

Service Animals, Emotional Support Animals, and Pets: Accommodation Rules and Best Practices

A Practical Guidance® Practice Note by
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This practice note provides guidance on providing accommodations to persons with disabilities and their related animals, including COVID-19 guidance. The Americans with Disabilities Act (ADA) is a broad statute and governs the actions of employers under Title I, 42 U.S.C. § 12111 et seq., 29 C.F.R. pt. 1630; state and local governments under Title II, 42 U.S.C. § 12131 et seq., 28 C.F.R. pt. 35; and places of public accommodation under Title III, 42 U.S.C. § 12181 et seq., 28 C.F.R. pt. 36. While this note will focus primarily on the ADA, it will also examine the requirements under the Fair Housing Act (FHA), 42 U.S.C. § 3601 et seq., Section 504 the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, Air Carrier Access Act (ACAA), 14 C.F.R. pt. 382, and state law.

Business owners may struggle with the proper response when asked to allow an animal into their places of business. The plethora of federal, state, and local laws have resulted

in a variety of similar terms with different meanings and, consequently, different requirements. Further, the proper procedure will depend on whether the business is acting as an employer, providing goods and services to the public, operating housing, or is an airplane carrier. This note will address these issues.

In particular, this practice note discusses:

- Distinguishing Service Animals vs. Emotional Support Animals vs. Pets
- Major Legal Issues regarding Service Animal Accommodation in the Workplace
- Major Legal Issues concerning Service Animal Accommodation in Public Places
- Accommodating Animals in Housing
- Accommodation Requirements for Animals in Airplanes
- Best Practices for Employers for Ensuring Proper Accommodation of Service Animals
- Guidance for Employers on Emotional Support Animals and Pets
- COVID-19 Considerations

For additional guidance regarding the ADA and accommodations, see [Americans with Disabilities Act: Guidance for Employers](#), [Accommodating a Disability under the Americans with Disabilities Act Checklist](#), and ADA: Employee Rights § 6.03[2][c]. For a non-jurisdictional annotated disability and reasonable accommodation policy, see [Disability Accommodations Policy \(with Acknowledgment\)](#). For an annotated ADA request for accommodation form, see [Disability Accommodation](#)

[Request \(ADA\)](#). For a sample disability accommodation request resolution, see [Disability Accommodation Request Resolution \(ADA\)](#).

For state-specific disability accommodations policies, see [Discrimination, Harassment, and Retaliation State Expert Forms and Checklists Chart](#). For state-specific practice notes that cover disability law, see [Discrimination, Harassment, and Retaliation State Practice Notes Chart](#).

Distinguishing Service Animals vs. Emotional Support Animals vs. Pets

Prior to reviewing the requirements for each type of business, you must first become familiar with the variety of terms regularly used to describe animals.

Service Animals: Americans with Disabilities Act (ADA Titles II and III)

On September 15, 2010, the Department of Justice published final regulations to Titles II and III of the ADA (effective March 15, 2011) to limit “service animals” to include only individually trained dogs and miniature horses that take specific action when needed to assist an individual with a disability. See 75 Fed. Reg. 56164; 76 Fed. Reg. 13285. As explained below in Major Legal Issues regarding Service Animal Accommodation in the Workplace, Title I of the ADA, which applies to workplace disability accommodation, does not specifically define “service animal.”

Trained to Perform Work or Tasks

Under the ADA, the work or tasks performed by the service animal must directly relate to the individual's disability. [U.S. Dept. of Justice, Frequently Asked Questions about Service Animals and the ADA \(FAQ\)](#).

A service animal could be trained to perform several tasks to assist individuals with disabilities, including, but not limited to:

- 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 nonviolent 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 –and–
- Helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors

75 Fed. Reg. 56164, at 56177. While it doesn't matter whether the service animal has been trained by a professional or the person with a disability, the key is that the animal has been trained.

