



Episode 50: Service Animals Follow Up Questions

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The following questions were asked during the November 1, 2017 radio show that time did not permit the presenters to answer on air.

QUESTION. I have a chocolate Labrador that is my service animal. I also have an English Bulldog that is my pet. My HOA has a one pet limit. They say I need to get rid of my Bulldog. Do I have to do this?

ANSWER. This situation falls under the Fair Housing Act (FHA) not the ADA. One type of disability discrimination prohibited by the Act is the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling. You may request a waiver to the pet limit policy to permit both your pet and your service animal.

QUESTION. Can private colleges ask students to submit a request to bring a service animal to campus?

ANSWER. Under the ADA, colleges and universities must allow people with disabilities to bring their service animals into all areas of the facility that are open to the public or to students. Generally an individual cannot be asked to provide documentation as to their need for their service animal nor does an individual need to ask permission to take their service animal wherever people are permitted to go in the general public.

Colleges and universities may have a policy asking students who use service animals to contact the school's Disability Services Coordinator to register as a student with a

disability; however, such a policy cannot be mandatory. Higher education institutions may not require any documentation about the training or certification of a service animal. They may, however, require proof that a service animal has any vaccinations required by state or local laws that apply to all animals.

QUESTION. I run an allergy clinic. Do I have to allow service animals inside?

ANSWER. If someone who needs the services provided at an allergy clinic has a service animal they must be permitted to have their service animal with them. If another patient at the clinic is allergic to animal dander (this person would need to meet the ADA definition of disability – see below) then this patient would need to be accommodated. Perhaps there is another waiting room that could be used by one of the patients or if necessary the staff break room could be utilized. Patients who use service animals and those with severe allergies to animal dander could have their files “flagged” so they are not scheduled for appointments within X hours of each other. Remember, a service animal can be removed only if it is not housebroken or is not under the control of the handler.

In order to be protected under the ADA an individual must meet the definition of disability as defined by the ADA. That definition, found at 42 Code of Federal Regulations Chapter 126 [<http://www.ada.gov/pubs/adastatute08.htm>] is

(1) Disability

The term "disability" means, with respect to an individual

(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment (as described in paragraph (3)).

(2) Major Life Activities

(A) In general

For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

(B) Major bodily functions

For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

QUESTION. Is there a universal definition of therapy animal?

ANSWER. To our knowledge there is not a universally accepted definition of therapy animal. A therapy animal could be an animal that has gone through specific training to provide comfort/support to people who, for example, live in nursing homes/dementia units or who are going through cancer treatment. These therapy animals typically wear a vest stating they are a therapy animal. These animals visit facilities rather than going into individual homes. Sometimes a health care provider will use the term therapy animal in place of emotional support animal for Fair Housing Act purposes. A therapy animal is not a service animal and generally these animals do not have rights to be in the general public.

QUESTION. I manage vacation rental units. Do I have to allow a service animal in a no pets unit?

ANSWER. The answer to this question depends on many factors including whether the property/units meet the ADA definition of place of lodging. Due to the complexity of this response we suggest you contact your regional ADA Center at 1.800.949.4232

QUESTION. Under the employment provisions of the ADA (Title I) is there a difference between a guide dog as a reasonable accommodation and a service animal as a reasonable accommodation?

ANSWER. Guide dogs are a service animal whose job/service is to guide a visually impaired individual within their home, community and work environment. Whereas an employer could deny a request from a qualified employee with a disability to have their service animal as a reasonable accommodation if they provide an equally effective accommodation they should not deny the use of a guide dog. A guide dog typically performs numerous services before the employee enters the work site. These services may include navigating with the home, assistance with getting to a bus stop and utilizing public transportation, negotiating access to the work environment from the employee entrance to the employee's actual work site. Often guide dogs remain curled at the feet of their handler during the work day unseen by other employees. They may be used on the work site to navigate to toilet facilities, the break room and within the employee's work area.

QUESTION. If I want to bring a therapy animal into my facility, are there different requirements for this as opposed to just getting it for an individual? Do we have to have documentation on file to show that it is not just a staff member's pet?

ANSWER. An employer has no requirements to permit therapy animals in the workplace that are not required for a specific employee with a disability. Keep in mind that emotional support/therapy/companion animals are not recognized under the ADA and do not need to be permitted in the general public. Depending upon your work environment a therapy animal may be beneficial (long-term residential care facility, Hospice facility, cancer center, etc.). If you work at such a facility you can always approach your employer with this request. Your employer may require certification/proof that the animal has gone through therapy animal training.

Resources

[Service Animals – ADA Fact Sheet](http://adata.org/factsheet/service-animals)

<http://adata.org/factsheet/service-animals>

[ADA Revised Requirements: Service Animals](http://adata.org/factsheet/service-animals)

<http://adata.org/factsheet/service-animals>

[Frequently Asked Questions about Service Animals and the ADA](http://www.ada.gov/regs2010/service_animal_qa.html)

http://www.ada.gov/regs2010/service_animal_qa.html

[Service Animals and Emotional Support Animals](https://adata.org/publication/service-animals-booklet)

<https://adata.org/publication/service-animals-booklet>

[ADA Legal Webinar Series - Service Animals, Emotional Support Animals, Pets and the Law \(July 20, 2016\)](https://www.accessibilityonline.org/ada-legal/archives/110480)

<https://www.accessibilityonline.org/ada-legal/archives/110480>

[ADA Legal Webinar Series - Service Animals and the ADA \(November 10, 2010\)](https://www.accessibilityonline.org/ada-legal/archives/10209)

<https://www.accessibilityonline.org/ada-legal/archives/10209>

[ADA Legal Webinar Series - Service Animals: Exploring the Rights of Persons with Disabilities to be Accompanied by Service Animals in Public Accommodations \(July 16, 2014\)](https://www.accessibilityonline.org/ada-legal/archives/10346)

<https://www.accessibilityonline.org/ada-legal/archives/10346>

[Emotional Support Animals and Waiver of “No Pets” Rules by Landlords](#)

Michigan State University Animals Legal & Historical Center

<https://www.animallaw.info/intro/emotional-support-animals-and-waiver-no-pets-rules-landlords>

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