

Service Animals

Webinar Series: Wisconsin ADA Coordinators Association

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1. Service Animals:

Increasing Engagement in the Community for Persons with Disabilities

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2. Legal Disclaimer

Wisconsin ADA Coordinators Association

This webinar is not meant to be legal advice. Although we may refer to the Americans with Disabilities Act or similar state and local laws, this presentation is provided as an educational resource. Our goal is to give public entities a framework for accessibility and providing accommodations or modifications. We encourage attendees to seek guidance about their obligations from their own legal counsel.

3. What is a Service Animal? (1 of 2)

The Americans with Disabilities Act (ADA) defines a

Service Animal as:

A dog that is individual trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, environmental sensitivity, psychiatric, intellectual, or other mental health disability.

4. What is a Service Animal? (1 of 2)

The ADA does not exempt any particular breed of dogs that can serve as a service animal. No public entity or accommodation may exclude a service animal based on exemptions or stereotypes of the animal's breed or how the animal might behave.

Other species of animals are not considered service animals (i.e., rodents, reptiles, pigs, rabbits, monkeys, etc.).

Miniature horse is the exception.

5. Miniature horse exception

Reasonable modifications to permit a miniature horse that has been individually trained to do work or perform tasks.

There are assessment factors to assist entities in determining whether reasonable modifications can be made.

- ❖ Is the miniature horse housebroken?
- ❖ Is the miniature horse under the owner's control?
- ❖ Can the facility accommodate the miniature horse's type, size, and weight?
- ❖ Will the miniature horse's presence legitimately not compromise the safety requirements necessary for safe operation of the facility?

6. Service Animals: Questions You Can Ask

Under the ADA, there are only two questions you may ask:

- Is the service animal required due to a disability?
- What task(s) or work does the animal perform for the benefit of their disability?

7. Work A Service Animal May Perform

A few tasks that may be provided by service animals include:

- Alerting persons with hearing impairments to sounds.
- Pulling wheelchairs or carrying and picking up things for persons with mobility impairments.
- Alert persons with diabetes upon detection of a change in blood sugar levels or onset of seizures.
- Guiding individuals that are blind or have low vision.

8. Accommodating Service Animals (1 of 3)

- Public entities and/or accommodations shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.
- A service animal is permitted to accompany an individual with a disability to all areas of a facility including establishments that sell or prepare food.
- Public entities and accommodations are not required to sit or fed service animals at tables.
- Service animal can be excluded from some areas of a facility, i.e., sterile environments such as burn units or operating rooms.

9. Accommodating Service Animals (2 of 3)

- A service animal may accompany a person with disabilities to a pool/spa area; however, service animals can be prohibited entry to pools/spas based on legitimate health/safety concerns.
- Allergies? Accommodate both the individual with a service animal and the individual with allergies by separating them as much as possible.
- Individuals with service animals cannot be isolated.
- Surcharges cannot be imposed on individuals accompanied by service animals.

10. Accommodating Service Animals (3 of 3)

The ADA does not require animals be registered as a service animal but service animal handlers' must comply with State or local license and vaccination laws.

11. Service Animal Handlers' Responsibilities

- Service animal handlers are to maintain a service animal on a leash, harness or tether unless doing so would hinder the animal from performing its task(s).
- Untethered animals must be under control by voice control, signals, or other effective means.
- Service animals are to be with the handler at ALL times, service animals shall not be left unattended.
- Service animal handlers are responsible for the care and supervision of their service animal.

12. Removal of Service Animals from a Premise

An individual with a disability may be asked to remove a service animal from the premises if –

- The animal is not under the handler's control and does not take effective action to control it; or
- The animal is not housebroken; however, confirm the animal is not sick.
- An individual with a disability can return after the animal has been removed.
- They would need to make arrangements for the service animal's care, that would not be a public entity's or accommodation's responsibility.

13. Emotional Support Animals

Emotional support, therapy, comfort, or companion animals are not considered service animals.

- To be considered a service animal, the animal must be trained to perform work or task(s) for the benefit of a person with a disability.
- Animals may provide emotional support, therapy, or comfort just by being with an individual.
- Under the Fair Housing Act, emotional support animals are permitted in the housing environment.

