

JAN

Job Accommodation Network

Practical Solutions • Workplace Success

Accommodation and Compliance Series

Service Animals in the Workplace

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A service of the U.S. Department of Labor's Office of Disability Employment Policy

Preface

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JAN'S ACCOMMODATION AND COMPLIANCE SERIES

Introduction

JAN's Accommodation and Compliance Series is designed to help employers determine effective accommodations and comply with title I of the Americans with Disabilities Act (ADA). Each publication in the series addresses a specific medical condition or topic and provides information about the condition or topic, ADA information, accommodation ideas, and resources for additional information.

The Accommodation and Compliance Series is a starting point in the accommodation process and may not address every situation. Accommodations should be made on a case by case basis, considering each employee's individual limitations and accommodation needs. Employers are encouraged to contact JAN to discuss specific situations in more detail.

For information on assistive technology and other accommodation ideas, visit JAN's Searchable Online Accommodation Resource (SOAR) at <http://AskJAN.org/soar>.

Information about Service Animals

What is a service animal?

A service animal is an animal that performs a task or tasks for a person with a disability to help overcome limitations resulting from the disability. Federal law defines 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. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability" (DOJ, n.d.).

What types of work or tasks do service animals perform?

According to the Department of Justice (n.d.), "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 persons 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 for the purposes of this definition."

What is the difference between service, therapy, companion, and social/therapy animals?

According to the Delta Society, a human-services organization dedicated to improving people's health and well-being through positive interactions with animals:

Service animals are legally defined under title III of the Americans with Disabilities Act and are trained to meet the disability-related needs of their handlers who have disabilities. The ADA protects the rights of individuals with disabilities to be accompanied by their service animals in public places. Service animals are not considered 'pets' (Delta Society, n.d.).

Therapy animals are not legally defined by federal law, but some states have laws defining therapy animals. They provide people with contact to animals, but are not limited to working with people who have disabilities. They are usually the personal pets of their handlers, and work with their handlers to provide services to others. Federal laws have no provisions for people to be accompanied by therapy animals in places of public accommodation that have "no pets" policies. Therapy animals usually are not service animals (Delta Society, n.d.).

A companion animal is not legally defined, but is accepted as another term for pet (Delta Society, n.d.).

Social/therapy animals have no legal definition. They often are animals that did not complete service animal or service dog training due to health, disposition, trainability, or other factors, and are made available as pets for people who have disabilities. These animals might or might not meet the definition of service animals (Delta Society, n.d.).

Service Animals and the Americans with Disabilities Act

Because more people are using service animals, employers are asking more questions about service animals in the workplace. The following is a summary of some of those questions. The answers are based on informal guidance from the Equal Employment Opportunity Commission (EEOC) and do not represent the EEOC's formal position on these issues or legal advice.

Does title I of the ADA require employers to automatically allow employees with disabilities to bring their service animals to work?

Title III (public access) of the ADA requires a public accommodation to modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability (DOJ, n.d.). Title III also requires public accommodations to make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse

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 (DOJ, n.d.).

But what about title I (employment) of the ADA? According to the EEOC, title I does not require employers to automatically allow employees to bring their service animals to work. Instead, allowing a service animal into the workplace is a form of reasonable accommodation.

What this means for employers: Employers must consider allowing an employee with a disability to use a service animal at work unless doing so would result in an undue hardship. In addition, the ADA allows employers to choose among effective accommodations, although providing a substitute accommodation for a service animal could bring up other tricky issues (see question 4 below).

What is the definition of service animal under title I of the ADA?

As mentioned previously, title III (public access) regulations define 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. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual’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 persons 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 for the purposes of this definition” (DOJ, n.d.).

But what about title I (employment) of the ADA? According to the EEOC, there is no specific definition of service animal under title I, and title III regulations do not apply to questions arising under title I.

What this means to employers: Because there is not a specific definition of service animal under title I, employers may have to consider allowing an employee to bring in an animal that does not meet the title III definition of service animal, such as a therapy or emotional support animal. However, employers do not have to allow an employee to bring an animal into the workplace if it is not needed because of a disability or if it disrupts the workplace.