Dogs

The ADA does not limit the size or breed of dog. In fact, it is illegal to exclude a service dog based on assumptions about how its breed might behave. 75 Fed. Reg. 56164, at 56194. Even municipalities that have banned certain dog breeds must make an exception for those dogs acting as a service animal. See, e.g., *Sak v. City of Aurelia*, 832 F. Supp. 2d 1026, 1048 (N.D. Iowa 2011) (enjoining the city from enforcing its city ordinance prohibiting pit bulls as to “Snickers” the dog, in “one giant leap for pit bull service dogs”).

Miniature Horses

The revised ADA regulations also allowed a provision for individually trained miniature horses. See 75 Fed. Reg. 56164, at 56178. These horses generally range in height between 24 and 34 inches, and weigh between 70 and 100 pounds. Businesses can assess whether they must accommodate a miniature horses using the following four factors:

- The type, size, and weight of the miniature horse and whether the facility can accommodate these features
- Whether the handler has sufficient control of the miniature horse
- Whether the miniature horse is housebroken –and–
- Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation

75 Fed. Reg. 56164, at 56178. While uncommon, miniature horses have been deemed service animals when they provide services such as navigating, playing with, and providing therapy for children. See *Anderson v. City of Blue Ash*, 798 F.3d 338 (6th Cir. 2015).

Service Animals-in-Training

Under Titles II and III of the ADA, animals must have completed their training to receive the benefits provided to service animals. [U.S. Dept. of Justice, Frequently Asked](#)

[Questions about Service Animals and the ADA \(FAQ\)](#). However, in most states, a person (whether disabled or not) who is training a service animal has the same privileges as a person with a disability. The exceptions, as of August 12, 2020, are Hawaii, Michigan, South Dakota, Washington, and Wyoming. [Rebecca F. Wisch, Table of State Service Animal Laws, Animal Legal & Historical Center](#).

Service Animals – Air Carrier Access Act (ACAA)

Unlike the ADA, the Air Carrier Access Act uses a broader definition of service animal. Here, any animal can be a service animal and individualized training is not a requirement. On airplanes, the animal can be treated as a service animal provided it either:

- Is trained or able to assist a person with a disability –or–
- Has documentation that its presence is necessary for the emotional well-being of passenger

68 Fed. Reg. 24874, at 24875. However, a psychiatric service animal is treated similarly to an emotional support animal and may be required to meet more stringent standards. 14 C.F.R. § 382.27.

Emotional Support Animals

Titles II and III of the ADA distinguish emotional support animals as those which provide comfort simply by being with an individual. Since these animals have not been specifically trained to perform work or undertake a task related to a person's disability, they do not meet the service animal requirements under the ADA. 75 Fed. Reg. 56164, at 56192; [U.S. Dept. of Justice, Frequently Asked Questions about Service Animals and the ADA \(FAQ\)](#). Unlike a psychiatric service animal, an emotional support animal is not trained to take specific action, rather its presence alone provides comfort. [U.S. Dept. of Justice, Frequently Asked Questions about Service Animals and the ADA \(FAQ\)](#). As explained below in Major Legal Issues regarding Service Animal Accommodation in the Workplace, Title I of the ADA, which applies to workplace disability accommodation, does not specifically address "emotional support animals."

Assistance Animals

The Fair Housing Act (FHA) (42 U.S.C. § 3601 et seq.) and Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C § 794) use the term "assistance animal." See [HUD Office of Fair Housing & Equal Opportunity, FHEO Notice FHEO-2013-01 \(Apr. 25, 2013\)](#).

This term was specifically selected to avoid confusion with "service animal" or "emotional support animal" as defined by the ADA. Indeed, an assistance animal is intended to apply to both service animals and emotional support

animals, or a combination of the two. The FHA provides protections for animals that work and perform tasks for the benefit of a person with a disability and animals that provide emotional support to help alleviate a symptom or side effect of a disability. Individual training or certification is not a requirement, nor is the animal required to be a dog (or miniature horse).

Pets

By default, pets are any animals that have not been individually trained to provide a disability-related service and they are not emotional support animals.

Major Legal Issues regarding Service Animal Accommodation in the Workplace

Title I of the ADA requires that an employer, when asked, provide reasonable accommodations to qualified employees or applicants with a disability to allow the employee to perform the essential functions of the job. The Equal Employment Opportunity Commission (EEOC) enforces Title I regulations.

