



## **Episode 50: Service Animals**

**Event Date:** November 1, 2017

**Presenter:** Rebecca Williams, Information Specialist / Technical Assistance, Southeast ADA Center

**Host:** Cheri Hofmann, Distance Learning Coordinator / Information Specialist, Southeast ADA Center

**VOICE-OVER ANNOUNCER:** Blog Talk Radio. (Music) Welcome to WADA ADA Live! Talk radio. Brought to you by the Southeast ADA Center, your leader for information, training and guidance on the Americans with Disabilities Act. And here's your host.

**CHERI HOFMANN:** Good afternoon and welcome to WADA ADALive! On behalf of the Southeast ADA Center, Burton Blatt Institute at Syracuse University and the ADA National Network, we are excited to welcome our Internet radio audience to the 50th installment of the WADA ADALive. My name is Cheri Hofmann, and I'm the Distance Learning Coordinator for the Southeast ADA Center. And today's host . The topic of today's show is service animals. I'd like to introduce you to Rebecca Williams the Information Specialist, training and technical assistance for the southeast ADA Center in Atlanta, Georgia. Welcome, Rebecca.

**REBECCA WILLIAMS:** Thanks Cheri it's great to have this opportunity to be on WADA ADA and to share information with your listening audience.

**CHERI HOFMANN:** Well, Becky, in this episode, we will discuss the definition of a service animal and some of the issues involving access for individuals with disabilities using service animals. ADALive! Listening audience, please note that you're able to submit your questions via our online forum at ADALive.Org. Again, you may submit your questions via our online forum at ADALive.Org.

In 2010, the U.S. Department of Justice issued revised regulations for Titles II and III of the Americans With Disabilities Act. One of the changes was the definition of service animals. As of March 15, 2011, only dogs are defined as service animals under the new ADA regulations.

The revised ADA regulations also have a new, separate rule about miniature horses that have been individually trained to work or perform tasks for people with disabilities.

So Becky, let's start by examining the Department of Justice's revised definition of a service animal.

**REBECCA WILLIAMS:** Sure, Cheri. Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, retrieving dropped items for people with limited upper body mobility, alerting people who are deaf to sounds in their environment, pulling a wheelchair, or maybe alerting or protecting a person who is having seizures.

Other tasks might include reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder during an anxiety attack, keeping children with autism from fleeing premises or performing other duties. Service dogs are working animals, they are not pets. And the work or task a service dog has been trained to provide must be directly related to that person's disabilities.

Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

**CHERI HOFMANN:** Becky, I understand that the new regulations also include a separate section about miniature horses. Can miniature horses really be a service animal?

**REBECCA WILLIAMS:** Well, although not common, Cheri, miniature horses that have been individually trained to do work or perform tasks for people with disabilities are also permitted under the ADA. One common service a miniature horse might be do is to be used for stability for folks with mobility impairments. And there are also some exceptions in place for miniature horses when being used as service animals.

Miniature horses, Cheri, generally range in height from 24 to 34 inches measured to the shoulders and they generally weigh between 70 and 100 pounds. Entities covered by the ADA, which include state and local governments and private businesses, must modify their policies to permit miniature horses where this is reasonable. And that's the key, Cheri, where it is reasonable.

The regulations set out four assessment factors to assist places in determining whether a miniature horse can be accommodated in their facility. And these assessment factors include, one, whether the miniature horse is housebroken. Two, whether the miniature horse is under the owner's control. Three, whether the facility can accommodate the miniature horse's type, size and weight. And four, whether the

miniature horse's presence will compromise legitimate safety requirements necessary for the safe operation of the facility.

**CHERI HOFMANN:** Thank you, Becky. Well, let's go on to the next question. Where are people permitted to take their service animals?

**REBECCA WILLIAMS:** Good question, Cheri. Under Titles II and III of the ADA, state and local governments, businesses, and nonprofit organizations that serve the public 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, Cheri, 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.

And another important thing to remember, Cheri, is that in cases where the state or local laws or public health codes do not agree with Federal law, it's the law that is less restrictive for the person with the disability that takes priority.