14. Employment: Totally Different Rules – ADA Title I (1 of 3)

- Use of an Emotional Support Animals or a Service Animal may be a "reasonable accommodation" for a qualified individual with a disability in the employment setting.
- Documentation of such need is permitted as with any accommodation request.
- The ADA provisions or limitations related to Service Animals and Emotional Support Animals are contained within Title II and III of the ADA. These provisions do not apply to Title I circumstances.

15. Employment: Totally Different Rules - EEOC (2 of 3)

The Equal Employment Opportunity Commission (EEOC) has issued guidance related to reasonable accommodations in the workplace which may include modifying policy and procedure to allow for the presence of an emotional support animal or service animal if necessary to enable a qualified person with a disability to engage in their work-related activities/responsibilities.

16. Employment: Totally Different Rules – FDA Food Code (3 of 3)

Food & Drug Administration (FDA) Food Code

- Prohibits the handling of animals but does permit employees to use service animals.
- Live animals may be allowed on the premises of a food establishments. In areas not used for food preparation and usually open for customers, such as dining and sales areas, service animals that are controlled by disabled employee or customer are permitted, if a health or safety hazard will not result from the presence or activities of the service animal.

17. Wisconsin Laws on Service and Emotional Support Animals

Four images (left to right)

1. Person with a disability and guide dog.
Golden Labrador with red harness held by a man walking.
2. Person with disability and miniature horse.
Miniature horse with a red vest and red harness held by a man walking.
3. Emotional support cat lying on a computer keyboard.
4. Emotional support ferret lying on an individual's hand.

18. Service Animals Definition: Wisconsin

- Service Animal, in public accommodations, under Wisconsin Statute is defined as:
- A guide dog, signal dog, or other animal that is individually trained or is being trained to do work or perform tasks for the benefit of a person with a disability, including the work or task of guiding a person with impaired vision, alerting a person with impaired hearing to intruders or sound, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

19. Accommodating Service Animals: Wisconsin (1 of 2)

Places of public accommodations or amusements shall not -

- Refuse entry, deny the full and equal enjoyment to a person with a disability or service animal trainer if accompanied with a service animal or animal in training.
- Impose surcharges on persons with disabilities or service animal trainers if accompanied with a service animal or animal in training.

20. Accommodating Service Animals: Wisconsin (2 of 2)

- Directly or indirectly publish, circulate, display, or mail any written communication if that may affect the entrance into or use of, or the full and equal enjoyment of any public place of accommodation or amusement to a person with a disability or a service animal trainer because the person with a disability or the trainer is accompanied by a service animal.
- A service animal is permitted to accompany an individual with a disability or service animal trainer to all areas of a facility including establishments that sell or prepare food.
- Individuals with service animals cannot be isolated from their animal.

21. Service Animal Handlers' Responsibilities: Wisconsin

- Service animals in training are to be harnessed or leashed and wearing a special cape. Service animals not harnessed or leashed and wearing a special cape will not be afforded the rights of a service animal in training.
- Service animal trainers may be asked to produce a certification or other credential issued by a school for training service animals that the animal is being trained to be a service animals. (PWDs are not required to have training credentials.)
- Service animals are required to be vaccinated and licensed as per municipal ordinances.

22. Removal of Service Animals from a Premise: Wisconsin

An individual with a disability may be asked to remove a service animal from the premises if –

- Accommodating a service animal would result in a fundamental alteration to the nature of the accommodation,
- Or would jeopardize the safe operation of the place of public accommodation.

23. Emotional Support Animals: Wisconsin

- Wisconsin Statute defines an emotional support animal as animal that provides emotional support, well-being, comfort, or companionship for an individual but that is not trained to perform tasks for the benefit of an individual with a disability.
- Under the Fair Housing Act and Wisconsin Statutes emotional support animals are permitted in the housing environment.

24. Crimes Against Service Animals: Wisconsin (1 of 2)

Harassment against service dogs includes:

- An individual recklessly or intentionally interfering with the use of the service dog by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user.
- An individual recklessly or intentionally allowing their dog to interfering with the use of a service dog by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user.
- An individual recklessly or intentionally injuring a service dog or recklessly allow his or her dog to injure a service dog.

25. Crimes Against Service Animals: Wisconsin (2 of 2)

- An individual recklessly or intentionally causing the death of a service dog.
- An individual taking possession of or exerting control over a service dog without the consent of its owner or user and with the intent to deprive another of the use of the service dog.

