

A.D.A. Service Animal Rules

Written by Compiled by Tom Hartsock Sun Correspondent
Friday, 30 October 2015 04:57



Part 2 of 2

This column is a continuation from last week, Frequently Asked Questions of the American Disability Act, pertaining to Service Animals. It is reprinted here as a service to readers of the Gallup Sun who may have become confused over the issue in recent weeks. We hope this clarifies the matter for them.

For more information on Service Animals that may not have been included in this column, please log on the website at www.ada.gov or call 800-514-0301 (Voice) and 800-514-0383 (TTY), M-W, F 9:30 a.m. – 5:30 p.m. , Th 12:30 p.m. – 5:30 p.m. (Eastern Time) to speak with an ADA Specialist. Calls are confidential.

BREEDS

Can service animals be any breed of dog?

A. Yes.

Can individuals with disabilities be refused access to a facility based solely on the breed of their service animal?

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A. No.

If a municipality has an ordinance that bans certain dog breeds, does the ban apply to service animals?

A. No.

EXCLUSION OF SERVICE ANIMALS

When can service animals be excluded?

A. The ADA does not require covered entities to modify policies, practices, or procedures if it would “fundamentally alter” the nature of the goods, services, programs, or activities provided to the public. Nor does it overrule legitimate safety requirements. If admitting service animals would fundamentally alter the nature of a service or program, service animals may be prohibited. In addition, if a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded.

When might a service dog’s presence fundamentally alter the nature of a service or program provided to the public?

A. In most settings, the presence of a service animal will not result in a fundamental alteration. However, there are some exceptions. For example, at a boarding school, service animals could be restricted from a specific area of a dormitory reserved specifically for students with allergies to dog dander. At a zoo, service animals can be restricted from areas where the animals on display are the natural prey or natural predators of dogs, where the presence of a dog would be disruptive, causing the displayed animals to behave aggressively or become agitated.

What does under control mean? Do service animals have to be on a leash? Do they have to be quiet and not bark?

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A. The ADA requires that service animals be under the control of the handler at all times. In most instances, the handler will be the individual with a disability or a third party who accompanies the individual with a disability. The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the person's disability prevents use of these devices. In that case, the person must use voice, signal, or other effective means to maintain control of the animal. Under control also means that a service animal should not be allowed to bark repeatedly in a lecture hall, theater, library, or other quiet place. However, if a dog barks just once, or barks because someone has provoked it, this would not mean that the dog is out of control.

What can my staff do when a service animal is being disruptive?

A. If a service animal is out of control and the handler does not take effective action to control it, staff may request that the animal be removed from the premises.

Are hotel guests allowed to leave their service animals in their hotel room when they leave the hotel?

A. No, the dog must be under the handler's control at all times.

What happens if a person thinks a covered entity's staff has discriminated against him or her?

A. Individuals who believe that they have been illegally denied access or service because they use service animals may file a complaint with the U.S. Department of Justice. Individuals also have the right to file a private lawsuit in Federal court charging the entity with discrimination under the ADA.

MISCELLANEOUS

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Are stores required to allow service animals to be placed in a shopping cart?

A. Generally, the dog must stay on the floor, or the person must carry the dog. For example, if a person with diabetes has a glucose alert dog, he may carry the dog in a chest pack so it can be close to his face to allow the dog to smell his breath to alert him of a change in glucose levels.

Are restaurants, bars, and other places that serve food or drink required to allow service animals to be seated on chairs or allow the animal to be fed at the table?

A. No. Seating, food, and drink are provided for customer use only. The ADA gives a person with a disability the right to be accompanied by his or her service animal, but covered entities are not required to allow an animal to sit or be fed at the table.

Are gyms, fitness centers, hotels, or municipalities that have swimming pools required to allow a service animal in the pool with its handler?

A. No. However, service animals must be allowed on the pool deck and in other areas where the public is allowed to go.

Are churches, temples, synagogues, mosques, and other places of worship required to allow individuals to bring their service animals into the facility?

A. No. Religious institutions and organizations are specifically exempt from the ADA.

Do apartments, mobile home parks, and other residential properties have to comply with the ADA?

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A. The ADA applies to housing programs administered by state and local governments, such as public housing authorities, and by places of public accommodation, such as public and private universities. In addition, the Fair Housing Act applies to virtually all types of housing, both public and privately-owned, including housing covered by the ADA. Under the Fair Housing Act, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with a disabilities, or provide emotional support to alleviate a symptom or effect of a disability.

Do Federal agencies, such as the U.S. Department of Veterans Affairs, have to comply with the ADA?

A. No. Section 504 of the Rehabilitation Act of 1973 is the Federal law that protects the rights of people with disabilities to participate in Federal programs and services. For information or to file a complaint, contact the agency's equal opportunity office.

Do commercial airlines have to comply with the ADA?

A. No. The Air Carrier Access Act is the Federal law that protects the rights of people with disabilities in air travel. For information or to file a complaint, contact the U.S. Department of Transportation, Aviation Consumer Protection Division, at 202-366-2220.