



## **ADA Live! EPISODE 5: SERVICE ANIMALS**

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**Presenter: Sally Weiss, Southeast ADA Center**

**Host: Elaine Sutton-Mbionwu, Southeast ADA Center**

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**VOICE-OVER ANNOUNCER:** Blog Talk Radio. Blog Talk Radio. (Music)

Welcome to WADA ADA Live! Talk radio. Brought to you by Southeast ADA Center, your leader for information, training and guidance on the Americans with Disabilities Act. And here's your host.

**Elaine Sutton-Mbionwu:** Good afternoon and welcome to WADA ADA Live!. On behalf of the Southeast ADA Center, Burton Blatt Institute at Syracuse University, and the ADA National Network, we are excited to welcome our Internet radio audience to the fifth installment of WADA ADA Live! My name is Elaine Mbionwu, director of training and technical assistance for the Southeast ADA Center, and today's host. The topic of today's show is service animals. I'd like to introduce today Sally Weiss, Director of Knowledge Translation for the Southeast ADA Center in Atlanta, Georgia. Welcome, Sally. [pause]

In this episode we will discuss the definition of a service animal and some of the issues involving access for individuals with disabilities using service animals. ADA Live! listening audience please note that you're able to submit your questions via our online forum at [adalive.org](http://adalive.org). Again, you may submit your questions via our on line forum at [adalive.org](http://adalive.org).

In 2010 the United States Department of Justice issued revised regulations to Title II and III of the Americans with Disabilities Act. One of the changes was the definition of service animals. As of March 15th, 2011, only dogs are defined as service animals under the new ADA regulations. The revised ADA regulations also have a new separate rule about miniature horses that have been individually trained to do work or perform tasks for people with disabilities.

Sally, can you tell us the definition of a service animal under the new ADA regulations?

**Sally Weiss:** A service animal is defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Service dogs are working animals. They're not pets. The work or task a service animal has been trained to provide must

be directly related to the person's disability. Examples of this would include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, or alerting or protecting a person who is having a seizure. Other tasks might be reminding a person with mental illness to take prescribed medications, calming a person with post-traumatic stress disorder during an anxiety attack or performing other duties. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

It's also important to understand that the ADA definition of a service animal does not affect or limit the broader definition of assistance animal under the Fair Housing Act or the broader definition of service animal under the Air Carrier Access Act.

Some state and local laws also define a service animal more broadly than the ADA does. Information about these laws can be obtained from your state Attorney General's office and from state statutes.

**Elaine Sutton-Mbionwu:** I understand that the new regulations also include a separate section about miniature horses. Can miniature horses also be considered service animals?

**Sally Weiss:** Miniature horses that have been individually trained to do work or perform tasks for people with disabilities are also allowed under the ADA, but there are some exceptions. Miniature horses generally range in height from 24 inches to 34 inches measured to the shoulders and generally weigh between 70 and 100 pounds. [Entities] covered by the ADA - including state and local governments and private businesses - must modify their policies to permit miniature horses where this is reasonable. The regulations set up four assessment factors to assist places in determining whether miniature horses can be accommodated in their facility. The exception factors are: (1) whether the miniature horse is house broken; (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 legitimate safety requirements necessary for safe operation of the facility.

**Elaine Sutton-Mbionwu:** Now, can you please tell us where is a service animal allowed?

**Sally Weiss:** Under Titles II and III of the ADA, state and local governments, businesses and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go. For example, in a hospital it would be inappropriate to exclude a service animal from areas such as patient rooms, clinics, cafeterias or examination rooms. However, it may be appropriate to exclude a service animal from operating rooms or burn units where the animal's presence may compromise the sterile environment.

Title I of the ADA deals with employment rights and it does not include a definition of a service animal. In employment situations, service animals are considered on a case-by-case basis as a reasonable accommodation.

Another important thing to remember is that in cases where the state and local laws or public health codes do not agree with the federal law, the law that is less restrictive for the person with a disability is the law that takes priority.

So, if the ADA gives more freedom to the person with a disability than the local law does, then the ADA is the law to be followed. If the local law gives more freedom, then the local law is the one that is to be followed.

**Elaine Sutton-Mbionwu:** Are there other requirements regarding service animals?

**Sally Weiss:** Yes. Under the ADA, service animals must be harnessed, leashed, or tethered. Unless - these devices interfere with the service animal's work or the individual's disability prevents using these devices. In this case, the individual must maintain control of the dog through voice, signal or other effective controls.