What kind of documentation can employers ask for related to a service animal? What if the employee's doctor was not involved in the acquisition of the service animal or the employee trained his own service animal and nobody else was involved so the typical kind of medical documentation that employers ask for is not be available? What might be considered sufficient documentation in this type of situation?

Under the ADA, employers have the right to request reasonable documentation that an accommodation is needed (EEOC, 2002). However, according to informal guidance from the EEOC, employers need to be aware that sometimes reasonable documentation is not always going to be from a doctor or some other health care professional. In some cases the documentation should come from the appropriate provider of a service. In the case of a service animal, the appropriate documentation might be from whoever trained the service animal.

The goal of an employer is to understand why the service animal is needed and what it does for the person, so the training is important. If an employee has a service animal in a workplace where there could be lots of different kinds of distractions, lots of things going on, the employer has the right to require that the service animal be fully trained and capable of functioning appropriately, not just for the employee with the disability, but also in terms of the setting. An employee who trains his or her own service animal needs to be able to document or demonstrate that the service animal is in fact trained and will not disrupt the workplace.

What this means for employers: When an employee with a disability requests to use a service animal at work, the employer has the right to request documentation or demonstration of the need for the service animal, that the service animal is trained, and that the service animal will not disrupt the workplace. However, this documentation may not be available from a healthcare provider so the employer may need to consider other sources for the documentation.

If an employee wants to bring his service animal to work to help with personal medical needs (e.g., an employee with diabetes wants to bring his service animal to work to help monitor his blood sugar level), can the employer deny the request and ask the employee to take care of his medical needs in another way?

According to the EEOC, if the service animal has been trained to help with the employee's medical needs, the employee has a right to ask that, as a reasonable accommodation, the service animal be allowed to accompany him to work.

The employer has a right to know that the animal is actually trained and what the animal does for the employee. However, the employer probably cannot insist that the person take care of his medical needs in a different way if this is the way the employee does it; under the ADA an employer cannot require employees to use other medical treatment/procedures.

What this means for employers: In general, employers should not be involved in employees' personal medical decisions so an employer should not deny an employee's request to use his service animal at work if the animal helps the employee with his or her personal medical needs, unless the employer can show undue hardship.

Who is responsible for taking care of a service animal at work?

The employee is responsible for taking care of the service animal, including making sure the animal is not disruptive, keeping it clean and free of parasites, and taking it out to relieve itself as needed.

What this means for employers: Employees are responsible for the care of their service animals, but employers may have to provide accommodations that enable the employees to do so. When an employee is allowed to bring a service animal to work, the employer should consult with the employee to find out what accommodations are needed to care for the animal. For example, an employee might need to adjust his break times to take his service animal outside.

Do employers have to create a relief area for a service animal when an employee with a disability uses the service animal in the workplace?

The EEOC does not have any formal guidance regarding whether an employer must create an animal relief area for an employee who uses a service animal, but this should rarely be an issue because there is almost always a place outside, close to the work-site, where the animal can relieve itself. For example, the animal could relieve itself in an alley behind the work-site, a grassy area close to the work-site, or even close to a sidewalk leading to the building. Of course the employer could require the employee to clean up after the animal.

To date, the EEOC has not addressed what an employer's obligation would be to create a relief area in the event there is absolutely no existing place for the service animal to relieve itself.

What this means for employers: From a practical standpoint, an employer faced with a request to create a relief area for a service animal might want to consider doing so even though it is not clearly required as an accommodation under the ADA because otherwise the employee is not going to be able to use his or her service animal at work.

Do employers have to allow employees to train service animals in the workplace?

Under the ADA, only employees with disabilities are entitled to reasonable accommodations so if an employee without a disability is training a service animal for someone else, there is no accommodation obligation under the ADA. For employees with disabilities, an employer has a valid concern about the potential disruption a service animal in training might create so might not have to allow the employee to bring

in the service animal until it is fully trained or at least until it can be in the workplace without disruption. Some states have laws addressing access for service animals in training, so employers also should check their state laws.

What this means for employers: When an employee asks to bring in a service animal in training, the employer should check state laws first. If state law does not address access for service animals in training, then the employer should next determine whether the employee who is making the request has a disability and needs the service animal because of the disability. If the employee does have a disability, then the employer needs to get more information to determine whether the service animal will be disruptive (e.g., the employer could have the employee demonstrate the animal's behavior and current level of training).

