

Technical Assistance Guide on Service Animals in the Workplace

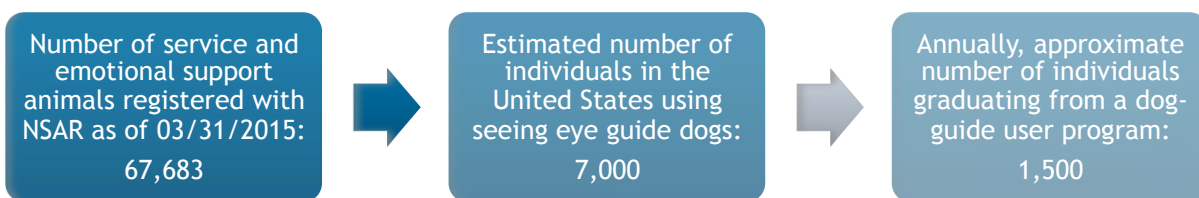
A Corporate Partner Benefit of the
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National Business & Disability Council (NBDC) at The Viscardi Center: Service Animals in the Workplace

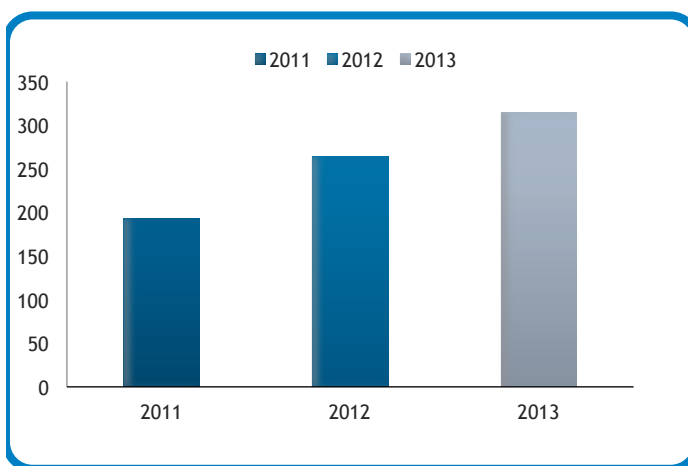
The National Business & Disability Council (NBDC) at The Viscardi Center is pleased to share with its Corporate Partners the following technical assistance guide, **Service Animals in the Workplace**. The technical assistance guide provides useful information on how service animals assist individuals with disabilities in the workplace, as well as delivers practical solutions for addressing concerns on behalf of employers.



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It provides basic information about service animals, as well as other relevant facts and materials pertaining to individuals with disabilities using service animals in the workplace. It also dissects the difference between service animals, protected under the Americans with Disabilities Act (ADA), and emotional support animals. Whereas some federal laws provide added protections for emotional support animals - such as the Air Carrier Access Act and Fair Housing Act - not all of those protections carry over into the workplace.

Table 1. Job Accommodation Network (JAN) Annual Requests



Also included in the technical assistance guide are useful tips regarding workplace policies, as well as additional resources. It is important for employers to understand that many different people rely on the assistance of service animals and emotional support animals. Federal law does not only protect service animals in the workplace, but it encourages them to be vital productivity tools for employees with disabilities. **The data in Table 1 demonstrates an annual increase in service animal-related job accommodation requests with the Job Accommodation Network, which is a service of the U.S. Department of Labor's Office of Disability Employment Policy (ODEP).**

Disclaimer...

The technical assistance guide is not intended to provide legal advice to NBDC corporate partners, but rather to share relevant information, resources and tools. If you have further questions about service animals or other requirements of the ADA, you may call the U.S. Department of Justice's toll-free ADA Information Line at 800-514-0301 (voice) or 800-514-0383 (TDD).

¹ Eames, E., & Eames, T. (1994). A Guide to Guide Dog Schools, (2nd ed.). For further information, see "Demographics Update: Alternate Estimate of the Number of Guide Dog Users." (1995). Journal of Visual Impairment & Blindness, Part 2, JVI News Service, 89 (2), 4-6.

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What is a service animal?

A service animal performs tasks for the individual with a disability that he or she is not able to perform independently. The service animal serves the purpose of mitigating the effects of an individual's disability. For example, a service animal may assist an individual with autism by lessening instances of overstimulation, or alert an individual of an impending seizure. Federal regulations indicate that service animals perform tasks for individuals with a variety of disabilities including: physical, sensory, psychiatric, intellectual, or other cognitive or mental disability.



According to Title III of the Americans with Disabilities Act, here after referred to as the “ADA” (Public Law 101-336), a service animal is defined as the following:

“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.”

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. There is a separate provision for miniature horses. It states the following: “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.”²

Additional resources about service animals are available under the “**Information and Resources on Service Dogs in the Workplace**” section of this technical assistance guide on page 7.

