



POSITIVE
— *impact* —

Training Resource Guide:
Service Animals and the Americans
with Disabilities Act |
Public Accommodations and
Commercial Facilities

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Service Animals and the Americans with Disabilities Act | Public Accommodations and Commercial Facilities

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This Training Resource Guide is a companion document to the ADA Training Workshop facilitated by Cathirene Burds, Founder, Positive Impact 2. This guide is intended as a reference tool to enhance public access to information about service animals and the Americans with Disabilities Act, specifically regarding public accommodations and commercial facilities. Every effort is made to ensure the information presented is accurate and relevant. The inclusion of any article, publication source, organization, agency or service in Section 4: Resources does not imply or constitute an endorsement or recommendation, nor does exclusion imply disapproval. No guarantees or representations as to the accuracy or completeness of the information contained in Section 4: Resources are intended.

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WELCOME AND INTRODUCTION

My older brother started molesting me when I was 10. I thought that I invited the abuse because I did something wrong and I deserved to feel guilt and shame because my body responded sexually. Of course, it was a big secret...never to be shared with family, friends or anyone else. And once it became known, just about everyone in my life did everything they could to keep the news from spreading further. They thought it was shameful and scandalous. Not exactly a recipe for recovering and healing.

Today, more than three decades later, I am still recovering and growing past the abuse, which continued for years into my teens. Through **Positive Impact 2**, I want to help others do the same so that they in turn can help others. And together, we all can help turn the tide of public ignorance and ridicule into understanding and support.



**Blunt.
Bold.
Brave.**

Cathy Burds

Cathy Burds

Founder, [Positive Impact 2](#)

Facilitator and Trainer

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SECTION 1: A LITTLE BACKGROUND

Truth be told, if I walked into 100 establishments with my service dog, Justice, I likely would get resistance from 95 of them—which means that only 1 in 20 businesses would adhere to the law without being prodded. That dramatically shows the depth of the problem, and the overarching need for education to turn this around.

Case in point: a Commerce City convenience store recently refused access. Clearly, the employee didn't know the law or didn't care—which in the event of a complaint could cost that store and parent company a hefty sum in fines, not to mention the bad publicity and buzz circulating around the issue. Yet, without proper training, it's hard to put too much blame on that employee. It's a much larger corporate problem that must be addressed.

The role of service animals is amazing.

A key support mechanism for the sexually traumatized and those with a host of other psychiatric and physical challenges is service animals. It is well documented that service animals can play a critical role in helping people manage everything from anxiety attacks to diabetes.

Yes, there are dogs that can sense when someone's blood sugar goes too high or low, and warn the person to take action. I know, because my father is one of them.

My father has a spritzer terrier that accompanies him in his wheelchair when he is out and about. She instantly senses sugar highs and lows, and initially would alert a nearby companion or caregiver by barking. We had to retrain her because that is not acceptable behavior in a public place. So now, she licks him repeatedly to warn of blood sugar problems.

No reasonable person would argue that this is a crucial benefit to my father. Yet, many of those same "reasonable" people take offense when they see the dog in a public setting such as a restaurant. For my dad, it's a way to manage health and extend his lifespan. To them, it's a nuisance. And with so much information (and misinformation) about service animals in businesses, schools and other public settings, it's easy to see why the controversy exists.

To me, of course, the most important member of the rapidly-growing service animal community is my own service dog, Justice, who is the face and official spokesdog of Positive Impact 2. She's my invaluable asset for hearing-impaired issues and helps me through PTSD-related times of anxiety and stress. She is fluent in the primary canine tongues of (barking) and sign language (tail wagging)—as well as serving as a wonderful representative of the service animal community.



Unless people see something recognizable like a service dog emblem, they typically don't get it.

In my case, there is more than one legitimate function. I have a hearing impairment. Justice warns me about sounds that I don't hear that could indicate a threat.

Justice also helps me maintain my equilibrium, especially during anxiety or fear attacks—which still come on a regular basis. She helps distract and calm me. This second function is a source of great confusion as well. The ADA states that emotional support animals are *not* considered service animals—but those rendering psychiatric support for survivors of sexual and other traumas do fall under ADA guidelines. This is truly a case when words can get in the way.

The ADA differentiates the two in fairly specific language:

"Service animals are dogs that are 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..."

Examples include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting someone who is having a seizure, reminding a person with a mental illness to take medications, calming a person with PTSD during an anxiety attack...

Dogs whose sole function is to provide comfort or emotional support do not qualify."

Using this definition, Justice is truly a service animal on two levels—for my hearing impairment and helping calm me during an anxiety attack stemming from my sexual trauma PTSD.

But controversy or discomfort do not change the fact that the ADA, enacted as a federal law in 1990, mandates that public establishments must accept the presence of a service animal without asking for credentials or certification. In point of fact, no official ADA certification exists; although there are private organizations that have developed such programs.

Here's the ADA bottom line addressing service animals in "public accommodations and commercial facilities:"

The animal must be permitted on the premises. It must be trained and under control.

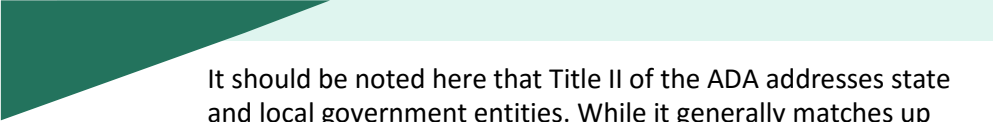
Two questions are permissible:

1. *asking if it's a service dog because of a disability; and*
2. *services the animal is trained to provide.*

Asking for credentials or papers is not acceptable.

