

Service Animals & Public Gardens: Guidance from the Americans with Disabilities Act

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Many individuals with disabilities use a service animal in order to fully participate in everyday life. The Americans with Disabilities Act (ADA), with guidance published through the Department of Justice (DOJ), continue to answer questions on service animals in public places. The ADA requires that state and local government agencies, businesses, and non-profit organizations that provide goods or services to the public to make “reasonable modifications” in their policies, practices or procedures to accommodate individuals with disabilities. Many states have broadened the ADA, so it is important to be compliant to both the ADA and your local policies.

Gardens that have a “no animal” policy will need to modify their policy and train their staff to allow for service animals. Further Gardens will need to prepare to respond to potential accidents or injuries involving service animals and create an environment that is both welcoming and legal for these four legged guests.

WHAT IS A SERVICE ANIMAL?

Service animals are defined by the ADA as “dogs that are individually trained to do work or perform tasks for people with disabilities”. In 2011 the ADA added a new regulation containing a specific provision with permits the use of miniature horses. Tasks performed by these animals include guiding an individual that is visually impaired, or alerting and protecting an individual who is having a seizure. Service animals are working animals, not pets. Their function or training is to be directly related to their owner’s disability.

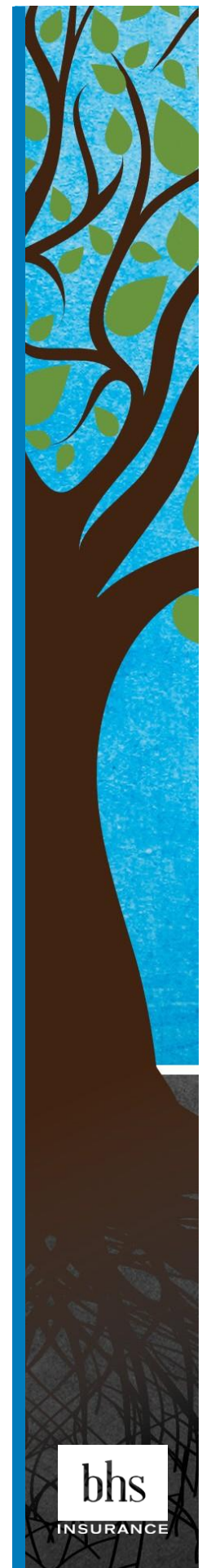
Dogs or other animals whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA as there is no specific animal training linked to the owner’s specific disability. Some states and local laws define service animals more broadly – consult with your state’s attorney general’s office to assure that your Garden’s policy is within the law.

MAY WE ASK FOR PROOF THAT THE DOG IS A SERVICE ANIMAL?

Service animals are not required to wear a special vest, patch or harness that identifies them as service animals. When it is not obvious that the dog is a service animal, based on the service provided, limited inquiries are permitted:

1. Is the dog a service animal that is required because of a disability; and
2. What work or task has the animal been trained to perform.

Staff are not permitted to ask about the individual’s disability, require medical documentation of the



disability, require special identification of the service animals' qualifications, or ask that the service animal demonstrate its ability to perform the work or task.

The ADA does not require that service animals are professionally trained, and individuals with disabilities have the right to train the dog themselves. However, under the ADA the dog must be fully trained before it can be taken into public places.

WHAT IF THE ANIMAL CAUSES CONCERN TO OUR GUESTS?

The ADA guidance does state that service animals need to be "under control". Under control means that the animal is kept quiet, does not pull or lunge on the leash or harness and also that the animal is housebroken. To assist in maintaining control the dog must be harnessed, leashed, or tethered. If these devices interfere with the service animal's work or the individual's disability prevents them from using these devices, the individual must maintain control of the animal through other methods, such as voice or signal.

Allergies and/or fear of dogs are not valid reasons for asking an individual to remove their service animal. This includes assumptions based on stereotypes about the animal's breed or how they might behave. When a person with allergies and a person with a service animal must spend time in the same facility, they should both be accommodated.

MAY WE ASK AN INDIVIDUAL TO REMOVE THE SERVICE ANIMAL FROM OUR PREMISES?

Yes, however only under certain circumstances and in accordance with ADA/State or Local law. An individual with a disability cannot be asked to remove the service animal from the premises unless:

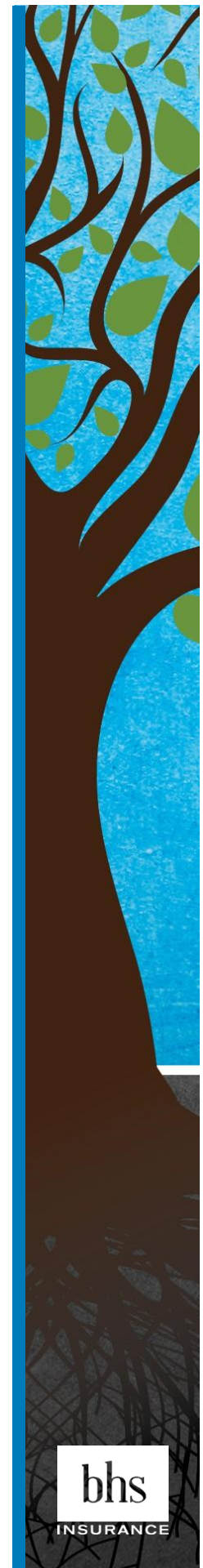
1. The dog is out of control and the handler does not take effective action to control it, or
2. The dog is not housebroken.

In some cases, animals will become uncontrollable when they encounter butterflies, fish, birds or other animals in the Garden. In some cases, the Garden's animals may become distressed when a service animal is near their exhibit space. These circumstances create a legitimate reason to ask that a service animal be removed from the exhibit space. You must offer the individual with the disability the same opportunities to be in the exhibit space without the service dog, in other words you may not ask the individual to leave the premises. You may ask that they remove the service animal from the specific exhibit space.

The individual must be in control of the service dog and be responsible for the care, supervision and handling of the service animal at all times. This includes watering and toileting including removal.

MORE ABOUT MINUATURE HORSES

The provisions outlined as applicable to service dogs extend to the ADA provision for miniature horses. Miniature horses generally range in height from 24 to 34 inches, and weigh between 70 and 100 pounds. The regulations give four assessment factors to assist an organization in determining



whether miniature horses can be accommodated:

1. Whether the miniature horse is housebroken;
2. Whether the miniature horse is under the owner's control;
3. Whether the facility can accommodate the miniature horse's type, size, and weight; and
4. Whether the miniature horse's presence will not compromise the safety requirements necessary for safe operations of the facility.

Here is a [short video](#) to learn more about miniature horses as service animals.

IN CLOSING...

Being compliant with ADA can be challenging for Gardens and other organizations as well. To learn more about making accommodations for service animals visit the Americans with Disabilities website which includes a helpful list of [frequently asked questions](#).

You can also get answers to your questions directly to the ADA Information Line at 800-514-0301.

Lastly, if your Garden is hosting a dog day, regularly hosts dogs or is providing a designated area for dogs, we would love to hear from you to share the lessons learned and benefits gained with the Garden community.

CONTACT US

Consult [BHS Insurance](#) to make sure your coverage is adequate and protects your risk sufficiently. For more information, please call Kim Slager or another member of the BHS Insurance Public Garden team at 800-350-7676.

