



Accessibility TipSheet

Service Animals and the 2010 Revised ADA Regulations

(9/30/10)

From the Access Office

As of **September 15, 2010**, the U.S. Department of Justice's Americans with Disabilities Act (ADA) revised regulations for Title II (State and local government) and Title III (places of public accommodation) clarify that under the ADA, **only dogs*** are considered to be service animals. Covered entities have until March 15, 2011 to implement the regulations.

A clearly stated policy addressing this issue will help your staff. Below you'll find a sample service animal policy, along with procedures for implementing the policy, and additional information. Be sure to do some research before crafting your new policy. You can find the new regulations at www.ada.gov.

**Under limited circumstances miniature horses are permissible.*

NOTE: This TipSheet does not address issues related to employment. If you are looking for information regarding service animals under Title I (Employment), please visit www.eeoc.gov.

I. The Basics

Definition of a "Service Animal"

As of September 15, 2010, under the Title II and III regulations of the Americans with Disabilities Act (ADA), a service animal is defined as:

1. **a dog** (*note one exception below*)
2. individually trained to do work or perform tasks
3. for the benefit an individual with a disability (including a physical, sensory, psychiatric, intellectual, or other mental disability).

NOTE - EXCEPTION: *Miniature horses qualify as a service animal if: (1) individually trained as a service animal, (2) its type, size, and weight can be accommodated in the facility; (3) the handler has it under sufficient control; (4) it does not urinate or defecate in the facility; (5) it does not cause a fundamental alteration or direct threat.*

Identifying Service Animals

There is no official certification or licensing of service animals. Training can be done by anyone and any organization, including the owner/handler. The dog is not required to wear anything indicating that it is a service dog, and the patron does not have to possess identification, certification, license or paperwork for the dog. Venues **may not require documentation or certification** for the dog, **nor ask** about the **patron's disability**.

To determine whether a dog is a service dog, staff should focus on:

1. whether the dog is a pet; and
2. what task or work it is trained to perform.

Work and tasks may include picking up and returning dropped items, carrying things, walking close to a person to keep them from falling, preventing or disrupting impulsive or destructive behaviors, alerting their owners to impending seizures, alerting to sound, etc.

NOTE: *Not all trained behaviors qualify a dog as a service animal. The following are not "tasks" or "work":*

1. *A dog whose mere presence is a crime deterrent*
2. *A dog who only provides emotional support, well-being, comfort, or companionship*

The following are NOT considered to be service animals:

1. Animals that are not a dog.
2. Therapy animals; comfort pets; companion animals; and "social/therapy" animals.
3. Dogs training to be service animals are technically not service animals.

There is no obligation or requirement to allow these animals in the building or venue, but an organization may decide to allow them.

Where are Service Animals Allowed to Go?

Service animals must be allowed in all areas of the facility where people are allowed unless the dog poses a direct threat, a fundamental alteration, is not housebroken or is not under the control of the person with the disability.

What Constitutes a "Direct Threat" or "Fundamental Alteration"

A service dog creates a **fundamental alteration** if it interferes with the performance/event beyond what is tolerated of the general audience. For example, during a performance the service animal is barking, whining, running around, etc. A service animal can be considered a **direct threat to the health or safety of others** if it is snapping, growling, biting, urinating, defecating, blocking egress, etc.

II. Sample Policies and Procedures

Sample Service Animal Policy

Service dogs* are allowed wherever people are allowed, unless the dog poses a direct threat, a fundamental alteration, is not housebroken or is not under the control of the person with the disability.

** Under limited circumstance a miniature horse is also a service animal.*

Sample Procedures for Handling Service Animals

In addition to writing a service animal policy, outline simple steps for staff to take when encountering a patron with an animal.

Example 1: A set of clear and simple procedures may be all you need:

Step 1: Politely stop the patron and notify him/her that pets are not allowed in the building.

Step 2: If the patron says the dog is his/her service animal, allow the patron to enter with the animal.

Step 3: If you have questions or concerns about an animal, please contact (*fill in the name of designated staff person or department*).

Example 2: Consider writing more detailed instructions for staff who work with patrons and visitors on a regular basis. Include a script so they know what they can and cannot ask.

1. Start the conversation by politely stopping the person as s/he enters with the animal:

Staff (*in a neutral voice as a statement*): ***"I'm sorry; the (fill in name of venue) does not permit pets or animals in the building (or facility)."***

2. WAIT for the patron's response:

Individual: ***"This is my service dog."*** or ***"I have a disability, and this is my service animal."***

NOTE: People may describe the dog by the category of tasks it performs, such as a guide dog, hearing dog, psychiatric dog, etc.

If appropriate or necessary staff may inquire further to adequately identify the role of the dog by asking the following two questions:

Staff: ***“Is the dog is required because of a disability?”***

and/or

Staff: ***“What task(s) or work, is your dog trained to perform?”***

If the patron states the task(s) or work the dog is trained to perform, and those tasks meet the disability-related needs of the person with a disability, the patron and dog are allowed into the facility **provided** it does not pose a direct threat or fundamental alteration (e.g., is not under the control of its handler, or urinates or defecates in the building).

3. If staff feels a service dog poses a direct threat, fundamental alteration, is not under control or not housebroken they should:

1. Notify (fill in the name or department) who is designated to respond to this issue.
2. Designated staff will then ask **the handler** (patron or visitor) **to correct the situation and bring the dog under his or her control.**
 - a. A service dog must have a harness, leash, or other tether and be under the control of the handler at all times.
 - i. Exception: If the handler is unable to use such devices because of his or her disability or those items would interfere with the service dog's safe, effective performance of work or tasks, the service dog must be under the handler's control by the use of voice control, signals, or other effective means.

If the handler does not take effective action to correct the situation, designated staff will ask the handler to **remove the service dog** from the premises with the understanding that the handler is welcome to return without the dog. The **handler must be allowed to return without the dog** if he/she desires.

3. Staff and volunteers will report any aggression, injuries, or damages caused by a service dog to (fill in the name or department) and designated staff will report them to the local animal control agency, regardless of the circumstances. Animal Control determines whether the dog was "at fault."

III. OTHER LAWS AND REGULATIONS

Other federal and local laws may have different criteria and definitions of “service animal.” For example, the Fair Housing Act and the U.S. Department of Transportation regulations do permit animals other than dogs to be recognized as service animals, and permit comfort pets, companion animals, and “social/therapy” animals, in housing and on airplanes and trains. Some patrons and visitors may expect the same accommodations when coming to your facility. Such an expectation may be incorrect and the venue does not have to provide access for these animals. You should always be sure you know and understand what laws and regulations apply to your venue/situation.

Additionally, should County, City or State regulations restrict or ban dogs based on breed, that restriction or ban does not apply to a service dog.

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