

SERVICE ANIMALS AS AN EMPLOYMENT ACCOMMODATION

What is a service animal?

No matter whether they are called “Service Animals”, “Assistance Animals”, or by another name, these are animals that have been individually trained to do work or perform tasks for the benefit of an individual with a disability. It is the training that distinguishes a Service Animal from other animals under the ADA.



Starting March 15, 2011, only dogs will be considered service animals under Titles II and III of the ADA. Businesses and state and local government entities may also allow miniature horses as a reasonable modification, subject to certain limitations.

Other animals, either wild or domestic, will then no longer qualify as a service animal.

Do the same rules that apply to a customer bringing their service animal into a store also govern a service animal accompanying an employee to their job?

No. A service animal accompanying an employee to his/her job is viewed as a “reasonable accommodation” under Title I of the ADA, which governs employment.

Thus, an employee must request that the service animal be present as an accommodation for their disability. The employer is obligated to take such requests seriously.

The employee may request, and the business may allow as an accommodation, an animal that does not meet the ADA definition of “service animal”. For example, the employee could request that their comfort animal, which does not meet the ADA definition of “service animal,” be allowed to come to work as an accommodation.

Does the employer *automatically* have to allow a service animal into the workplace if requested by an employee?

As with any request for an accommodation, the employer may need specific information regarding the employee’s disability and how the service animal’s presence will relate to his/her ability to perform the duties of the job to evaluate the request.

In general, the employer would be expected to grant the accommodation request if: a) the employee’s disability and the service animal’s function are related; b) the service animal will improve the worker’s ability to perform their job; c) the animal has had sufficient training to not be a disruptive presence in the workplace; and d) the accommodation does not present an undue hardship.

www.eeoc.gov/policy/docs/accommodation.html

What if the service animal is needed only to support the employee’s travel to and from work, and is not needed to perform the job?

The accommodation request would then be to identify a safe and acceptable space for the service animal during the workday, and for sufficient flexibility and time to care for the animal’s needs.

If the disability is not obvious, the employer could still require information about the employee’s disability, how the service animal’s function is related to the disability, and assurance that the animal has had sufficient training not to become a disruptive presence.

Who is responsible for taking care of and monitoring the service animal at work?

The employee is responsible for the care and monitoring of the animal. The employer, however, may need to make accommodations that allow the employee to attend to necessary tasks, such as taking the animal outside to relieve itself.

It is important that the employee and employer discuss the details of how the service animal will be monitored and cared for during the workday, prior to initiating the accommodation.

Is the employer responsible for creating a relief area for the service animal?

While the ADA and EEOC do not specifically require the creation of a relief area, finding a suitable solution will be critical to making a service animal accommodation work.

A relief area need not be a grass strip; service animals can be trained to use an area that is paved – such as an alley – or other out of the way locations.

The employee with the service animal is responsible for cleaning up after it.

Some individuals are allergic to dogs. How can we deal with that?

As a rule of thumb, strategies that separate the service animal from the affected worker offer simple solutions.

The presence of another employee's mild allergy to a service animal is not usually a sufficient reason to prohibit the accommodation.

When can a service animal owner be asked to remove their animal from the workplace?

A service animal's professional behavior and good grooming are necessary for it to be protected under the ADA.

An individual may be asked to remove his or her service animal if it:

- Makes a mess on the floor.
- Bites or jumps on another employee.
- Wanders around, away from its owner. The animal must be under the owner's control.

A service animal may be removed if it continuously disturbs co-workers. For example, if the animal frequently barks. Still, it should first be determined if the service dog is barking as part of its job.

May an employer limit where a service animal is allowed to go in the workplace?

The service animal is not a pet, and it may need to be near the employee to provide its support. At the same time, health and safety regulations can restrict even a service animal.

Good solutions will need to be worked out on a case-by-case basis. The **Job Accommodation Network (JAN)** provides excellent (and free!) consultation with businesses regarding this exact issue. Call 800-526-7234, or look at their website - askjan.org - for downloadable suggestions on accommodating service animals.

The Northwest ADA Center also provides consultation about service animal accommodation issues. Call us at 800-949-4232.

About Our Organization

Northwest ADA Center provides technical assistance, information, and training regarding the Americans with Disabilities Act. Information is provided from the regional office in Washington State and state anchors in Alaska, Idaho, and Oregon. Specialists are available to answer specific questions pertaining to all titles of the ADA and accessibility of the built environment. Training staff offer presentations to businesses, organizations, schools, people with disabilities, and the general public.

Northwest ADA Center

800-949-4232 ♦ www.nwadacenter.org

For more information about service animals:

Pet Partners

www.petpartners.org

For more information about the ADA:

US Department of Justice

ADA Information Line

800-514-0301 (voice)

800-514-0383 (TTY)

www.ada.gov



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Alternate formats available upon request.