**Elaine Sutton-Mbionwu:** Can a service animal ever be asked to leave?

**Sally Weiss:** Yes, it can, under two circumstances. A person with a disability can be asked to remove a service animal from a business if the dog is out of control and the person with the disability does not take effective action to control it or the dog is not house broken. However, when there is a legitimate reason to ask that the service animal be removed, staff must still offer the person with a disability the opportunity to obtain goods or services without the animal. What this means is, if the animal is displaying bad behavior, then the animal can be removed, but not the individual with a disability.

**Elaine Sutton-Mbionwu:** Can a business owner or staff person ask if the dog is a service animal?

**Sally Weiss:** When it is not obvious what service the dog provides, staff or business owners may ask two questions and only these two questions: One: Is the dog required because of a disability. Two: What work or task has the dog been trained to perform? Staff or business owners cannot ask about the person's disability, require medical documentation, require a special identification card or training documentation for the dog, or ask the dog [to] demonstrate its ability to perform the work or task.

**Elaine Sutton-Mbionwu:** What about restaurants? Can restaurants refuse to allow a service animal where food is cooked or prepared?

**Sally Weiss:** People with service animals can go anywhere the general public is allowed to go, and this includes restaurants. So, restaurants must allow service animals in public areas even if state and local health codes prohibit animals on the premises.

This means that the service animal must be allowed to accompany its owner to the salad bars or buffet. But the service animal cannot go into the kitchen, where food is cooked or prepared or other areas off limits to the general public.

**Elaine Sutton-Mbionwu:** ADA Live! listeners, if you have a question you want our guest speaker to answer, please submit your question via the ADA Live! online forum which is found at [adalive.org](http://adalive.org). Again, you may submit your question via the ADA Live! online forum at [adalive.org](http://adalive.org). Now, a word from our sponsor.

**Voice Over Announcer:** The Southeast ADA Center is your leader in providing information, training and guidance on the Americans with Disabilities Act and disability access tailored to the needs of business, government and individuals at local, state, and regional levels. The Southeast ADA Center, located in Atlanta, Georgia, is a member of the ADA National Network and serves eight states in the southeast region. For answers to your ADA questions, contact the ADA National Network at 1-800-949-4232.

**Elaine Sutton-Mbionwu:** Welcome back, ADA Live! listening audience. We're continuing our discussion with Sally Weiss, director of knowledge translation for the Southeast ADA Center in Atlanta, Georgia.

Sally, if a person with a disability requests food to be prepared for their service animal, must the restaurant comply?

**Sally Weiss:** No. Restaurants are not required to provide care or food for service animals.

**Elaine Sutton-Mbionwu:** Can a restaurant or theater request a person sit in the back away from other customers?

**Sally Weiss:** Again, no. People with disabilities who use service animals cannot be isolated from other people or treated less favorably than others.

**Elaine Sutton-Mbionwu:** Thank you. Now, I'd like to note that we have several questions that have been submitted for our guest speaker. And I will start with question 1. How do I have my dog certified as a service animal?

**Sally Weiss:** The ADA makes it unlawful to require proof of a disability or identification for service animals. According to the Department of Justice, there are no requirements for licensing, certification or identification of service dogs. Also, service animals are not required to wear special collars, vests, or harnesses. It's also important to remember when dealing with service animals, businesses are only allowed to ask two questions of dog owners. Is the dog required because of a disability and what task or service has the dog been trained to do?

**Elaine Sutton-Mbionwu:** Question 2: My employer asked for a letter from my doctor saying why I need my service animal at work. Must I give this to him?

**Sally Weiss:** Because more people are using service animals, employers are asking more questions about service animals in the workplace.

As I said earlier, according to the EEOC, Title I does not require employers to automatically allow employees to bring their service animals to work. Instead, allowing the service animal into the workplace is a form of reasonable accommodation, and if an employer can find a different accommodation that is equally effective, the ADA permits employers to decide on that accommodation instead. Now, when it comes to reasonable accommodation under the ADA, employers have the right to request reasonable documentation that an accommodation is needed.

The work or task performed by a service animal must be directly related to the individual's disability. In addition, if a disability is not apparent, the employer can request medical documentation that explains why the employee meets the ADA definition of disability.

However, according to informal guidance from the EEOC, employers need to be aware that sometimes the documentation is not going to be from a doctor or another healthcare professional. In the case of a service animal, the appropriate documentation might come from whoever trained the service animal.

