



*Manatee County, Florida
Board of County Commissioners
Transit Division Procedures Manual*

Procedure #	Title:	Date Issued:
23-0807	Americans with Disabilities Act of 1990 (ADA) Disruptive Behavior Policy and Procedures	08/07/23

PURPOSE:

This policy and procedure is written to ensure the safety of Manatee County Area Transit (MCAT) bus operators, staff, passengers, and property and continuity of service, against inappropriate behavior, damage, service interruptions, violence, and unsanitary environmental hazards or conditions. This set of policy and procedures applies to all MCAT buses, facilities, and property.

Policy Statement

Manatee County Area Transit is concerned about the security and safety of the traveling public and its bus operators. We believe that it is the obligation of each and every member of the traveling public to contribute to the safety of the bus, vehicles, bus shelters, bus stops, and any bus transit facilities, by refraining from threats, violence or any activities that may provoke violence. To this end, a standard of conduct is expected from every patron of the Manatee County Area Transit system, whether on a transit vehicle or at any transit facility. Any time inappropriate behavior is exhibited on transit properties, the person(s) may lose the privilege of using the Manatee County Area Transit system.

It is not discrimination under this part (49 CFR 37.5h) 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. If the situation disrupts the provision of service, however, grounds for refusing service may exist.

Definitions

Violence: Physical force employed so as to violate, damage, abuse, injure, or strike in any manner.

Threat: An expression or action showing intent to inflict harm. The giving of signs or warnings of violence or the announcement of violence as a possibility.

Direct threat: A significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, procedures, or by the provision of auxiliary aids or services.

Transit Properties: Any capital equipment, buses, designated stops, personal property, and transportation facilities used in connection with the transit system.

Inappropriate Behavior: Any conduct that does not demonstrate respect for the rights and dignity of others or that interferes with the orderly provision of transportation services.

Behavior Violations

The following are examples of inappropriate behavior, which will not be tolerated in or around transit vehicles or facilities. This list is not intended to be all-inclusive as other behaviors offensive to transit operators or passengers can be considered inappropriate, resulting in temporary or permanent suspension of ridership. The distinction between the various levels of behavioral infractions is one that may not be easily defined. In applying consequences to address specific behavioral issues, two variables must be considered: severity of the behavior and frequency of the behavior.

Examples of inappropriate behavior may include, but are not limited to the following:

Minor Violations include conduct that interferes with the safe operation of a vehicle or conduct offenses that do not typically threaten others.

- Profanity
- Refusal to share seat with another passenger
- Talking too loudly
- Trying to distract the driver
- Pushing and jostling when getting on the transit vehicle
- Changing seats while the transit vehicle is in motion
- Crowding to the door before the transit vehicle stops
- Eating or drinking on transit vehicle, unless in a closed container
- Littering
- Loud music

Major Violations include conduct that represent a direct threat to the safety or wellbeing of others.

- Physical violence, assault, intimidation and/or harassment toward a passenger or transit operator
- Discourteous treatment of passengers or transit operators
- Participation in illegal activity (sale, distribution, possession of stolen property or controlled substances such as alcohol, narcotics, etc., in or around transit facilities)
- Possession of a weapon on or around transit facilities
- Verbal or sexual harassment
- Touching a sexual part of the body either directly or indirectly via physical contact or force
- Damaging or destroying transit facilities or the personal property of a passenger or transit operator
- Drinking alcoholic beverages
- Uttering death threats
- Language intentionally used to threaten or intimidate another passenger or transit operator
- Use of racial slurs, racial/ethnic name calling, displaying racist behaviors
- Throwing objects in transit vehicles or out of windows
- Use of tobacco or smoking on transit vehicle, including use of vape pens or e-cigarettes.
- Failure to maintain control of a service animal
- Vandalism
- Unauthorized operation, or attempt to operate, a transit vehicle
- Serious health-related conditions impacting public health that may include COVID-19, bed bugs, TB, spitting, urinating, defecating, discharge of bodily fluids, or open wounds

With regard to *direct threat*, U. S. Department of Justice Regulations state in 28 CFR Sec. 36.208b: “In determining whether an individual poses a direct threat to the health or safety of others, a public accommodation must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk.”

General Guidance and Procedures for Implementing Policy

Manatee County Area Transit (MCAT) may suspend individual passengers and/or refuse service to an individual with a disability who engages in illegal, violent, or seriously disruptive conduct, creates unsanitary conditions, or represents a direct threat to the health or safety of others, using the same standards for exclusion that would apply to any other person who acted in such an inappropriate way.

Reporting Disruptive Behavior

Minor Violations

1. First Offense – Verbal warning by Transit Operator or MCAT supervisory staff to correct behavior.
 - a. For paratransit clients, the incident is also to be communicated to the Customer Service Team Supervisor.
2. Second Offense within one year – Transit Operator will complete an incident report and submit to a Transit Operator Supervisor. Passenger may be suspended from **ALL** transit vehicles for 24 hours. If found on another transit vehicle within 24-hour suspension, it is considered trespassing and law enforcement will be contacted.
 - a. For paratransit clients, the incident report is to be forwarded to the Customer Service Team Supervisor.
 - b. Paratransit clients will be issued a letter detailing the incident and may be advised of a 24-hour suspension.
3. Third and Subsequent Offenses – Transit Operator will complete an incident report and submit to a Transit Operator Supervisor. Riding privileges will be suspended, and the duration of the suspension shall be determined by MCAT based upon the nature and severity of the infraction.
 - a. For paratransit clients, the incident report is to be forwarded to the Customer Service Team Supervisor.
 - b. Paratransit clients will be issued a letter detailing the incident and outlining the subsequent suspension of service.

