

Service Animals vs. Emotional Support Animals

*Prepared for the Indiana Environmental Health
Association (IEHA) Food Protection Committee*

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Our Focus

- **Americans with Disabilities Act**
 - Discrimination
 - Reasonable Modifications
- **Service Animals**
 - Definition
 - Tasks
 - Inquiries
 - Other Requirements
- **Emotional Support Animals**



Americans with Disabilities Act

- Prohibits discrimination **on the basis of disability**
- Employment, State and local government, **public accommodations**, commercial facilities, transportation, and telecommunications



Americans with Disabilities Act

- Title I – Employment
- Title II – Public entities (and public transportation)
- **Title III – Public accommodations (and commercial facilities)**
- Title IV – Telecommunications



ADA Title III

- No individual shall be discriminated against **on the basis of disability** in the **full and equal enjoyment** of the goods, services, facilities, privileges, advantages, or accommodations of **any place of public accommodation...**



Place of Public Accommodation

- Specifically includes **“a restaurant, bar, or other establishment serving food or drink”**



Reasonable Modifications

- Discrimination includes a failure to make **reasonable modifications** in policies, practices, or procedures



Service Animals

- **Shall** modify policies, practices, or procedures to **permit the use** of a service animal by an individual with a disability
- **Unless:**
 - (i) animal is out of control and animal's handler does not take effective action to control it; or
 - (ii) animal is not housebroken.



Service Animals - Definition

- Any **dog** that is **individually trained to do work or perform tasks** for the benefit of an individual with a disability
- Work or tasks must be directly related to individual's disability



Examples of Tasks



- Guiding people who are blind is commonly associated with service dogs



Examples of Tasks



- But also many more tasks!



Examples of Tasks



- This dog alerts his owner to seizures and is also trained to make sure his owner does not injure himself during a seizure



Miniature Horses

- Miniature horse \neq service animal
- **However**, must make reasonable modifications in policies to permit use if miniature horse has been individually trained to do work/perform tasks for benefit of individual with a disability



Miniature Horses

- Considerations:
 - **Type, size, and weight** of the horse and whether the facility can accommodate those features
 - Handler has **sufficient control** of the horse
 - Horse must be **housebroken**
 - Whether or not the horse's presence in a specific facility compromises **legitimate safety requirements**



Miniature Horses

- Range in weight from **70-100 pounds**
- Range in height from **24-34 inches**
 - Guide Horse Foundation only uses miniature horses that are less than 26 inches high
 - Small pony ≠ miniature horse



Miniature Horses



Service Animals - Inquiries

- Shall **not** require documentation
 - Medical documentation of disability
 - Proof that animal has been certified, trained, or licensed as a service animal
- There is **no national registry** of service dogs or **ID cards** recognized by federal government (or required!)
 - Vests are **not** required
- Shall **not** ask about nature or extent of a person's disability



Service Animals - Inquiries

- **No inquiries** when it is **readily apparent** that animal is trained to perform task
 - e.g., Dog is guiding a person who is blind or has low vision
- **If not obvious**, may make **two inquiries**:
 - (1) Is the animal required because of a disability?; and
 - (2) What work or task has the animal been trained to perform?



Access to Areas

- Shall be permitted to be accompanied by their service animals in **all areas** where members of the public, customers, patrons are allowed to go
 - E.g., Restaurant buffet lines!



Removing or Excluding

- **May ask to remove** from premises if:
 - (i) animal is **out of control** and animal's handler **does not take effective action** to control it; or
 - (ii) animal is **not housebroken**
- If excluded, shall **give individual opportunity** to obtain goods, services, and accommodations **without** service animal on the premises



Under Handler's Control

- Must **always** be under handler's care
- Harness, leash, or other tether, **unless**:
 - (1) Handler unable because of a disability to use a harness, etc., **or**
 - (2) Use of a harness, etc. would interfere with safe, effective performance of work or tasks
 - Then must still be otherwise under the handler's control (e.g., voice control, signals, other effective means)



Care or Supervision

- A public accommodation is **not responsible** for the care or supervision of a service animal
 - Not required to provide food, water, or care for a service dog
 - E.g., A business owner or staff not required to watch a service dog while a customer shops



Fees / Surcharges

- **Cannot** charge a fee or surcharge, even if people accompanied by **pets** are required to pay fees (no “pet deposits”)
 - If typically charge for damage caused, an individual **may be charged** for damage caused by service animal



Emotional Support Animals

- The ADA does **not** cover **emotional support, well-being, comfort**
- Although emotional support animals **alleviate symptoms** related to disability, they **do not perform a “task”**



Fair Housing Act

- Gives people with disabilities the right to have emotional support and service **animals** in their homes
- **No definition** (but...)
 - **Animal** that works, provides assistance, performs tasks for benefits of individual **or** provides emotional support that alleviates 1+ identified symptoms/effects to disability
- Does not provide rights **outside** housing context



Important Reminders

- Not everyone who uses a service dog has a **“visible” disability**
- They may only ask **two questions** to determine if a dog is a service dog
 - Don’t ask if **obvious** or dog is clearly identified
- Dogs do not **have** to be on leash, but **are** required to be under a **handler’s control**



Important Reminders

- Service dogs **can be removed** if causing a disturbance, growling, snarling, biting, etc.
- Do not have to **feed, hold or have any responsibility** for the service animal
- Should **not pet, offer treats, or distract** the dog from its task



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