No Definition of Service Animal or Emotional Support Animal under Title I of the ADA (Workplace Disability Accommodations)

Title I provides no guidelines related to either service animals or emotional support animals in the employment context. As a result, some courts have not deemed Title II and III's definition of service animal as pertinent in the employment context. See, e.g., *Clark v. Sch. Dist. Five of Lexington & Richland Ctys*, 2017 U.S. Dist. LEXIS 46814, at *6 (D.S.C. Jan. 6, 2017), overruled on other grounds, 247 F. Supp. 3d 734 (D.S.C. 2017); *Maubauch v. City of Fairfax*, 2018 U.S. Dist. LEXIS 73815, at *17, n. 6 (E.D. Va. 2018) (finding emotional support animal is reasonable accommodation under Title I of the ADA).

However, a 2018 case settled by the EEOC supports the notion that distinguishing between service animals and emotional support animals may be required when reviewing whether it is necessary to provide an employee with a reasonable accommodation for a disability. In *EEOC v. CRST Int'l, et al.*, 351 F. Supp. 3d 1163 (N.D. Iowa 2018), the plaintiff employee was a commercial truck driver who was denied a job after requesting to be allowed to have his dog ride along to provide emotional support for his post-traumatic stress disorder (PTSD). In its press release, the

EEOC makes much of the fact that the applicant had a trained dog who assisted him in managing his PTSD, which suggests that the agency is transferring the Title II and III definitions of service animals to the Title I requirements for employers. See [CRST to Pay \\$47,500 to Settle EEOC Disability Discrimination and Retaliation Lawsuit](#).

Interactive Process

As with any request made by an employee with a disability, the request to bring an animal to work obligates the employer to provide reasonable accommodation. 29 C.F.R. § 1630.9. The employer must engage in the interactive process and clarify the employee's needs and identify potential ways to accommodate them. It may be possible that the employer can gather all the necessary information just by talking with the employee. However, if the disability or need for accommodation is not clear, the employer may ask for documentation from an appropriate healthcare provider. See [Americans with Disabilities Act: Guidance for Employers](#) and [EEOC, Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, No. 915.002 \(2002\)](#). See also [Disability Accommodation Request \(ADA\)](#) and [Disability Accommodation Request Resolution \(ADA\)](#).

This documentation should be limited to only what is necessary to establish the employee has a disability which results in functional limitations. If the employee's disability or need for accommodation is not obvious and the employee refuses to provide reasonable documentation, the employer is not required to accommodate the request. The key here is the requirement to provide a "reasonable" accommodation, not necessarily the employee's preferred requested accommodation. Some employers have successfully offered an accommodation in the use of pet monitors at work or a stuffed animal likeness in response to a request to bring an emotional support animal to work for a mental health disability.

Undue Hardship

The employer does not need to provide the accommodation if it will create an undue hardship on the employer. This is a narrow exception and is a high bar requiring significant expense or difficulty.

In assessing whether the employer faces significant expense or difficulty, several factors are considered:

- The cost of the accommodation
- The financial resources of the specific facility where the employee works, as well as those of the parent company

- The type of operations, including size and duties of the workforce –and–
- The impact of the accommodation on:
 - The operation at the facility
 - The ability to conduct business –and–
 - Other employees' ability to perform their duties

29 C.F.R. § 1630.2.

When being asked to accommodate the presence of a service animal, the last factor will likely carry the most weight. The employer will want to consider how an animal will affect how it is able to conduct business and the impact on co-workers, especially those with allergies or dog-phobias. Dog allergies and phobias may also qualify as disabilities resulting in tricky issues and conflicting accommodation requests between employees for employers to address.

For information on accommodating a disability, see [Accommodating a Disability under the Americans with Disabilities Act Checklist](#).

California – Key Distinctions and Requirements

In California, an assistive animal is any animal that a person with a disability requires as a reasonable accommodation. Cal. Code Regs. tit. 2, § 11065(a). This broad definition includes:

- Trained guide dogs
- Signal dogs
- Service dogs –and–
- Support animals that provide emotional or cognitive support to a person with a disability

Cal. Code Regs. tit. 2, § 11065(a)(1)(A)–(D). Employers may require that the assistive animal does not endanger the health or safety of the workplace and is free from offensive odors and has workplace-appropriate habits. Cal. Code Regs. tit. 2, § 11065(a)(2).

