

# Service Animal Guidance

## Overview

This following information is intended to provide a general overview regarding the Americans with Disabilities Act (ADA) 2010 and guidance regarding service animals. If you have specific questions about the ADA or service animals, please contact:

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## Pierce Transit Policy Guidance

- General information 2010 Americans with Disabilities Act (ADA) re: service animals
- Washington State RCW [49.60.214](#) Misrepresentation of an animal as a service animal—Civil infraction—Investigation and enforcement—Miniature horse.
- Pierce Transit Disability Accommodation Policy

## What is the ADA

The Americans with Disabilities Act (ADA) is a civil rights law passed in 1990 that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places open to the general public. The ADA guarantees people with disabilities the same opportunities as everyone else to participate in the mainstream of American life.

## Service Animals under the ADA

In 2010, the Department of Justice updated under the ADA, a service animal is considered a working animal, and is defined as a dog that is individually trained to do work or perform tasks for a person with a disability. The task(s) performed by the dog must be directly related to the person's disability.

Some examples of tasks include:

- Guiding people who are blind or have low vision
- Alerting people who are deaf or hard of hearing to the presence of people or sounds
- Providing non-violent protection or rescue work
- Pulling a wheelchair
- Fetching dropped items
- Alerting a person to a seizure or other medical event
- Reminding a person with mental illness to take prescribed medications
- Calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack

## Key ADA Provisions Regarding Service Animals

- **Access:** Businesses and organizations that serve the public must allow people with disabilities to bring their service animals into all areas of the facility where customers are normally allowed to go. This right of access applies to state and local government facilities, places of public accommodation (businesses that are generally open to the public), and non-profit organizations that serve the public.
- **No Pet Fees:** Businesses cannot charge extra fees for service animals or require people with disabilities to pay pet deposits.

- **Limited Inquiries:** When it is not obvious what service an animal provides, staff may ask only two specific questions: (1) is the dog a service animal required because of a disability, and (2) what work or task has the dog been trained to perform. Staff cannot ask about the person's disability, require medical documentation, require a special identification card or training documentation for the dog, or ask that the dog demonstrate its ability to perform the work or task.
- **Exceptions:** There are limited circumstances under which a service animal may be excluded, such as if the animal is out of control and the handler does not take effective action to control it, or if the animal is not housebroken.

### **Additional Guidance on Service Animals**

- **Miniature Horses:** Under certain circumstances, miniature horses may also be considered service animals under the ADA, but under Federal Transportation Administration (FTA) guidelines.
- **Emotional Support Animals (ESAs):** ESAs are not considered service animals under the ADA. ESAs provide comfort just by being with a person. While some State and local laws also cover ESAs, these animals do not have the same rights of access as service animals under the ADA.
- **Service Animals in Training:** The ADA does not require service animals in training to be allowed access to public places. Some State or local laws cover animals in training, however.

### **Additional Resources**

For more information on service animals and the ADA, you can visit the following websites:

- ADA Requirements: Service Animals: <https://www.ada.gov/resources/service-animals-2010-requirements/>
- Frequently Asked Questions about Service Animals and the ADA: <https://www.ada.gov/resources/service-animals-faqs/>

What can people do if they think they have been discriminated against based on the ADA? Individuals who believe that they have been illegally denied access or service because they use service animals may file a complaint with: the Agency's Civil Rights Officer at [crofficer@piercettransit.org](mailto:crofficer@piercettransit.org) or by completing and returning the Title VI or Discrimination Complaint Form found [HERE](#) or the U.S. Department of Justice.

Individuals also have the right to file a private lawsuit in Federal court charging the entity with discrimination under the ADA.

## Policy Guidance

### State Law

#### RCW [49.60.214](#) Misrepresentation of an animal as a service animal—Civil infraction—Investigation and enforcement—Miniature horse.

\*\*\* CHANGE IN 2024 \*\*\* (SEE [5788-S.SL](#)) \*\*\*

(1) It shall be a civil infraction under chapter [7.80](#) RCW for any person to misrepresent an animal as a service animal. A violation of this section occurs when a person:

(a) Expressly or impliedly represents that an animal is a service animal as defined in RCW [49.60.040](#) for the purpose of securing the rights or privileges afforded disabled persons accompanied by service animals set forth in state or federal law; and

(b) Knew or should have known that the animal in question did not meet the definition of a service animal.

