

VETERANS TURNED AWAY BECAUSE OF SERVICE ANIMALS: LESSONS YOU CAN LEARN

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The United States Department of Justice (DOJ) recently announced settlements with two hotel properties to resolve complaints under Title III of the Americans with Disabilities Act (ADA) involving service animals. In both cases, the individuals involved were veterans with PTSD and both properties refused to honor their reservations because the veterans were accompanied by service animals. The cases highlight the most common mistakes hotel operators make in handling guests with service animals.

A Refresher

Title III of the ADA requires businesses that provide goods or services to the public, such as hotels, to allow *service animals* to accompany people with disabilities in all areas of its facility in which the public is normally allowed access. This means that a hotel must accommodate and allow access to *service animals* in its guest rooms, public areas, restaurants, fitness centers, and all other areas where the public is allowed.

However, under Title III, *service animals* are limited to only individually trained dogs and, with some exceptions, miniature horses. *Service animals* do not include untrained comfort animals, which are generally animals that provide psychological comfort by their existence. In other words, no rabbit, bird, cat, monkey, or untrained dog can qualify as a *service animal* under the ADA in this context.

THE VETERANS' CASES

Related People



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In one case, the veteran made a reservation to stay at the Deerfield Inn and Suites in Gadsden, Alabama, in October 2018. When she attempted to check in with her service dog, the desk clerk informed her that the hotel had a “no pets” rule and refused to honor the reservation. Due to the late hour and major sporting event in the area, the veteran was unable to locate a room and slept in her car in a church parking lot.

In the second case, the Landmark Hotel Group in Virginia Beach, Virginia, did not try to enforce a “no pets” policy. Instead, it refused to honor the veteran’s reservation because he could not provide documentation to verify that his dog was a service animal.

Both settlements between the DOJ and the hotels included a monetary payment to the veterans, training, policy modification, and compliance monitoring by the DOJ, among other remedial measures.

THE LESSONS

Lesson number one is simple. Even if your property maintains a “no pets” policy, the hotel or restaurant must make exceptions to that policy for service animals. And even if you allow pets at your property for a fee, you must waive any fees you normally charge for guests with service animals.

That brings us to lesson number two. How would you know if a dog (or miniature horse) is a service animal? Under the ADA, you are permitted to ask whether the animal is a service animal and what tasks the animal has been trained to perform, but nothing more. You cannot require proof of disability, certification, or make any other inquiry. However, if the owner cannot maintain control of the *service animal*, or if the *service animal* proves dangerous or disruptive by its conduct, then you can expel it from the premises.

Lesson number three requires you to be proactive. Develop a Service Animal Policy that welcomes persons with disabilities, including those accompanied by service animals. Train your hostesses, greeters, servers, front desk clerks, and reservation agents on the key aspects of your policy, which should include:

1. **What you may (and may not) ask the guest:** You may only ask the guest if the animal is required because of a

disability and what work or tasks the dog (or miniature horse) is trained to perform. You may not ask for proof of the disability, information about the disability, or proof or certification of the animal's training or vaccination.

2. The types of services a service animal may perform:

Service animals provide a broad range of services that may or may not be identifiable, such as: assisting individuals who are blind or who have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, pulling a wheelchair, assisting an individual during a seizure or alerting an individual to the presence of allergens, providing physical support and assistance with balance and stability, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behavior. If your employees understand that the service provided by the animal may not be obvious to them, they will be less likely to make unlawful inquiries.

3. How and when to respond to disruptive or dangerous animal behavior: Your staff needs to know how to discuss the disruptive behavior with the guest, when to ask for assistance in communicating with the guest, and when and how to ask the guest to remove the animal.

Service animals are working for your guest or customer. Thus, the guest with a service animal has the responsibility for the care, supervision, and control of the animal. Likewise, the public accommodation – your hotel or restaurant – has an obligation to treat that guest with respect and accommodate the guest's right to have the animal accompany them.

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