

## ADA-Protected Service Animals: Only Dogs and Miniature Horses

The U.S. Department of Justice (DOJ) Title II and III regulations provide a narrow definition of “service animal”. Only dogs and miniature horses qualify as service animals protected by Americans with Disabilities Act (ADA) regulations affecting state and local governments and places of public accommodation.

The definition states that a service animal is “any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.” The rules make clear that the work or task that the animal performs must be directly related to the handler’s disability. Examples of work or tasks include, but are not limited to:

- assisting individuals who are blind or have low vision,
- alerting individuals who are deaf and hard of hearing to the presence of people or sounds,
- providing non-violent protection or rescue work,
- pulling a wheelchair,
- assisting an individual during a seizure,
- alerting individuals to the presence of allergens, and
- retrieving items such as medicine or the telephone.

The one exception to the dogs only rule is miniature horses. The regulations state that entities must make reasonable modifications to policies, practices, and procedures to permit the use of miniature horses that meet all the same work and safety requirements as dogs. When determining whether such a modification is reasonable, entities may take into account the horse’s type, size, weight, and their facilities’ needs. While emotional support animals are permitted by the Fair Housing Act and the Air Carrier Access Act,

they are not protected by the ADA. The ADA does however allow for psychiatric service animals.

In distinguishing psychiatric service animals from emotional support animals, DOJ explains that the difference is in the work or tasks that the animal performs. Tasks performed by psychiatric service animals may include reminding the handler to take medicine, providing safety checks or room searches for persons with Post Traumatic Stress Disorder, interrupting self-mutilation, and removing disoriented individuals from dangerous situations.

### What This Means for Counties

Counties are generally permitted to inquire whether an animal is a service animal before permitting it on their premises. DOJ clarifies that public entities and public accommodations “shall not ask about the nature or extent of a person’s disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A public entity may ask (1) if the animal is required because of a disability and (2) what work or task the animal has been trained to perform. These two questions are prohibited when it is obvious that an animal is trained to do work or perform tasks for an individual with a disability (e.g. the dog is observed guiding an individual who is blind or has low vision) according to the DOJ. Entities are also prohibited from requiring documentation that the animal has been certified, trained, or licensed as a service animal.

For more information, contact CTSI at 303-861-0507. 