

Service Animals – A Legal Overview

Introduction

Since March 15, 2011, only dogs and miniature horses are recognized as service animals under Title II and Title III of the Americans with Disabilities Act (ADA), which include services of public entities, i.e. township, city's services must be accessible. However, the employment provisions under Title I of the ADA and the transportation provisions under Title II of the ADA, along with other Federal laws, including the Fair Housing Act and the Air Carrier Access Act, have a broader definition of service animals and therefore, not restricted to dogs and miniature horses.

Service Animal Defined

Under Title II and Title III which are regulated by the Department of Justice, a service animal is an animal that is INDIVIDUALLY trained to work or perform tasks for a person with a disability.

Access for Service Animals

Service Animals are to accompany a person with a disability in all areas that are open to the public, with some exceptions.

Questions Regarding Service Animals

If you are an owner of a public accommodation, restaurant, hotel, bowling alley, theatre, retail shop, etc, or working in a public services for your city, town, etc., you have a right to ask a person about their service animal if it is not obvious what work or tasks the animal performs for that person. You can ask two questions:

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

You CANNOT ask:

1. The person to have the animal demonstrate its ability to perform work or a task.
2. Require medical documentation.
3. Inquire into the nature of the person's disability.
4. Require a special identification card or vest before allowing entry.

Responsibilities of Animals Handler

A person who has a service animal is expected to:

1. Always keep the animal under control; AND
2. Ensure the animal is toilet trained.

Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or tasks or the person's disability prevents him or her from using these devices. In this case, the person must maintain control of the animal through voice, signal, or other effective controls.

Other Things to Consider

Miniature Horses

Again, must be individually trained to work or perform a task. Miniature horses generally range in height from 24 inches to 34 inches measured from the shoulders and weigh between 70 and 100 pounds.

In addition to keeping the horse under control and ensuring it is toilet trained, when determining access, two additional consideration can be made:

1. Whether the facilities' capacity can accommodate the miniature horse's type, size, and weight; and
2. Whether the miniature horse's presence will not compromise the legitimate safety requirements necessary for the safe operation of the facility.

Companion, Emotional Support, Therapy Animals

There are certain animals that are considered Companion, Emotional Support, Therapy Animals and these animals do NOT qualify as Service Animals because they are not individually trained to perform a tasks or function for a person. Companion or Emotional Support Animals are those animals which a person receives benefit from the animal absent specific training. Therapy Animals are those animals who have been trained not for a specific person but rather to provide therapeutic support in certain settings, hospitals, long-term care facilities, etc.