

Service Animals

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Today's Presenter



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Northeast ADA Center

...providing training, technical assistance, consultation, and materials on a broad range of topics related to disability in the United States.

www.northeastada.org

What we'll cover



- *Definition of Service Animal under ADA
- *Service Animal Access and Inquiries
- *Service Animals in Wet Labs



Definition of “Service Animal” Under ADA Title II and III Regulations



- A service animal is any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.
- Definition can be found in § 35.104 in Title II and in § 36.104 in Title III. This definition:
 - limits the species of service animals to dogs;
 - makes clear that comfort or emotional support animals are not covered; and
 - makes clear that individuals with physical, sensory, cognitive or psychiatric disabilities can use service animals.

- If they meet this definition, they are considered service animals under the ADA regardless of whether they have been licensed or certified by a state or local government.
- Service animals are not pets. They perform some of the functions and tasks that the individual with a disability cannot perform for him or herself.



Definition of “Service Animal” Under ADA Title I Regulations



- No specific definition under Title I.
- Allowances for therapy and emotional support animals.
- Equal Employment Opportunity Commission (EEOC) has stated that employers do not have to allow an employee to bring an animal into the workplace if it is not needed because of a disability or if it disrupts the workplace.

Species Limitation



- Service animals are now limited to one species—dogs.
- The definition states that other animals, whether wild or domestic, do not qualify as service animals.
- The new rules do not affect coverage of other animals under other laws, like the Fair Housing Act or Air Carrier Access Act.



Miniature Horses



- The Department of Justice considers them exceptions to the rule in some cases.
- Regulations state that reasonable modifications may be necessary to permit a miniature horse that has been individually trained to do work or perform tasks.
- Sections 35.136(c)-(h)'s and 36.30(c)(3)-(8)'s service dog requirements also apply to miniature horses.



Miniature Horses: Assessment Factors



1. Whether the miniature horse is housebroken;
2. Whether it is under the owner's control;
3. Whether the facility can accommodate the miniature horse's type, size, and weight;
4. Whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.



Training and Identification



- May be trained by service animal agency, private individual/trainer, or the owner/handler themselves.
- May or may not wear special collars or harnesses.
- May or may not be licensed/certified and have documentation.
 - This can not be required as proof that it is a service animal for admittance.



Types of Disabilities Service Animals are Used For



- Physical
- Visual
- Hearing
- Non-visible disabilities which can include cognitive, sensory, and psychiatric

Specific examples...



- Arthritis
- Ataxia (poor balance)
- Autism
- Blindness or Visual Impairments
- Deafness or Hearing Impairments
- Diabetes
- Cardio/Pulmonary Disease
- Cerebral Palsy
- Parkinson's Disease
- Physical mobility issues
- Muscular Dystrophy
- Multiple Sclerosis (M.S.)
- Psychiatric Disabilities
- Seizure Disorders (Epilepsy)
- Spina Bifida
- Spinal Cord/Head Trauma
- Stroke

Examples of tasks performed...



- Assist with way-finding
- Assist with balance or standing
- Alert to sound or signal
- Pull wheelchair
- Carry or pick up things
- Alert to oncoming seizures or asthma attacks
- Alert to episodes of hypoglycemia
- Alert to time to take medicine

Psychiatric Service Animals



- Psychiatric service animals can be trained to perform a variety of tasks that assist individuals to detect the onset of psychiatric episodes and ameliorate their effects:
 - ✓ Reminding the handler to take medicine
 - ✓ Assistance due to medication side effects (balance/retrieval due to dizziness, waking handler if heavily asleep)
 - ✓ Providing safety checks or room searches
 - ✓ Turning on lights for persons with Post Traumatic Stress Disorder (PTSD)
 - ✓ Interrupting self-mutilation by persons with dissociative identity disorders
 - ✓ Keeping disoriented individuals from danger
 - ✓ Identifying hallucinations

Other Kinds of Support Animals



Emotional Support Animals:

- ✓ Therapeutic pets usually prescribed by a therapist, psychiatrist, or doctor, that help people with emotional difficulties
- ✓ Not trained to do work or tasks
- ✓ Legally, ESAs cannot go into no-pets-allowed places BUT they are allowed in no-pets-allowed housing and in the cabins of airplanes when accompanied by a note from their handler's doctor

Therapy Animals:

- ✓ Pets that are typically very gentle and well-mannered and trained to behave well in variety of settings
- ✓ "Job" is to bring a higher level of social functioning to people in nursing homes, schools, hospitals, hospices, etc.
- ✓ Cannot go into no-pets-allowed places unless they are invited

Service Animal Access & Inquiries



Under the ADA



Title I covers places of employment with 15 or more employees.

Title II covers services and activities of state and local government/public entities.

Title III covers places of public accommodation that are private and that own, lease, lease to, or operate a place of public accommodation; commercial facilities; and examinations and courses related to applications, licensing, certification, or credentialing and private entities primarily engaged in transporting people.

Service Animals in the Workplace



- Title I of the ADA covers employers with 15 or more employees, including state/local governments.
- Employers are required to make a “**reasonable accommodation**” to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the operation of the employer's business.
- This could include:
 - ✓ Allowing job applicant or employee to have service animal with him/her in workplace
 - ✓ Allowing employee to take leave to train service animal

What is a Reasonable Accommodation?