**CHERI HOFMANN:** Thank you, again, Becky. Well, this will segue into do people who use a service animal have any requirements or responsibilities?

**REBECCA WILLIAMS:** Absolutely they do. Under the ADA, service animals must be harnessed, leashed, or tethered, unless the use of these devices interferes with the animal's work or with the individual's disability prevents the use of these devices. And in that case, the individual must maintain control of their service animal through voice, signal, or some other effective means of controlling. In addition, as we said before, service animals must be housebroken

**CHERI HOFMANN:** Okay. So, can a person be asked to remove their service animal from an establishment?

**REBECCA WILLIAMS:** Yes, they can. Under two specific circumstances. A person with a disability can be asked to remove their service animal from the business if the dog is out of control and that person does not take any effective action to control it. Or again, if the dog is not housebroken.

However, when there are legitimate reasons to ask that a service animal be removed, staff or business owners must still offer the person with the disability the opportunity to obtain the goods or services without the animal. So basically, what that means, Cheri, is if the animal is displaying bad behavior, not staying with the person with a disability, roaming around or growling at others, that animal can be removed but the individual with the disability must be permitted to return.

**CHERI HOFMANN:** Thank you, well, we have a question from our listening audience. So, Becky, can a business owner or staff person ask if a dog is a service animal?

**REBECCA WILLIAMS:** Absolutely. When it is not obvious what the dog provides, staff or business owners can ask two questions. The first one is, is the dog required because of a disability? And the second question is, what work or tasks has the dog been trained to perform? Now, the business owner can't ask about the person's disability. They can't require medical documentation. They can't require a special identification card or training documentation for the dog or ask that the dog demonstrate its ability to perform the work or tasks.

**CHERI HOFMANN:** Well, I want to add onto what business owner or employees can ask and ask, can I person with a service animal be asked to present certification or registration documents?

**REBECCA WILLIAMS:** That's a question we get all of the time, Cheri. The Department of Justice does not require, nor does it recognize, certification or registration of service animals. Now, many service animal training facilities provide documents that indicate the service animal was trained at their facility and what it has been trained to do. And that's great. And many people like having that documentation. However, many people also train their own service animals and, therefore, don't have such documentation. So, the short answer is, no, a person does not need to provide certification or registration documents.

**CHERI HOFMANN:** I hear a lot of people say that they don't want animals near their food. Can restaurants refuse to allow a service animal where food is being cooked or prepared?

**REBECCA WILLIAMS:** Well, again, remember, service animals can go anywhere the general public is allowed to go. And this includes restaurants. So restaurants must allow service animals in the public areas even if state and local health codes prohibit animals on the premises. So this means that at a restaurant a service animal must be allowed to accompany its owner to the salad bar or buffet but the service dog cannot go into the kitchen or other areas that are off limits to the general public.

The Department of Justice published a really great document on July 20th, 2015 titled frequently asked questions about service animals and the ADA. And one of these questions addresses service animals in restaurants. The question asks if restaurants, bars and other places that serve food or drink are required to allow service animals to be seated on chairs or allow the service animal to be fed at the table.

And actually, Cheri, I've had this call from folks to our ADA information line before. The Department of Justice says the answer is no. Seating, food and drink are

provided for customer use only. The ADA gives the person with the 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.

**CHERI HOFMANN:** Well, thank you, Becky. ADALive! Listeners, if you have a question, you want our guest speaker to answer, please submit your question via the ADALive! Online forum which is found at ADALive.Org. Again, you may submit your question via the ADALive! Online forum at ADALive.Org. Now, a word from our sponsor.

**VOICE-OVER ANNOUNCER:** The Southeast ADA Center is your leader in providing information, training and guidance on the Americans With Disabilities Act and disability access tailored to the needs of business, Government and individuals at local, state and regional levels. The southeast ADA Center located in Atlanta, Georgia, is a member of the ADA National Network and serves 8 states in the Southeast Region. For answers to your ADA questions, contact the ADA National Network at 1-800-949-4232

**CHERI HOFMANN:** Welcome back ADALive! Listening audience. We're continuing our discussion with Becky Williams, Information Specialist, training and technical assistance for the southeast ADA Center in Atlanta, Georgia. So welcome back, Becky.