Accommodating Employees Who Use Service Animals

Note: People use service animals for a variety of reasons, so their accommodation needs will vary. The following is only a sample of the accommodation possibilities available. Numerous other accommodation solutions may exist.

Questions to Consider:

1. What limitations is the employee who uses a service animal experiencing?
2. How do these limitations affect the employee and the employee's job performance?
3. What specific job tasks are problematic as a result of these limitations?
4. What accommodations are available to reduce or eliminate these problems? Are all possible resources being used to determine possible accommodations?
5. Has the employee who uses the service animal been consulted regarding possible accommodations?
6. Once accommodations are in place, would it be useful to meet with the employee who uses the service animal to evaluate the effectiveness of the accommodations and to determine whether additional accommodations are needed?
7. Do supervisory personnel and employees need training regarding the use of service animals?

Accommodation Ideas:

Using a service animal at work:

- Allow the employee with a disability to bring his or her service animal to work.
- Allow the employee to take leave in order to participate in individualized service animal training.
- Provide the employee with a private/enclosed workspace.
- Provide the employee with an office space near a door and/or out of high traffic areas.
- Establish an accessible path of travel that is barrier-free.
- Allow equal access to employee break rooms, lunchrooms, rest rooms, meeting rooms, and services provided/sponsored by the employer.

Caring for a service animal at work:

- Provide a designated area where the employee can tend to the service animal's basic daily needs, e.g., eating or bodily functions.

- Allow periodic breaks so the employee can care for the service animal's basic daily needs.
- Provide a designated area the service animal can occupy until the employee's shift ends if the employee only requires the service animal to travel to and from work.
- Provide general disability awareness training on the use of service animals in the workplace.

Dealing with coworkers who are allergic to the service animal:

- Allow the employees to work in different areas of the building.
- Establish different paths of travel for each employee.
- Provide one or each of the employees with private/enclosed workspace.
- Use a portable air purifier at each workstation.
- Allow flexible scheduling so the employees do not work at the same time.
- Allow one of the employees to work at home or to move to another location.
- Develop a plan between the employees so they are not using common areas - such as the break room and restroom - at the same time.
- Allow the employees to take periodic rest breaks if needed, e.g., to take medication.
- Ask the employee who uses the service animal if (s)he is able to temporarily use other accommodations to replace the functions performed by the service animal for meetings attended by both employees.
- Arrange for alternatives to in-person communication, such as e-mail, telephone, teleconferencing, and videoconferencing.
- Ask the employee who uses a service animal if (s)he is willing to use dander care products on the animal regularly.
- Ask the employee who is allergic to the service animal if (s)he wants to, and would benefit from, wearing an allergen/nuisance mask.
- Add HEPA filters to the existing ventilation system.
- Have the work area - including carpets, cubicle walls, and window treatments - cleaned, dusted, and vacuumed regularly.

Interacting with a service animal:

- Address the person when approaching a person with a disability who is accompanied by a service animal.
- Remember that service animals are working and are not pets.
- Do not touch, pet, or feed treats to a service animal without the owner's permission.

Situations and Solutions:

A state employee with a mobility impairment uses a scooter and a service animal. The employer was concerned about how the employee would tend to the service animal's basic daily needs. JAN provided product information on a scooter with a long handle so the employee could use his scooter to go outside and tend to his service animal's "restroom" breaks.

An insurance agency employee with multiple sclerosis and anxiety requested that the employer permit her to use a service dog on the job for mobility and stress reduction. The employer agreed to allow the employee to bring her service animal to work, provided training to staff on service animals as workplace accommodations, and installed new doors that were easier for the individual to open.

A newly hired teacher with a seizure disorder used a service animal to alert her that a seizure was coming on. The school had a "no animal" policy. The school allowed the teacher to bring her service animal to work and to keep it with her in her classroom. She was also provided breaks to take the service animal outside and given the opportunity to educate coworkers about the use of service animals. The employer reported that the accommodation cost nothing and it was good for the students to see a service animal at work.