If the dog is unruly, aggressive, or causes a disruption, the establishment can ask the owner to take the dog away. But, as long as the animal is compliant and does not actively interfere with other patrons, ADA supports its right to be there. **Non-compliant establishments can be subject to steep fines if a complaint is filed—up to \$55,000 for a first offense.**

Therefore, it's incumbent on everyone to make this work.



It should be noted here that Title II of the ADA addresses state and local government entities. While it generally matches up with Title III for public accommodations and commercial facilities, there are differences. If there is an issue pertaining to local or state government entity access, it's worth reading the revisions released a few years ago. Here they are:

[Title II \(state and local government entities\)](#)

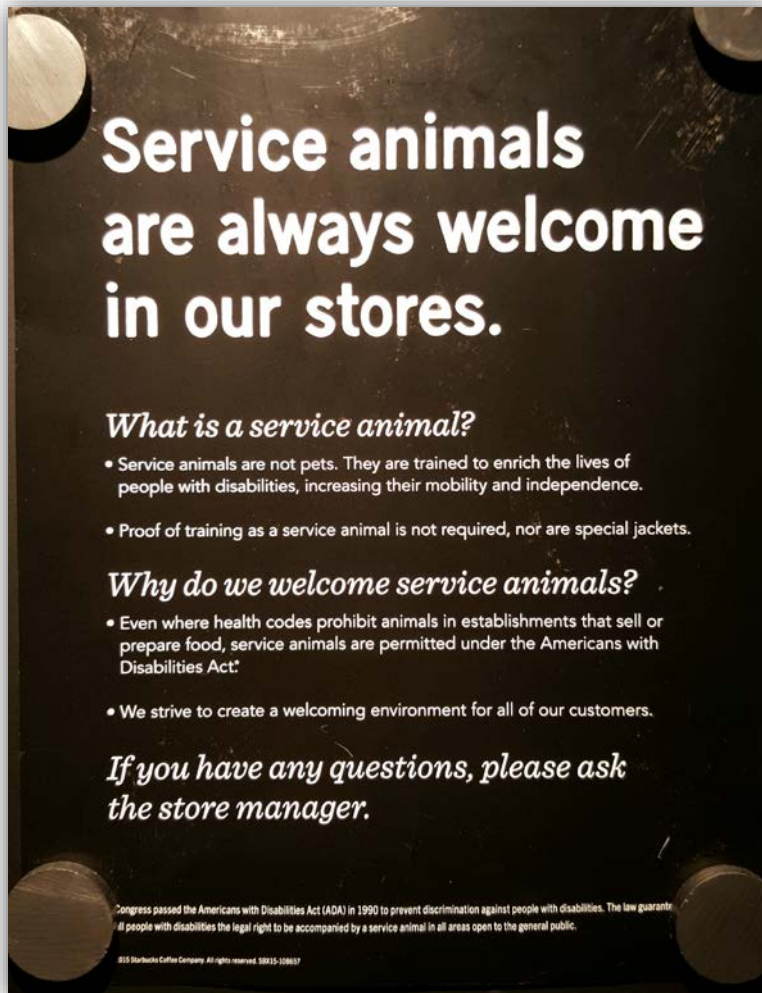
[Title III \(public accommodations and commercial facilities\)](#)

Also, while business establishments open to the public are a critical component of the ADA, there also is the **workplace environment**. It's vital to ensure that employees and other stakeholders receive fair, humane and legal treatment under the auspices of the ADA. This is an area that will be covered in-depth in another discussion.

Starbucks stands out as an example of how to handle service animals in a public establishment.

Starbucks spills the beans.

Some (apparently not all) Starbucks post a sign that welcomes service animals and describes the policy. This is a critical educational tool, because most reasonable people will acquiesce once they understand what's appropriate and permitted. Without this information, it's fully understandable why some people would be annoyed.



Despite the seeming simplicity of taking this first step, the overwhelming number of public establishments in this country do not follow Starbucks' lead...which begs the obvious question: Why not?

Because most people are ignorant of the law. That includes business owners, the public, and those charged with upholding the law. Compounding the problem is conflicting legislation. Denver, for example, bans animals in breweries. So, if someone walks in with a service animal, the owner will violate one law if allowing admittance, run afoul of the other if not.

While, in this case, federal law trumps local legislation, there's always gray area and confusion. One need look no further than marijuana

legislation—legal in some states, illegal according to federal law, and subject to a variety of local ordinance restrictions and regulations. (While confusing, it's important to note that federal law will supersede state and local jurisdiction if the issue is pressed, subject to legal wrangling that could further muddy the waters.)

Chain Operations Need to Take the Lead

Chain operations need to take the lead, or suffer loss of reputation and revenue (from fines and reduced patronage), particularly as the presence of service animals grows. The issue prompted a lawsuit against Panera; and evidently at least one Starbucks employee didn't get the memo about the well-established company policy.

I can identify all too well with the plight of the woman at Panera Bread, who like me suffers from post-traumatic stress disorder, which falls squarely under the service animal purview. This is the kind of inexcusable behavior that has gone on far too long in far too many places.

