



HR for Business - ConsultStu LLC

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Information Paper

Topic: Service Animals at Public Accommodation Businesses in Florida

There are an estimated 200,000 service dogs working in the United States. This includes guide dogs for the blind, as well as service dogs helping the needs of disabled individuals. There are many organizations providing service dogs to returning veterans that are suffering from Post Traumatic Stress Disorder (PTSD) and the Veterans Administration awards service dogs to qualified veterans with physical and mental disabilities. The growth of service dogs has led to increased questions from businesses that provide public accommodation, such as restaurants and hotels.

A recent situation posted on social media exposed this increasing complexity. It involved a Florida restaurant and a U. S. Navy veteran with a service dog. He tried to eat at a Gainesville area restaurant and it would not let him in with the dog. He explained that it was a "service dog" and not a pet (dog was wearing a red vest with ID tags)¹. The restaurant host would not seat the man without written proof that it was a "service dog" because that's what the health inspectors told him. The veteran informed the host that according to the Americans with Disabilities Act (ADA) he was entitled to be in the restaurant with his service dog. Even when told that he was disabled and the dog was trained to help him with certain tasks, the host would only seat him away from the main dining room, in a special area. According to the laws of Florida and the federal ADA, this situation violated the law. **On the other hand**, are there any limitations to bringing dogs into a restaurant/hotel?

Under ADA, Service animals must be allowed into Commercial Businesses

The Americans with Disabilities Act (ADA) set the standards for service animals in the United States, including Florida. Unless the legal standards under Florida law were more accommodating than the ADA, the ADA becomes the minimum standards for the state.

Service dogs are not pets, they are working animals. To implement the ADA, the Department of Justice published guidance on Service Animals in March 2011. The key takeaways from the DOJ guidance are the following:

- ❖ Only dogs (no specific breed or size) are recognized as service animals (and some miniature horses);
- ❖ A service dog is individually trained to do work and perform tasks for a person with a disability;
- ❖ Pet fees or deposits are not applicable to service animals.

¹ There are many online organizations that will register service animals, and sent out vests, pet IDs and other registration paperwork, for less than \$100.

- ❖ Service dogs can accompany people with disabilities in all areas where the general public are allowed (limited exceptions, such as a hospital operating room);
- ❖ Dogs whose sole function is to provide “comfort or emotional” support do not qualify as service animals under the ADA²;
- ❖ Service animals must be under control (harnessed, leashed) unless those devices interfere with the service animal’s work – then the dog must be controlled through voice, signal or other effective controls;
- ❖ When it is not clear what service the dog provides, a limited inquiry of 2 questions can be asked: (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. **However**, staff cannot ask for documentation, special authorization cards or ask for a training demonstration
- ❖ Allergies of other patrons is not an excuse for no service, and the business must accommodate the service animal and handler, and the allergic patron
- ❖ Staff cannot ask for the removal of a service animal unless (1) dog is out of control, handler not controlling; (2) dog is not housebroken. Staff must still offer their services and goods to the handler without the service animal’s presence.
- ❖ State and local health codes cannot prohibit service animals in public areas.
- ❖ Service animals and their handlers cannot be isolated from other patrons, treated less favorably or charged a fee.
- ❖ Staff is not required to provide services to the service animals.

Florida law also protects the use of service animals

Under Florida Statute § 413.08, “service animal” means an animal that is trained to perform tasks for an individual with a disability. The tasks may include, but are not limited to, guiding a person who is visually impaired or blind, alerting a person who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting a person who is having a seizure, retrieving objects, or performing other special tasks. A service animal is not a pet.

Similar to federal law, Florida law states documentation that a service animal is trained cannot be a precondition for providing service to an individual accompanied by a service animal. A public accommodation may ask if an animal is a service animal or what tasks the animal has been trained to perform in order to determine the difference between a service animal and a pet. Violation of this statute is a misdemeanor of the second degree (60 days imprisonment, and/or \$500 forfeiture).

Summary

There are very few exceptions to the federal guidelines that require public commercial businesses to serve all disabled patrons with a service animal (a/k/a service dog). Hostess and managers should be trained on the requirements of the DOJ and Florida state statute. Only very disruptive service animals, or those that are not housebroken, should be told to leave. In those cases, it is wise to properly document the events (w/witnesses).

Lesson Learned

Earlier this year, a news channel affiliate in Texas reported on a U.S. veteran with a service dog that was told not to enter a Starbucks location with his dog. The vet explained what the service dog was trained to do for him and the Starbucks employee questioned why he needed a dog for

² There is no solid guidance on how a business can legitimately differentiate between comfort and service dogs.



this purpose. Fortunately, another store associate corrected the situation and the veteran was served. The learning lesson for all comes from the Starbucks corporate communications statement that confessed to the mistake and pledged to do better. It is good advice to all businesses that might confront the challenges of service dogs.

“Starbucks always welcomes service animals to our stores, and this customer’s experience is not consistent with the welcoming and friendly environment we strive to create for everyone. We have spoken with this customer to apologize for his experience, and we hope to have the opportunity to serve him again. We have also spoken with our store partner about this situation and used this as a coaching opportunity for the future.”

These situations need to be handled with tact, diplomacy and an accommodating attitude. Prepare your staff today, to the potential challenge tomorrow.

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