

DISABILITY & AGING RIGHTS



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DISCRIMINATION

Service Animals Under the Americans with Disabilities Act

Many people with disabilities, including older Americans who have a physical, cognitive, sensory or mental impairment, use a service animal to help them. This fact sheet will provide an overview of what protections and requirements the Americans with Disabilities Act (ADA) provides. In 2011, the U.S. Department of Justice issued new rules that change the definition of service animal under the ADA.

What is the definition of service animal under the ADA?

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

What about comfort or support animals?

Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA. The work or task a dog has been trained to provide must be directly related to the person's disability. This definition does not affect or limit the broader definition of "assistance animal" under the Fair Housing Act or the broader definition of "service animal" under the Air Carrier Access Act.

Does Illinois law provide any additional protections for service animals?

Yes, Illinois has two laws that relate to service animals: the Service Animal Access Act and White Cane Law. They guarantee the right of a person with a disability to be accompanied by a service animal in public. Violation of the Service Animal Access Act is a Class C misdemeanor. Violation of the White Cane Law is a Class A misdemeanor.

Where are service animals 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 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.



What are the responsibilities of the person who uses a service animal?

Under the ADA, service animals must be harnessed, leashed or tethered, unless these devices interfere with the service animal's work or unless the person's disability prevents using these devices. In that case, the person must maintain control of the animal through voice, signal or other effective controls.

Are there any limits on what questions can be asked by businesses or state and local government agencies about a service animal?

When it is not obvious what service an animal provides, only limited inquiries are allowed. Two questions are permissible: (1) Is the dog a service animal required because of a disability? And (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.

When can a service animal be removed?

A person with a disability cannot be asked to remove a 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.

Can a place that sells or prepares food refuse entry of a service animal if state or local health codes prohibit animals on the premises?

No. The ADA is a federal law and must be followed when there is a conflict with state and local laws.

Are there other requirements under the ADA, other than just providing access to the person with a service animal?

Yes. 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. In addition, if a business requires a deposit or fee to be paid by patrons with pets (like a hotel), it must waive the charge for service animals.

Are there any animals other than dogs that can act as service animals?

Yes, there is an exception for miniature horses. Miniature horses generally range in height from 24 inches to 34 inches measured to the shoulders and generally weigh between 70 and 100 pounds. Where reasonable, entities covered by the ADA must modify their policies to permit miniature horses that have been individually trained to do work or perform tasks for people with disabilities. The Department of Justice identified four

factors to help determine whether miniature horses can be accommodated.

- Whether the miniature horse is housebroken
- Whether the miniature horse is under the owner's control
- Whether the facility can accommodate the miniature horse's type, size and weight
- Whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility ■

For more information:

The U.S. Department of Justice Guidance on Service Animals:
www.ada.gov/service_animals_2010.htm

Service Animals under the Air Carrier Access Act:
www.nsarco.com/aca.html

Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs:
portal.hud.gov/hudportal/documents/huddoc?id=servanimals_ntcfheo2013-01.pdf



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