

# JAN

Job Accommodation Network

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## Accommodation and Compliance Series

# Accommodation and Compliance Series: Service Animals as Workplace Accommodations

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## JAN'S Accommodation and Compliance Series

### Introduction

Because more people are using service animals, employers are receiving more requests from employees who want to use their service animals in the workplace. The following are some of the issues these employers face and practical guidance to address the issues. This guidance is based in part on information from the Equal Employment Opportunity Commission (EEOC), but does not represent the EEOC's formal position on these issues or legal advice.

#### **Does the Americans with Disabilities Act (ADA) include a definition of service animal?**

There is a definition of service animal and specific guidelines in parts of the ADA, but not in the part that deals with employment. Under the employment provisions (title I), there is no definition of service animal and no specific guidelines for employers to follow when an employee asks to bring a service animal to work.

#### **Do employers have to allow employees with disabilities to use service animals in the workplace?**

Because title I does not specifically address service animals, a request from an employee to bring a service animal to work can be processed like any other request for reasonable accommodation. This means that employers must consider the request, but do not have to automatically allow employees to bring their service animals to work.

**What this means for employers:** From a practical standpoint, a request to bring a service animal to work is really a request for an employer to modify its no-animals-in-the-workplace policy. If you do not have a policy and allow other employees to bring in animals, then you should allow employees with disabilities to bring in service animals without going through the accommodation process. For employers who have no-animal policies, you must consider modifying those policies on a case by case basis to allow an employee to use a service animal at work, unless doing so would result in an undue hardship.

**What this means for employees:** You should ask your employer before bringing a service animal to work unless the employer allows animals in the workplace in general.

#### **Can employers opt to provide other accommodations instead of allowing an employee to use a service animal in the workplace?**

The ADA allows employers to choose among effective accommodations so an employer might opt for another accommodation, although providing a substitute accommodation for a service animal could bring up other tricky issues. For example, the service animal

may help with personal, medical issues. Service animals may also provide support that other types of accommodations cannot provide, such as a sense of security, independence, and confidence.

**What this means for employers:** In general, employers should not be involved in an employee's personal medical decisions so you should not insist that an employee take care of his medical needs in a different way. Because a service animal often helps with personal medical needs and provides supports that employers cannot provide, when possible you should give preference to an employee's request to use a service animal in the workplace.

**What this means for employees:** When requesting to use a service animal in the workplace, you may want to explain to the employer that the service animal also provides personal and medical support.

**What kind of documentation can employers ask for related to a service animal? What if the employee's doctor was not involved in the acquisition of the service animal or the employee trained his own service animal and nobody else was involved?**

Under the ADA, employers have the right to request reasonable documentation that an accommodation is needed because of an employee's disability. Documentation of the employee's disability and functional limitations typically comes from a health care provider. But what about documentation related to the service animal? In some cases, the doctor was not involved in the acquisition of the service animal so cannot provide documentation about the animal itself. In that case, documentation about the service animal may need to come from some other source, for example from whoever trained the service animal. The goal of an employer is to understand why the service animal is needed and what it does for the person. The employer also has the right to require that the service animal be trained to be in a workplace and capable of functioning appropriately in the work environment. An employee who trains his or her own service animal can be asked to document or demonstrate that the service animal is in fact appropriately trained and will not disrupt the workplace.

**What this means for employers:** When an employee with a disability requests to use a service animal at work, you have the right to request documentation or demonstration of the need for the service animal (when the need is not obvious) and that the service animal is appropriately trained and will not disrupt the workplace. However, while documentation demonstrating that an employee has a covered disability may come from a health care provider, you may need to consider documentation from other sources that explains the need for the service animal and that shows the animal is appropriately trained. Another option is to have a trial period; allow the employee to bring in the service animal on a trial basis to see if allowing the animal is effective and does not pose an undue hardship. There is no set time frame for a trial period, but one to six weeks might be enough time to assess the situation.

**What this means for employees:** In addition to documenting they have a disability, employees who use service animals need to be able to show that the service animal is needed for disability-related reasons and that the service animal is trained to be in a work environment without disrupting the workplace or otherwise behaving inappropriately. If your doctor recommended the service animal, then your doctor should be able to verify that you need the service animal for disability-related reasons. Regarding your service animal's training, in some cases documentation from the service animal trainer would be helpful. In other cases, you may want to offer to demonstrate how the service animal behaves in the workplace.