For information on disability-related accommodations in California, see [Discrimination, Harassment, and Retaliation \(CA\) – Disability-Related Protections](#). For an annotated California disability accommodations policy, see Disability Accommodations Policy (with Acknowledgment) (CA). For other state-specific practice notes and forms that cover disability law, see [Discrimination, Harassment, and Retaliation State Practice Notes Chart](#) and [Discrimination, Harassment, and Retaliation State Expert Forms and Checklists Chart](#).

Major Legal Issues concerning Service Animal Accommodation in Public Places

This section addresses several key legal issues businesses should consider when dealing with dogs in public places.

Identifying a Service Animal

Under the ADA, a business is extremely limited in the types of inquiries it can make. If it isn't clear that a dog is acting as a service animal, a business may only ask whether:

- It is a service animal –and–
- What tasks the animal has been trained to perform

28 C.F.R. § 35.136(f).

The business may not require proof of the individual's disability, training, or certification for the animal, or ask the animal to perform its service. The ADA does not require service animals to wear any form of identification, nor is the dog required to wear a special harness. However, as stated above in *Distinguishing Service Animals vs. Emotional Support Animals vs. Pets*, the good news is that under the ADA, businesses need only accommodate service dogs and the occasional miniature horse for its guests, patrons, and customers.

Controlling a Service Animal

Even though the ADA does not require an identifiable harness or leash, the owner must still maintain control over the service animal. If a harness or leash interferes with the service animal's work, then the owner must use his or her voice, hand signals, or some other means of maintaining control over the service animal. Similarly, the owner must keep the animal calm and quiet. While a dog may irregularly bark as part of its training or because it has been provoked, the owner must ensure it does not bark repeatedly. If the animal is not being controlled or is not housebroken, a business can decline to allow the animal into the public space. However, the business must still allow the person to access services without the dog present.

Providing Equal Access to Public Spaces

A business should consider an individual with a service animal like a person using a wheelchair and the business cannot treat the individual any differently from other customers. This means that the service animal and owner cannot be relegated to separate areas of a facility, even if it is a restaurant, hotel, or hospital. Restaurants must allow

service animals to go through self-service food lines (such as a cafeteria). Hotels cannot restrict service animals to "pet friendly" rooms. Hospitals must allow service animals wherever the public would ordinarily be allowed to go (e.g., into the waiting room, clinic, or patient's room). Still, the owner has sole responsibility for the care, feeding, and supervision of the service animal, and the owner cannot leave the service animal unaccompanied.

Balancing Access with Health Regulations

The ADA does not automatically override public health rules. While the individual with a disability must have access equal to any other person, the animal may not be able to receive the same treatment. For example, in a store, dogs should remain on the floor or the owner should carry the dog. Dogs should not be in shopping carts. Similarly, at a restaurant or bar, owners should not place service dogs in chairs or feed them under the table. Additionally, businesses that provide swimming pools should not allow dogs in the pool, though they should have access to the pool deck and changing areas. And though hospitals and restaurants must allow service animals into public spaces, the animals would be prohibited from operating rooms, kitchens, or other locations where a sterile environment is necessary.

State Requirements

The ADA is a floor, and state or local government laws may be more expansive.

California

Trained guide dogs, signal dogs, or service dogs are allowed in ADA-defined areas of public accommodation, as well as medical facilities, public conveyances, and modes of transportation. Cal. Civ. Code § 54.2. As with the ADA, support animals are not protected.

Service Animal Fraud

Unfortunately abuse of the rules is rampant with many individuals attempting to pass off their pets as service animals, knowing that businesses are limited in what questions they may ask. As a result, at least 19 states, with more likely to follow, have passed service animal fraud laws, including California, Colorado, Florida, Idaho, Kansas, Maine, Michigan, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Texas, Utah, Virginia, and Washington.