According to Citizensvoice.com, "A Clarks Summit woman who suffers from post-traumatic stress disorder alleges she was kicked out of Panera Bread because she had a service dog...Jessica Traver filed a federal lawsuit...alleging the St. Louis-based restaurant violated the Americans with Disabilities Act...In September 2014, her psychiatrist recommended she get a service dog to serve as a barrier to other people and help her avoid panic attacks...The dog, Zoe, is trained to monitor Traver's pulse and breathing and will repeatedly nudge her hands until she takes her medicine, according to the complaint...Upon entering the restaurant, an unidentified employee confronted Traver saying she could not bring the dog inside, the complaint says. When Traver explained that Zoe was a service dog, the employee persisted and 'demanded that she immediately leave,' according to the lawsuit...The suit alleges a violation of the Americans with Disabilities Act and seeks unspecified compensatory and punitive damages."

This Starbucks story is just as disconcerting. Hopefully, since the incident occurred in 2014, it has been used as a teaching tool to heighten awareness and education both for employees and patrons. According to an account in Consumerist.com: *"Starbucks Employees: Don't Say 'You're Not Blind!' To A Disabled Veteran With A Service Dog... Not everyone knows this, which leads to some unfortunate situations...like the experience that a man had at a Houston Starbucks when he and his service dog were questioned at the door...The man, an Iraq War veteran, had a leg amputated below the knee due to bone cancer. He has a service dog that helps him perform everyday tasks and physically supports him. The pair had been together for three and a half months, and were in town to speak about the awesomeness of the service dog training program...A Starbucks employee tried to stop them at the door, though, insisting that dogs aren't allowed inside...Staff cannot ask...that the dog demonstrate its ability to perform the work or task...Saying 'You're not blind' and 'Why can't you [pick things up from the ground] yourself?' as the employee of this Houston Starbucks allegedly did."*

SECTION 2: RULES AND REGULATIONS

The ADA is far-reaching and complex. We're not going to delve into great detail but here are some high points that help define the breadth of this groundbreaking law signed by former President George H.W. Bush on July 26, 1990.

ADA Snapshot

The Americans with Disabilities Act of 1990 makes it unlawful to discriminate in employment against a *qualified individual* with a disability.

The ADA also outlaws discrimination against individuals with disabilities in place of public accommodation, as well as local and state government entities.

The goal is to integrate people with disabilities into all aspects of life, particularly the workplace and marketplace.

Essentially, the ADA requires that we be treated equally even though our physical and mental abilities are created differently.

Put another way, it reinforces a founding cornerstone of this country: “One nation, indivisible, with Liberty and Justice for ALL.”

Disabilities are both seen and not seen. Whether obvious or not the disability must be respected. Key to this happening is understanding, which in turn requires education. My hearing impairment isn’t obvious, and neither is the PTSD. However, watching my behaviors over time a person would be aware of my disabilities.

Knowing ahead of time that my disabled status is valid whether apparent or not is where the vital importance of education can make all the difference between appropriate treatment and inappropriate actions generally subject to weighty legal penalties.

There are more than 56 million Americans who have a disability.

This group includes those born with disabilities and those whose abilities diminish through disease, accident, or aging.

The ADA gives protection to qualified individuals with disabilities.

Qualifying criteria are:

Must have a record of, or be regarded as having a substantial (as opposed to a minor) impairment; substantial impairment means one that significantly limits or restricts a major life activity such as hearing, seeing, breathing, performing manual tasks, walking, caring for oneself, learning or working.

Public Accommodations - a private entity that owns, operates, leases or leases to a place of public accommodation - must adhere to ADA requirements.

Examples of Public Accommodations are: Restaurants, theaters, hotels, doctor's offices, retail stores, museums, schools, parks.

A public accommodation must make reasonable modifications in policies, practices, and procedures to accommodate people with disabilities.

Examples of Reasonable Accommodations are:

- Day care center that has two scheduled snack times must modify this policy to allow for children with diabetes to bring food for an extra snack if necessary.
- A clothing store must modify a policy of only allowing one person in a dressing room at a time for a person with a disability who is shopping with a companion.
- Changing a policy to accept different forms of identification instead of a driver's license for individuals with vision impairments.

In the Employment Arena, ADA covers Recruitment, Pay, Hiring/Firing, Promotions, Job Assignments, Leave, Layoffs, Benefits, Retaliation, all other employment-related activities.

Service animals in public accommodations and commercial facilities

Without drilling too far down into the details, it's safe to say that the overarching policy of businesses, institutions and organizations serving the public needs to be "benefit of the doubt." Following the mandates of the ADA is straightforward. It sets out the rules that establishment employees must follow, along with the responsibilities of the service animal owner.

When everyone follows the rules, the process generally goes smoothly. However, one of the most common problems involves others frequenting the establishment who are unaware of the ADA accommodation for service animals. Often, others will complain, particularly if the dog doesn't wear a "service animal" vest or other identifying insignia.

In today's world, the typical managerial response to one complaining entity is to try to keep the peace so as not to offend or risk legal action. In that vein, an employee may try to negotiate a compromise to keep everybody "happy" (e.g., seating the owner and animal away from others in a restaurant).

It's a form of the grocery store scofflaw situation, where someone with 50 items goes into the "15 or fewer" lane. Typical policy is to allow that, so as not to offend the offending party—while those following the rules are penalized by having to wait behind this person.