### **Can employers require an employee to provide proof of certification, insurance, and vaccination before allowing an employee to bring a service animal to work?**

Because title I of the ADA does not specifically address service animals as workplace accommodations, there is nothing that directly answers this question. However, employers may want to be cautious about asking employees to provide this type of information unless there is some indication of a problem with the service animal. Regarding certification, there often is not any certification that the employee can get; some groups that train service animals offer certification, but others do not. Also, there are bogus certifications available so even if you get a certification, it may not be helpful. Regarding insurance, does the employee having insurance relieve you of your liability should something happen with the service animal? If not, then why require it? Regarding vaccinations, how will you determine what vaccinations to require and will a vaccination record necessarily ensure that the animal is healthy?

**What this means for employers:** Perhaps the best approach to determining whether a service animal can be in the workplace without disruption and without posing a safety issue is to allow the employee to bring in the service animal for a demonstration. Then you can identify and try to address specific problems if they exist.

**What this means for employees:** Because the ADA does not address this specific issue, if your employer requests proof of certification, vaccination, or insurance, it might be easier to go ahead and provide it if you have it. If you do not have it, or prefer not to provide it, you might want to let the employer know and then offer to bring the service animal in for a demonstration of behavior and health.

### **Can an employer deny a request to bring a service animal to work if there are areas of the workplace that the service animal cannot go?**

It might not be necessary to completely deny the request. In some cases, an employee can be without the service animal temporarily during the workday and the employer can provide a safe place for the service animal to stay during that time.

**What this means for employers:** Like any other accommodation request, you and the employee should work together to determine if there is a way to accommodate the employee and meet business and safety needs. Before granting or denying a request to

have a service animal in the workplace, you can discuss concerns with the employee and try to find a solution.

**What this means for employees:** If your employer has a valid reason why your service animal cannot accompany you to all areas of the workplace, you might consider whether you can be separated from your service animal for part of your workday or whether there might be another way to perform your job without going to off-limit areas of the workplace.

### **What are employers allowed to tell coworkers when an employee with a disability is going to bring a service animal into the workplace?**

Employers are often worried that coworkers will be allergic to the service animal or have a dog phobia so they often want to notify them before the service animal arrives. Also, coworkers may need to be educated about interacting with service animals so they do not interfere with the service animal's work. At the same time, the ADA has confidentiality rules that restrict employers from disclosing information to coworkers about an employee's disability and accommodations so it may not be wise to tell coworkers that an employee will be using a service animal.

**What this means for employers:** To balance these two concerns, you might want to start with talking to the employee who will be bringing the service animal to work and asking how the employee would like to handle educating coworkers. Hopefully, the employee wants to educate coworkers and is willing to do so. If not, you may want to simply let coworkers know that a dog will be present in the workplace and that they are not to interact with it. If a coworker indicates that he has an allergy or phobia related to the service animal, you should try to accommodate that employee. For example, see *Service Animals and Allergies in the Workplace*.

**What this means for employees:** If you are willing to educate your coworkers about your service animal, volunteer to do so. In most cases, educating the workplace can help you effectively use your service animal at work.

### **Who is responsible for taking care of a service animal at work?**

The employee is responsible for taking care of the service animal, including making sure the animal is not disruptive, keeping it clean and free of parasites, and taking it out to relieve itself as needed.

**What this means for employers:** Employees are responsible for the care of their service animals, but you may have to provide accommodations that enable the employees to do so. When an employee is allowed to bring a service animal to work, you should consult with the employee to find out what accommodations are needed to care for the animal. For example, an employee might need to adjust his break times to take his service animal outside.

**What this means for employees:** Remember that you are responsible for taking care of your service animal, but if you need accommodations in order to do so, you should let your employer know.

**Do employers have to create a relief area for a service animal when an employee with a disability uses the service animal in the workplace?**

There's nothing specific under title I that addresses this, but it should rarely be an issue because there is almost always a place outside, close to the work-site, where the animal can relieve itself. For example, the animal could relieve itself in an alley behind the work-site, a grassy area close to the work-site, or even close to a sidewalk leading to the building. The employer may want to talk with the employee about cleaning up after the animal when needed.