26. Swimming Facilities Act

- The animal may be denied access if it poses a direct threat to the health and safety of the patrons or the function of the sanitary conditions of the facility.
- The animal may be permitted to access the pool decking when performing work for the benefit of the handler.
- Requires public entities or accommodations to allow a person with a disability to use a service animal if it has been trained to perform a specific task or work in the water.

27. Frequently Asked Questions and Answers - FAQs (1 of 12)

Q. Can a person bring a service animal with them as they go through a salad bar or other self-service food lines

A. Yes. Service animals must be allowed to accompany their handlers to and through self-service food lines. Similarly, service animals may not be prohibited from communal food preparation areas, such as are commonly found in shelters or dormitories.

28. Frequently Asked Questions and Answers - FAQs (2 of 12)

Q. 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.

29. Frequently Asked Questions and Answers - FAQs (3 of 12)

Q. Is a lodging establishment required to allow someone to leave their service animal in their room when unoccupied??

A. No, the service animal should be with the handler at all times and not left alone in the unoccupied room.

30. Frequently Asked Questions and Answers - FAQs (4 of 12)

Q. Is a lodging establishment required to allow someone who uses a service animal to bring their service animal into the swimming pool?

A. No. Entities may prohibit a dog from entering into a pool or spa based on legitimate health and safety concerns. A service animal may accompany a person with a disability to the pool/spa area and be anywhere that the public is allowed (deck, shower/bathroom, etc.).

31. Frequently Asked Questions and Answers - FAQs (5 of 12)

Q. Can a service animal be denied access to a restaurant or bar if other patrons in the establishment are allergic to or afraid of dogs?

A. No. The person with a disability and the service animal cannot be denied access due to the fears and/or allergies that patrons may have. This is a customer service issue and the establishment should consider options for reseating affected patrons as warranted or identify other viable alternatives.

32. Frequently Asked Questions and Answers - FAQs (6 of 12)

Q. When can service animals be excluded?

A. If a 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.

33. Frequently Asked Questions and Answers - FAQs (7 of 12)

Q. Can we require someone to register their dog as a service animal? Is this legal under the ADA?

A. No. Mandatory registration of service animals is not permissible under the ADA.

34. Frequently Asked Questions and Answers - FAQs (8 of 12)

Q. A city/county requires all dogs to be vaccinated, does this apply to service animals?

A. Yes. Individuals who have service animals are not exempt from local animal control or public health requirements does not take effective action to control it or if it is not housebroken, that animal may be excluded.

35. Frequently Asked Questions and Answers - FAQs (9 of 12)

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

A. No. A service animal may not be excluded based on assumptions or stereotypes about the animal's breed or how the animal might behave.

Note: 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.

36. Frequently Asked Questions and Answers - FAQs (10 of 12)

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

A1. The service animal should be at the handler's side at all times unless the animal's work requires some separation.

A2. Not if a leash or being tethered would impede the service animal from completing its work.

A3. Not if barking is part the service animal's work.

37. Frequently Asked Questions and Answers - FAQs (11 of 12)

Q. What can be done 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 but cannot deny the individual access.

38. Frequently Asked Questions and Answers - FAQs (12 of 12)

Q. May a request to use a service animal by an employee as a reasonable accommodation be automatically rejected by a restaurant?

A. No. An employer may not automatically reject this request from a person with a disability. The FDA Food Code has special rules for service animals.

Section 2-403.11 prohibits handling of animals but allows employees to use service animals.

Section 6- 501.115 states that service animals may be permitted in areas not used for food preparation.

39. Questions?

40. Technical Assistance

[Wisconsin ADA Coordinators Association](#)

Phone: 414-268-8307

Web: adawicoordinators.org

[U.S. Department of Justice \(DOJ\)](#)

Phone: (800) 514-0301

Web: ada.gov

[Great Lakes ADA Center](#)

Phone: (800) 949-4232

Web: adagreatlakes.org

[U.S. Equal Employment Opportunity Commission \(EEOC\)](#)

Phone: (800) 669-4000

Web: eeoc.gov

41. Technical Assistance Materials

[Revised ADA Requirements: Service Animals](#)

Web: ada.gov/service_animals_2010.html

[How to Comply with the ADA: A Guide for Restaurants and Other Food Service Employers](#)

Web: eeoc.gov/facts/restaurant_guide.html

[Service Animal Resource Hub – ADA National Network](#)

Web: adata.org/service-animal-resource-hub