

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.

<https://www.transit.dot.gov/what-americans-disabilities-act-ada-definition-service-animal>

FTA Circular 4710.1 Chapter 2: General Requirements

2.6 Service Animals

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 2010,⁶ 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.)

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.

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?

The following guidance also applies to service animals:

- Transit agencies 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.
- 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.)
- Section 37.167(d) does not prescribe limits on the number of service animals that accompany riders on a single trip. Different service animals may provide different services to a rider during trips or at the rider's destination.
- 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.)
- 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.

North County Transit District, San Diego, CA, 3-31-2015

March 31, 2015

Re: FTA Complaint No. 15-0117

Dear [name withheld]:

This letter responds to your complaint against North County Transit District (NCTD) alleging discrimination on the basis of disability. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for ensuring that providers of public transportation are in compliance with the Americans with Disabilities Act of 1990 (ADA), Section 504 of the Rehabilitation Act of 1973, and the U.S. Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, 38, and 39.

In the FTA complaint investigation process, we analyze allegations for possible ADA deficiencies by the transit provider. If deficiencies are identified, they are presented to the transit provider and assistance is offered to correct them within a predetermined timeframe. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the suspension or termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit provider.

Allegations

In your complaint, you allege that NCTD fixed route bus operators have, on several occasions, not permitted you to board with your service cat in her stroller. On January 10, 2015, you were told that you had to fold up the stroller that your cat was in, which you refused to do. On January 17, an operator allegedly asked for proof that your cat was in fact a service animal. On January 25, an operator informed you that you must fold up the stroller if you want to bring it on board, which you refused to do. After each interaction, you called the police.

We appreciate your taking the time to contact us regarding your concerns; however, we find that we are not able to take further action on your complaint.

ADA Requirements

Under 49 C.F.R. § 37.167(d) of the DOT ADA regulations, transit agencies are required to permit service animals to accompany individuals with disabilities in vehicles and transit facilities. Under § 37.3, a 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.”

Service animals are animals that are individually trained to perform tasks for people with disabilities. Transit personnel 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 from a bus or transit facility 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.

However, if an animal’s only function is to provide emotional support or comfort for the rider, that animal would be considered an emotional support animal (ESA), and 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. With that said, nothing in the ADA regulations prevents a transit agency from accommodating pets and comfort animals. But doing so is a local decision, and transit agencies can decide whether to do so, and whatever restrictions may apply, at their discretion.

Likewise, policies regarding strollers are also a local decision. There is no part of the ADA regulations that requires transit agencies to permit strollers on board buses or dictates how they must be accommodated. In fact, Appendix D to § 37.3 states that DOT does not “require transportation providers to accommodate devices that are not primarily designed or intended to assist persons with mobility disabilities, apart from general policies applicable to all passengers who might seek to bring such devices into a vehicle.” Therefore, given that a pet stroller is not intended to assist persons with mobility disabilities, local jurisdictions can implement policies that passengers must fold up the strollers upon boarding the bus.

NCTD’s Response

In response to your complaint, we reached out to NCTD to inquire about your situation. We learned that you have filed numerous complaints with NCTD regarding these issues, and we obtained copies of your recent complaints and NCTD's responses, as well as information on NCTD's related policies.

NCTD recently sent you a determination letter, dated January 28, 2015, in response to the January 10 incident mentioned above. In this letter, NCTD informed you that its official policy, as stated in its "Rules of Riding" section of the NCTD Rider's Guide, is that "for safety reasons, strollers must be folded and kept in front or beside the passenger and may not block the aisle of the vehicle or block another seat." NCTD continued to explain that if your cat is not a service animal, it falls under the NCTD pet policy, which states that "it must be in an enclosed pet carrier and fit on the floor in front of you or on your lap. The carrier may not block the aisle of the vehicle or block another seat." Service animals, on the other hand, can be outside a carrier, but must be leashed or harnessed except when performing tasks where tethering interferes with the animal's ability to perform, must remain in the owner's control and not pose a threat to others, remain in a sit or down position, and not block the aisle of the vehicle or occupy a seat. This local policy does not contradict the DOT ADA regulations.

Conclusion

The information reviewed does not support a finding that NCTD has violated provisions of the DOT ADA regulations in this situation. We cannot confirm the specifics of all your interactions with vehicle operators, but the record does not substantiate an ADA deficiency. Please also be advised that we did not make a determination of whether your cat meets the definition of a service animal under the ADA. It is unclear from the information provided whether your cat has been individually trained to perform a task to assist with your disability. If your cat has been trained to perform a certain task related to your disability, and not simply to provide comfort, then it would be considered a service animal and be permitted access to buses as a service animal; if not, then your cat would be considered an ESA, and the rules that NCTD has implemented regarding pets on board would therefore need to be followed.

Regardless of the status of your cat, NCTD may enforce its policy on strollers and require you to fold it and keep it out of the aisle, as the DOT regulations are not interpreted to require transit providers to accommodate non-mobility devices like strollers. The accommodation of these non-mobility devices is dictated by local policies.

We are therefore taking no further action and are closing your complaint as of the date of this letter. While FTA's decision in this case is administratively final, it does not prevent you from pursuing this matter privately in the appropriate court of law. If you

have any questions, please contact Alana Kuhn at (202) 366-4018. Any further correspondence should reference FTA Complaint No. 15-0117. Thank you for bringing your concerns to our attention.

Sincerely,

Dawn Sweet
Program Manager,
Complaints and Communications
Office of Civil Rights

cc: NCTD
FTA Region 9