For example, California laws subject any person who fraudulently represents themselves as an owner or trainer of a service dog to up to six months in jail or a fine of \$1,000, or both. Cal. Penal Code § 365.7.

Accommodating Animals in Housing

Many housing units have strict “no-pet” policies, so how do they handle a resident’s request to live with an animal?

Two-Part Assessment

Under the FHA and Section 504, housing providers must evaluate requests for reasonable accommodations. The provider may consider two factors:

- Does the resident asking to live with the animal have a physical or mental impairment that substantially limits one or more major life activities?
- Does the resident have a disability-related need for an assistance animal?

[FHEO-2013-01](#).

If the answer to either of these questions is no, then the provider is not required to allow the animal in the housing unit. However, if the answer is yes to both questions, the provider must allow the resident to live with and use the assistance animal in all areas where persons are allowed to go.

Asking for Documentation

If the resident’s disability is not readily apparent or the housing provider does not already have knowledge of it, the provider may ask the resident for documentation of their disability. Similarly, if the disability-related need is not known, the provider may ask for documentation of the need. It would not be acceptable for a provider to ask for any documentation from a blind resident being guided by an assistance dog, because both the disability and the need for the assistance animal are readily apparent. However, a housing provider could ask this same resident for documentation to establish the disability-related need for an emotional support rabbit because while the disability is readily apparent, the need for a rabbit is not clearly established.

Exceptions

An exception exists if the specific assistance animal poses a threat to the health or safety of other people or their property, and the threat cannot be reduced by another reasonable accommodation. While a housing provider cannot have a blanket exclusion against a specific breed or size of assistance animal, it can conduct an individualized assessment of a particular animal. See, e.g., *Warren v. Delvita Towers Condominium Ass’n, Inc.*, 49 F. Supp. 3d 1082 (S.D. Fla. 2014) (holding that condo enforcing county

ordinance banning pit bulls violated the FHA by excluding a pit bull assistance animal).

The assistance animal can be excluded from housing if, based on objective evidence about the actual conduct of this animal, the provider determines the animal poses a substantial danger. See, e.g., *Gill Terrace Ret. Apartments, Inc. v. Johnson*, 2017 VT 88 (2017) (upholding trial court’s finding that while it was undisputed that a tenant had a disability-related need for an assistance animal, the particular dog could be excluded due to credible evidence of hostility toward other residents).

Housing providers can also decline to allow an assistance animal if its presence would impose undue financial and administrative burden or would fundamentally alter the nature of the provider’s services.

Associated Costs

Residents with assistance animals must be treated the same as any resident without pets. That means if a housing provider normally does not require a pet deposit or special pet cleaning fee, it cannot require one for a service animal. However, a provider can require a resident to pay for the cost of repairing damage caused by the assistance animal, so long as the provider’s regular practice is to charge such costs to any tenant who causes damage.

Applying Multiple Laws

Some housing providers may be subject to both the ADA as well FHA and Section 504 because they provide a public accommodation, such as shelters, assisted living facilities, or campus-owned housing.

In these instances, according to the Department of Housing and Urban Development, the best practice is to apply the ADA service animal test first. [FHEO-2013-01](#). This is because under the ADA, the housing provider is only allowed limited inquiry, so this prevents a provider from accidentally seeking too much information. If the animal does not meet the requirements for a service animal, then the provider can determine whether it is an assistance animal and then assess the request for reasonable accommodation.

California – Key Distinctions and Requirements

As discussed below, California has several distinctions from the federal Fair Housing Act.

Service Animals

Unlike the FHA, California distinguishes service animals from support animals. Service animals can be:

- Trained dogs (whether guide, signal, or service)
- Trained miniature horses –or–
- A service animal in training

Cal. Code Regs. tit. 2, § 12005(d)(1).

Housing providers are only allowed to ask two questions if tenants request a service animal live with them:

1. Does the tenant have a disability?
2. What is the disability-related task the animal is trained to perform?

Cal. Code Regs. tit. 2, § 12185(b).

