

## 15 Minute Manager

### Service Animals

Among transportation providers, there seems to remain confusion or unsureness about how to handle questions regarding service animals. Where some agencies have followed the Department of Justice's rules for service animals, the Department of Transportation has its own regulations. This can be problematic when addressing different funding sources' requirements for ADA compliance.

According to the FTA, you must allow service animals to accompany individuals with disabilities in vehicles and facilities. The U.S. Department of Justice recently amended its definition of a service animal to include only dogs and miniature horses. **The U.S. Department of Transportation continues to define a service animal as "any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability,** including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing animal protection or rescue work, pulling a wheelchair, or fetching dropped items." This is the definition with which the operators of public transit service must comply.

You may ask if an animal is a service animal and ask what tasks the animal has been trained to perform, but you cannot require special ID cards for the animal or ask about the person's disability.

The FTA Guidance for service animals applies to transportation services and can be found in Circular [4710.1 ADA Guide](#). If in doubt as to which guidance to use (DOJ vs DOT) err on the side of the most stringent. It would also be wise to have your legal counsel weigh in on the matter as well as your contract contacts representing your funding sources.

The following information is from the FTA, Easer Seals, and RTAP websites and pertains to ADA regulations with regard to the transportation of persons with disabilities.

#### Requirement

"The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities" ([§ 37.167\(d\)](#)).

#### Discussion

Per [§ 37.3](#), a service animal is:

[A]ny guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

The Department of Justice (DOJ) narrowed the definition of a service animal in amendments to its ADA regulations in 2010, (See DOJ's "[Frequently Asked Questions about Service Animals and the ADA](#)" July 20, 2015, for additional guidance on service animals. Transit providers are reminded, however, that the definition of a service animal in this FAQ does not apply to their services and some of the guidance is not applicable to the transit environment: 2-18 FTA C 4710.1 Chapter 2 - General Requirements), but the DOT ADA regulations were unaffected. Accordingly, **public transit providers must follow the DOT definition in § 37.3 when assessing whether to accommodate a particular animal.** While most service animals are dogs, DOT's definition recognizes the possibility of other animals.

Service animals are animals that are “individually trained to work or perform tasks.” This training can be by an organization or by an individual, including the individual with a disability. Transit agencies are not required to transport animals that have not been individually trained to perform specific work or tasks. If an animal’s only function were to provide emotional support or comfort for the rider, for example, that animal would not fall under the regulatory training-based definition of a service animal. Simply providing comfort is something that an animal does passively, by its nature or through the perception of the owner. However, the ADA regulations do not prohibit a transit agency from choosing to accommodate pets and comfort animals, which would be a local decision. (See FTA response to [Complaint 15-0117](#) for an example of how FTA has addressed the issue of defining what constitutes a service animal.)

For purposes of remaining compliant with ADA service animal regulations we use the FTA guidance found in FTA Circular 4710.1. According to the FTA, you must allow service animals to accompany individuals with disabilities in vehicles and facilities.

The U.S. Department of Justice recently amended its definition of a service animal to include only dogs and miniature horses. **The U.S. Department of Transportation continues to define a service animal as “any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing animal protection or rescue work, pulling a wheelchair, or fetching dropped items.” This is the definition with which the operators of public transit service must comply.**

Transit agencies cannot have a policy requiring riders to provide documentation for their service animal before boarding a bus or train or entering a facility, **but personnel may ask riders two questions: (1) is the animal a service animal required because of a disability? and (2) what work or task has the animal been trained to perform?**

It is important that local policies and practices recognize that some persons with hidden disabilities do use animals that meet the regulatory definition of a service animal. This would include, for example, animals that are trained to alert individuals with seizure disorders to an oncoming seizure or respond to a seizure and animals that are trained to remind persons with depression to take their medication.

**Ask employees to share examples of Service Animal issues they’ve experienced. Discuss the steps you would ask each employee to take when dealing with a questionable or unruly service animal. For [example](#) and with regard to a questionable service animal:**

- Driver states the policy on pets and service animals
- Driver asks if the animal is a service animal required because of a disability
- If the answer is no, the driver explains that the transit service does not allow pets or how pets may be transported (in enclosed kennel, under seat, not obstructing seats or aisleway). Driver notes denial in trip log including the basis on which denial was made.
- If the answer is yes, the driver asks what work or task has the animal been trained to perform.
- If the answer is emotional support or comfort, the driver explains that comfort animals are not service animals according to the ADA and FTA and therefore cannot be accommodated as a service animal but (depending on your policy) may travel as a pet so long as it is confined and travels as the pet policy describes. Driver notes denial in trip log including the basis on which denial was made.
- If the answer addresses a disability, driver allows passenger and service animal to board.

Example for unruly service animal or pet.

- Driver may refuse to transport service animals that are deemed to pose a direct threat to the health or safety of drivers or other riders, create a seriously disruptive atmosphere, or are otherwise not under the rider’s control. For example, a rider with a service dog is responsible for

ensuring the dog does not bite the driver or other riders. Conversely, a dog that barks occasionally would likely not be considered out of the owner's control. Driver notes denial in trip log including the circumstances and basis on which denial of trip was made.