A truck driver who used a service animal requested that his dog be left in his truck during maintenance and cleaning, meetings, and the completion of paperwork. The employer purchased a dog kennel for the times when the driver had to leave his vehicle and remain in the office building for extended periods of time.

A dental office hired a receptionist with a vision impairment to work in the front office. The new employee had acquired a service animal, but did not yet have accrued vacation time that could be used for service animal training. The employer allowed the receptionist to take unpaid leave to attend service animal training.

Products:

There are numerous products that can be used to accommodate people with limitations. JAN's Searchable Online Accommodation Resource (SOAR) at <http://AskJAN.org/soar> is designed to let users explore various accommodation options. Many product vendor lists are accessible through this system; however, upon request JAN provides these lists and many more that are not available on the Website. Contact JAN directly if you have specific accommodation situations, are looking for products, need vendor information, or are seeking a referral.

References

Delta Society (n.d.) *Service animal basics*. Retrieved June 15, 2011, from

<https://www.deltasociety.org/Page.aspx?pid=303>

Department of Justice (n.d.). Title III regulations. Retrieved June 15, 2011, from

http://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_withbold.htm

Equal Employment Opportunity Commission. (2002). *Reasonable accommodation and undue hardship under the ADA*. Retrieved June 15, 2011, from

<http://www.eeoc.gov/policy/docs/accommodation.html>

Resources

Job Accommodation Network

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<http://AskJAN.org>

The Job Accommodation Network (JAN) is a free consulting service that provides information about job accommodations, the Americans with Disabilities Act (ADA), and the employability of people with disabilities.

Office of Disability Employment Policy

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The Office of Disability Employment Policy (ODEP) is an agency within the U.S. Department of Labor. ODEP provides national leadership to increase employment opportunities for adults and youth with disabilities while striving to eliminate barriers to employment.

Animal Legal & Historical Web Center

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The Animal Law and History Web Center is a project of Michigan State University College of Law. It first opened in August 2002. Their goals are: to provide a Web Library of legal and policy materials as relates to animals, to provide expert explanation of materials for both the lawyer and the non-lawyer, to be an education center for this material, offering courses at different levels of education with and without credit, and to provide an historical perspective about social and legal attitudes toward animals and how we got to our present perspective.

Delta Society

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The Delta Society is the leading international resource for the human-animal bond. Delta Society has been the force to validate the important role of animals for people's health and well-being by promoting the results of research to the media and health and human services organizations.

Guide Dog Foundation for the Blind, Inc.

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<http://www.guidedog.org>

Since 1946, the Guide Dog Foundation for the Blind, Inc. has provided guide dogs free of charge to blind people who seek enhanced mobility and independence.

Psychiatric Service Dog Society

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The Psychiatric Service Dog Society is a 501(c)3 nonprofit organization dedicated to responsible Psychiatric Service Dog (PSD) education, advocacy, research and training facilitation. The Society provides essential information for persons disabled by severe mental illness, who wish to train a service dog to assist with the management of symptoms.

Seeing Eye, The

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The Seeing Eye, Inc., is the oldest existing dog guide school in the world. Twelve times a year, as many as 24 students at a time visit the Morristown, N.J., campus to discover the exhilarating experience of traveling with a Seeing Eye dog.

Service Animal Registry of America (SARA)

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SARA's mission is to promote the use of service animals by the disabled; to increase public awareness of the disabled rights concerning service animals; to encourage and support positive federal, state, and local legislation involving service animals; to serve as advocates against restrictive legislation for service animals, service animals in training, service animal trainers, and mandatory certification of service animals; and to maintain a national database of service animals, service animal trainees, and therapy animals in use in the United States.

U.S. Department of Justice Disability Rights Section

Civil Rights Division Disability Rights Section

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The primary goal of the Disability Rights Section is to achieve equal opportunity for people with disabilities in the United States by implementing the Americans with Disabilities Act (ADA). Through its multi-faceted approach toward achieving compliance with the ADA, this Section works to make this goal a reality. The Section's enforcement, certification, regulatory, coordination, and technical assistance activities, required by the ADA, combined with an innovative mediation program and a technical assistance grant program, provide a cost-effective and dynamic approach for carrying out the ADA's mandates.

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