Using that same rationale, establishment owners might give quarter to complaining parties who are running afoul of ADA service animal policy. While this may "work" in the above-mentioned grocery store situation, it doesn't in this scenario. The job of the establishment representative is to explain calmly to the complainant about following the ADA-prescribed rules and regulations. If the complainant doesn't like it, s/he can leave. Don't penalize the service animal owner who's following the rules in an effort to "keep everyone happy." It can be costly, both in terms of reputation and impact on revenues if a weighty fine is levied by the ADA.

In contrast, if a service dog owner is non-compliant (e.g., the animal is untrained, unruly, aggressive or disruptive), the establishment is well within legal rights to ask the person to escort the animal off the premises. The person must be allowed to return, however, sans service animal.

From the ADA

Guide Dog and Service Animals

[Straight from the ADA](#), here are the prevailing rules of the road when it comes to service animals. It is worthwhile to check periodically for updates or changes. For example, in earlier iterations, both dogs and miniature horses were considered acceptable service animals. Several years ago, the rules were changed to make dogs the predominant single source of service animal, with exceptions for miniature horses. The rules and regulations are summarized below:

Service animals are dogs that are 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.

Examples include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting someone who is having a seizure, reminding a person with a mental illness to take medications, calming a person with PTSD during an anxiety attack.

Dogs whose sole function is to provide comfort or emotional support do not qualify.

When it is not obvious what service an animal provides, only limited inquiries are allowed. Acceptable questions are:

1. Is the service animal required because of a disability?
 2. What work or task has the dog been trained to perform?
- Cannot ask about the disability, or for a certification.
 - Cannot refuse animal because of dislike or allergy.
 - Cannot isolate those with service animals from other patrons.

From the U.S. Department of Justice, Civil Rights Division
Disability Rights Section, Service Animals

Overview

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for Title II (state and local government services) and Title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain new, and updated, requirements, including the 2010 Standards for Accessible Design (2010 Standards).

The DOJ publication provides guidance on the term “service animal” and the service animal provisions in the Department’s new regulations. Beginning on March 15, 2011, only dogs are recognized as service animals under titles II and III of the ADA.

A service animal is a dog that is individually trained to do work or perform tasks for a person with a disability. Generally, Title II and Title III entities must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.

How “Service Animal” Is Defined

Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities.

Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties.

Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person’s disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

This definition does not affect or limit the broader definition of “assistance animal” under the Fair Housing Act or the broader definition of “service animal” under the Air Carrier Access Act.

Some State and local laws also define service animal more broadly than the ADA does. Information about such laws can be obtained from the State attorney general’s office.

Where Service Animals Are Allowed

Under the ADA, State and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go.

For example, in a hospital it would be inappropriate to exclude a service animal from areas such as patient rooms, clinics, cafeterias, or examination rooms. However, it may be appropriate to exclude a service animal from operating rooms or burn units where the animal’s presence may compromise a sterile environment.

Service Animals Must Be Under Control

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.

In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

Inquiries, Exclusions, Charges, and Other Specific Rules Related to Service Animals

When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions:

1. is the dog a service animal required because of a disability, and
2. what work or task has the dog been trained to perform.

Staff cannot ask about the person's disability, require medical documentation, require a special identification card or training documentation for the dog, or ask that the dog demonstrate its ability to perform the work or task.

Allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals. When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility, for example, in a school classroom or at a homeless shelter, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.

A person with a disability cannot be asked to remove his service animal from the premises unless:

1. the dog is out of control and the handler does not take effective action to control it or
2. the dog is not housebroken. When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.

Establishments that sell or prepare food must allow service animals in public areas even if state or local health codes prohibit animals on the premises.

People with disabilities who use service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals. In addition, if a business requires a deposit or fee to be paid by patrons with pets, it must waive the charge for service animals.

If a business such as a hotel normally charges guests for damage that they cause, a customer with a disability may also be charged for damage caused by himself or his service animal.

Staff are not required to provide care or food for a service animal.

Miniature Horses

In addition to the provisions about service dogs, the Department's revised ADA regulations have a new, separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities.

(Miniature horses generally range in height from 24 inches to 34 inches measured to the shoulders and generally weigh between 70 and 100 pounds.) 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 whether:

1. the miniature horse is housebroken;
2. the miniature horse is under the owner's control;
3. the facility can accommodate the miniature horse's type, size, and weight; and
4. the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

SECTION 3: KEY CHALLENGES AND SOLUTION STEPS

For every story that comes to public attention, there likely are thousands that don't. This means that, despite all the legal efforts, requirements and penalties associated with the ADA, disabled people with service animals are in effect segregated against consistently.

Most of the perpetrators get away with it, because most of the disabled population—already burdened with their troubles—doesn't have the patience, energy or confidence to fight back.

Three major developments will change all that:

Education about, and understanding of, ADA service animal rights and wrongs;

Empowerment of people with disabilities to address the issue when it happens, and if necessary file a complaint to make sure it never happens again—at least in that establishment. One by one, two by two, three by three...over time, the ADA service animal policy will become as widely known and understood as laws around the rights of minorities;

Using the power of the ADA to rightfully exclude non-service animals when there are sufficient grounds—so that those wanting to take unfair advantage of the provision cease to poison the well for legitimate service animal owners.