Support Animals

In California, a support animal provides emotion or cognitive support to a person with disabilities. Cal. Code Regs. tit. 2, § 12005(d)(2). Housing providers must engage in an interactive process to assess whether the presence of a support animal is a reasonable accommodation. If the disability or need for a support animal is not readily apparent, the provider may request an individualized assessment from a medical professional. Importantly, a certification from an online service that did not make an individual assessment is not considered reliable.

Assistance Animals

This category covers both service animals and support animals. Once a housing provider has established an animal is either a service animal or a support animal, the provider must treat all assistance animals as they would under FHA (e.g., cannot require a pet deposit, can exclude an assistance animal if it poses threat to health and safety of others). Cal. Code Regs. tit. 2, § 12185(d).

Accommodation Requirements for Animals in Airplanes

Though carriers must permit service animals on planes, several exclusions may apply.

Species of Service Animals

A carrier is never required to allow service reptiles, rodents, or spiders into the cabin. 14 C.F.R. § 382.117(f).

All other service animals can be assessed on the basis of:

- Whether the animal can fit in the cabin
- Whether it poses a direct threat to the health or safety of others –or–

- Whether it would cause significant disruption of service
- 14 C.F.R. § 382.117(f).

Advance Notice

A carrier may require 48 hours advanced notice if:

- A service animal will be on a flight lasting longer than eight hours –or–
- The passenger intends to bring an emotional support or psychiatric service animal into the cabin

14 C.F.R. § 382.27(c)(8), (9).

If a passenger does not give advance notice, the carrier must attempt to provide the accommodation if possible through reasonable efforts without delaying the flight. 14 C.F.R. § 382.27(g).

Requesting Documentation

This subsection addresses the rules for carriers to request documentation concerning animals.

Service Animals

For service animals, the airline may ask for documentation that an animal is in fact a service animal, if the passenger is not credible and the animal has no harness or tags distinguishing it. 14 C.F.R. § 382.117(d). However, if a flight will last eight hours or longer, a carrier may ask the passenger for documentation that the service animal will not need to relieve itself during the flight or can do so in a way that does not create a sanitation problem. 14 C.F.R. § 382.117(2).

Emotional Support or Psychiatric Service Animals

An airline is not required to allow an emotional support or psychiatric service animal into the cabin unless the passenger provides current documentation on a licensed mental health professional's letterhead that includes all of the following:

- The passenger has a disability recognized in the DSM IV.
- The passenger needs the animal as an accommodation for the flight or at the destination.
- The passenger is under the care of the licensed health professional.
- Proof of the professional's license, including date, state of issue, and type of license.

14 C.F.R. § 382.117(e).

Be aware these standards may change. Section 439 of the FAA Reauthorization Act of 2018 required an advisory committee to assess barriers to travel and recommend improvements. Pub. L. No. 115-254, 132 Stat. 3186 (2018).

Best Practices for Employers for Ensuring Proper Accommodation of Service Animals

Even though Title I of the ADA provides employers no guidance on animals at work, courts and the public have long viewed a trained service dog accompanying an employee to work as a reasonable accommodation. Determining whether the service dog's presence is an undue hardship will require an individualized assessment of the employer's type of business and facility and strong evidence of significant hardship and expense. Prohibiting the use of a service animal for an employee with a disability would likely fail in all but rare circumstances. The key for accommodating requests for an employee's use of a service dog is to consider the service dog like a wheelchair—a tool used to assist the person with a disability. Generally, service animals are highly valuable and well-trained, and employers should welcome them when under the owner's control.

Guidance for Employers on Emotional Support Animals and Pets

As stated above, Title I of the ADA provides employers no guidance on animals at work, including emotional support animals and pets. However, once the employee asks to bring in an emotional support animal or pet to work, the employer should sit down with the employee to:

- Ascertain whether the employee has a condition that may merit bringing in an emotional support animal or pet
- Understand how the employee's affects the performance of duties –and–
- Understand the options that may be reasonable

This is the interactive process. If the employee has a disability, the employer will meet its obligation if it offers something that is reasonable and effective.

If the employee does not have a disability, the employer still may want to consider allowing the employee to bring an emotional support animal or pet to work if it will help the employee and not unduly burden his or her coworkers. In this case, employers should talk to the employee's coworkers to understand their feelings about having an emotional support animal or pet near them in the office.