**What this means for employers:** From a practical standpoint, you might want to consider creating a relief area for a service animal when needed even though it is not clearly required as an accommodation under the ADA.

**What this means for employees:** If you are unable to find a place for your service animal to relieve itself during your work hours, let your employer know and try to work something out. However, be aware that this is a grey area of the law so be prepared to come up with your own solution if necessary. For example, maybe you could flex your schedule and take a longer lunch break to take your service animal for a relief break.

**Do employers have to allow employees to train service animals in the workplace?**

Under the ADA, only employees with disabilities are entitled to reasonable accommodations so if an employee without a disability is training a service animal for someone else, there is no accommodation obligation under the ADA. For employees with disabilities, an employer has a valid concern about the potential disruption a service animal in training might create so might not have to allow the employee to bring in the service animal until it is fully trained or at least until it can be in the workplace without disruption. Some states have laws addressing access for service animals in training, so employers also should check their state laws.

**What this means for employers:** When an employee asks to bring in a service animal in training, you should check state laws first. If state law does not address access for service animals in training, then you should next determine whether the employee who is making the request has a disability and needs the service animal because of the disability. If the employee does have a disability, then you need to get more information to determine whether the service animal in training will be disruptive (e.g., you could have the employee demonstrate the animal's behavior and current level of training).

**What this means for employees:** Because federal law does not address whether an employer must consider allowing an employee with a disability to bring in a service animal in training, it is unclear whether your employer has to consider allowing you to bring in a service animal that is not fully trained. If you decide to ask anyway, you

should be prepared to show that your service animal is at least trained enough not to disrupt the workplace and that you will not be distracted from your work while continuing to train the service animal.

### **What about emotional support animals?**

Because there is not a specific definition of service animal under title I, employers may have to consider allowing an employee to bring in an animal such as an emotional support animal. This is not clear cut under the ADA, but because we are talking about modifying a no-animal policy, not a no-service-animal policy, there is an argument that employers might have to consider emotional support animals as an accommodation. However, employers do not have to allow an employee to bring an animal into the workplace if it is not needed because of a disability or if it disrupts the workplace. For more information, see [Emotional Support Animals in the Workplace: A Practical Approach](#).

### **Accommodating Employees who use Service Animals**

Note: People use service animals for a variety of reasons, so their accommodation needs will vary. The following is only a sample of the accommodation possibilities available. Numerous other accommodation solutions may exist.

#### **Questions to Consider:**

- What limitations is the employee who uses a service animal experiencing?
- How do these limitations affect the employee and the employee's job performance?
- What specific job tasks are problematic as a result of these limitations?
- What accommodations are available to reduce or eliminate these problems? Are all possible resources being used to determine possible accommodations?
- Has the employee who uses the service animal been consulted regarding possible accommodations?
- Once accommodations are in place, would it be useful to meet with the employee who uses the service animal to evaluate the effectiveness of the accommodations and to determine whether additional accommodations are needed?
- Do supervisory personnel and employees need training regarding the use of service animals?

### **Accommodation Ideas**

#### **Using a service animal at work:**

- Allow the employee with a disability to bring his or her service animal to work.
- Allow the employee to take leave to participate in individualized service animal training.
- Provide the employee with a private/enclosed workspace.
- Provide the employee with an office space near a door and/or out of high traffic areas.
- Establish an accessible path of travel that is barrier-free.
- Allow equal access to employee break rooms, lunchrooms, rest rooms, meeting rooms, and services provided/sponsored by the employer.

**Caring for a service animal at work:**

- Provide a designated area where the employee can tend to the service animal's basic daily needs, e.g., eating or bodily functions.
- Allow periodic breaks so the employee can care for the service animal's basic daily needs.
- Provide a designated area the service animal can occupy until the employee's shift ends if the employee only requires the service animal to travel to and from work or during times when the service animal cannot accompany the employee.
- Provide general disability awareness training on the use of service animals in the workplace.