Can I restaurant or a theater request that a person sit in the back away from other customers?

**REBECCA WILLIAMS:** Well, Cheri, a key component of the ADA is integration of people with disabilities into their community. Basically this means that people who use service animals cannot be isolated from other people or treated less favorably than others by restricting where they can be within a particular facility.

**CHERI HOFMANN:** Well, that's great. Thank you. We have a question from our listening audience in Mississippi. The caller states that his employer asked for a letter from his doctor explaining why he needs a service animal at work. The caller wants to know if he has to provide this information.

**REBECCA WILLIAMS:** Another great question, Cheri. Service animals in the workplace are treated differently than service animals in the general public. According to the Equal Employment Opportunity Commission, or the EEOC, they are the enforcing agency for employment discrimination complaints, Title I, which is the employment title of the ADA, does not require employers to automatically allow employees to bring their service animals to work. Instead, allowing the service animal into the workplace is a form of a reasonable accommodation, and if the employer can

find a different accommodation that's equally effective, the ADA permits employers to decide on that accommodation instead. When it comes to reasonable accommodation under Title I of the ADA, employers have the right to request reasonable documentation that an accommodation is needed and that the employee meets the definition of disability under the law. In addition, the work or task performed by the service animal must be directly related to the individual's disability. So that's a little different. Where in the general public a business can't ask for medical information. But an employer absolutely can.

**CHERI HOFMANN:** And I think that's really important for our listening audience to hear. Our technical assistance team has received many calls about landlords saying a person with a disability can't keep their service animal. Is that against the ADA?

**REBECCA WILLIAMS:** Well, housing and service animals can get a little complicated. But the main point to remember is that the definition of a service animal is different in housing situations than it is under the ADA. Housing is typically covered by the Fair Housing Act. And by regulations developed by the United States Department of Housing and Urban Development for the Fair Housing Act and for Section 504 of the Rehabilitation Act.

Under the Fair Housing Act and Section 504 of the Rehab Act, people with disabilities in housing situations may request a reasonable accommodation for their assistance animal, including emotional support animals. The reasonable accommodation provisions of both laws must be considered in situations where people with disabilities use or seek to use their service animals or assistance animals in housing, even where the provider forbids residents from having pets or otherwise has restrictions or conditions relating to pets or other animals, such as size or breed restrictions.

Since housing can get complicated, Cheri, and may involve more than one civil rights law, I suggest that if listeners have questions about assistance animals in housing, they contact their regional ADA Center at 1-800-949-4232.

**CHERI HOFMANN:** Well, thank you, Becky. So my next question is many hotels charge a pet deposit fee. Can a hotel charge a deposit when a guest has a service animal?

**REBECCA WILLIAMS:** Nope, they cannot. This would be considered a surcharge under the ADA. Remember that service animals are not pets. So even if a business requires a deposit or a fee to be paid by customers with pets, they must waive the charge for service animals. In addition, the ADA requires hotels to allow service animals throughout the facility, even if they have a no pet policy. However, if the business such as a hotel normally charges guests for damages they cause, a customer with a disability may also be charged for the damage caused by that area of

the facility. Folks might be surprised to learn that the DOJ has stated service animals are not to be left in hotel rooms when the guest goes out. And the reasoning behind this, Cheri, is that service animals must always be under the control of their handler and this can't occur if the service animal is left alone

**CHERI HOFMANN:** That's interesting. So let me go on with another hotel/motel question. Can a hotel designate a specific group of rooms for guests with service animals?