A reasonable accommodation is any modification or adjustment to the application or hiring process, to the job, an employment practice, or the work environment that allows a qualified individual with a disability to perform the essential functions of the job.

Undue Hardship



Undue hardship is defined as an action requiring significant difficulty or expense when considering factors such as an employer's size, financial resources, and the nature and structure of its operation.

When Service Animals are a Title I Reasonable Accommodation...



- Employers may ask for medical documentation if the need for the service animal is not apparent.
- May not come specifically from a doctor.
- Can come from a provider of a specific service.
- This documentation goes into a confidential medical file.

Title II and Title III Entities

Sections 35.136(c)-(h)'s and § 36.302(c)(3)-(8)'s



“Reasonable Modification”

Public places and Private entities

A public accommodation must reasonably modify its policies, practices, or procedures to avoid discrimination unless the modification would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations it provides.

“Fundamental Alteration”



When a reasonable accommodation or modification would change the nature of the entity so much that it no longer resembles the original nature of the business.

- Example: When a service dog barks repeatedly during a movie then the animal can be excluded.
- * The handler should still be given the opportunity to participate without the animal.



Some common myths



- “We can’t allow the animal in here because it violates local/state health standards”.
- “Sure we love dogs! But we have to charge you a pet deposit upfront...”



Service Animal Inquiries:



CANNOT ASK:

- “What is your disability?”
- “Do you have proof or identification for the animal?”
- “Can the animal demonstrate what it does?”
- Questions when it’s obvious the animal is needed for a disability.



Service Animal Inquiries:



CAN ASK:

- “Is this animal required because of a disability?”
- “What work or task has this animal been trained to perform?”



Service Dogs Must be Under Control



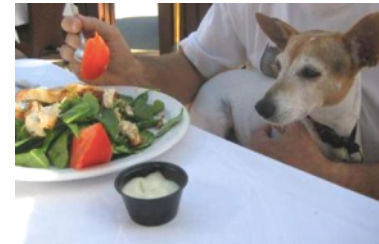
- Must be harnessed, leashed, or tethered unless these devices interfere with its work or are not possible due to the disability, in which case...
 - The owner must keep control with voice, signal, or other effective means.



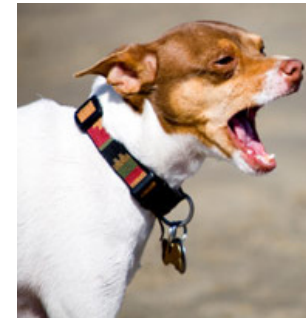
A Service Animal Can be Removed If It...



- Makes a mess on the floor
- Bites or jumps on another patron
- Wanders away from its owner



Handlers must obey leash laws and keep their animals well groomed.



Direct Threat/Health & Safety Risk



- If animal growls at people or acts out of control, it can be asked to leave premises. *NOTE: It may be their job to whine or lightly bark to alert their owner of danger, pending seizure, to take medicine, etc.*
- If entity believes the animal poses a direct threat to others then it can be denied access BUT risk must be...
 - Significant and immediately identified
 - Based on objective medical/factual evidence, not fear/opinions

*Note: The FDA states that it is **NOT** a health risk/violation for employees to have service animals around food!*

Service Animal Etiquette and Guidance



- A service animal is a working animal
- Always ask before approaching or petting a service animal

Why?

- It is dangerous to interfere
- The animal is not a pet



Considerations in Wet Labs



- Chemical Exposure
 - Skin
 - Fur
 - Oral
 - Inhalation
 - Injection

SAFETY + FIRST.



**GLOVES ON
EYE PROTECTION
CLOSED FOOTWEAR
KEEP IT CLEAN**

Considerations in Wet Labs



- Fundamental Alteration
 - Does the allowance of the service animal change how the lab functions?

- Direct Threat
 - Will the presence of the service animal be hazardous to the lab users?

State and Local Laws



- Cities, Counties, and States may make their own service animals laws.
- The law offering the broader coverage is the determining law.
- The issue of service-animals-in-training coverage is determined by the state.
- Service animal handlers must still follow local licensing and vaccination laws.



Questions



Additional Resources



- National ADA Center Fact Sheet on Service Animals, in English & Spanish:
<http://www.northeastada.org/r-factsheets.cfm>
- DOJ's Revised ADA Requirements: Service Animals:
http://www.ada.gov/service_animals_2010.htm
- HUD Notice on Assistance Animals (April, 2013):
http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2013/HUDNo.13-060A
- Additional Air Carrier Access Act and assistance animals information:
<http://servicedogcentral.org/content/node/62>
- DOJ's Commonly Asked Questions About Service Animals in Places of Business:
<http://www.ada.gov/qasrvc.htm>
- JAN Publication on Service Animals as Workplace Accommodations:
<http://www.jan.wvu.edu/media/servanim.html>
- JAN Consultants' Corner: Service Animals and Allergies in the Workplace:
<http://www.jan.wvu.edu/corner/vol02iss01.htm>

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