Explore Reasonable Accommodations and Reasonable Alternatives

In the case of an employee with a disability, the employer does not have to provide the required accommodation or even the employee's preferred accommodation, only a reasonable one. Of course, they may be one and the same. But rarely is there only one possible accommodation to consider. Often with employee requests to bring their pet to work for emotional support of a disability, many reasonable alternatives exist to allowing pets in the workplace.

Consider Pet Monitors or Stuffed Likenesses of Pets

Several employers have responded successfully to such requests by offering the use of pet monitors so that the employee may see their pet at home while working, or even the presence of stuffed likenesses which can provide emotional comfort to certain disabilities, absent the live animal.

Investigate the Request and Communicate Effectively with the Employee

Employers should also avoid the temptation to only consider accommodation requests offered by disabled employees, and then give a "thumbs-up" or "thumbs-down" response. The best approach is to investigate the request, and provide affirmative creative solutions that work and are reasonable from the employer's perspective. When the employer and employee are communicating and attempting to solve a common problem, the employer and employee often quickly find a reasonable accommodation.

For additional guidance regarding the ADA and accommodations, see [Americans with Disabilities Act: Guidance for Employers](#). For an annotated ADA request for accommodation form, see [Disability Accommodation Request \(ADA\)](#). For a sample disability accommodation request resolution, see [Disability Accommodation Request Resolution \(ADA\)](#). For state-specific disability accommodations policies, see [Discrimination, Harassment, and Retaliation State Expert Forms and Checklists Chart](#). For state-specific practice notes that cover disability law, see [Discrimination, Harassment, and Retaliation State Practice Notes Chart](#).

COVID-19 Considerations

The coronavirus (COVID-19) pandemic has required many employers to provide additional flexibility for their employees regarding a number of workplace policies. The CDC and OSHA also requires employers to take active

steps to prevent the spread of COVID-19, including cleaning, face coverings, and social distancing. But what about service animals or permitting requests by employees to bring pets to work for emotional support? Can service animals and pets contract COVID-19?

Although, we currently do not know how COVID-19 affects animals, there is some evidence that a very small number of dogs and cats have been infected with the virus after close contact with people with COVID-19. See [U.S. Food & Drug Administration, COVID-19 Frequently Asked Questions, 9/2/2020](#). Based on the very limited information so far, the opposite risk of animals spreading COVID-19 to people is considered to be low, even though the virus may have originally come from a bat. See [CDC, COVID-19 and Animals, 8/24/2020](#). Regardless, employers should still take precautions.

For service animals, when possible, both the handler and service animal should stay at least six feet away from others. If the service animal is sick, the handler should take the animal to a veterinarian and the handler and service animal should not return to work until cleared. Employers should require that service animals' collars, vests, leashes, harnesses, and other supplies be kept clean with animal approved products. Since face coverings may harm service animals, masks are not required for service animals.

For employers that generally permit employee use of therapy animals or pets in the workplace, those employers may choose to not allow them given the heightened risk of serious illness present with COVID-19. Employers may want to consider other reasonable accommodation options where necessary.

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He also advises both private and public sector employers on various employment and personnel matters, including issues that arise under the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), drug testing policies, workplace safety, sexual harassment, employee discipline, wage-hour matters, protecting trade secrets and confidential corporate materials, and the drafting and enforcement of non-compete/nondisclosure agreements.

Samuel is also an allied member of the Ohio Hotel & Lodging Association, and a frequent lecturer to the hospitality industry on various employment topics, including public accommodations under the ADA.

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Kari represents employers in a variety of employment cases, including claims for harassment, discrimination, retaliation, wrongful termination, employee defection, and wage-and-hour disputes. She also has substantial experience representing debtors in Chapter 7 bankruptcies and providing litigation advice to small businesses defending ADA premises accessibility lawsuits.

Drawing on her experience as an owner of a fourth-generation family business, she advises clients on implementing and drafting policies on issues such as leaves of absence, drug testing, and trade secret/confidentiality.

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