

Know Your ADA Rights & Responsibilities: Service Animals in Food Establishments

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Indiana Department of Health

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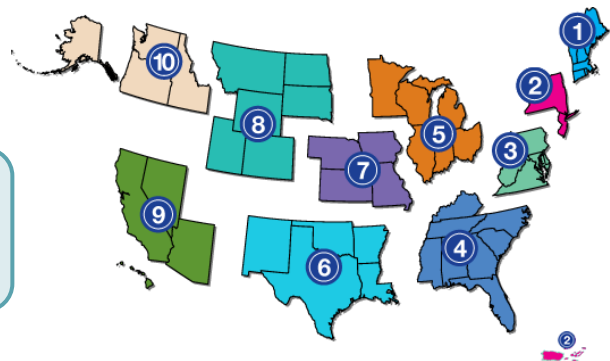
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The ADA National Network (ADANN)

The ADANN consists of 10 Regional ADA Centers

- **Phone:** 800-949-4232
- **Website:** www.adata.org

Find and Contact a
Regional ADA Center:
adata.org/find-your-region



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Presentation Disclaimer

Information, materials, and/or technical assistance provided during this presentation is intended solely as informal guidance.

This presentation is not a determination of your legal rights or responsibilities under the ADA, nor is it binding on any agency with enforcement responsibility under the ADA.

Questions on state laws related to service animals and disability discrimination in places of public accommodation should be directed to the [Indiana Civil Rights Commission](#).

Questions on the [Indiana Food Protection Laws, Rules and Regulations](#) can be directed to the [Indiana Food Protection Division](#).



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Today's Topics

- What is (and is not) a Service Animal
- State and Federal Requirements
- Behavioral and Training Requirements
- Lawful Exclusion of Service Animals
- Access in Food Establishments
- Resources and Questions



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Service Animals Under the ADA

Public and private entities covered by the ADA are required to modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

- Title II – State and Local Governments
 - [§ 35.136 Service animals](#)
- Title III – Places of Public Accommodation
 - [§ 36.302\(c\) Service animals](#)

What about employment?

- Service animals are not specifically mentioned in Title I
 - Should be handled as a reasonable accommodation request



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DOJ: What is a Service Animal?

Service Animals under the DOJ ADA Regulations:

Dogs, and in more limited cases miniature horses, that are individually trained to do work or perform tasks for people with disabilities.

Examples:

- Guiding people who are blind
- Alerting to oncoming seizures
- Pulling a wheelchair
- Reminding to take prescribed medications



▶ DOJ



DOT



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Assessment Factors for Miniature Horses

Miniature Horses under the ADA:

The ADA contains a separate provision to allow miniature horses if certain assessment factors are met

Assessment Factors:

- 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**.
- iii. Whether the miniature horse is **housebroken**.
- iv. Whether the miniature horse's presence compromises **legitimate safety requirements**.



DOT: What is a Service Animal?

Service Animals under the DOT ADA Regulations:

A service animal may be any animal, if it is individually trained to do work or perform tasks for a person with a disability. [49 C.F.R. § 37.3 Definitions.](#)



DOJ ► DOT



Service animal means any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.



What is NOT a Service Animal?

Emotional Support Animals (ESAs)

These animals are not trained to perform work or a task but provide emotional support, comfort, or companionship for a person with a disability. **May be covered in certain employment or housing settings.**

Therapy Animals

These animals are typically invited by hospitals, schools, and other establishments to provide stress relief and similar benefits as ESAs to patients, students, staff, etc. They can provide therapeutic benefits to individuals, regardless of disability. **No federal access protections.**



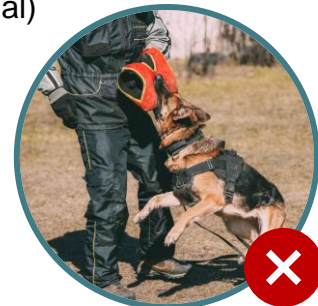
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What is NOT a Recognized Task?

