



ADA Action Guide

City of Lebanon Tennessee

Service Animals - Dogs

One of the most common, confusing, and contentious requests for reasonable modifications of policies, practices, or procedures concerns service animals.

Title II Regulations 28 § 35.104

Many people with disabilities use a service animal to fully participate in everyday life. Dogs can be trained to perform tasks such as:

- Guiding a person who is blind.
- Providing stability for a person who has difficulty walking.
- Alerting a person who has hearing loss when someone is approaching from behind.
- Picking up items for a person who uses a wheelchair.
- Preventing a child with autism from wandering away.
- 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.

Title II makes a distinction between psychiatric service animals and emotional support animals. If a dog has been trained to sense an oncoming anxiety attack and acts to help avoid the attack or lessen its impact, the dog would qualify as a service animal. However, if the dog's mere presence provides comfort, that would not be considered a service animal.

People with disabilities are not required to use a professional training program; they have the right to train the dogs themselves. A public entity cannot require medical documentation of disability, a service animal identification card, a special vest or training documentation.

When it is not obvious what service a dog provides, a public entity may ask two questions:

1. Is the dog a service animal required because of a disability?
2. What work or task has the dog been trained to perform?

A public entity is not required to permit a service animal if the animal would create a legitimate safety risk or would fundamentally alter the nature of a public entity's programs, services, or activities.

Examples

- In a state hospital a service animal must be allowed to accompany a person with a disability in patient rooms or examination rooms. However, the hospital may exclude the animal from operating rooms where the animal would compromise a sterile environment.
- A city zoo has animals that are natural predators of dogs. If the dog's presence would be disruptive, the city does not have to permit the service animal because its presence would fundamentally alter the nature of the program.

Public entities may also exclude service animals if the animal is out of control and the handler does not regain control; the animal is not housebroken; or the animal poses a direct threat, based on the animal's behavior or history. Public entities may not restrict particular breeds.

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, for example, in a school classroom or at a homeless shelter, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.

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.

Service animals must be under the control of the handler and be harnessed or leashed, unless these devices interfere with the animal's work or the person's disability prevents using these devices. In that case, the person must maintain control of the animal through voice, signal, or other controls. Staff are not required to provide care or food for a service animal.

A public entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. Generally, a public entity may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

Title II Regulations 28 § 35.136

Service animals:

(a) General. Generally, a public entity shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

(b) Exceptions. A public entity may ask an individual with a disability to remove a service animal from the premises if— (1) The animal is out of control and the animal's handler does not take effective action to control it; or (2) The animal is not housebroken. (c) If an animal is properly excluded. If a public entity properly excludes a service animal under § 35.136(b), it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises. (d) Animal under handler's control. A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means). (e) Care or supervision. A public entity is not responsible for the care or supervision of a service animal. (f) Inquiries. A public entity shall not ask about the nature or extent of a person's disability but may make two inquiries to determine whether an animal qualifies as a service animal. A public entity may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. A public entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. Generally, a public entity may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).