**Elaine Sutton-Mbionwu:** Question number 3: My landlord said I can't keep my service animal. Is that against the ADA?

**Sally Weiss:** This issue is very complicated, but the main point to remember is that the definition of a service animal is different in housing situations than it is under the ADA. Housing is covered by the Fair Housing Act and by regulations developed by the U.S. Department of Housing and Urban Development for Section 504 of the Rehabilitation Act. The ADA definition of service animal is different from the definitions used in these two laws. Under these two laws, people with disabilities in housing situations may request reasonable accommodation for their assistance animals, including emotional support animals. The reasonable accommodation provisions of both laws must be considered in situations where persons with disabilities use or seek to use service animals or assistance animals in housing, even where the provider forbids residents from having pets or otherwise has restrictions or conditions relating to pets or other animals. For more information about service animals and housing, please call your regional ADA Center at 1-800-949-4232.

**Elaine Sutton-Mbionwu:** Thank you. Question 4: Our hotel has a pet deposit fee. Can I charge a deposit when a guest has a service animal?

**Sally Weiss:** No, you can't. Remember, service animals are not pets. Even if a business requires a deposit or fee to be paid by customers with pets, they must waive the charge for service animals. In addition, the ADA requires hotels to allow service animals throughout the facility even if you have a no animal policy. However, if the business such as the hotel normally charges guests for damages they cause, a customer with a disability may also be charged for the damage caused by him or by his service animal.

**Elaine Sutton-Mbionwu:** Question 5: The taxi cab driver said I couldn't bring my service animal in the cab. Isn't that against the ADA?

**Sally Weiss:** Service animals are always permitted to accompany their users in any private or public transportation vehicle or facility. This means that they must be allowed to ride with a person with a disability. One of the most common misunderstandings about service animals is that they're limited to being guide dogs for persons with visual impairments. But dogs used as service animals are trained to assist people with a wide variety of disabilities including individuals with hearing and mobility impairments.

One more thing, charging extra fees to carry a service animal and an individual with a disability would also be a violation of the ADA.

**Elaine Sutton-Mbionwu:** Thank you. WADA Live! listening audience, if you should have a question that you'd like to submit, you may do so by using our online forum at [adalive.org](http://adalive.org). Again, you may submit your questions through our ADA Live! online forum at [adalive.org](http://adalive.org). Now, a word from our sponsor.

**Voice Over Announcer:** The ADA National Network provides information, guidance and training on the Americans with Disabilities Act tailored to meet the needs of business, government and individuals at local, regional and national levels. The ADA National Network consists of 10 regional ADA centers in the United States providing local assistance to insure the ADA is implemented wherever possible. The ADA National Network is not an enforcement agency but a helpful resource supporting the ADA's mission, making it possible for everyone with a disability to live a life of freedom and equality.

**Elaine Sutton-Mbionwu:** Welcome back to the WADA ADA Live! audience. We're continuing our Q&A discussion with Sally Weiss, director of knowledge translation for the Southeast ADA Center in Atlanta, Georgia.

Question 6: A patron at our dinner theater brought her dog to one of our shows. She was carrying it in a little bag. She told the ticket taker that it was her service animal. During the meal, the dog sat in her lap, ate off her plate and went under other tables looking for scraps. Other patrons complained after the show. What can I do if she comes back with the dog?

**Sally Weiss:** This question covers a lot of issues. One, a person with a disability can be asked to remove her service animal from the premises if the dog is out of control and the handler does not take effective action to control it. So, allowing the animal to roam around the restaurant while looking for scraps of food would signal to an observer that the animal may not be a service animal or that is not under the handler's control.

Allowing the animal to eat from her plate should have been addressed quietly between management and the patron. It is not normal practice to have animals eat from people's plates and they should not be allowed to come into contact with serving dishes, utensils, tableware, linens paper products or any other items involving food

service operations. Finally, animals that are not under the control of the handler may be asked to leave the premises, although the person with a disability must be allowed to return without the service animal.

**Elaine Sutton-Mbionwu:** Thank you. Question 7: A lady came into my business with two dogs. She said they are both service animals. Can a person have more than one service animal?

**Sally Weiss:** It's not often that we hear this, but on rare occasions this topic has come up at training or as a technical assistance question. A person may have two service animals for a couple reasons. It could be because he or she needs help with different tasks and one dog can't do both jobs.

For example, one dog may have been trained to be an alert dog while the other is trained to pick up items or help with mobility. It really depends on what the dogs are trained to do. Sometimes people may have two dogs that do the same job. This is usually because one is nearing retirement and one is just starting. But normally, the handler won't work the dogs at the same time.

**Elaine Sutton-Mbionwu:** Thank you. Question 8: What if someone who does not have a disability brings in a dog and she says it's a service animal in training?

