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PUBLIC HEALTH SERVICES INFORMATION BULLETIN



INTERPRETATION MANUAL

ADA / ANIMALS IN THE POOL AREA / SERVICE ANIMALS

QUESTION:

What allowances does a pool operator have to make for service animals (dogs), and those dogs in training to be service animals?

BACKGROUND:

Service animals have been around for many years. In recognition of their value to persons with special needs, these animals have been given special rights by law to accompany their owner into places of public accommodation as defined by Oregon statute and the Americans for Disabilities Act

Title II and Title III, §36.104 Definitions – Service Animals

Service animal means **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.

Title II §35.136

(a) *General.* Generally, a public entity shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

(b) *Exceptions.* **A public entity may ask an individual with a disability to remove a service animal from the premises if—**

- (1) **The animal is out of control and the animal's handler does not take effective action to control it; or**
- (2) **The animal is not housebroken.**

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(c) *If an animal is properly excluded.* If a public entity properly excludes a service animal under § 35.136(b), it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises.

(d) *Animal under handler's control.* A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means).

(e) *Care or supervision.* **A public entity is not responsible for the care or supervision of a service animal.**

(f) *Inquiries.* **A public entity shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal.** A public entity may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. **A public entity shall not require documentation**, such as proof that the animal has been certified, trained, or licensed as a service animal. Generally, a public entity may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

(g) *Access to areas of a public entity.* Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a public entity's facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go.

(h) *Surcharges.* A public entity shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If a public entity normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

(i) *Miniature horses.*

(1) *Reasonable modifications.* A public entity shall 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.

(2) *Assessment factors.* In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, a public entity shall consider—

- (i) The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
- (ii) Whether the handler has sufficient control of the miniature horse;
- (iii) Whether the miniature horse is housebroken; and
- (iv) Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

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(3) *Other requirements.* Paragraphs 35.136 (c) through (h) of this section, which apply to service animals, shall also apply to miniature horses.

A trained service animal should not misbehave at a pool facility. They should sit or lay quietly on the deck, usually in an out-of-the-way location, if there is one. They should not move much until summoned by their owner. If a service animal becomes agitated while at the pool, it may indicate it is working, such as a seizure sensing dog. It may be actually working. Be sure they are not signaling about the problem they were trained for. They don't always need to be close to their handler.

Service animals need extensive training and experience before they can begin to work. Trainers work the animals to gain experience in all types of settings. While we have concerns about the health and safety of the pool and pool area, it is very important that the service animal actually experience the pool area so animals-in-training are given the same rights as working service animals.

INTERPRETATION

In general, we do not want animals in the pool area. This includes the water, deck and locker rooms.

Service dogs (and miniature horses on occasion) have a legal right to enter the pool locker rooms and pool deck area. We have heard of no reason the dog would ever have to go into the water. Because of human health concerns and shedding hair, animals are not allowed in the water. Allowing them in the water would change the accessibility for everyone else, which is not necessary.

The owner or trainer may be asked to remove the dog from the facility if it is misbehaving or causing problems. Remember though, that sometimes the animal may be trying to communicate a problem it is trained to identify.

Dogs (or miniature horses) in training will be identified in some manner as service animals-in-training. They often are outfitted with a cape or coat identifying them.

Working dogs are usually identifiable by the special harness, or by association with the person they are helping.

Pool operators are asked to accommodate these animals and their trainers or owners to the extent outlined in this interpretation. The animals have a legal right to enter the pool area. They do not have the right to enter the pool.

This interpretation does not extend to other types of working animals such as rescue dogs, search animals, animals other than dogs (and miniature horses), or emotional support animals. Identifying these non-service animal dogs may be difficult under the restricted questioning the operator is allowed. Most can be determined based on behavior, the easiest way to determine access rights.

More information can be obtained from: <http://www.ada.gov/>

If you have any questions about this interpretation, please contact your local health department or the Oregon Health Authority – Public Health Division, Public Pool Program at (971) 673-0448.

This document is available in alternate formats for those requiring alternate formats. Please contact phone (971) 673-0448.