



## Americans with Disabilities Act Title II & Title III Revised Regulations Fact Sheet Series

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## #5 - Service Animals



The Department of Justice has issued revised ADA Title II (state and local government programs) and Title III (private businesses, a.k.a. places of public accommodation) regulations which took effect March 15, 2011. These regulations revise the definition of service animal and add additional provisions. (§35.104, §35.136, §36.104, §36.302)

### Definition

A service animal is any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not considered to be service animals. The work or tasks performed by a service animal must be directly related to the handler's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping individuals with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks and as such do not meet the definition of a service animal.

### Miniature Horses

A public entity or private business shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse as a service animal by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability subject to an assessment of the type, size, and weight of the miniature horse and whether the facility can accommodate these features. The same provisions that apply to service dogs also apply to miniature horses.

### Inquiries

To determine if an animal is a service animal, a public entity or a private business may ask two questions: 1) Is this animal required because of a disability? 2) What work or task has this animal been trained to perform? These inquiries may not be made if the need for the service

animal is obvious (e.g., the dog is guiding an individual who is blind or is pulling a person's wheelchair.) A public entity or private business may not ask about the nature or extent of an individual's disability. They also may not require documentation, such as proof that the animal has been certified, trained or licensed as a service animal, or require the animal to wear an identifying vest.

### **When and Where a Service Animal is Allowed Access**

Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of public facilities and private businesses where members of the public, program participants, clients, customers, patrons, or invitees are allowed to go. If a service animal's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation, they can be excluded from the facility (e.g., from a surgery or intensive care unit in a hospital in which a sterile field is required.)

A public entity or a private business may ask an individual with a disability to remove a service animal from the premises if the animal is not housebroken or if the animal is out of control and the handler does not take effective action to control it. A handler shall use a harness, leash or other tether with their service animal unless either the handler is unable to do so because of a disability or unless the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks. In these cases, the service animal must be under the handler's control through voice control, signals, or other effective means. If a service animal is excluded, the individual with a disability must still be offered the opportunity to obtain goods, services, and accommodations without having the service animal on the premises.

### **Other Provisions**

- A public entity or private business is not responsible for the care and supervision of a service animal.
- A public entity or private business shall not ask nor require an individual with a disability to pay a surcharge or deposit, even if people accompanied by pets are required to pay such fees.
- If a public entity or private business normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

### **Relationship to Other Laws**

These provisions related to service animals apply only to entities covered by the ADA. The Fair Housing Act covers service animal provisions for residential housing situations and the Air Carrier Access Act covers service animal provisions for airline travel. The definition of a service animal under each of these laws is different than the definition under the ADA.

**Call your Regional ADA Center at 1.800.949.4232 for more information on Service Animals and to get other Fact Sheets in our nine part series!**