



CENTER FOR EXCELLENCE IN DISABILITIES
WEST VIRGINIA ASSISTIVE TECHNOLOGY SYSTEM

SERVICE ANIMALS

A How-to Guide



A service animal is defined as an animal, typically a dog, that has been trained to do work or perform tasks for people with disabilities. Examples of work or tasks they can be trained to perform 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 their prescribed medications, and calming a person with post-traumatic stress disorder (PTSD) during an anxiety attack.

The job or duty the dog is trained to do must directly help with the person's disability. If a dog is only there to give comfort or emotional support, it does not qualify as a service animal under the Americans with Disabilities Act (ADA). The person who owns the service animal is responsible for caring for and supervising the service animal, including tasks like taking it to the bathroom, feeding, grooming and medical care.

Service animals are not required to be certified or go through a professional program to be designated as a service animal. They also do not have to wear a vest or other identification showing that they are a service animal. When someone asks if a dog is a service animal, they are only allowed to ask if the service animal is needed because of a disability and what tasks it has been trained to do. The owner is not required to provide any documentation to prove the dog is registered, licensed or certified as a service animal, or demonstrate its abilities. State and local governments can require that the service dog be licensed and vaccinated as well as offer voluntary service registration programs.

The ADA has specific rules for miniature horses that are trained to help people with disabilities. Miniature horses are usually between 24-34 inches tall, measured to the shoulders, and weigh between 70-100 pounds. There are four assessment factors to help places determine if they can accommodate miniature horses in their facility. These factors include if the horse is housebroken; if the owner can control the horse; if the facility can accommodate the horse's type, size and height; and if the miniature horse being there would make the place unsafe.

Service animals are allowed to be with their owner at all times regardless of a location's pet policy. They are allowed to go into restaurants, shops, hospitals, schools and hotels. This also applies to public and private housing industries; public housing run by the state, county and city governments; and emergency shelters. However, a service animal can be asked to leave if its presence would alter the nature of the services provided to the public. Businesses can ask someone to remove their service animal if it is not housebroken, or if they cannot control it.

EMOTIONAL SUPPORT ANIMALS

According to the U.S. Department of Housing and Urban Development (HUD), an emotional support animal is any animal that provides emotional support helping one or more symptoms or effects of a person's disability. These animals provide companionship, relieve loneliness and sometimes help with depression, anxiety and some phobias, but do not have special training to perform tasks that help people with disabilities. An emotional support animal needs to be prescribed by a licensed mental health professional to a person with a disabling mental illness. A therapist, psychologist or psychiatrist must determine the need of the animal for the patient.

Although emotional support animals are used in therapeutic settings, they are not covered under the ADA. Because they are not included in the ADA, they do not have the same legal right to access in public places as a service animal. Emotional support animals generally cannot accompany their owners into restaurants or shopping malls.



TRANSPORTATION

The U.S. Department of Transportation (DOT) defines a service animal as “any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair or fetching dropped items.” Section 37.3 of 49 CFR Part 37 - Transportation Services for Individuals with Disabilities (ADA).

This definition does not include emotional support or “comfort” animals. An emotional support animal provides comfort or emotional support just by being with the individual, this is something that an animal does passively.

The ADA laws apply to both public and private transportation providers. A person with a service animal cannot be forced to sit in a particular spot, be charged extra fees or be asked to provide advance notice that they will be traveling with the service animal.

All airlines are required to recognize dogs as service animals, allowing them to accept travel on flights to, within, and from the United States. On the plane, the service animal can stay with its owner in the space under the seat in front of them or, if small enough, can be on their lap. The animal cannot block any space that is required to remain unobstructed like an aisle or emergency exit.

Air carriers can accept service animal identifiers such as identification cards, written documentation, or presence of harnesses or tags when working with the owner. If airline personnel are unsure that an animal is a service animal, they may ask what task or function the animal performs for the person or what training it has had.

Animals like miniature horses, pigs and monkeys may be considered service animals, but the airline must determine whether there are any factors that would interfere with the animal traveling in the cabin of the plane.



FAIR HOUSING ACT

The Fair Housing Act (FHA) is a federal law that prevents discrimination against tenants in their homes. Under this law, a disability is defined as a physical or mental impairment which significantly limits a person’s major life activities. Even if a lease states “no pets” or restricts pets, landlords are required to make reasonable accommodations to allow pets who serve as assistance animals.

Reasonable accommodations that can be made by the landlord include waiving a no-pet rule and/or the pet deposit to allow the person with a disability to have the assistance of their service animal. Landlords must use a flexible standard based on the needs of the tenant when responding to the request for a reasonable accommodation.

Landlords are not allowed to ask about the existence, nature and extent of disabilities when someone is applying for housing. However, they can request documentation if someone does ask for a reasonable accommodation so they can properly review the request. The landlord can ask to certify that the tenant or member of their family is a person with a disability, the need of the animal to help the person with that specific disability, and that the animal actually helps the person with a disability.

Section 504 of the Rehabilitation Act regulations apply a similar prohibition on disability discrimination to all recipients of financial assistance from the Office of Housing and Urban Development (HUD).

EDUCATION

Students who use service animals are allowed to have the animal with them while at school under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act. The Individualized Education Plan (IEP) team or the Individualized Accommodation Plan (IAP - Section 504) committee determines how the service animal accompanies the student throughout the school day.

The school may require the student or a handler to be in control of the animal at all times while being responsible for the animal's care and supervision. Typically, the largest problems occur when the student cannot handle and control the animal, especially with elementary-aged students. Students who use service animals are also responsible for cleaning up after the animal.

Colleges and universities must allow people with disabilities to bring their service animals into all areas of the facility that are open to the public or to students. Students who use a service animal can contact the school's Disability Services Coordinator to register as a student with a disability. Higher education entities cannot require any documentation regarding the training or certification of the service animal, but they can require proof that the service animal is licensed and up to date on all appropriate vaccinations in compliance with state or local laws.

The FHA states that an assistance animal that meets the ADA definition of a service animal can be within student housing facilities such as dormitories.

EMPLOYMENT

If an employee asks to bring a service animal to work, their request should be processed like any request for reasonable accommodation. Employers must consider the request, but they do not have to automatically allow employees to bring their service animal to work.

The ADA allows employers to choose among effective accommodations so an employer might opt for another solution, but providing a substitute accommodation for a service animal could cause problems if the animal typically helps with personal and medical issues.

Under the ADA, employers have the right to request documentation that an accommodation is needed because of an employee's disability. Documentation of the employee's disability and limitations would come from their health care provider. A health care professional is unable to provide documentation for a service animal, but the animal's trainer may be able to provide it. The employer can require that the animal be trained in a workplace to function appropriately in that setting.

The best approach to determine if the service animal can be in the workplace without causing disruption or safety issues is to allow a trial period with the employee bringing the service animal for demonstration. This will allow both parties to identify any issues as they arise and come to a mutual decision on if the service animal is able to be within the workplace environment.

WVATS

WVATS can provide more information regarding service animals and the environments and situations in which they are allowed. Contact WVATS at **800-841-8436** or wvats@hsc.wvu.edu for more information. You can also visit wvats.cedwvu.org to stay up to date on new assistive technology and services.