Service Animals 101

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A blind woman speaking about her guide dog:

“Thank you for giving me my freedom, and the ability to go make my own joy in this world”

– guide dog user

"Those of us who use service dogs experience discrimination more frequently than most are aware,"

-- Marion Gwizdala, guide dog user and NAGDU president
Acknowledgements

We owe special thanks to:

You, for your time and attention.

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To Guide Dogs for the Blind, Inc. for their wonderful dogs and ongoing support. Visit www.guidedogs.com

To Disability Rights Oregon for permission to use their guide.
Agenda

• Laws and Regulations

• Small Group Activity

• Access and Exclusion

• Q & A
Here Come The Dogs

It’s federal and Oregon law that individuals with disabilities accompanied by a service animal have right to access public spaces, programs, services, and activities.
Service Animal Defined
28 CFR § 35.104

• must be a dog

(other animals, wild or domestic, trained or untrained, not protected)

• Must be individually trained

• To do work or perform tasks directly related to individual’s disability

(crime deterrence, emotional support, well-being, comfort, companionship not recognized as work/tasks)

• Need not be on a registry

• Need not produce ID or documentation that trained, licensed or certified as a service dog

• Need not wear special coat, harness, leash, or gear
Service Animal Defined
ORS 659A.143

“Assistance animal” means

• A dog or other animal designated by administrative rule

• That has been individually trained

• To do work or perform tasks

• For the benefit of an individual

“Assistance animal trainee” means

• An animal

• That is undergoing a course of development and training

• To do work or perform tasks

• For the benefit of an individual

• That directly relate to the disability of the individual
Tasks Service Dogs Do for Apparent Disabilities
28 CFR § 35.104

• Guiding blind/visually impaired

• Alerting deaf/hard of hearing to presence of people/sounds

• Pulling a wheelchair

• Providing physical support or assistance with balance and stability to individuals with mobility disabilities,

• Providing non-violent protection / rescue work e.g. act as a buffer to prevent being bumped
Tasks Service Dogs Do for Hidden Disabilities
28 CFR § 35.104

- Alerting to allergens
- Retrieving meds / telephone
- Assisting an individual during a seizure
- Helping individuals w/ psychiatric / neurological disabilities by preventing/interrupting impulsive / destructive behaviors
Handler Responsibilities
28 CFR § 35.136

- care for and supervise
- keep on leash, tether, harness

(If doing so interferes with its work, must keep control by voice, signals, other method)

- keep under control / properly behaved
- Not be disruptive, aggressive
- Not allow sniffing, barking, whining, growling
- Must be clean and in good health
- Allow to relieve only in appropriate places
Our Responsibilities
28 CFR § 35.163

• We may observe service animal working

• We may not interfere with a service animal or its work
Lawful Requests
ORS § 659A.143

1. Ask whether an animal is required due to a disability, and

2. Ask about the nature of the work or task that an animal is trained to do or perform or is being trained to do or perform unless it is readily apparent that the animal performs or is being trained to perform work or a task for the benefit of a person with a disability.

You may charge for damages caused by a dog in service or training only when you customarily charge for such damages.
Unlawful Requests
ORS § 659A.143

Your services, programs or activities generally may not:

• Ask about nature or extent of disability that individual has or may have

• Require documentation proving animal is an assistance animal or assistance animal trainee

• Require fees or admission charges

• Ask the service animal to demonstrate a task
Break into Small Groups
A customer walks into your office with their dog, and says it’s their service animal. You ask what task it performs and the handler says it’s for their PTSD.

A. Service animal  
B. Not a service animal  
C. I have no idea  
D. Run away
Question 1 Considerations

• We don’t care what their diagnosis is. Knowing that they experience PTSD doesn’t help us know whether their dog is a service animal.

• A service animal performs a trained task to assist someone with a disability. There are lots of other kinds of dogs, like pets, emotional assistance animals, or therapy dogs, which are not service animals.
Someone sees the no food allowed sign, and asks, “My service animal is hungry, can I feed her in here?”

A. Absolutely
B. Absolutely not
C. Fill out a form
D. Run away
Question 2 Considerations

• We should reasonably modify our policies to accommodate people with disabilities.

• However, what is reasonable? The standard is not generally different for humans and animals.
  • You ought to allow an exception for someone experiencing hypoglycemia to eat a candy bar. However, accommodating a three course meal is unreasonable to expect unless they are willing to share.
  • You can generally expect that humans and animals will not eat or relieve themselves in places it is not allowed. However it is helpful to direct people to where they can do those things.
When in Doubt ...

Welcome the “service dog”.

Maintain a behavioral standard. As you might also do with humans, there is no requirement that you tolerate barking, lunging, being growled at, or aggressive behaviors.
Common Complaints

• I was just in a restaurant and on a bus with my dog and there were no problems, it must be that you’re a bad employee.

• This employee was asking me way too many questions about my disability.
Who is Protected?

A person with a physical or mental impairment that substantially limits one or more major life activities.
Bases for Denying Access

- Animal poses a direct threat to health or safety
- Animal is not on a leash, harness, or other tether
- Animal is not housebroken
- Animal is out of control and effective action is not taken to control it

- Legitimate safety requirements may be imposed

Safety requirements must:

- Be based on actual risks
- Not on speculation, stereotypes, generalizations
What is a Direct Threat?

A service animal can be denied access when its presence poses a direct threat to health or safety of others.

“Direct Threat” Means:

- There is a significant risk to health or safety of others.
- That can’t be eliminated by reasonable modification of policies, practices, or procedures.
Determining a Direct Threat

Public entities have right to:

- Determine on case-by-case basis
- Whether use of a particular service animal poses a direct threat
- Based on animal’s actual behavior or history

They may not exclude a service animal:

- Based solely on fears or generalizations
- About how an animal or particular breed might behave
When else might a service animal be excluded?

• Example – sections of a zoo where the service animal is the natural predator or prey of the exhibit, but only those areas and not the whole zoo.

• Example – A section of a school dorm that is reserved for students with dog allergies, but only that area and not the whole dorm.
When Access is Denied

When a service animal is excluded, the handler must be given an opportunity to participate in the service, program, or activity without having the service animal on premises.
Etiquette

- Treat dog like it is a working dog, not a pet
- Speak to the handler, not the dog
- Ask if OK before petting/touching
- Offering water or where to get is welcome
- Offering opportunity to relieve and where is welcome

- Alerting handler is welcome when:
  1. Something could startle/frighten
  2. Presence of a sniffing/eating temptation
  3. Presence of other dogs/animals

- Keep dogs/animals apart unless/until they get along
- Give food to handler who will feed dog
Resources

Animal Legal & Historical Ctr
www.animallaw.info/

Guide Dogs for the Blind, Inc.
www.guidedogs.com

Nat’l Assoc of Guide Dog Users
http://nagdu.org

Disability Rights Oregon
https://droregon.org/

U.S. DOJ
www.ada.gov
Notice

The information in this PowerPoint presentation on “Service Dogs, Disability and Conflict” for the Annual Statewide Diversity and Inclusion Conference is prepared by Heidi von Ravensberg, JD, MBA and John Ahlen, and is current through 9/12/2019.

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