(2)(a) An enforcement officer as defined under RCW [7.80.040](#) may investigate and enforce this section by making an inquiry of the person accompanied by the animal in question and issuing a civil infraction. Refusal to answer the questions allowable under (b) of this subsection shall create a presumption that the animal is not a service animal and the enforcement officer may issue a civil infraction and require the person to remove the animal from the place of public accommodation.

(b) An enforcement officer or place of public accommodation shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. An enforcement officer or place of public accommodation may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. An enforcement officer or place of public accommodation shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, or require that the service animal demonstrate its task. Generally, an enforcement officer or place of public accommodation may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for a person with a disability, such as a dog is observed guiding a person who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to a person with an observable mobility disability.

(3) A place of public accommodation shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability in accordance with \*RCW [49.60.040](#)(24) if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a facility, a place of public accommodation shall act in accordance with all applicable laws and regulations.

## Federal

### FTA

FTA ADA Circular (FTA C 4710.1): [FTA Circular 4710.1 - Americans With Disabilities Act Guidance \(dot.gov\)](#)

#### 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, 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.

### **2.2.7 Service Denial Due to Rider Conduct**

#### **Requirement**

"It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct, or represents a direct threat to the health or safety of others. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons" (§ 37.5(h)).

#### **Discussion**

Section 37.5(h) permits transit agencies to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct, or that individual constitutes a direct threat to others. Overlap among these four thresholds is common and therefore FTA recommends agencies consider them as a unit. Rarely is violent behavior such as physical assault, for example, not also seriously disruptive, illegal, and a direct threat. Consider another example: a verbal outburst directed at a driver or other passengers may start out as seriously disruptive but become so threatening as to prevent a driver from safely operating the vehicle and, therefore, rise to a direct threat as well.

### **Determining Seriously Disruptive Behavior**

It can be especially challenging to assess whether rider behavior rises to the level of “seriously disruptive.” Given that a service refusal can be a denial of a civil right, the threshold for seriously disruptive conduct, like the other denial bases, is an intentionally high standard. A transit agency cannot refuse service to individuals with disabilities solely because their appearance or involuntary behavior may offend, annoy, or inconvenience employees or other riders. As discussed in Appendix D to § 37.5, “some persons with Tourette’s syndrome may make involuntary profane exclamations. These may be very annoying or offensive to others, but would not be a ground for denial of service.” As another example, many agencies have asked FTA for guidance on serving riders with hygiene issues. It would not be appropriate to refuse service if the situation were merely unpleasant to other passengers or drivers. If the situation disrupts the provision of service, however, grounds for refusing service may exist.

### **Steps to Take Before Refusing Service**

Before refusing service to an individual with a disability, FTA encourages transit agencies to make reasonable attempts to resolve issues with riders or, if appropriate, caregivers or guardians. Often, local disability organizations may be helpful in resolving issues so that individuals do not lose access to vital transportation services. FTA recommends that agencies document the incident or incidents leading to the service denial, substantiating how such an incident rises to the level of seriously disruptive or a direct threat, for example. When possible, FTA also recommends that agencies provide the rider with a written warning before denying service.

### **Right of Individuals to Contest Service Denials**

Access to public transit is a civil right and inherent in any civil right is the opportunity for due process. This means providing an individual who is denied service the opportunity to contest that decision, correct the situation, and resume service. Service refusals cannot be permanent unless an individual continues to pose a direct threat to the health or safety of others. Riders must have the opportunity to subsequently present information to the transit agency, demonstrating that issues have been resolved or presenting options to mitigate any problems, to have service reinstated. This also means providing a rider required to travel with an attendant the opportunity to appeal such a requirement. As with service refusals, riders have the right to subsequently provide information demonstrating they have addressed the agency’s concerns and can now travel without an attendant or propose other solutions that permit them to travel on their own.