

Center for Disability Rights, Inc.

CDR Policy Position: Service Animals

Many people with disabilities use service animals to assist them in performing everyday tasks and activities. While the use of service animals is common, many people and businesses do not understand how to treat service animals as a reasonable accommodation under the Americans with Disabilities Act (ADA). This lack of understanding has caused businesses to discriminate against people with disabilities, in violation of our civil rights. In addition, the lack of understanding has caused non-disabled people to believe that they can classify their pets as service animals and bring them into places where animals are not allowed.

What is a service animal?

Under the ADA, a service animal is a dog or a miniature horse that is individually trained to do work or perform tasks for a person with a disability. Service animals are different from Emotional Support Animals as defined under the Fair Housing Act, which are not granted the same status as an accommodation under the ADA.

Service Animals are a reasonable accommodation under the ADA

People with disabilities have a right to bring their service animals with them into any place where they have a right to go, including taxicabs, restaurants, movie theaters, workplaces, and public buildings. It is discrimination to refuse entry, refuse service, or demand that a person with a disability must leave any place of public accommodation because they use a service animal.

Places of public accommodation should adopt policies and create trainings to ensure that people with disabilities who use service animals are treated with respect and are given reasonable accommodation for their service animals.

A person with a disability deserves to be treated with the same respect and courtesy as anybody else. Places of public accommodation should train their employees to always treat a person with a disability with respect when inquiring about their service animal and when making any accommodations for that person. In order to prevent confusion, discrimination, or violations of the law, places of public accommodation should adopt a policy that conforms with the requirements of the ADA regarding reasonable accommodations for service animals. When they do, these businesses should train employees how to provide such accommodations. A sample policy is included at the end of this document.

Places of public accommodation should train their employees that they may ask only two questions about a service animal before extending a reasonable accommodation under the ADA. Those questions are:

1. Is this a service animal that has been trained to assist a person with a disability?

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2. What are the tasks which this service animal has been trained to perform?

It is not appropriate to demand proof of training, to inquire about the person's disability or medical history, or to ask for a demonstration of the dog's ability to work, before extending a reasonable accommodation.

People who are not disabled should not abuse the ADA by calling their pets service animals

Service animals are not pets. Under the ADA, a service animal must be trained to assist a person with a disability. The reasonable accommodation for service animals under the ADA is not a license for people who are not disabled to bring their untrained pets into places of public accommodation. Often, pets do not know how to behave in public settings, which disrupts business and can even endanger people. Abusing the ADA in this way makes businesses not want to accommodate people with disabilities who require trained service animals.

Anyone can train a service animal

Although some organizations train and certify service animals, certification is not a legal requirement for an animal to be a service animal. The law requires that the animal be trained to assist a person with a disability: it does not require that the training be performed by a person having a particular qualification. Anyone can train a service animal, including the person who intends to use the service animal.

For a person on Medicaid who requires a service animal, Medicaid must provide for all of the animal's needs

A service animal is a necessary aid to living in the community. Under the ADA and the Supreme Court's ruling in *Olmstead v. L.C.*, people with disabilities have a right to receive services in the community. That means that, where a person with a disability qualifies for assistance under Medicaid, and that person requires the use of a service animal, Medicaid should provide for the care of the service animal, including feeding, grooming, veterinary care, training, and any other needs of the service animal.

Sample Policy Statement with Respect to Service Animals

In accordance with the provisions of the Americans with Disabilities Act and the New York State Executive Law, _____ (hereafter “the Company”) and its affiliates provide equal opportunity for individuals with disabilities with respect to employment, public accommodations, transportation, telecommunications, and participation in government-funded services and programs.

The Company and its affiliates are committed to providing and promoting equal opportunities in all of its activities and services. This commitment includes following the mandates of the Americans with Disabilities Act of 1990 (the “ADA”), a federal law that makes it unlawful to discriminate against a qualified person with a disability in all aspects of the employment process and in the provision of services and benefits. The Company also follows all New York State laws and regulations that apply to individuals with disabilities.

People with disabilities who use service animals are to be treated with respect, and, except in exigent circumstances, may not be touched without their express permission by any employee of the Company.

The Company is committed to providing reasonable accommodations to qualified persons with disabilities. This will ensure the full and fair participation of all employees and the public in all the Company’s services and activities. In addition, all policies, procedures, and employees will support and embrace the Company’s efforts and State programs that are designed to promote and achieve the principles of the Americans with Disabilities Act and those New York State laws and regulations that apply to individuals with disabilities.

Service Animals:

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for title II (State and local government services) and title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain updated requirements, including the 2010 Standards for Accessible Design (2010 Standards).

- Beginning on March 15, 2011, only dogs are recognized as service animals under titles II and III of the ADA.

- A service animal is a dog that is individually trained to do work or perform tasks for a person with a disability.
- Generally title II and title III entities must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.

Service Animal Definition:

Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person’s disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

Some State and local laws also define service animals more broadly than the ADA does. Information about such laws can be obtained from the State Attorney General’s office.

Where Service Animals Are Allowed To Go:

Under the ADA, State and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go. For example, in a hospital it would be inappropriate to exclude a service animal from areas such as patient rooms, clinics, cafeterias, or examination rooms. However, it may be appropriate to exclude a service animal from operating rooms or burn units where the animal’s presence may compromise a sterile environment.

At the Company and its affiliates, for any questions related to access from an infection prevention perspective, contact the Infection Prevention Department. For any questions related to whether the service animal’s presence will not compromise legitimate safety requirements necessary for safe operation of the facility, contact Administration.

Service Animals Must Be Under Control:

Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal’s work for the individual’s disability prevents using these

devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

Inquiries:

When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions:

1. Is the dog a service animal required because of a disability?
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.

Exclusions:

A person with a disability cannot be asked to remove his service animal from the premises unless:

1. The dog is out of control and the handler does not take effective action to control it or
2. The dog is not housebroken.

When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.

Other specific rules related to service animals:

- Allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals. When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.
- People with disabilities who use service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals.
- Staff is not required to provide care or food for a service animal.

In addition to the provisions about service dogs, the Department's revised ADA regulations have a separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities. The regulations set out four assessment factors to assist entities in determining whether miniature horses can be accommodated in their facility.

The assessment factors are:

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

U.S. Department of Justice, Civil Rights Division, Disability Rights Sections, ADA 2010 Revised Requirements. http://www.ada.gov/service_animals_2010

ADA website: www.ADA.gov

The Center for Disability Rights, Inc. (CDR) is a non-profit service and advocacy organization devoted to the full integration, independence and civil rights of people of all ages with all types of disabilities.