Major Violations

Major violations may result in:

- Police action where a criminal offense has occurred
- Immediate removal from transit vehicle or facility and suspension/termination of services
- Very serious and/or repeated concerns may result in bus riding privileges being permanently terminated

If a passenger exhibits violent behavior towards themselves, another passenger, or the operator, the Transit Operator must notify Dispatch or a Supervisor immediately before following the below reporting procedures. MCAT supervisory staff will meet the transit vehicle (with law enforcement if necessary) and remove the passenger from the vehicle. Passenger will be suspended from ALL transit vehicles until investigation is completed.

1. First Offense – Transit Operator will complete an incident report and submit to a Transit Operator Supervisor. Riding privileges will be suspended, and the duration of the suspension shall be determined by MCAT based upon the nature and severity of the infraction.
 - a. For paratransit clients, the incident report is to be forwarded to the Customer Service Team Supervisor.
 - b. Paratransit clients will be issued a letter detailing the incident and outlining the subsequent suspension of service.
2. Second and Subsequent Offenses – Transit Operator will complete an incident report and submit to a Transit Operator Supervisor. Riding privileges will be suspended or terminated indefinitely. Duration of the suspension shall be determined by MCAT based upon the nature and severity of the infraction.
 - c. For paratransit clients, the incident report is to be forwarded to the Customer Service Team Supervisor.
 - d. Paratransit clients will be issued a letter detailing the incident and outlining the subsequent suspension of service.

The offender is not allowed to ride any transit vehicle when suspended or banned for violations. Any time a passenger is banned from the bus, their bus fare shall be forfeited. If the suspended passenger is seen riding another transit vehicle during the suspension period, it will be considered trespassing, and the local police will be called to handle the situation.

MCAT reserves the right to require riders to provide assurances that the violating behavior will not be repeated during transport before restoring service.

Copies of letters sent to paratransit clients will also be sent to their guardians and/or support coordinators. MCAT will maintain confidentiality concerning information about a passenger's identity, personal circumstances, disability status, etc.

All violent and/or illegal conduct that occurs during transport shall be reported to local law enforcement.

Procedure

1. Passenger Complaints: Passenger complaints should be directed to the MCAT Office.
2. Incidents on Transit Vehicles or Facilities: When a person exhibits inappropriate behavior on a transit vehicle or at a transit facility, the Transit Operator or MCAT staff will complete an incident report and submit to a Transit Operator Supervisor.
3. Investigation of Incident: Transit Operator Supervisors will investigate incidents regarding passengers who engage in illegal, violent, or seriously disruptive conduct, creates unsanitary conditions, or represents a direct threat to the health or safety of others. This investigation will include video footage, if available, and conversations with bus operators, witnesses, law enforcement, parent/guardian, support coordinators, and the allegedly disruptive passenger. On

the basis of this investigation, MCAT supervisors and/or management will determine if further action is merited.

4. Law Enforcement: When a person exhibits inappropriate behavior on transit vehicles or property that represents a direct threat to the safety or wellbeing of others, Transit Operator Supervisors will contact local law enforcement to assist with the individual(s). Individuals may be trespassed in accordance with local law enforcement agency standards. Transit Operator Supervisors will complete an incident report including the case number obtained from law enforcement and submit to the Transit Operations Superintendent.
5. Passenger Notification: *Transit Operators or MCAT supervisory staff will attempt to retrieve contact information for fixed route passengers.* If appropriate, MCAT staff will prepare a letter to the disruptive passenger, detailing the incident, and informing them of his/her pending suspension and/or termination and advising them of their right to an appeal.
6. Submission of Incident Report: Completed incident reports, and copies of suspension letters if applicable, will be submitted to the Transit Division Manager.

Appeals Process

Customers who are issued suspension and/or termination of services letter will have the right to appeal, as described below:

1. The individual will have sixty (60) calendar days from the date of the letter to file an appeal with the Transit Operations Chief. The information concerning the appeals process will be included in the correspondence sent to the offending passenger, caregiver, parent/guardian, or support coordinator. MCAT will provide transportation to the appealing party to and from the hearing free of charge.
2. If during the ADA appeals process it has been determined MCAT has legitimately refused service to someone who has engaged in violent, seriously disruptive, or illegal conduct, the Transit Operations Chief may choose to provide conditional service to him/her on actions that would mitigate the problem. For example, the Transit Operations Chief could choose to require an attendant as a condition of providing service it otherwise had the right to refuse.¹
3. The offending passenger will have the opportunity to present evidence and/or witnesses in their request for an appeal of the suspension or termination of services.
4. The Transit Operations Chief will make the final decision as to the length of suspension or whether permanent termination of transit riding privileges is appropriate. This decision will be communicated with the Transit Division Manager, offending passenger, caretaker, parent/guardian, and/or s support coordinator, where applicable.

149 CFR, Part 37.5 (App.D) "If an entity may legitimately refuse service to someone, it may condition service to him on actions that would mitigate the problem. The entity could require an attendant as a condition of providing service it otherwise had the right to refuse."

Further suspensions, including termination of services, will be determined at the discretion of MCAT Management, in the event the suspension of service has not mitigated the disruptive situation.

ORIGINATOR, TITLE, AND DEPARTMENT NAME:

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