²ADA 2010 Revised Requirements: Service Dogs (accessed December 1, 2014); available from http://www.ada.gov/service_animals_2010.pdf

Use of service animals in the workplace

The ADA's Title I (42 USC 12112(b)(5)(A)) prohibits discrimination against individuals with disabilities in the workplace. As administered by the Equal Employment Opportunity Commission (EEOC), it states:

“Under Title I, discrimination includes not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual who is an applicant or employee unless such covered entity can demonstrate that accommodation would impose an undue hardship on the operations of the business of such covered entity.”³

There are two important principles for employers to remember about service animals in the workplace:

- As stipulated by the U.S. Department of Justice (DOJ), a public accommodation shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.
- However, under the ADA's Title III, if the nature of the goods and services provided or accommodations offered would be fundamentally altered or the safety of the business would be jeopardized, a service animal may be denied entry.



As an employer, one important issue to consider is ensuring that a business leverage resources to the best of its ability to accommodate individuals with disabilities using service animals. The “accommodation” can be more accurately defined as a “productivity tool” for the employee. In addition, it's important that the service animal be able to perform tasks as trained so the individual can effectively perform his or her job duties. Once an employee with a disability makes a request for reasonable accommodation, the employer and employee should discuss what the appropriate reasonable accommodation might be for that particular employee.

This so-called “interactive process” is required under the ADA.⁴ Traditionally, the term “service animal” referred to Seeing Eye dogs for individuals with vision impairments. However, today there are many other types of service animals. These include: hearing dogs for individuals who are deaf, seizure dogs for individuals who have seizure disorders, mobility assistance animals for individuals with motor impairments, and companion animals for individuals with psychiatric disabilities, just to name a few. There is literature to suggest that monkeys, miniature horses and in some cases parrots are recognized by the service animal industry, as well.⁵

Additional DOJ resources include the Policy Regarding Individuals with Service Animals and the ADA Publication on Service Animals, available at www.justice.gov.

³ ADA U.S. Code on Discrimination (Accessed February 17, 2015); available from <https://www.law.cornell.edu/uscode/text/42/12112>

⁴ How does a business accommodate a service animal? (Accessed March 24, 2015); <http://www.nhbr.com/March-20-2015/How-does-a-business-accommodate-a-service-animal>

⁵ Creature Comforts (accessed February 17, 2015); available from http://www.nytimes.com/2009/01/04/magazine/04Creatures-t.html?_r=5&sq=panda%20horse&st=cse&scp=1&pagewanted=all&

Service animals assist individuals with a variety of physical disabilities including:

- 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;
- Helping individuals with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors;
- Opening and closing cabinets;
- Helping the individual stand and brace for balance or transfer; and/or
- Alerting during an emergency.⁶

Emotional support animals vs. service animal and the ADA

An emotional support animal is a pet that is not trained to perform specific tasks directly related to an individual's disability. Instead, the animal is viewed as a pet that simply provides a sense of well-being, safety, or calmness for the individual. Emotional support animals provide comfort to an individual with a disability, but are not trained to perform specific tasks to assist them. Emotional support animals, unlike service animals are not limited to dogs. All domesticated animals can be considered emotional support animals, such as dogs, cats, birds, reptiles, hedgehogs, rodents, mini-pigs, etc.

The animal does NOT need to be trained to perform a disability-specific task.

The only legal protections an emotional support animal has are 1) to fly with their emotionally or psychologically disabled handler in the cabin of an aircraft and 2) to qualify for no-pet housing. No other public or private entity including motels, restaurants, stores, etc. are required to allow an emotional support animal to accompany an individual into a public place or business. In all other instances, the emotional support animal is viewed as a pet.⁷

⁶ The Job Accommodation Network -JAN (accessed December 1, 2014); available from <https://askjan.org/media/servanim.html>

⁷ The National Service Dog Registry (accessed February 27, 2015); available from <http://www.nsarco.com/emotional-support-info.html#b5>

An individual with a service animal is given equal access under the ADA because the animal is trained to respond to an individual's need for assistance. Some examples of tasks that service animals perform include: preventing or interrupting impulsive or destructive behaviors, assisting with balance and mobility, providing safety checks or avoiding distraction for individuals with PTSD [Post-Traumatic Stress Disorder], interrupting self-mutilation, and removing disoriented individuals from dangerous situations.

An emotional support animal, however, may be part of a medical treatment plan and serve as therapy animals.⁸

The implications are an individual who wants to bring an emotional support animal into an establishment - particularly a work environment - is going to face a greater hurdle in establishing that they need their animal in the workplace. It will not be enough for them to present a prescription or a letter from their physician stating that they require the animal in the workplace. They will have to describe in detail how the presence of the animal would help them in performing job tasks and, be prepared to explain how the animal is trained to behave in the workplace. A person seeking such an accommodation may suggest that the employer permit the animal to accompany them to work on a trial basis.⁹



A service animal's primary role is not to provide emotional support. It is to assist the owner with the accomplishment of vital tasks they otherwise would not be able to perform independently. In addition, a service animal must not only respond to an owner's need for help, the animal must also be trained to recognize the need for help in the first place. On the other hand, emotional support animals do not perform any of these tasks.

