

Understanding service dogs laws

Written by By Carolie Watkins Guest Columnist
Friday, 18 December 2015 10:43

The ADA requires State and local government agencies, businesses, and non-profit organizations (covered entities) that provide goods or services to the public to make “reasonable modifications” in their policies, practices, or procedures when necessary to accommodate people with disabilities. The service animal rules fall under this general principle. Accordingly, entities that have a “no pets” policy generally must modify the policy to allow service animals into their facilities. This publication provides guidance on the ADA’s service animal provisions and should be read in conjunction with the publication

Beginning on March 15, 2011, only dogs are recognized as service animals under titles II and III of the ADA. A service animal is a dog that is individually trained to do work or perform tasks for a person with a disability. Generally, title II and title III entities must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.

Diego Demaya, J.D., Southwest ADA Center in Houston, Texas, stated the following: The tasks defined in the ADA regulations regarding what service animals do are not finite. “Licking” could indeed be the necessary task that one individual may need to snap out of a psychiatric episode or PTSD event. Demaya, says we are seeing many public accommodation folks being too apprehensive and fail to make reasonable observations based on the two permissible ADA questions about service animals. They must be willing to take a stand and either allow or decline to allow a service animal to enter their facilities. Failing to follow regulations, the owner of the service animal will neither increase nor reduce the possibility of an ADA complaint.

In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions: (1) is the dog a service animal required because of a disability? And (2) what work or task has the dog been trained to perform? Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person’s disability.

Demaya with Houston Southwest ADA Center also stated from these inquiries one should be able to tell, at least to a reasonable extent, whether the individual is trying to protect an “emotional support” or “companion” animal under the ADA even though the ADA does not protect such animals.

Lastly, as for how a service animal may conduct its function, being in a pouch may be what is

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needed by the person for optimal efficiency in its functions. Service animals do not have to lay on the floor. It can include licking by the dog, other actions to calm the person with PTSD. If the dog has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, that would qualify as a service animal. The ADA does not require service animals to wear a vest, ID tag, or specific harness.

ADA does not require that service animals be certified: **NOTE: There are individuals and organizations that sell service animal certification or registration documents online. These documents do not convey any rights under the ADA and the Department of Justice does not recognize them as proof that the dog is a service animal.**

A person with a disability cannot be asked to remove his 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. 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.

The ADA requires that service animals be under the control of the handler at all times. In most instances, the handler will be the individual with a disability or a third party who accompanies the individual with a disability. Or, a returning veteran who has PTSD and has great difficulty entering unfamiliar spaces may have a dog that is trained to enter a space, check to see that no threats are there, and come back and signal that it is safe to enter. The dog must be off leash to do its job, but may be leashed at other times. Under control also means that a service animal should not be allowed to bark repeatedly in a lecture hall, theater, library, or other quiet place. However, if a dog barks just once, or barks because someone has provoked it, this would not mean that the dog is out of control.

Gallup can have a register process but mandatory registration is not permissible. However, as stated above, service animals are subject to the same licensing and vaccination rules that are applied to all dogs.

Restaurants, bars, and other places that serve food or drink are not required to allow service animals to be seated on chairs or allow the animal to be fed at the table. Seating, food, and drink are provided for customer use only. The ADA gives a person with a disability the right to be accompanied by his or her service animal, but covered entities are not required to allow an

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animal to sit or be fed at the table.

Churches, temples, synagogues, mosques, and other places of worship are required to allow individuals to bring their service animals into the facility, as a public facility. Religious institutions and organizations are specifically exempt from the ADA. New Mexico not have a law allowing service animals to be asked to leave.

New Mexico State Legislature passed a bill (SB320), making the following changes to, "Service Animal Act" which became effective June 14, 2013.

Service animals must be allowed to accompany the handler to any place in a building or facility where members of the public, program participants, customers, or clients are allowed. Even if a business or public program has a "no pets" policy, may not deny entry to a person with a service animal. Service animals are not pets.

To intentionally interfere with the use of a qualified service animal by harassing or obstructing owner, trainer or handler of the qualified service animal or the qualified service animal violates this law and is guilty of a misdemeanor and upon conviction shall be punished pursuant to Section 31-19-1 NMSA 1978, and may be ordered to pay restitution, including, but not limited to, actual damages.

The revised "Service Animal Act" also prohibits a person from misrepresenting an animal as a Service Animal and provides penalties.

Information for this article was provided by:

Southwest ADA and Governor's Commission on Disability