The ADA lists the following “tasks” which are not protected under the law as service animal work:

- Emotional support, well-being, comfort, or companionship (i.e. the presence of the animal)
- Violent protection work
- Crime deterrence



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Indiana State Law

Service animals are referenced in state laws about food safety:

- **When to Wash Hands – 410 IAC 7-24-129**
 - Food employees must clean their hands and exposed part of their arms after caring for or handling service animals.
- **Handling Prohibition – 410 IAC 7-24-435**
 - Food employees may not handle or care for service animals unless the service animal is their own.
- **Prohibiting Animals – 410 IAC 7-24-436**
 - Service animals are allowed in areas that are not used for food prep



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Relationship Between State & Federal Laws

Both federal laws—like the ADA—and state laws can address disability-related service animal protections.

- States can provide greater protections than what the ADA requires, but not fewer (e.g. providing protections for service animals in-training)
- A covered entity must adhere to whichever law provides the greatest protection for a person with a disability
- Some states may have criminal laws or misdemeanor penalties for things like interfering with a service animal's work, harming a service animal, or harassing an animal or their handler (not civil rights related, but good to know)



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Other State or Local Animal Laws

Even though service animals are granted specific public access protections under the ADA, they are still animals

- Service animals must comply with local animal control or public health requirements related to vaccination
- Service dogs must comply with dog licensing and registration requirements
- Laws relating to animal attacks (e.g. a dog bite incident) and animal abuse or neglect can be enforced



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Service Animals In-Training

Indiana law allows service animal trainers to access public accommodations while engaged in the training of a service animal



- Under this law, a “public accommodation” means an establishment that caters or offers services, facilities, or goods to the general public
- A service animal in-training must be under the control of its trainer at all times while on the premises of a public accommodation
- [IC 16-32-3-2 Public accommodations; service animals](#)



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Who Can Train a Service Animal?

The ADA does not specify who is allowed to train a service animal or how service animal training must be conducted.

Examples of who typically provides service animal training:

- The person with the disability
- A private animal trainer
- A training organization
- Puppy raisers (general obedience, socialization, etc.)



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Identifying a Trained Service Animal

Trained service animals are not required to:

- Wear special vests, harnesses, patches or tags identifying them as service animals
- Demonstrate their trained work or task



People with disabilities are not required to:

- Register their trained service animals
- Provide training documentation
- Carry a special ID card or certificate
- Disclose their disability or provide medical documentation



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What Can I Ask?

Service Animal questions under the ADA:

ADA Title II and III covered entities can ask two questions to determine if an animal can be admitted as a service animal:

1. Is this a service animal required because of a disability?
2. What work or task has the animal been individually trained to perform?

Entities **cannot** ask these questions if the disability and trained work or task are obvious.



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Behavioral Requirements

In addition to being task trained, service animals are required to be housebroken and under their handler's control at all times in ADA covered businesses and establishments

- Not allowed to wander away from their handler, jump up on others, obstruct busy walkways, etc.
- Not allowed to bark repeatedly
- Not allowed to behave aggressively or otherwise pose a direct threat to health or safety



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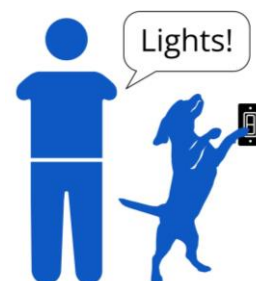
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Leash Requirements

Service animals are required to be leashed, harnessed or tethered unless they meet at least one of the following exceptions:

1. These devices interfere with the service animal's work or task
2. The person's disability prevents the use of these devices

The animal must still be under the handler's control via hand signals, vocal commands or some other effective means.



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When Can I Exclude a Service Animal?

Service animals may be legally excluded in the following instances:

- Making modifications to allow the animal would fundamentally alter the nature of the goods, services, programs, or activities
- There is a legitimate risk to health or safety (i.e. direct threat)
- An animal is out of control and the handler does not take effective action to control it
- The animal is not housebroken

The handler must be given the opportunity to receive goods or services without the animal present.



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Fundamental Alteration

In most settings, the presence of a service animal will not result in a fundamental alteration. However, there are exceptions.

Example: At a zoo, a service animal can be restricted from areas where the animals on display are the natural prey or natural predators of the animal. For example, a service dog's presence would likely be disruptive, causing certain displayed animals to behave aggressively or become agitated. Even if this is the case, the animal cannot be restricted from other areas of the zoo where their presence would not result in a fundamental alteration (e.g. the food court).