**Dealing with coworkers who are allergic to the service animal:**

- Allow the employees to work in different areas of the building.
- Establish different paths of travel for each employee.
- Provide one or each of the employees with private/enclosed workspace.
- Use a portable air purifier at each workstation.
- Allow flexible scheduling so the employees do not work at the same time.
- Allow one of the employees to work at home or to move to another location.
- Develop a plan between the employees so they are not using common areas - such as the break room and restroom - at the same time.
- Allow the employees to take periodic rest breaks if needed, e.g., to take medication.



- Ask the employee who uses the service animal if (s)he is able to temporarily use other accommodations to replace the functions performed by the service animal for meetings attended by both employees.
- Arrange for alternatives to in-person communication, such as e-mail, telephone, teleconferencing, and videoconferencing.
- Ask the employee who uses a service animal if (s)he is willing to use dander care products on the animal regularly.
- Ask the employee who is allergic to the service animal if (s)he wants to, and would benefit from, wearing an allergen/nuisance mask.
- Add HEPA filters to the existing ventilation system.
- Have the work area - including carpets, cubicle walls, and window treatments - cleaned, dusted, and vacuumed regularly.

**Interacting with a service animal:**

- Address the person when approaching a person with a disability who is accompanied by a service animal.
- Remember that service animals are working and are not pets.
- Do not touch, pet, or feed treats to a service animal without the owner's permission.

## **Situations and Solutions:**

### **A state employee with a mobility impairment uses a scooter and a service animal.**

The employer was concerned about how the employee would tend to the service animal's basic daily needs. JAN provided product information on a scooter with a long handle so the employee could use his scooter to go outside and tend to his service animal's "restroom" breaks.

### **A counselor with PTSD needed to use a service dog at work to decrease his anxiety.**

Even as a veteran, his employer was concerned about having a dog present when clients were being counseled. The employer allowed the use of the service dog, but provided a separate area for the dog to stay in during counseling sessions with clients.

### **A building manager with post-traumatic stress disorder (PTSD) asked to bring an emotional support animal to work with her.**

The employer was concerned about the behavior of the animal as the employee trained it herself. The employer and employee agree to a trial period to assess whether the animal could be in the workplace without causing a disruption.

### **A psychiatric nurse with cancer was experiencing difficulty dealing with job-related stress.**

He was accommodated with a temporary transfer and was referred to the employer's employee assistance program for emotional support and stress management tools.

### **An office worker with PTSD asked to use his service animal at work.**

Part of the service animal's training included notifying the worker when someone was approaching from behind so the worker would not be startled. The employer wanted to explore other accommodation options so offered to set up mirrors in the employee's workstation so he could better see people approaching. The employer found that the employee could not concentrate on his work because he had to look up at the mirrors so often because he did not feel the sense of security he felt when his service animal was present. The employer decided to allow the service animal.

### **A public library employee who found it difficult to handle stress and emotions requested the use of an emotional support animal at work.**

The employer agreed to the accommodation on a trial basis, but because the dog lacked proper training, the employer required the animal to be more fully trained before it could return to the workplace. Issues with barking, jumping up on patrons, and wandering around the library were the issues of concern.

### **An insurance agency employee with multiple sclerosis and anxiety requested that the employer permit her to use a service dog on the job for mobility and stress reduction.**

The employer agreed to allow the employee to bring her service animal to work,

provided training to staff on service animals as workplace accommodations, and installed new doors that were easier for the individual to open.

**A newly hired teacher with a seizure disorder used a service animal to alert her that a seizure was coming on. The school had a no-animal policy.**

The school allowed the teacher to bring her service animal to work and to keep it with her in her classroom. She was also provided breaks to take the service animal outside and given the opportunity to educate coworkers about the use of service animals. The employer reported that the accommodation cost nothing and it was good for the students to see a service animal at work.

**A truck driver who used a service animal requested that his dog be left in his truck during maintenance and cleaning, meetings, and the completion of paperwork.**

Rather than leave the dog in the truck, the employer offered to purchase a dog kennel so the dog could stay safely in the office when needed.

**A dental office hired a receptionist with a vision impairment to work in the front office.**

The new employee had acquired a service animal, but did not yet have accrued vacation time that could be used for service animal training. The employer allowed the receptionist to take unpaid leave to attend service animal training.

**A manager with muscular dystrophy was having difficulty with daily living needs.**

The individual was allowed to bring her service animal to work and provided an accessible restroom.

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