

FAQ:SERVICE ANIMALS

by League Staff

Every workday your Missouri Municipal League staff answers dozens of questions on municipal issues. This column provides an opportunity to share some of the most frequently asked questions. In this issue, the FAQ will focus on service animals. The information in the column comes from the State of Missouri Disability Portal at <http://disability.mo.gov/>. As with all legal matters, municipal officials are urged to consult their city attorney for guidance for the specific challenges faced by their municipality. Answers provided in this column should serve only as a general reference.

SERVICE ANIMALS AND THE ADA

Many people with disabilities use a service animal in order to fully participate in everyday life. Dogs can be trained to perform many important tasks to assist people with disabilities, such as providing stability for a person who has difficulty walking, picking up items for a person who uses a wheelchair, preventing a child with autism from wandering away, or alerting a person who has hearing loss when someone is approaching from behind.

The Department of Justice continues to receive many questions about how the Americans with Disabilities Act (ADA) applies to service animals. The ADA requires state and local government agencies, businesses, and non-profit organizations that provide goods or services to the public to make “reasonable modifications” in their policies, practices or procedures when necessary to accommodate people with disabilities. Service animal rules fall under this general principle. Accordingly, entities that have a “no pets” policy generally must modify the policy to allow service animals into their facilities.



DEFINITION OF A SERVICE ANIMAL

Q. What is a service animal?

Under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person’s disability.

Q. What does “do work or perform tasks” mean?

The dog must be trained to take a specific action when needed to assist the person with a disability. For

example, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind her to take her medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure.

Q. Are emotional support, therapy, comfort or companion animals considered service animals under the ADA?

No. These terms are used to describe

animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA. However, some state or local governments have laws that allow people to take emotional support animals into public places.

Q. If someone’s dog calms them when having an anxiety attack, does this qualify it as a service animal?

It depends. The ADA makes a distinction between psychiatric service animals and emotional support animals. If the

dog has been trained to sense that an anxiety attack is about to happen and takes a specific action to help avoid the attack or lessen its impact, that would qualify as a service animal. However, if the dog's mere presence provides comfort, that would not be considered a service animal under the ADA.

Q. Does the ADA require service animals to be professionally trained?

No. People with disabilities have the right to train the dog themselves and are not required to use a professional service dog training program.

GENERAL RULES

Q. What questions can a covered entity's employees ask to determine if a dog is a service animal?

In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions: (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 are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person's disability.

Q. Do service animals have to wear a vest, patch or special harness identifying them as service animals?

No. The ADA does not require service animals to wear a vest, ID tag or specific harness.

CERTIFICATION AND REGISTRATION

Q. Does the ADA require that service animals be certified as service animals?

No. Covered entities may not require documentation, such as proof that the animal has been certified, trained or licensed as a service animal, as a condition for entry.

Q. My city requires all dogs to be vaccinated. Does this apply to my service animal?

Yes. Individuals who have service animals are not exempt from local animal control or public health requirements.

Q. My city requires all dogs to be registered and licensed. Does this apply to my service animal?

Yes. Service animals are subject to local dog licensing and registration requirements.

Q. My city requires me to register my dog as a service animal. Is this legal under the ADA?

No. Mandatory registration of service animals is not permissible under the ADA. However, as stated above, service animals are subject to the same licensing and vaccination rules that are applied to all dogs.

Q. My city/college offers a voluntary registry program for people with disabilities who use service animals and provides a special tag identifying the dogs as service animals. Is this legal under the ADA?

Yes. Colleges and other entities, such as local governments, may offer voluntary registries. Many communities maintain a voluntary registry that serves a public purpose, for example, to ensure that emergency staff know to look for service animals during an emergency evacuation process. Some offer a benefit, such as a reduced dog license fee, for individuals who register their service animals. Registries for purposes like this are permitted under the ADA. An entity may not, however, require that a dog be registered as a service animal as a condition of being permitted in public places. This would be a violation of the ADA.

BREEDS

Q. Can service animals be any breed of dog?

Yes. The ADA does not restrict the type of dog breeds that can be service animals.

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

No. A service animal may not be excluded based on assumptions or stereotypes about the animal's breed or how the animal might behave. However, if a particular service animal behaves in a way that poses a direct threat to the health or safety of others, has a history of such behavior, or is not under the control of the handler, that animal may be excluded. If an animal is excluded for such reasons, staff must still offer their goods or services to the person without the animal present.

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

No. Municipalities that prohibit specific breeds of dogs must make an exception for a service animal of a prohibited breed, unless the dog poses a direct threat to the health or safety of others. Under the "direct threat" provisions of the ADA, local jurisdictions need to

determine, on a case-by-case basis, whether a particular service animal can be excluded based on that particular animal's actual behavior or history, but they may not exclude a service animal because of fears or generalizations about how an animal or breed might behave. It is important to note that breed restrictions differ significantly from jurisdiction to jurisdiction. In fact, some jurisdictions have no breed restrictions.

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

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.

MISCELLANEOUS

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

No. The ADA does not override public health rules that prohibit dogs in swimming pools. However, service animals must be allowed on the pool deck and in other areas where the public is allowed to go.

RESOURCES

For more information about the ADA, please visit www.ADA.gov or call the ADA information line: 800-514-0301 (Voice) and 800-514-0383 (TTY)

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For more information about service animals and other disability issues in the State of Missouri, please go to the State of Missouri Disability Portal sponsored by the Governor's Council on Disability at <http://disability.mo.gov/>.



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