



National Wildfire Coordinating Group Incident Business Committee

April 17, 2019

Guide to Service Animals on Incidents

There are four classifications of animals that provide aid to individuals: Service, Assistance, Emotional Support, and Therapy. This document provides guidance for the use of service animals on incidents.

Service Animals

Service animals are defined as dogs or miniature horses that are individually trained to do work or perform tasks for people with disabilities. A service animal is not an animal that primarily provides emotional support, comfort, and/or companionship for a person with a disability. These animals are commonly referred to as a companion or assistance animals.

Examples of the work or tasks service animals might 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 prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other tasks.

The use of a service animal is a reasonable accommodation an employer provides to an employee with a disability. “Any personnel, regardless of hiring status (regular government or casual), who requires a reasonable accommodation (RA) to perform duties in an incident environment, must have written approval for that RA from their home-unit Human Resources or Civil Rights office. Prior to accepting an assignment, individuals should alert the incident of the RA needs so the IC and Agency Administrator can determine if the RA can be provided. If the RA cannot be satisfied, the individual should refuse the assignment. Should an accommodation be requested during the incident, the request must be referred back to the employee’s hiring unit for adjudication per agency policy” (NWCG Standards for Interagency Incident Business Management, Ch. 10, p. 10-24).

If an employee is provided a reasonable accommodation, the accommodation extends to all aspects of their employment, including privileges and benefits. Responding to fire and all-hazard incidents would be classified under “privileges and benefits”, unless those duties are part of the job the employee was hired to perform. Therefore, if an employee assigned to an incident requires a service animal and management agrees to allow the employee to respond with the service animal, the agency is responsible to pay the fees associated with the travel. Fees should be charged to the appropriate financial code for the incident or event.

- **Medical expenses for a service animal that is accompanying a traveler on government business are not reimbursable as per the 41 CFR 302.16.2, the U.S. Civilian Board of Contract Appeals’ (CBCA) decision. These costs include inoculations, examinations, and boarding quarantine.**

The definition of service animals does not affect or limit the broader definition of “assistance animal” under the Fair Housing Act or the broader definition of “service animal” under the Air Carrier Access Act. Some State and local laws also define service animals more broadly than the Americans with Disabilities Act (ADA) does. Information about such laws can be obtained from the individual State’s Attorney General’s office.

Staff may not ask about a person's disability, require medical documentation, require a special identification card or training documentation for the animal, or ask the animal to demonstrate its ability to perform the work or task.

- Service animals are not required to be listed on a registry, possess paperwork declaring the animal as a service animal or wear a service animal vest, ID tag, or special harness.
 - There are individuals and organizations that sell service animal certifications or registration documents online. These documents do not convey any rights under the ADA, nor does the Department of Justice recognize them as proof that they are a service animal.
- When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions:
 1. is the animal a service animal that is required because of a disability, and
 2. what work or task has the animal been trained to perform?

State and local governments, businesses, and non-profit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go.

- For example, in a hospital it would be inappropriate to exclude a service animal from areas such as patient rooms, clinics, cafeterias, or examination rooms. However, it may be appropriate to exclude a service animal from operating rooms or burn units where the animal's presence may compromise a sterile environment.
- Establishments that sell or prepare food must allow service animals in public areas even if State or local health codes prohibit animals on the premises.
 - The mere presence of a service animal in a place of public accommodation is not grounds for any violation of a sanitary standard, rule, or regulation.

People with disabilities who use service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals. In addition, if a business requires a deposit or fees to be paid by patrons with pets, it must waive the charge for service animals.

- If a business such as a hotel normally charges guests for damage that they cause, a customer with a disability may also be charged for damage caused by himself or his service animal.

When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.

Under the ADA:

- A service animal must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls. This also means the service animal should not be able to bark repeatedly.
- A service animal is a working animal and not a pet; therefore, they should not be petted, fed, or instructed to perform tasks by individuals other than their handler. The work or task a service animal has been trained to provide must be directly related to the person's disability.

- Staff are not required to provide care or food for the service animal.

Dogs

Any breed of dog can be a service animal. If a municipality prohibits a specific breed of dog, they must make an exception for a service animal, 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.

- A person with a disability cannot be asked to remove the service animal from the premises unless:
 1. the dog is out of control and the handler does not take effective action to control it, or
 2. the dog is not housebroken.
- Allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals.
 - When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility (e.g., in a school classroom or at a homeless shelter), they should both be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.

Miniature Horses

Miniature horses that have been trained to do work or perform tasks for people with disabilities now have their own provision in the ADA regulations.

- Miniature horses normally range in height from 24 inches to 34 inches measured to the shoulders and weigh between 70-100 pounds.
- Entities covered by the ADA must modify their policies to permit miniature horses where reasonable. The regulations establish four assessment factors to assist entities in determining whether they can be accommodated in their facility. They are:
 - whether the miniature horse is housebroken;
 - whether the miniature horse is under the owner’s control;
 - whether the facility can accommodate the miniature horse’s type, size, and weight; and
 - whether the miniature horse’s presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

Companion or Assistance Animals

Companion or assistance animals are not protected under the ADA; however, they are protected under federal and state housing laws. Some State and local governments have laws that allow people to take support animals into public places. Check with the State or local government agencies to receive further information on local laws.

- Businesses and other public entities are not required to allow companion or assistance animals into or on their properties

- 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 to take a specific action to help avoid the attack or lessen its impacts, then 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.

To obtain further information, contact the ADA Information line at 800-514-0301 (Voice) and 800- 514-0383 (TTY); Monday-Wednesday, Friday 0930-1730, Thursday 1230-1730 Eastern Time) to speak with an ADA Specialist. All calls are confidential.

Each State and local government may have additional laws that address service animals. Contact the appropriate State's Attorney General's office to obtain information on State and local government regulations pertaining to service animals.

For more information on the legal context for service animal use and definitions visit:

<https://www.avma.org/KB/Resources/Reference/AnimalWelfare/Pages/Service-Emotional-Support-Therapy-Animals.aspx>

References

-- www.ada.gov

-- 28 CFR Part 35 – Non-discrimination on the Basis of Disability in State and Local Government Services

-- 28 CFR Part 36 -- Non-discrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities

--NWCG Standards for Interagency Incident Business Management