Handling Different Situations

What steps should be taken to handle different situations?

Talk and Train

- All public-facing employees must understand the rules of engagement. This requires more than a memo.

Schedule a session focused solely on this issue.

- Give employees the official ADA information in a handout on the topic (summarized in Section 2, “Rules and Regs.”)
- Then, conduct a series of mock interactions involving a variety of circumstances and potentially confrontational episodes (e.g., patrons arguing with each other); with clear direction about how to handle each.

Develop a written policy statement.

- Capture all this information and give it to employees.

Encourage the asking of questions.

- Airing of concerns and expressions of different views are important.
- The place to get this ironed out is in a training room, not the dining room.

Post a clear and concise policy statement so that everyone entering the establishment becomes knowledgeable about the law.

- Develop a sign** that can be posted in conspicuous areas of the establishment.
- The Starbucks policy statement is a great place to start for a sample.
- This will both help the public get educated, and hopefully prevent (certainly minimize) any confrontation with other patrons or establishment workforce.
- In some cases, people may choose to leave upon reading the statement, especially if one or more animals are on-site. If so, let them go and move on.

Conflicts Between Patrons

How to handle conflicts that arise between patrons because of the presence of a service dog.

Proceed according to a policy addressed during training.

- There should be a set protocol for handling most if not all situations that could arise.
- As a general rule, if a patron is annoyed or angry because of the service animal's presence (not any untoward or inappropriate behavior), give them a handout detailing the ADA rules and regulations and let them know that you are simply adhering to a federal law.
- If they continue to protest or become belligerent, deal with the situation as you would with any unruly or aggressive patron on premises.
- In the event there is evidence that the service animal doesn't meet the ADA requirements for being trained, well-behaved and quiet, then it's time to show the handout to the service animal's owner, and if necessary escort him or her off the premises.
- It's important to communicate that the person is welcome back, just without the service animal.

Navigating the Gray Areas

What to do when there is, or could be, gray area.

Example: “service animal” or “emotional support animal” according to ADA regulations, or jurisdictional conflicts.

- As a rule, follow two basic guidelines:

1) regardless of the service animal’s technical status as a true service animal or emotional support animal (the latter not ADA protected status), don’t raise the issue as a way of trying to get the dog out of the establishment.

- This is a matter of interpretation and could well land the establishment on the wrong end of a complaint.
- Instead, stick with the straightforward basics that can be reasonably interpreted—well-behaved, quiet, non-aggressive. (Yes, evidence of true training is another criterion but can require a degree of subjectivity unlike overt unacceptable behavior such as barking, acting aggressively, or relieving itself on the premises.)
- Use common sense here. If there’s not a clear and present problem, err on the side of benefit of the doubt. Even if the animal’s ultimate service training is dubious, its behavior and demeanor should be the primary criteria for making a decision. This should be communicated to any patron registering concern or a complaint.

2) when in doubt on jurisdictional judgment, the ADA will predominate.

- If an establishment prohibits animals because of a local government law, presume that the ADA supersedes it when it comes to service animals.
- If there are legal hairs to be split, let them adjourn to a court of law.

Educating Owners of Service Animals About Their Rights (And Responsibilities)

...so that they can protect themselves instead of being intimidated into leaving—which is what happens far too often.*

1) Develop and make available to service animal owners a handout detailing their rights and responsibilities, similar to that created by establishments.

- The basics are straightforward and contained in Section 3, “Rules and Regulations.”
- If need be, this can be copied verbatim or adapted to meet any specific additional needs;

2) Establishments can take the “socially progressive extra credit” step of proactively offering this type of information to service animal patrons—as a way of stating their understanding of and support for the rights of the service animal owner.

- This also puts on notice potential “service animal scammers” that they’re dealing with someone who understands the law. They may think twice about staying on the premises or may not return for fear of being challenged.
- In contrast, it can bolster the confidence of the true service animal owner

3) Establishments can take the further extra credit steps of:

- proactively informing the public-at-large as well as their patrons, customers, members, etc. of issues, developments and insights around this important issue
- through eblasts, website/blog, social media-shared posts, publicity, and other public outreach and connection.

***Needless to say, this does the person who is already facing challenges no good at all. This also applies to measures the owner of a service animal can take to file a complaint.**

SECTION 4: RESOURCES

With fast-growing awareness of, and interest in, service animals to provide a variety of physical and psychiatric support functions, the importance of understanding rules and requirements mandated by the Americans with Disabilities Act (ADA) also is growing.

According to a 2014 New Yorker Magazine article, “No government agency keeps track of such figures, but in 2011 the National Service Animal Registry, a commercial enterprise that sells certificates, vests, and badges for helper animals, signed up twenty-four hundred emotional-support animals. Last year, it registered eleven thousand.”
That’s a 4500% increase in just two years!

