



## Service Dog Information

The Portsmouth Health Department has received several questions and concerns recently regarding Service Animals. The Americans with Disabilities Act (ADA) requires state and local governmental agencies, businesses and non-profits that provide services to the public to make 'reasonable modifications' when necessary to accommodate people with disabilities. The Service Animal rules fall under this Act.

The information presented herein is drawn directly from Titles II and III of the ADA (Americans with Disabilities Act of 1990) and New Hampshire law, (RSA 167-D1-10); citations can be found at the end of the document. This information is in a question and answer format and is comprised of those questions that are most commonly asked. In addition, there are links below that may answer any other questions you may have. We hope that it will help to clarify the issues surrounding this topic. If we can be of further assistance with this issue, please don't hesitate to contact the Portsmouth Health Department.

### What is a Service Animal?

In accordance with the ADA, a service animal is a dog (only dogs are recognized as Service Animals under the ADA) that has been trained to perform tasks for an individual with a disability. They can help with a wide range of disabilities (tasks include, but are not limited to, retrieving dropped objects, alerting persons with hearing impairments to sounds, assisting with mobility or pulling a wheelchair). The tasks performed by the dog must be directly related to the person's disability. 'Guide Dogs' are a type of Service Animal, used by individuals whose disability is blindness or impaired vision.

Neither an 'emotional support dog' nor a 'therapy animal' is a Service Animal, but is legally a pet under the ADA. These types of animals are not permitted to go anywhere that pets are not allowed.

### How Can You Ascertain Whether or Not a Dog is a Service Animal?

With regard to your food establishment, the service dog question can be difficult to navigate. Essentially, the ADA provisions allow for you or your staff to ask *only two* questions:

1. Is the dog required because of a disability?
2. What work/task has the dog been trained to perform?

Any other questions could be deemed to be in violation of the ADA. However, if these two questions are not appropriately answered, the business may exclude the animal, *but not the person*.

### **Can a Very Small Dog Be Considered a Service Animal?**

Yes. Service Dogs vary in breed and size, and in which tasks they are trained to perform. Larger dogs can pull wheel chairs for example, but smaller dogs might be trained for medical alert purposes.

### **Are Service Animals Required to Wear a Vest or Be Certified?**

No. There are individuals and organizations that sell service animal certification or registration documents. These documents do not convey any rights under the ADA and the Department of Justice does not recognize them as proof that the dog is a Service Animal. In short, Service Dogs *do not* have to be professionally trained, *do not* have to pass a test and *do not* have to wear a vest or ID tag under the ADA. In addition, a dog that *is not* a Service Animal *can* wear a service vest.

### **Where are Service Animals Allowed to Go?**

The ADA states businesses that serve the public (including restaurants, grocery stores, hotels, hospitals and other medical facilities), must allow people with disabilities to bring their Service Animal into all areas of the facility where customers are allowed to go. For example, in food establishments, the dog cannot go into the kitchen as customers would not be allowed in the kitchen, or behind a bar, or in any food preparation area. However, the animal must be allowed in the dining room and they may accompany their handlers to and through self-service food lines. Though Service Animals can legally accompany their handler in many places, they can be excluded from areas where their presence would constitute a fundamental alteration of goods and services, an undue burden, or a direct threat to safety. In a food establishment, this means that the animal may not lick a plate and may not sniff food in cases where their nose touches the food item.

#### ***Can Service Animals Be Seated on Chairs or Tables or Be Fed at the Table in Restaurants?***

No.

### ***Can a Service Animal Be Placed in a Grocery Cart?***

Generally, the dog must stay on the floor or the person with the disability must carry the dog. A grocery cart is where food items are placed and by seating an animal in the cart, unsanitary conditions that can be a risk to the public health can result.

### **What Can Be Done if the Service Animal Is Out of Control?**

The Service Animal must be harnessed, leashed or somehow tethered while in public places with the exception that if in doing so, it will interfere with the work of the Service Animal, or the person's disability. In any case, the person with the disability must have the dog under control (by leash, harness, by command or other effective means) at all times. If a Service Animal is out of control and the handler does not take effective action to control the animal, they can be asked to remove the animal from the premises. The Service Animal must also be removed from the establishment if it is not housebroken and urinates or defecates inappropriately.

If a Service Animal is properly excluded, the individual with the disability must be given the opportunity to obtain goods, services and accommodations without having the Service Animal on the premises.

### **Citations**

Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (1990)

Americans with Disabilities Act of 1990, Pub. L. No. 101-336, §§ II and III, 104 Stat. 328 (1990)

N.H. Rev. Stat. Ann. Title XII, § 167-D1-10.

For More Information:

<https://www.nh.gov/disability/>

<http://www.nhpublaw.org/nh.law.about/law/92>

[https://www.ada.gov/regs2010/service\\_animal\\_ga.html](https://www.ada.gov/regs2010/service_animal_ga.html)