

**NIAGARA FRONTIER TRANSPORTATION AUTHORITY (NFTA)  
METRO BUS, RAIL, & PARATRANSIT  
DISRUPTIVE BEHAVIOR/DIRECT THREAT POLICY**

**PURPOSE:**

The NFTA will make every effort to provide a safe and healthy environment for our customers and employees. No person shall engage in conduct that is violent, seriously disruptive, illegal, or pose a direct threat to other customers or employees.

**FEDERAL REGULATIONS:**

**28 CFR Sec. 36.208(b) (Direct threat)** 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 judgement 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 or the provision of auxiliary aids or services reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

**49 CFR Sec. 37.5(h) ( Nondiscrimination)** 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.

**DEFINITIONS:**

**Direct Threat:** is defined by Federal regulations as posing a "significant risk to others". This includes both safety issues and highly infectious diseases or conditions, when if "reasonable modifications to policies, practices or procedures will not eliminate risk."

**Disruptive Behavior:** behavior which is violent, seriously disruptive, or engaging in illegal conduct. This does not include involuntary, non-violent behavior that is disability-related and which does not pose a direct threat.

## **VIOLATIONS:**

The NFTA may refuse to provide service to any customer who engages in violent, seriously disruptive, illegal conduct, and customers that pose a direct threat. Examples include, but are not limited to the following:

- Engages in fighting, in violent, or threatening behavior
- Any criminal act
- Possession of weapons or firearms
- Possession of hazardous, explosive or corrosive materials
- Use abusive or obscene language, or makes obscene gesture
- Verbal or sexual harassment
- Assault of driver or other passenger(s)
- Physical aggression or intimidation
- Failure to maintain control of service animal
- Vandalism/Destruction or damage to property
- Serious health related conditions or conduct impacting public health
  - Examples include but are not limited to insect infestation, TB or other contagious conditions, spitting, urinating/defecating, discharge of bodily fluids
- Open Sores and Wounds
  - An open sore or wound may include but is not limited to a medically related opening which creates leaking or discharge of bodily fluid or an injury that causes an external break in body tissue.
  - Wounds must be properly dressed, and leakage/discharge must be controlled to prevent the threat of transmission of biohazards to transit personnel and other customers.

## **SERVICE DENIAL:**

Customers who violate this policy are subject to penalties. NFTA Transit Police is authorized to evict a customer from the bus or train and/or ban an individual from riding for a specific period of time. The NFTA reserves the right to deny or suspend service (including permanent suspension), and possible criminal prosecution. Note: the suspension policy does not preclude criminal actions.

1. The operator will ask the customer to stop or correct the disruptive behavior. Should the customer continue to engage in a violent, seriously disruptive, or illegal behavior, Transit Police assistance shall be requested.
2. The NFTA on a case by case determination will make every effort to identify a person that is considered a direct threat and seek possible intervention, such as transporting the individual to a health care facility (e.g. ECMC, or contact a Health Care Professional on their behalf).
3. NFTA Transit Police may issue a Notice of Violation (NOV) and maintain a record of NOVs issued to customers.
4. Individuals that have a confirmed serious health related condition that impacts the safety or wellbeing of others will not be transported by any NFTA Metro service vehicle. Service to that individual will be restored once a written confirmation from a Health Care Professional or a legal document is presented stating that the issue has been resolved to the satisfaction of the NFTA.

## **PENALTIES**

Penalty: An NFTA implemented suspension of service, for a specified period of time, including permanent suspension, due to a violation of the Disruptive Behavior/Direct Threat policy.

You may receive a verbal notice of expulsion or written notice of suspension from NFTA. Failure to comply with either may subject you to arrest and/or criminal prosecution. You have the right to review or appeal a suspension. All requests for review of suspension shall formally be provided in writing to the attention of the Director of Public Transit.