Real-life stories demonstrate ADA complexity, confusion

While some real-life stories have been cited, there are many more that come up with a simple Internet search. This is both sad and eye-opening. Following are more poignant examples of how and why this can be such a sticky issue:

Don't confuse "service animal," "emotional-support animal" rights, requirements—or governing organizations

No such restrictions apply to service dogs, which, like Secret Service agents and Betty White, are allowed to go anywhere. In contrast to an emotional-support animal (E.S.A.), a service dog is trained to perform specific tasks, such as pulling a wheelchair and responding to seizures. The I.R.S. classifies these dogs as a deductible medical expense, whereas an emotional-support animal is more like a blankie. An E.S.A. is defined by the government as an untrained companion of any species that provides solace to someone with a disability, such as anxiety or depression. The rights of anyone who has such an animal are laid out in two laws. The Fair Housing Act says that you and your E.S.A. can live in housing that prohibits pets. The Air Carrier Access Act entitles you to fly with your E.S.A. at no extra charge, although airlines typically require the animal to stay on your lap or under the seat—this rules out emotional-support rhinoceroses. Both acts stipulate that you must have a corroborating letter from a health professional. "People can't ask about my disability," one friend told me. "But if I feel that I'm in a situation where I might have a struggle being let in somewhere with my dog, then I come up with a disorder that sounds like a nightmare. I like to be creative. I'll say I lack a crucial neurotransmitter that prevents me from processing anxiety and that, without the dog, I'm likely to black out and urinate."

Source: [New Yorker Magazine](#)

Infuriating ignorance targets a sexual assault survivor

SAN ANTONIO (TX) - A North Side woman has filed a complaint with the U.S. Department of Justice, claiming a Mexican restaurant asked all the wrong questions about her service dog. Joan Oliver, 49, said an employee of Sarita's Restaurant on Lockhill Selma Road first told her 'no dogs are allowed in here,' then 'that's not a service dog.' ...'He said, 'Do you have your papers?' "I said you're really not allowed to ask me for papers. You're ignorant of the law."...The Americans with Disabilities Act states no one can ask for documentation. In fact, no government agency certifies service animals or even keeps records on them...Her 12-year-old Chiweenie, named Joey, has been a medical alert dog since March of 2015, she said. Oliver suffers from several mental illnesses, including PTSD following a sexual assault. Joey helps during anxiety attacks..."Joey would jump up on my lap and lick my face," she said, adding: "It's a reminder for me to try different things I've learned or unzip my purse and take a pill if necessary."

Source: [News 4sanantonio.com](#)

Fakers ruin it for legitimate service animal owners

Denton woman with legitimate service dog, businesses frustrated with people abusing practice...The 26-year-old Denton resident, who is legally blind, has used her 4-year-old black Labrador as a guide dog for the past three years. Makiko has been helping Naert with daily tasks, leading her around town and giving her a sense of freedom she hadn't had in a while...Recently, Naert noticed some service dogs don't act like service dogs. People without disabilities are buying vests online to pass off their household pets as service dogs, she said... "That is a huge problem for those of us with service dogs who do have legitimate disabilities and depend on our dogs," Naert said. "It harms a business's view of people with service dogs and service dogs in general. It makes it harder for us to have access to those businesses in the future, even though it's the law."...At a restaurant recently, Naert had to have a lengthy discussion with the owner when she tried to bring Makiko along. Apparently, employees had problems with an unruly dog posing as a service animal earlier... "They said they had a dog in there that shed everywhere and stunk and was barking a lot," Naert said. "We just had to work through it. Eventually, we were allowed in, but it took a lot of education and patience."...the ADA does not require service animals to have any certification or identification. The act doesn't even require dogs to have a vest, though many owners buy one to keep medical information. The only requirement is the animal is leashed, well-behaved and housebroken. Sometimes, that makes it easy to spot the fakers, like when a dog pees in a restaurant or barks incessantly."

Source: [Denton Record-Chronicle](#)

Bad seeds, threat of conflict keep service animal owners at home

However, the [ADA] provisions have also opened up opportunities for abuse...The president and founder of [Service Dogs Inc.](#), Sheri Soltes, says she also hears about people trying to pass off their untrained pets as service animals. She says abuse of the laws makes her industry look bad, along with being unfair to businesses or customers...just as unethical as selling a lab coat and having someone pass themselves off as a doctor."..."I believe it's an education problem in the United States as a whole," said Baer [an amputee with a service animal]. "[People with disabilities have told me getting a service dog has] made them have to stay at home because when they go out in public so many people look at the dog and ask questions about the dog."...Baer says sometimes in those cases it causes greater anxiety, when in some cases anxiety is the very thing a dog is supposed to help prevent and manage.

Source: [KXAN.com](#)

Anarchy and the ADA: the conundrum surrounding “non-official” credentials

Service Animal Scams: A Growing Problem...A cottage industry has developed around fake emotional support animals...With absolutely no proof of an animal’s training or abilities, [Amazon](#) will sell you vests, leashes, collars, and dog tags indicating that your dog is a “Service Dog,” an “Emotional Support Dog,” or a “Seizure Alert Dog.” For a few bucks more you can purchase an [ominous legal-looking card](#) saying you are prepared to sue the skeptical restaurant owner who thinks their no-[pets](#) allowed policy applies to your puppy...Plenty of people with medical and psychological disabilities have legitimate needs for service dogs, therapy dogs, or emotional support animals. And having your service dog wear a vest can make things a lot easier when it comes to getting assistance animals into places where pets are not allowed. But the present system governing the status of service animals is rife with abuse. Here’s why: Three different sets of federal statutes apply to the rights of individuals with disabilities to be accompanied by animals: the Americans with Disabilities Act, the Fair Housing Act, and the Air Carrier Access Act. This division of responsibility has resulted in a bewildering array of conflicting and confusing regulations...One person who is concerned about the proliferation of bogus service animal registries is Dr. Steve Zawistowski, senior science advisor of the ASPCA. When I asked him about the cottage industry that has arisen around fake assistance animal paraphernalia and phony service dog certifications, he replied “It’s the cesspool of human animal relationships that no one wants to talk about.”