**REBECCA WILLIAMS:** I've actually had that question from some hotel managers before, Cheri. No, they can't. Guests with disabilities, including those with service animals, must be able stay in rooms with various amenities such as suites, king beds, double beds, rooms with sofa sleepers, rooms with kitchenettes, rooms with an ocean view, all of that sort of thing. And so limiting the type of rooms available to guests who have service animals is not permitted

**CHERI HOFMANN:** Well, thank you again. WADA Live! Listening audience if you should have a question that you would like to submit, you may do so by using our online forum at ADALive.Org. Again, you may submit your questions through our ADALive! Online forum at ADALive.Org. Now a word from our sponsor.

**VOICE-OVER ANNOUNCER:** The ADA National Network provides information, guidance and training on the Americans With Disabilities Act tailored to meet the needs of business, Government, and individuals at local, regional and national levels. The ADA National Network consists of 10 regional ADA centers. In the United States providing local assistance to insure the ADA is implemented wherever possible the ADA National Network is not an enforcement agency but a helpful resource supporting the ADA's mission to make it possible for everyone with a disability to live a life of freedom and equality.

**CHERI HOFMANN:** Welcome back to WADA ADALive! Audience. We're continuing our question and answering discussion on service animals with Becky Williams, Information Specialist, training and technical assistance for the southeast ADA Center.

So Becky, we have another question from our listening audience. We have a customer that brings her dog into our grocery store. She puts the dog on the child seat area of the shopping cart. Do we have to allow this?

**REBECCA WILLIAMS:** This is one of those great questions that the Department of Justice addresses in the document I referenced earlier, the questions and answers about service animals and the ADA. Generally, the dog must stay on the floor or the person must carry the dog. It cannot sit in the cart. Now, some service animals need to be close to their handlers to detect a specific medical condition. And usually when

this is the case, the handler will carry the service animal in a handbag type carrier or sometimes they will have a backpack that they wear kind of reversed with the pack to the front so their service animal is close to them. But again short answer is, nope, service animals should not be riding in a grocery cart.

**CHERI HOFMANN:** Well, that's useful information, Becky. Well, now I have a question. If a woman came into a business with two dogs and she said they are both service animals, can a person have more than one service animal?

**REBECCA WILLIAMS:** It's not often that we hear this question. But on rare occasions, the topic has come up at training or sometimes from a caller. And yes, a person may have two service animals for a couple of different reasons. It could be because he or she needs help with different tasks and one dog hasn't been trained to do both. Let's say, for example, one dog may have been trained to be an alert dog while the other is trained to pick up dropped items or to help with mobility. So it really depends on what the dogs are trained to do. And other times somebody may have two dogs that do the same job. But usually this is because one dog is nearing retirement and the other one is just starting. So, the younger one is present to mirror the retiring dog's behavior. But normally the handler won't work two dogs at the same time.

**CHERI HOFMANN:** Well, our listening audience is getting a lot of great information today. We have another question from our listening audience. This is from Florida. What if someone who does not have a disability brings in a dog and she says it's a service animal in training?

**REBECCA WILLIAMS:** Another great question, Cheri. The Americans With Disabilities Act requires that service animals have been trained. They know their job and they are doing their job. The ADA does not apply to service animals in training. So under the Federal ADA, people who are training service animals don't have the right to take that service animal in training with them in the general public. However, some state laws do cover service animals that are being trained. And I know that in Florida this is true. Service animals in training can accompany the trainer. I would like to caution your listening audience, though, that some states require service animals in training be with a trainer from a service animal training facility. And that these individuals must be able to produce documentation indicating where they work.

So folks really should check with their state statutes on service animal laws to see if there are protections for folks who are training service animals and to whom it applies. It may protect anybody training a service animal. And then it maybe you've got to be with the service animal school in order to have protections.

**CHERI HOFMANN:** Okay. So I would think that if they have further questions, they can call their regional ADA Center. So we have another question. And it's coming in

from South Carolina now. She said, I own a hair salon. And a customer came in with a service dog last week. One of my employees is afraid of dogs. Next time, can I tell the customer that the dog has to stay outside because my employee is afraid?