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Direct Threat

Direct Threat: A significant risk to health or safety that cannot be reduced or eliminated by a reasonable modification or by providing auxiliary aids or services.

- Requires an individualized assessment (no blanket bans)
- Based on current medical knowledge or on the best available objective evidence to determine the following:
 - Nature, duration and severity of risk
 - Probability that harm will actually occur
 - Whether reasonable modifications or auxiliary aids and services will mitigate the risk



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Direct Threat – Example 1

Scenario: An individual with limited grip strength and functionality caused by rheumatoid arthritis uses a service dog to pick up items for her at a grocery store and place them in her basket. This includes produce items.

- **Can the risk be mitigated?** Providing a staff member to assist the individual with their shopping, offering free delivery or pick-up, etc. could be a reasonable alternative and would eliminate the direct threat of the animal's mouth/saliva contaminating the food.
- **Why free delivery or pick-up?** Individuals cannot be charged for the cost of a reasonable modification. If the store is unable to provide in-store modifications, such as providing a staff member to assist the person with shopping in-person, they cannot charge for delivery or pick-up if these are the only reasonable and effective alternatives to in-store assistance.



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Direct Threat – Example 2

Scenario: A person who is blind enters a restaurant with their guide dog. Another customer shares with the manager that they have an allergy to dogs and requests that the animal be removed from the premises.

- **What is the nature, duration and severity of risk?** The manager may need to ask for more clarification. Is the allergic reaction triggered by being in the same room? Touching the animal? Is the customer dining in or just picking up food? What is the severity and type of reaction (itchy nose or anaphylaxis)?
- **Can the risk be mitigated?** In many cases, risk of allergic reaction can be mitigated by seating individuals in different rooms/areas of the facility. Other modifications such as asking an individual to wait until the other person has left or providing curbside take-out could also be considered.



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Access in Food Establishments

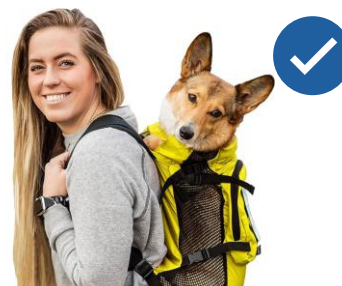
Service animals are generally allowed to go wherever the handler is allowed to go as long as this does not result in a fundamental alteration or direct threat.

- **Examples:** Restrooms, interior and exterior dining areas, sales areas, self-service food lines (salad bars, buffet lines, etc.)

Shopping Carts and Baskets

Are service animals allowed to ride in shopping carts or baskets?

- Service animals must stay on the floor or the person may carry the dog in their arms or via their own carrier device
 - **Example:** A glucose alert dog may be carried in a chest pack if it has been trained to smell the handler's breath to detect changes in sugar levels related to diabetes and provide alerts



Customer-Use Only Items

Are restaurants, bars, and other places that serve food or drink required to allow service animals to be seated on chairs or allow the animal to be fed at the table?

- Seating, food, and drink are typically provided for customer use only. The ADA gives a person with a disability the right to be accompanied by his or her service animal, but covered entities are not required to allow an animal to sit at or be fed at the table.



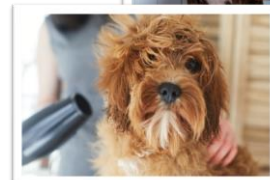
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Care and Supervision

Covered entities are not responsible for the care and supervision of a service animal

- If a person is incapacitated or otherwise unable to care for their service animal, they should be given the chance to coordinate care for their service animal prior to it being placed in a boarding facility or other holding arrangement.



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Surcharges

People with disabilities cannot be charged additional pet or cleaning fees because of their use of a service animal

- If damage occurs, people with disabilities may be charged the same way a person without a disability would be charged
- Properly trained service animals that are under their handler's control should not be causing damage to a property



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Questions



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Resources – ADA

Department of Justice, Civil Rights Division

- [ADA.gov](https://www.ada.gov) | 800-514-0301
- [Frequently Asked Questions about Service Animals](#)



ADA National Network (ADANN)

- [Service Animal Resource Hub](#)



National Network
Information, Guidance, and Training on the
Americans with Disabilities Act

Great Lakes ADA Center

- [Service Animal Video Playlist \(YouTube – English, Spanish and Audio Described\)](#)



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