Source: [Psychology Today](#)

School of hard knocks goes to Supreme Court (while the child with disabilities stays at home)

The U.S. Supreme Court on Tuesday agreed to take up a special education case stemming from a dispute over whether a Michigan girl with cerebral palsy was permitted to bring her service dog to school...*The Case of Wonder, the Service Dog*...Officials at Fry's school in 2009 had refused to allow the girl to bring Wonder to school (though they briefly relented for a period of a few months, when the dog was required to remain in the back of the classroom). The school district said in court papers that the girl's individualized education program, or IEP, called for a human aide to assist her, so the dog wasn't necessary...[The parents] sued for damages under the ADA and the Rehabilitation Act, but they lost in two federal courts. They appealed to the Supreme Court, and the justices asked the Obama administration to weigh in on the legal question in the case...That question is whether a 1986 federal statute that amended the Individuals with Disabilities Education Act requires families to exhaust procedures under the IDEA when they are suing under the ADA or the Rehabilitation Act. Those latter statutes provide for damages, which the IDEA does not... The case will likely be set for argument sometime this fall.

Source: [Edweek.org](#)

Article Links

'That's not a service dog': Owner files complaint after restaurant worker's questions

<http://news4sanantonio.com/news/local/thats-not-a-service-dog-owner-files-complaint-after-restaurant-workers-questions>

Denton woman with legitimate service dog, businesses frustrated with people abusing practice

<http://www.dentonrc.com/local-news/local-news-headlines/20160613-denton-woman-with-legitimate-service-dog-businesses-frustrated-with-people-abusing-practice.ece>

Pets Allowed ... Why are so many animals now in places where they shouldn't be?

<http://www.newyorker.com/magazine/2014/10/20/pets-allowed>

High Court Takes Case Involving Service Dog; Denies Rehearing on Union Fees

http://www.huffingtonpost.com/kate-kelly/service-dogs-in-the-workp_b_5655838.html

Service Animal Scams: A Growing Problem

<https://www.psychologytoday.com/blog/animals-and-us/201406/service-animal-scams-growing-problem>

Service Animals are Welcome in Starbucks.

<http://starbucks melody.com/2015/07/11/service-animals-are-welcome-in-starbucks/>

Starbucks Employees: Don't Say "You're Not Blind!" To A Disabled Veteran With A Service Dog

<https://consumerist.com/2014/02/11/starbucks-employees-dont-say-youre-not-blind-to-a-disabled-veteran-with-a-service-dog/>

FAQ

What is the difference between a service animal and emotional support animal?

Here's an example of the sometimes fine line between the two. If a dog feels an anxiety attack coming on in its owner and alerts the owner, it's a service dog. If that same animal only calms the owner during the anxiety attack without providing an alert, it is considered an emotional support dog and is not covered by ADA service animal protections.

Are state and local government entities required to abide by the same ADA rules as public accommodations and commercial facilities, the focus of this training?

Not 100%. Title III of the ADA applies to "public accommodations and commercial facilities." Title II applies to "state and local government entities." A general summary applicable to both can be found [here](#). While there are many similarities, the ADA issued updates/changes to both a few years ago. For those interested in studying these in more depth, click [Title II \(state and local government entities\)](#) and [Title III \(public accommodations and commercial facilities\)](#).

If I notice that an animal in a public venue appears to be acting only in an emotional support capacity, is it okay to ask for its removal?

Not recommended. This can be an extremely subtle difference to the untrained eye, and can open a can of worms best left closed. As long as the animal is well-behaved and isn't doing anything blatant to disturb others (e.g., barking, acting aggressively), the rule of thumb is to leave well enough alone. Yes, technically one ADA requirement of service animal owners is that the animal appears "trained." But, there's a big difference between an obviously unruly, out-of-control animal and one that is offering solace to its owner in a respectful, non-intrusive manner.

As the owner/operator of a public establishment, how do I make sure I'm doing what's legal according to the ADA?

Follow the ADA guidelines set forth in Section 2 above. And make sure to post a form of the ADA policy (e.g., like Starbucks) so that you come across clearly and confidently to patrons. If the animal clearly acts outside the bounds of the Act (e.g., pees on the floor), you have every right to ask the owner to exit the establishment with the animal. Make sure to communicate that the owner is free to return without the animal. But, above all, use common sense. Just as there are many shades of gray, look at the issue in the context of the situation. For example, if there are few people in the establishment and the animal does something that marginally appears to be a problem, you might choose to let it go. If, on the other hand, numerous patrons are being overtly threatened by an aggressive animal, common sense dictates a stronger response. For more information, visit: ada.gov.

Is there any official licensing, certification or credentialing available for "service animals?"

Not at this time. But there are many agencies selling items that make it appear these animals are somehow "certified." Bottom line, an ill-behaved animal falls outside ADA protection. It doesn't matter what the dog is wearing or what "credentials" the owner presents. As no "official" credentials exist, the owner/operator of a public establishment cannot ask for them.

What can the owner ask for?