**REBECCA WILLIAMS:** This is sort of an employment and service animal question. Fear of dogs or allergies are not valid reasons for denying access or refusing service to people who use service animals. Remember, a person with a disability cannot be asked to remove their service animal unless the dog is out of control or is not housebroken. So if an employee is afraid of dogs, perhaps arrangements could be made for that employee to work at a different station when the customer is in the salon. Or maybe they could be permitted to take a break during that time.

Now, however if an employee is highly allergic to pet dander and this employee meets the definition of disability under the ADA then the employer will have to look at accommodating the employee with the allergy when the customer comes into the shop.

**CHERI HOFMANN:** Well, thank you so much, Becky. We will be wrapping up this session and we have time for one final question. And it is, if an apartment or a housing complex or a place of business will not accept service animals, who should individuals contact to file a complaint?

**REBECCA WILLIAMS:** Good last question, Cheri. And this question has a two-part answer. To file a housing complaint, people can either file a complaint online at [HUD.gov/complaints](https://www.hud.gov/complaints). That would be [HUD.gov/complaints](https://www.hud.gov/complaints). Or they can contact the Housing Discrimination Hotline at 1-800-669-9777. Housing discrimination complaints will be viewed by a fair housing specialist to determine if an alleged act might violate the Fair Housing Act. Now, if a business has refused to allow someone to enter with their service animal, this complaint would be handled by the Office for Civil Rights in the United States Department of Justice. Folks can learn more about filing an ADA complaint by visiting [ada.gov/filing\\_underscore\\_complaints.htm](https://www.ada.gov/filing_underscore_complaints.htm). And folks can also file a complaint by email at [ADA.complaint@usdoj.gov](mailto:ADA.complaint@usdoj.gov). In addition, folks can always call our toll free line for technical assistance at 1-800-949-4232.

**CHERI HOFMANN:** Well, I would like to thank our listening audience for all of their great questions. And you, Becky at this time. We'd like to offer our listening audience a few take-aways. Can you give us a few take-aways, Becky?

**REBECCA WILLIAMS:** Sure, Cheri. The key things to remember about service animals are, No. 1, they are dogs. And in some unusual circumstances maybe a miniature horse. No. 2, state and local governments and private businesses must allow service animals anywhere within the facilities the general public is allowed to go. No. 3, there are only two questions that can be asked, which is, is the dog required

because of a disability? And what work or tasks has the dog been trained to perform? Four, people with service animals have some responsibilities. And that is to make sure they keep their service dog under control at all times. The fifth point is service animals in the employment realm are handled differently than service animals in the general public. That's a whole other part of the ADA. And that individual would need to talk about accommodations with their employer.

And I think the last point is that housing situations are typically covered by the Fair Housing Act, which states that not only trained service animals, but emotional support animals must be considered as a reasonable accommodation or accommodation -- reasonable modification or accommodation under the Fair Housing Act.

**CHERI HOFMANN:** Well, I'm glad we were able to get a recap of all of this information. Once again, I would like to thank the WADA Live! Listening audience for listening in on today's show on service animals. If listeners were unable to submit a question and you still have a question about the ADA, please contact at 1-800-949-4232. That number again is 1-800-949-4232. All of your questions are very important to us and will be held in the strictest of confidence. At this time, I would like to thank Becky Williams for joining us today.

The Southeast ADA Center is extremely grateful for your support and participation in this series of WADA ADALive! Broadcasts. Don't forget to tell your friends about ADALive. Like us on Facebook, tweet about us on ADALIVE or share an update with your LinkedIn colleagues. Join us next month on the first Wednesday December 6th. See you next month on WADA ADALive.

**VOICE-OVER ANNOUNCER:** [Music]. Thank you for listening to ADA Live! Talk radio. Brought to you by the Southeast ADA Center. Remember to join us the first Wednesday of each month for another ADA topic, and you can call 1-800-949-4232 for answers to your ADA.

\*\*\*

REMOTE CART PROVIDED BY:  
ALTERNATIVE COMMUNICATION SERVICES, LLC  
P.O. BOX 278  
LOMBARD, IL 60148

Remote CART, Communication Access Realtime Translation, is provided in order to facilitate communication accessibility and may not be an exact record of the proceedings.