**Drivers must make every effort to clearly and accurately describe the circumstances of any trip denial having to do with service animals. It may be easier to have drivers record their notes using a digital recorder or the recording device on a smart phone. Drivers should state the time, date, and details of the circumstances. If the denial resulted in an incident, drivers should follow incident protocols and file the necessary reports.**

**It may also be good policy to have drivers hand denied passengers information on how they can receive additional information or file a complaint. This information should be in English and in another common language (identified in your Language Accessibility Plan) such as Spanish.**

**Provide employees with a copy of your ADA policy/plan that includes a section on Service Animals. Discuss the Service Animal policy. Review the policy as well as the specific service animal issues taken from the FTA website below.**

#### **WHAT IS THE AMERICANS WITH DISABILITIES ACT (ADA) DEFINITION OF A SERVICE ANIMAL?**

Under Department of Transportation (DOT) Americans with Disabilities Act (ADA) regulations at 49 C.F.R. Section 37.3, "service animal" is defined as "any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items." DOT ADA regulation 49 C.F.R. Section 37.167(d) requires transit entities to permit service animals to accompany individuals with disabilities in vehicles and facilities. Appendix D to Section 37.167 contains further important information on service animals. It is important to note that while the U.S. Department of Justice has amended the definition of "service animal" for purposes of its ADA regulations under Titles II and III of the ADA, for state and local governments and places that are open to the public, the definition under DOT ADA regulations for transportation has not changed. Therefore, members of the public may find that some service animals may no longer be considered service animals once they leave a transportation system.

#### **MUST DRIVERS CARE FOR SERVICE ANIMALS WHILE A PASSENGER IS BOARDING OR DISEMBARKING?**

A passenger's request that the driver take charge of a service animal may be denied. Caring for a service animal is the responsibility of the passenger or a PCA. (See Appendix E to Part 37, Example 15.)

#### **WHEN SCHEDULING A DEMAND/RESPONSE RIDE, CAN A SCHEDULER ASK IF THE PASSENGER ILL HAVE A SERVICE ANIMAL?**

On complementary paratransit or other demand responsive services, transit agencies may ask riders for notification of their intent to ride with a service animal in order to help ensure adequate space is available for the animal. (An optional good practice is to keep such information in riders' files.)

### **IF SOMEONE ALREADY ON-BOARD SAYS THEY ARE ALERGIC TO ANIMALS, CAN A SERVICE ANIMAL BE DENIED?**

Other riders' or agency personnel's allergies to dogs or other animals would not be grounds for denying service to a person accompanied by a service animal. The regulations explicitly state that service animals must be allowed to accompany individuals on vehicles and in facilities. Encountering a service animal in the transit or other environment is an expected part of being in public.

### **MAY A PASSENGER WITH A DISABILITY BE REQUIRED BY TRANSIT PERSONNEL TO SHOW PROOF THAT AN ANIMAL IS A SERVICE ANIMAL?**

Under Department of Transportation (DOT) Americans with Disabilities Act (ADA) regulations at 49 C.F.R. Section 37.167(d), transit providers are required to permit service animals to accompany individuals with disabilities in vehicles and facilities. Service animals are animals that are individually trained to perform tasks for people with disabilities, such as guiding people who are blind, alerting people who are deaf, pulling wheelchairs, alerting and protecting a person who is having a seizure, or performing other special tasks. A transit provider may ask if an animal is a service animal or ask what tasks the animal has been trained to perform, but cannot require special ID cards for the animal or ask about the person's disability. A service animal may not be excluded unless the animal is out of control and the animal's owner does not take effective action to control it or the animal poses a direct threat to the health or safety of others.

### **ARE TRANSIT PROVIDERS REQUIRED TO ALLOW A PASSENGER TO TRAVEL WITH A COMFORT ANIMAL?**

No. Under Department of Transportation (DOT) Americans with Disabilities Act (ADA) regulations at 49 C.F.R. Section 37.167(d), transit entities are only required to allow service animals to accompany individuals with disabilities in vehicles and facilities. DOT ADA regulations at 49 C.F.R. Section 37.3 define a service animal as an animal "individually trained to work or perform tasks for an individual with a disability." If an animal's only function is to provide emotional support or comfort for the rider, that animal would not fall under the regulatory training-based definition of a service animal. Simply providing comfort is something that animal does passively, by its nature or through the perception of the owner. However, the ADA does not prohibit a transit agency from choosing to accommodate pets and comfort animals, which would be a local decision.

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## **MAY A TRANSIT ENTITY LIMIT HOW MANY SERVICE ANIMALS MAY ACCOMPANY A SINGLE PASSENGER?**

No. Department of Transportation (DOT) Americans with Disabilities Act (ADA) regulations do not limit the number of service animals that may accompany a single individual. As long as an animal meets the definition of a service animal and is kept under the control of the rider, a transportation provider may not refuse to carry the animal. It is possible that an individual might have service animals that are trained to provide different tasks.

**Discuss how you wish drivers to handle uncertainty when asked to transport a pet or service animal. What is your policy on calling in questions regarding service animals before rides are denied? Do drivers have written copies of service animal policies they can hand out? Who can people make complaints to?**

**Ask employees if there are additional questions regarding service animals. Note any question you are unable to answer and schedule a date by which you will have an answer. (Answer should be shared with all employees and in writing).**

**Provide copies of your ADA Policy and Service Animal Policy along with NADTC handouts to each person attending the training. Cover page should be a receipts stating that the employee has been given a copy and will read it. The employee will sign and date the receipt. Receipts will be collected and kept in training file and employee file.**

Resource:

[FTA ADA Circular 4710.1](#)

[RTAP ADA Toolkit](#)

[National Aging and Disability Transportation - ADA Facts - Service Animals](#)