**Sally Weiss:** The ADA does not apply to service animals in training. However, some state laws do cover service animals that are being trained. Call your regional ADA center at 1-800-949-4232 to see what your state allows.

**Elaine Sutton-Mbionwu:** Question 9: I own a hair salon. A customer came in with a service dog last week. One of my employees is afraid of dogs. Next time, can I tell this customer that the dog has to stay outside because my employee is afraid?

**Sally Weiss:** No. Fear of dogs or allergies are not valid reasons for denying access or refusing service to people using service animals. Remember, a person with a disability cannot be asked to remove their service animal unless the dog is out of control and the person with a disability does not take effective action to control it or the dog is not house broken. So, if an employee is afraid of dogs, perhaps arrangements could be made for that employee to work at a different station when the customer is in your salon.

**Elaine Sutton-Mbionwu:** Thank you. Question 10, our final question: If an apartment or a housing complex or a place of business will not accept service animals, who do I contact to file a complaint?

**Sally Weiss:** This question has a two-part answer. To file a housing complaint, you go online to [hud.gov/complaints](https://www.hud.gov/complaints). That's [hud.gov/complaints](https://www.hud.gov/complaints).

You can either file your complaint online or you can find the phone number for your regional HUD office. Your housing discrimination complaint will be viewed by a fair housing specialist to determine if an alleged act might violate the Fair Housing Act.

Now, if a business has refused to allow you in with your service animal, this complaint would be handled by the U.S. Department of Justice. To learn more about filing an ADA complaint, visit [ada.gov/filing\\_complaints.htm](http://ada.gov/filing_complaints.htm). Again, [ada.gov/filing\\_complaints.htm](http://ada.gov/filing_complaints.htm).

You may also file a complaint by email at [ada.complaint@usdoj.gov](mailto:ada.complaint@usdoj.gov). If you need further information, please call our toll-free line for technical assistance at 1-800-949-4232.

**Elaine Sutton-Mbionwu:** Thank you so very much. At this time, we'd like to leave final remarks for Sally Weiss director of knowledge translation for the Southeast ADA Center. We'd like to offer our listening audience a few takeaway points. Sally.

**Sally Weiss:** Thank you, Elaine. Some key things to remember about service animals are, one, service animals under the ADA are defined as dogs that are individually trained to do work or to perform tasks for people with disabilities. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA. Also, service animals are working animals, they are not pets.

State and local government agencies and private businesses must allow service animals to accompany people with disabilities in all areas where the public is normally allowed to go. The ADA also makes it unlawful to require proof of a disability or identification of the service dog. There are no ADA requirements for licensing, certification or identification of service animals. Also, service animals are not required to wear special collars, vests or harnesses.

When it's not obvious what service the dog provides, staff or business owners may ask two questions. (1) Is the dog required because of a disability and, (2) what work or task has the dog been trained to perform?

A person with a disability can be asked to remove their service animal from the business if the dog is out of control and the person with a disability does not take effective action to control it - or if the dog is [not] house broken. However, the staff must still offer the person with a disability [the chance] to obtain goods or services without the animal.

Now, Title 1 of the ADA deals with employment rights and does not include a definition of a service animal.

In employment situations, service animals are considered on a case-by-case basis as a reasonable accommodation. Finally, housing situations are covered by the Fair Housing Act and Section 504 regulations developed by the U.S. Department of Housing and Urban Development. The definition of a service animal in these two laws is different than it is under the ADA. Under these two laws, people with disabilities in housing situations may request reasonable accommodations for their assistance animals including emotional support animals. Finally, a list of resources of service animals is also posted on the WADA Web site at [adalive.org](http://adalive.org). That's [adalive.org](http://adalive.org).

**Elaine Sutton-Mbionwu:** Thank you so much Sally for that recap. And also I'd like to thank the WADA Live! listening audience for listening in for today's show on service animals. If listeners were unable to submit a question and you still have a question about the ADA, please contact at 1800-949-4232. Again, the number is 1-800-949-4232. All of your questions are important to us and will be held in the strictest of confidence.

At this time, I'd like to thank Sally Weiss, guest speaker for today. And director of knowledge translation for the Southeast ADA Center in Atlanta, Georgia for joining us today. And to our ADA Live! listening audience. The Southeast ADA Center is extremely grateful for your support and participation in this series of WADA ADA Live! broadcasts. Don't forget to tell a friend about ADA Live!. "Like" us on Facebook, tweet about us on adalive or share an update with your LinkedIn colleagues. Join us next month on the first Wednesday, March 5th, 2014, when we discuss voting accessibility. See you next month on WADA ADA Live!

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