Directly from the ADA handbook: “When it is not obvious what service an animal provides, only limited inquiries are allowed. Acceptable questions are: Is the service animal required because of a disability? What work or task has the dog been trained to perform?...Cannot ask about the disability, or for a certification...Cannot refuse animal because of dislike or allergy...Cannot isolate those with service animals from other patrons.”

What if state or local laws conflict with ADA mandates?

Again, straight from the ADA: “Establishments that sell or prepare food must allow service animals in public areas even if state or local health codes prohibit animals on the premises.” In some cases, communities and/or states may offer broader protections than the ADA. Interpretation/enforcement of such regulations is a matter of the governing agency’s policy and does not affect anything beyond the scope of ADA requirements. For example, if an establishment violates some part of a local service animal ordinance that supersedes ADA rules, relief must be sought at the local level. However, all ADA rules still apply.

Where do I go for more information about ADA service dog rules and requirements?

https://www.ada.gov/service_animals_2010.htm
<https://adata.org/publication/service-animals-booklet>
www.adata.org

ADA Information Line: 800-514-0301 (Voice) and 800-514-0383 (TTY); 24 hours a day to order publications by mail. M-W, F 9:30 a.m. – 5:30 p.m., Th 12:30 p.m. – 5:30 p.m. (Eastern Time) to speak with an ADA Specialist. All calls are confidential.

Where do I go to learn more about training and resources around service dogs?

[International Association of Assistance Dog Partners \(IAADP\)](http://www.iaadp.org) - a non-profit, cross-disability organization representing people partnered with guide, hearing and service dogs.

What about filing a complaint?

According to the ADA, there are “Two avenues for filing ADA Title III complaints...Both individuals and the Department of Justice can file complaints...If from an individual, the individual can file a charge of discrimination with his or her local branch of the Equal Employment Opportunity Commission...The ADA also encourages the use of alternative means of dispute resolution that are less costly than judicial procedures.”

You can file an Americans with Disabilities Act complaint alleging disability discrimination against a State or local government or a public accommodation (including, for example, a restaurant, doctor's office, retail store, hotel, etc.) online, by mail, or fax.

To file an ADA complaint online (electronically):

www.ada.gov/complaint

To file an ADA complaint by mail:

US Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section – 1425 NYAV
Washington, D.C. 20530

To file an ADA complaint by fax: (202) 307-1197

Please keep a copy of your complaint and the original documents for your own records.

Helpful Organizations

ADA National Network

www.adata.org

<https://adata.org/publication/service-animals-booklet>

“The ADA National Network provides information, guidance and training on how to implement the Americans with Disabilities Act (ADA) in order to support the mission of the ADA to ‘assure equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.’”

Funded by the National Institute on Disability and Rehabilitation Research, the network consists of ten Regional ADA Centers located throughout the United States and an ADA Knowledge Translation Center (ADAKTC)

Each Regional ADA Center focuses on its region’s unique needs. This regional focus is critical to ensuring that ADA National Network services meet the needs of a diversity of populations and stakeholders throughout the country.”

International Association of Assistance Dog Partners

www.iaadp.org

Clearinghouse for information about service dogs

U.S. Department of Justice

Civil Rights Division

Disability Rights Section

What businesses need to know about accommodating service animals

<https://www.ada.gov/archive/qasrvc.htm>

ADA revised guidelines for service animals

https://www.ada.gov/service_animals_2010.htm

U.S. Department of Veterans Affairs

National Center for PTSD

www.ptsd.va.gov

“Posttraumatic stress disorder (PTSD) can occur after someone goes through a traumatic event like combat, assault, or disaster. Most people have some stress reactions after a trauma. If the reactions don't go away over time or disrupt your life, you may have PTSD.”

About Positive Impact 2

Mission: To offer support and resources for people to speak up loudly about their experiences, and let others know they're not alone.

This isn't a place to be timid; it's a place to be blunt, bold and brave—to tell it like it is...sometimes in words that are shocking, that will make people gasp, that tell the world the deepest truths and secrets about sexual abuse.



**Blunt.
Bold.
Brave.**

Prime Directives

- Educate and Inform
- Facilitate Connection
- Develop a Healing Retreat

Justice Speaks™



Justice, Official Spokesdog, Positive Impact 2

Justice Speaks™, a core offering of Positive Impact 2, is a service animal training program focused on helping sexual trauma survivors heal their emotional wounds—replacing daily stress with solace, turning chagrin into a grin, and helping defray the fears that so often haunt sexual trauma victims.

Positive Impact 2 offers both direct training of animals to provide solace and support for sexual trauma sufferers; and training the trainers to expand influence and awareness while addressing this vitally important service.

Positive Impact 2 Trainings and Resources

Positive Impact 2 offers training for businesses and education of the general public on the application of the Americans with Disabilities Act (ADA) as it relates to sexual trauma casualties and deployment of service animals in business and public settings.

Positive Impact 2 also offers sexual trauma awareness training, assistance and resources, chiefly addressing the childhood population (those 17 or younger)—includes healing tools and protocols for victims, prevention awareness, and identifying, documenting and responding to signs/behaviors of sexual trauma and abuse.

Through our [website](#), Positive Impact 2 shares vetted, documented resources to help sexual trauma sufferers, moderates forums for discussion; collaborates with additional leading-edge sexual trauma and abuse organizations that are establishing new caring and sharing frontiers.



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positiveimpact2.org