Interacting with individuals who use service animals

It is important to remember some "Do's" and "Don'ts" when interacting with individuals using service animals, including:

- Do not distract the service animal.
- Do not touch or pet the service animal unless given verbal permission from the owner.
- Recognize that the individual and service animal are a team and cannot function independently.
- Be patient and allow the individual to provide the necessary commands to his or her service animal.
- Use a normal tone when speaking to an individual with a service animal.
- Speak to the individual not the service animal.
- An individual is not required to show proof of disability when accompanied by a service dog.
- The employer may ask if the service animal is required because of a disability and what it is trained to do.

⁸ ADA National Network: Service Animals and Emotional Support Animals (accessed February 11, 2015); available from <https://adata.org/publication/service-animals-booklet>

⁹ ADA National Network: Information, Guidance and Training on the Americans with Disabilities Act (accessed February 11, 2015); available from <http://www.mdclaw.org/wp-content/uploads/2012/03/Service+Animal+Booklet+ENGLISH.pdf>

Individuals with a variety of conditions who use service animals:

- Hearing
- Vision
- Mobility
- Seizures
- Diabetes
- PTSD

“A service animal may be trained to assist an individual in a variety of ways including his or her medical needs. An employer may not ask an individual to substitute the use of a service animal to care for their medical needs if the service animal is trained to assist with this task.”

Scenarios for dealing with individuals who are allergic to service animals

Employers often get asked the question, "What if other employees are afraid or allergic to a service animal?" As common as this question may seem, it is not possible for an employer to ban all service animals from a workplace environment. Individuals with allergies do have the right to be accommodated by their employer if they are allergic to the service animal. This may require the employer to create alternative work schedules and use devices to eliminate pet dander. Some scenarios and possible solutions regarding how to handle these types of situations in the workplace are provided herein.

Scenario #1

Ellen states she is allergic to pet dander. Dan, who is her colleague and is blind arrives each day to work with his service dog that helps him navigate through the building with ease and alerts him to any obstacles. Dan has informed his manager of Ellen's stated allergy in order to help reach a resolution that would satisfy both parties.

Possible solutions include:

- Provide an alternative workspace for Ellen that is away from the service dog.
- Develop a plan between Ellen and Dan, so they are not using common areas - such as the break room and restroom - at the same time.
- Add high efficiency particulate arrestance filters to the existing ventilation system.
- Arrange for alternatives to in-person communication, such as e-mail, telephone, teleconferencing, and videoconferencing.
- Have the work area - including carpets, cubicle walls, and window treatments - cleaned, dusted, and vacuumed regularly.

Scenario #2

Bobbi, who is deaf and uses her hearing alert dog, attends an interview. She disclosed her disability prior to the initial interview but did not inform the employer that she would be requesting a reasonable accommodation to use her service dog at work. The employer is concerned that Bobbi's service dog will pose a safety hazard because the work environment usually gets very busy throughout the day.

Possible solutions include:

- Talk to Bobbi about her service dog's training and skills.
- Allow Bobbi to demonstrate the tasks her service dog performs enabling her to do her job effectively.



Scenario #3

A company with an office full of dog lovers is introduced to a new employee, Tom, who uses a service dog to alert him to any impending seizures. Many of the employees hope to spend a little time playing with the new four-legged, furry friend. The employer is concerned that her employees will not be able to complete their work on time due to the presence of the service dog.

Possible solutions include:

- Allow Tom to educate others on proper service dog etiquette in the workplace including, not treating the dog as a pet.
- Keep Tom's service dog out of sight as much as possible by placing the dog under his workspace desk or in his office.
- Afford Tom the opportunity to demonstrate how his service dog helps him to work.
- As a company, enforce ADA guidelines on the difference between service animals and pets and; offer Tom the opportunity to run a Q&A session to address any workplace concerns.

Information and Resources on Service Dogs in the Workplace

- United States Service Dog Registry, www.usservicedogregistry.org
- Job Accommodation Network: Service Dogs in the Workplace, www.askjan.org
- International Association of Assistance Dog Partners, www.iaadp.org
- Canine Companions for Independence, www.cci.org
- Working like Dogs, www.workinglikedogs.com
- Guiding Eyes for the Blind, www.guidingeyes.org
- Employer Assistance and Resource Network, www.askearn.org
- Little Angels Service Dogs, www.littleangelsservicedogs.org
- National Federation for the Blind, <https://nfb.org>
- American Foundation for the Blind, www.afb.org
- Helping Hands Monkey Helpers, www.monkeyhelpers.org
- Society for Human Resource Management, www.shrm.org
- Service Animals in Places of Public Accommodation and the workplace, <http://icma.org>