



Answers to Commonly Asked Questions About Laws for Disabled Individuals with Service Animals

Are there laws, which require businesses to allow disabled guests with service animals into their establishments?

Spike Says: Yes! Under the Americans with Disabilities Act (**ADA**), which was enacted in 1990, hotels, motels and restaurants are required to treat disabled guests with service animals like all other guests — providing them with the same services and access to all areas where other guests are normally allowed. The U.S. Department of Justice (**DOJ**) amended the ADA service animal regulations effective March 15, 2011.

Note about California law regarding service animals: California's Fair Employment and Housing Act (FEHA), which prohibits discrimination on many grounds, including mental and physical disabilities, applies to hotels. The FEHA rules regarding service animals are broader than those of the DOJ under the ADA, and, depending on the specifics of any given situation, **might** include, among other things, animals other than dogs and miniature horses, as well as some "comfort" and "companion" animals.

What is a service animal?

Spike Says: **A.** As of March 15, 2011, **only dogs** are recognized as "service animals" under the ADA provisions relating to hotels, motels, restaurants, and other "public accommodations." (In contrast to the pre-March 15, 2011, DOJ regulations, other species of animals, whether wild or domestic, trained or untrained, are **not** service animals for public accommodations.)

More specifically, the new ADA regulations define a "service animal" as 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." The work or tasks performed by a service dog must be directly related to the handler's disability. Examples of work or tasks include, but are not limited to, (1) assisting individuals who are blind or have low vision with navigation and other tasks, (2) alerting individuals who are deaf or hard of hearing to the presence of people or sounds, (3) providing non-violent protection or rescue work, (4) pulling a wheelchair, (5) alerting and assisting an individual during a seizure, (6) alerting individuals to the presence of allergens, (7) retrieving items such as medicine, the telephone, or dropped articles, (8) providing physical support and assistance with balance and stability to individuals with mobility disabilities, (9) reminding a person with mental illness to take prescribed medications, (10) calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, and (11) helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

Service dogs are working animals, not pets. The work or task a service animal has been trained to provide must be directly related to the person's disability. *Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.*

B. In addition to the provisions about service dogs, DOJ's revised ADA regulations have a new, separate provision about **miniature horses** that have been individually trained to do work or perform tasks for people with disabilities. (Miniature horses—which do **not** include ponies and full-size horses—generally range in height from 24 inches to 34 inches measured to the shoulders and generally weigh between 70 and 100 pounds.) Entities covered by the ADA must modify their policies to permit miniature horses where reasonable. The regulations set out four assessment factors to assist entities in determining whether miniature horses can be accommodated in their facility. The assessment factors are **(1)** whether the miniature horse is housebroken; **(2)** whether the miniature horse is under the owner's control; **(3)** whether

the facility can accommodate the miniature horse's type, size, and weight; and **(4)** whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility. Although miniature horses are not defined as "service animals" for purposes of the ADA's provisions regulating hotels, motels, and restaurants, all of the requirements that apply to service dogs, as described in this document, apply equally to miniature horses.

NOTE: For purposes of this document, the terms "service dog" and "service animal" are intended to include both dogs and miniature horses.

What happens if I don't allow disabled people with service animals into my business?

Spike Says: Violating the ADA can lead to serious penalties and costly lawsuits. In addition, laws in every state make it a crime to prohibit access to disabled people with service animals.

Are hotels, motels and restaurants the only businesses that have to provide access to disabled people with service animals?

Spike Says: No. While this document focuses on hotels, motels and restaurants, the ADA prohibits all "public accommodations" from discriminating against disabled people with service animals. In addition to lodging establishments and restaurants, this includes taxis and buses (including shuttle buses and courtesy vans), retail shops, offices, theaters, sports facilities, and most other businesses to which the public is generally invited.

What do I do if a disabled person with a service animal comes to my establishment?

Spike Says: First, you should welcome the individual. Second, you must provide him/her access to all public areas where other customers are normally allowed. This includes, but is not limited to, hotel rooms, restaurants, swimming pools, exercise rooms, transportation and other public areas. Third, you should ask if they need any special assistance, and do your best to provide it.

If I have a clearly posted "no pets" policy, do I still have to allow service animals in my business?

Spike Says: Yes — because service animals are not pets. Service animals are specially trained to perform vital tasks that increase their disabled owners' safety, mobility and independence. For this reason, health codes that prohibit pets in restaurants do not apply to service animals.

But what about state and local health codes that prohibit animals in places like restaurants?

Spike Says: The federal ADA takes precedence over all state and local laws — even laws which otherwise prohibit animals in places where food is prepared or served.

What if other guests object to the animal? What if they have allergies or religious objections?

Spike Says: First, explain to your guests that the law requires you to allow service animals in your business — because unlike "pets," these animals perform vital tasks for their disabled owners. Second, inform your guests that allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals. Third, explain that these animals are highly trained to behave properly in public, and are as clean and healthy as most people. Fourth, you can offer to move the objecting guest (NOT the disabled guest) to another part of your establishment, if he or she would be more comfortable. Remember that people with disabilities who use service animals cannot be isolated from other patrons or be treated less favorably than other patrons.

