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State of Indiana

Indiana Family and Social Services Administration
Office of General Counsel

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Purpose

This policy outlines Indiana Family and Social Services Administration's (FSSA's) commitment to enabling employees and contractors with service and emotional animals in the workplace in accordance with the Americans with Disabilities Act (ADA), the Rehabilitation Act of 1973, and all other relevant federal and state laws. See 42 U.S.C. § 12101; 29 U.S.C. § 794; 29 CFR Part 1630; 29 CFR Part 1614; I.C. 16-32-3-1.5; I.C. 35-46-3-11.5; I.C. 16-32-3-2.

Scope

This policy applies to all employees and contractors working within FSSA divisions, business units, and functional areas therein.

Definitions

- **Disability:** The ADA defines a disability as a mental or physical impairment that substantially limits one or more life activities. This definition covers those who have a record or history of a disability, and/or are perceived as having a disability.
- **Emotional support animal:** Any species of animal that is prescribed as a type of treatment to offer support for a disability. These animals are not task trained and are solely present for comfort and companionship.
- **INSPD:** Refers to any employee who is employed as a representative for FSSA as human resources or staff who are employed by the Indiana State Personnel Department.
- **FSSA property:** The term property in this document refers to any physical buildings leased or owned by FSSA, and equipment or fixtures purchased or rented by FSSA.
- **House broken:** An animal trained to behave and relieve themselves outside the house or other buildings on a consistent and regular basis as to comply with the requirements set forth in the Americans with Disabilities Act (ADA) and other relevant laws.



- Service animal: A dog or miniature horse that has been task trained to mitigate an individual's disability or disabilities.
- Supervisor: Refers to business unit directors, managers, and all other staff who supervise, lead, or oversee other staff.
- Therapy animal: An animal that has undergone behavioral training to obtain the certification to enter specific locations such as schools, medical facilities, and courtrooms to provide comfort to others. These animals do not perform tasks for the handler related to a disability.

Introduction

All requests addressing service animals or emotional support animals for employees are addressed as reasonable job accommodations. The service animal definition can be found in Title III of the ADA and employment related ADA issues can be located in Title I of the ADA. All animals will be held to the same control and behavioral expectations to maintain the health and safety of all FSSA employees, contractors, and visitors. All animals should be approved by INSPD before they are brought onto the property. To start the accommodation process, an employee should contact their Human Resources (HR) representative. If you need assistance locating your representative, you may contact the ADA Director at ADA@fssa.in.gov

Service Animal Further Explained

The work or task that a service animal is trained to perform to mitigate an individual's disability must be directly related to the individual's disability. A business is required to modify existing practices, policies, and procedures where reasonable for the benefit of a person with a disability. Miniature horses can be permitted entrance if the business in question can accommodate the miniature horse's size, type, and weight, and the miniature horse's presence will not compromise legitimate safety requirements for the function of the business.

Emotional Support Animal Defined

Emotional support animals are animals that are not specifically trained to mitigate a disability; therefore, they may lack the training and behaviors to be in a public space. Additionally, emotional support animals may be any species of animal, unlike a service animal. The purpose of an emotional support animal is to provide comfort or companionship to the individual. An emotional support animal can be granted as a reasonable accommodation under Title I of the ADA when applicable. Emotional Support Animals are not covered under the ADA and therefore are not protected and can be denied by INSPD.

Therapy Animal Defined

A therapy animal is an animal with specific certifications and trainings giving it the appropriate behavior and exposure to visit venues, such as hospitals and schools, to provide comfort to individuals around it. It is not an animal trained to mitigate a disability; therefore, therapy animals are not protected under the ADA and relevant laws.

INSPD retains the right to deny the entrance of all animals when criteria have not been met to maintain the health and safety of all FSSA employees and contractors, FSSA property, and approved animals.

ADA Requirements

The ADA requires an employer to provide reasonable accommodations to qualified individuals with disabilities who are employees or applicants for employment unless providing the accommodation causes an undue hardship or burden on the employer. The Equal Employment Opportunity Commission (EEOC) recognizes an accommodation as any change in the work environment or the way that tasks are primarily done that enables an individual with a disability to have equal employment opportunities. INSPD may ask the employee to provide one or all of the following:

1. **Documentation of the need for an animal.** This documentation can be from a physician or a training facility if the physician was not involved in the approval or acquisition of the animal. The purpose of this documentation is to learn how the disability in question can substantially affect the employee's daily life and work productivity without the animal's assistance or comfort.
2. **Demonstration of the need for the animal if the employee's disability is not apparent.** INSPD may request that an animal demonstrate their trained tasks in cases where a disability may not be apparent and/or it is not clear if the animal was properly trained to perform tasks in a workplace environment.
3. **A trial period.** In some cases, INSPD may discuss a trial period in which the animal can attend work functions and be present on all FSSA properties before deciding if the animal is a reasonable accommodation, or if other reasonable accommodations can be created.

Service Animals in Training

An employee with a service animal in training will need to consult INSPD to verify if their service animal will be allowed to accompany them into an FSSA office or business unit. This is to protect the health and safety of everyone on FSSA properties.

Rights and Responsibilities of Animal Handlers

The purpose of the animal is to assist the employee in performing and maintaining job duties. To protect the use of the animal, the employee is responsible for the care and behavior of the animal. Fellow FSSA staff and contractors are not responsible or liable for the animal.

Employees must agree to the following when bringing animals to work:

- The animal must be healthy and reasonably groomed (e.g., no fleas, ticks, open wounds, or other contagious diseases that can be transferred to humans or other animals).
- The animal must be well behaved (e.g., no uncontrolled barking, growling, lunging, jumping/pawing that is not directly related to a tasking behavior for the mitigation of a disability, or other threatening behaviors).
- The animal must be appropriately house broken.
- The animal must be under the control of the employee via leash, tether, harness, or other effect. Local ordinances for leash laws are to be followed unless a leash otherwise interferes with an animal's tasks such as retrieving objects for an individual with a disability. In a situation where a leash inhibits the animal's tasks, the employee must use another way to always maintain the control of the animal.
- In any situation where the animal cannot be controlled, the employee will be asked to leave the property with the animal. The employee's supervisor and INSPD may have a follow-up conversation with the employee to discuss how to prevent future incidents or to discuss an alternate reasonable accommodation.
- Local vaccination and reporting laws will be applicable in cases where an animal scratches, bites, or otherwise harms staff, contractors, visitors, or fellow animals on FSSA property.
- The employee may be required to pay for any damages to FSSA property caused by an animal. Examples of damages can include torn and chewed carpets and furniture.
- All animals are to be relieved outside. Employees are responsible for cleaning up any excrement from the animal. In cases where the employee is not able to independently clean up after the animal, a reasonable accommodation will be discussed with INSPD to maintain the employee's independence and the safety and healthy integrity of FSSA property.

- The employee should report any incidents where FSSA staff or contractors interfere with the performance of their animal to the ADA Coordinator at ada@fssa.in.gov.

Animal Related Concerns

All accommodations are case-specific. Thus, it is crucial to be in contact with INSPD. If any concerns arise to the presence of an animal in the workplace, INSPD and the ADA Director should be contacted to maintain the work environment for all FSSA employees, staff, and contractors.