemption from the Library Rules of Conduct based on disability.

### **QUESTION PRESENTED**

Are the patrons exempt from the Library Rules of Conduct and authorized under the ADA to bring large carts into the facilities as a reasonable accommodation for their disabilities?

### **SHORT ANSWER**

No. While the City's policies, practices, and procedures must avoid discrimination against persons with disabilities, the City is not required to make any modifications that would fundamentally alter the nature of its services, programs, or activities. Further, the City may impose legitimate safety requirements for the safe operation of its services, programs, and activities.

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<sup>1</sup> The full text of the "Rules of Conduct for Library Patrons" may be found at <http://www.sandiego.gov/public-library/pdf/di1401rulesofconduct.pdf>.

## ANALYSIS

### **I. THE CITY IS NOT REQUIRED TO MODIFY ITS POLICIES IN A MANNER THAT WOULD FUNDAMENTALLY ALTER ITS SERVICES, PROGRAMS, OR ACTIVITIES.**

Under Title II of the ADA and its implementing regulations, “[n]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.” 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a) (2011). Public entities are required to “make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modification would fundamentally alter the nature of the service, program, or activity.” 28 C.F.R. § 35.130(b)(7) (2011). The test to determine the reasonableness of a modification is whether it alters the essential nature of the program or imposes an undue burden or hardship in light of the overall program. *School Bd. of Nassau County v. Arline*, 480 U.S. 273, 287 n. 17 (1987); *Alexander v. Choate*, 469 U.S. 287 (1985).

Allowing the patrons to bring their large carts and all of their belongings into the Mission Valley Branch Library computer lab, San Ysidro Branch Library, or any other City library would likely alter the library program. Instead of fulfilling library duties and providing other services, staff would focus on finding a suitable space for the patrons’ carts, possessions, and other personal effects that would not interfere with the other patrons or their use of the public library. Moreover, the library’s available physical space normally used for its services, programs, and activities, including the computers, would be reduced in size by the patrons’ carts and other belongings, thus limiting or preventing other patrons from entering the area or using the computers.

Under the ADA, an individual with a disability “must be provided with meaningful access to the benefit that the [public entity] offers. . . ; [T]o ensure meaningful access, reasonable accommodations in the [public entity’s] program or benefit may have to be made.” *Alexander v. Choate*, 469 U.S. at 301. In addition, a public entity shall administer its services, programs, and activities in “the most integrated setting” while not imposing any criteria that would screen out individuals with disabilities from “fully and equally enjoying any service, program, or activity. . . .” 28 C.F.R. § 35.130(d) (2011); 28 C.F.R. § 35.130(b)(8) (2011).

As an accommodation, the Mission Valley Branch Library has already modified its policies by allowing patrons to bring their carts inside the building entrance. Further, the City has offered the patrons the ability to use two computers 25 feet away from the building entrance in the Teen Area so that the patrons can watch their carts. Staff has also offered the patrons use of the ICan Center at the Central Library, into which they may bring their carts. All of these accommodations provide meaningful, integrated, and equal access to the library’s services, programs, and activities, and thus satisfy the ADA.

As we understand it, allowing patrons to bring their multiple and large carts into the small computer lab or into the library would interfere with or effectively prohibit others’ use of the

area and the computers. We therefore do not believe that such a modification is required under the ADA.

**II. THE CITY MAY IMPOSE LEGITIMATE SAFETY REQUIREMENTS IN OPERATING ITS SERVICES, PROGRAMS, OR ACTIVITIES.**

A public entity may impose legitimate safety requirements necessary for the safe operation of its programs, services, or activities. 28 C.F.R. § 35.130(h) (2011); ADA Title II T.A.M. Sec. II-3.5200. In doing so, the public entity shall ensure that the safety requirements are based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities. *Id.* This would include limiting the size of the carts and belongings patrons are allowed to bring into the library facilities. Legitimate reasons for such a restriction include preventing patrons from bringing in weapons or other dangerous items, and blocking accessible routes within the library.

In addition, allowing the patrons to chain the carts to something inside the door of the library may create a safety issue for patrons and first responders should there be an emergency situation. As an accommodation, the City offered that the patrons with multiple carts chain their carts together instead of to something within the Mission Valley Branch, and they ultimately agreed. Even if they did not agree, the City would not have to modify its policies in light of legitimate safety requirements.

**CONCLUSION**

Based on the facts provided, the City has offered the patrons reasonable accommodations and alternatives and need not modify its policies to allow them to bring their carts into the Mission Valley Branch Library computer lab, San Ysidro Branch Library, or any other City library. The requested modification in the Library Rules of Conduct would fundamentally alter the library's services, programs, or activities and could jeopardize legitimate safety requirements. Please contact this Office if you have any follow-up questions concerning this issue.

JAN I. GOLDSMITH, CITY ATTORNEY

By \_\_\_\_\_/s/\_\_\_\_\_

Karen S. Li  
Deputy City Attorney

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cc: Scott Chadwick, Chief Operating Officer

Thyme Curtis, Executive Director, Office of ADA Compliance and Accessibility

Misty Jones, Director, San Diego Public Library  
July 16, 2015  
Page 5