How can I tell if an animal is really a service animal?

Spike Says: When it is not obvious what service a dog (or miniature horse) provides, only limited inquiries are allowed. Staff 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?

Staff **cannot** ask about the person's disability, require medical documentation, require a special identification card or training documentation for the dog, or ask that the dog demonstrate its ability to perform the work or task.

Can I charge an additional fee for customers who bring a service animal into my hotel or restaurant?

Spike Says: No — guests with service animals cannot be charged fees that are not charged to other patrons without animals. In addition, if a business requires a deposit or fee to be paid by patrons with pets, it must waive the charge for service animals. However, like any other guest, the disabled persons can be charged for any damages caused by them or by their service animals.

What are the penalties for denying a disabled person and his or her service animal access to a place of business?

Spike Says: Denying access to a disabled person with a service animal is a serious violation of the Americans with Disabilities Act, and this can result in a business being liable for penalties of up to \$100,000 plus the disabled person's attorneys' fees. Denial of access to a disabled person with a service animal also violates the laws of virtually every state, which can lead to additional penalties and liability. In some states, such a violation is a crime that can result in monetary fines and imprisonment.

What if a service animal growls at or bites a customer, or is otherwise disruptive?

Spike Says: 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. Hence if a service animal becomes aggressive or destructive, you have the right to ask that the service animal be removed from the premises. However, you should make it clear that the disabled guests are still welcome if they wish to stay without their service animals.

In addition, under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

Am I required to provide special services to the service animal, such as food or water?

Spike Says: No — staff is not required to provide care or food for a service animal, and the law only requires that service animals and their owners be allowed access to any areas where customers are normally allowed. In fact, most disabled guests would prefer that you not feed or in any way distract their service animals. However, it is perfectly appropriate to ask disabled guests if they or their service animals have any special needs. The guests may ask you to point out a nearby patch of grass or blacktop area where they can relieve their animals, or they may ask to be seated at a table instead of a booth in a restaurant.

Are maids or other hotel staff expected to clean up after service animals?

Spike Says: Service animals generally do not generate any more "mess" than the usual hotel guest. They are clean, healthy and trained to relieve themselves only on command. As for items you may encounter in a room with a service animal — such as leashes, harnesses, collars, food dishes, etc. — you would treat them like any other item a guest may bring into a hotel room.

Do rooms need to be treated for fleas or receive other special cleaning services after guests with service animals have occupied them? What about shedding?

Spike Says: No. Most service animals are clean and healthy. And most service animals' owners bring their own "bed" for the animal, reducing the amount of hair left in the room. But whatever hair may be left in the room is quite easily vacuumed up. In fact, you will likely not even know that a service animal occupied the room unless you see the animal for yourself.

What other types of questions would be appropriate when asking disabled guests with service animals if they need special assistance?

Spike Says: In a hotel, you would ask all of the usual guest questions — such as what size bed they prefer, smoking vs. non-smoking room, type of view desired, etc. In addition, you could ask guests if they would like a room located near your hotel's designated "relief areas" or if they require any special items in the room, such as a TTY device or wheelchair access.

In addition, you should ask guests who are visually impaired what format [Braille, large print, or tactile (i.e., "raised") print] they would prefer in order to learn important information about your establishment.

In a restaurant, you should ask if the guest prefers a booth or a table — because service animals are trained to lie beneath the table, and some service animals need more space than others. The guest may also ask you to check underneath the booth or table to ensure that there is nothing there that would harm or distract the service animal, such as dropped food items, toothpicks or other trash. These items would need to be removed by the bus person.

One other thing to consider when seating disabled guests with service animals is to make sure they know where you are taking them. Guests who are blind or deaf may need a little extra assistance, so please walk slowly and speak directly to them, as opposed to speed-walking them to their table, or talking while walking away from them. And just as in a hotel or motel, you should ask guests who are visually impaired what format [Braille, large print, tactile (i.e. "raised") print or verbal] for choosing menu items.

What is considered a suitable "relief area" for a service animal?

Spike Says: Service animals are trained to go to the bathroom only on command — so you need not fear that a service animal might have "an accident" in your establishment. However, they do need to relieve themselves somewhere. As a courtesy to its guests, a hotel should have one or more potential "relief areas" for service animals. These are usually grass or shrubbery, or a clean blacktop area. The areas should be nearby (if not on hotel property), clean, safe and well lit. And it is preferable to have a trash receptacle handy for guests to clean up after their animals.

When hailing a cab for a disabled guest with a service animal, are all cabs required to accept service animals? What if they refuse?

Spike Says: According to the Americans with Disabilities Act, all public transportation, including buses, shuttles and taxicabs are required to accommodate both disabled persons and their service animals. There are no exceptions. If a cab refuses even after you have explained the law, the easiest solution is to hail a different cab. Depending on hotel or restaurant policy, you may also report the driver to his or her employer, or report the cab company to the police.

Where can I get additional information about the ADA rules governing service animals?

Spike Says: The DOJ published information that is available at: www.ada.gov.