

The Commission speaks with a number of callers about service and assistance animals, what constitutes one or the other, and what the law requires. This month I bring you information on this subject in hopes it assists with the vast confusion around the subject of service and assistance animals. - Karen Richards

*“An animal’s eyes have the power to speak a great language.”*

*- Martin Buber*



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## Did you know?

Beginning on March 15, 2011, only dogs and in some instances, miniature horses, are recognized as service animals under Titles II and III of the Americans with Disabilities Act (ADA).

Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities.

Service animals are allowed in all areas where the public is normally allowed to go in State and local governments, businesses, and nonprofit organizations that serve the public. Otherwise known as places of “**Public Accommodation.**”

There are only two questions staff may ask when it is not obvious what service an animal provides: 1) is the dog a service animal required because of a disability, and 2) what work or task has the dog been trained to perform?

There are NO certifications or registration requirements by law for service animals. Nor is it required that a service animal wear any collar, vest otherwise indicating same.

An assistance animal is allowed in **housing** and is not restricted to dogs. Assistance animals are regulated by the Fair Housing Act and the U.S. Department of Housing and Urban Development (HUD). An assistance animal can be any animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability.

To read more on service and assistance animals, please see the [Department of Justice \(DOJ\) and HUD joint statement on service and assistance animals](#), [DOJ Service Animal FAQ](#) and [DOJ](#)



## Service Animals

To better clarify issues surrounding the use of service animals, on September 15, 2010 the U.S. Department of Justice (DOJ) revised regulations implementing the Americans with Disabilities Act (ADA) for Title II (services received by State and local government) and Title III (services received in places of public accommodation and commercial facilities).

The [ADA](#) defines “Service Animal” as “dogs that are individually and specially trained to do work or perform tasks that are directly related to an individual’s disability. Service animals are not considered as pets rather they are working animals that provide assistance to individuals with disabilities including guiding people who are blind, alerting individuals who are Deaf or hard of hearing, alerting and protecting an individual who is having a seizure, or reminding individuals with mental illness to take their medications.

Service animals are permitted to accompany people with disabilities in State and local government buildings, business and nonprofit organizations that serve the public. Service animals must be under control at all times and housebroken, be leashed, harnessed or tethered unless these devices would interfere with their work or the disability prevents use of a device. Businesses and agencies cannot ask a person with a disability to leave or deny access due to a fear of dogs, allergies or any ‘not pet’ policy. Furthermore, staff may only ask two questions if they are not certain what service the animal provides: 1) is the dog a service animal because of a disability, and 2) what work or task has the dog been trained to perform. Asking what the person’s disability is, asking to have the animal perform or demonstrate a task or asking for medical documentation or any type of documentation for the animal is not permitted.

Some examples of discrimination in Public Accommodation based on disability and having a service animal could be:

- A staff member at a restaurant refusing service to an individual with a disability because of their service animal.
- Being refused accommodation at a hotel, motel, bed or breakfast, etc. because of a service animal.
- Asking an individual to disclose their disability.
- Asking a person with a disability to present medical documentation of their disability, or certification/registration papers for their service animal.
- A court or judiciary refusing a service animal to accompany their owner for any court appearance.
- A school refusing a student with a service dog access to education because another student has allergies to dog dander.



## Assistance Animals

Laws applying to assistance animals fall under the [Fair Housing Act](#) (FHAct) and Section 504. These laws apply to housing only and state that “individuals with a disability may be entitled to keep an assistance animal as a reasonable accommodation in housing facilities that otherwise impose restrictions or prohibitions on animals.”

Unlike with service animals, assistance animals are not limited to dogs, or in rare circumstances, a miniature horse. Assistance animals can be any type of animal (pig, spider, dog, cat, lizard, etc.) and do not need to be individually trained to perform tasks.

The purpose for an accommodation of an assistance animal in the housing arena is to “afford the individual an equal opportunity to use and enjoy a dwelling or to participate in the housing service or program.” An individual only needs to show that s/he is a person with a disability and that the assistance animal ameliorates the limitations caused by the disability. A landlord or housing provider can require that the individual provide documentation from a health care professional indicating the person is an individual with a disability and the animal would provide assistance specific to the disability. This documentation does not need to name the individual’s disability.

If these requirements are met for a reasonable accommodation, a landlord or housing provider, program or service must permit the assistance animal unless it can demonstrate that the assistance animal would impose an “undue financial or administrative burden or would fundamentally alter the nature of the housing or program or services.” In order to prove that allowing an assistance animal as a reasonable accommodation is an undue financial or administrative burden, the housing provider, facility or program “must prove that the specific animal poses a direct threat to the health and safety of others that cannot be reduced or eliminated by a reasonable accommodation or that the specific animal would cause substantial damage to the property of others that cannot be reduced or eliminated by a reasonable accommodation.” To read the full Memo from the U.S. Department of Housing and Urban Development (HUD) distinguishing fair housing laws from the ADA regulations see: [New ADA Regulations and Assistance Animals as Reasonable Accommodations under the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973](#).

A landlord or property owner MAY NOT:

- deny a reasonable accommodation request for an assistance animal unless it is an undue financial or administrative burden, the animal presents a direct threat that cannot be otherwise accommodated or there is not nexus/ connection between the need for the animal and the person’s disability;
- require a security deposit or deny based on a “no pets” clause in a lease;
- deny based on an insurance company’s restrictions on allowable breeds of dogs;
- ask for specific information about the nature or extent of the disability.

A landlord MAY:

- impose reasonable rules (removing animal waste, licensed, vaccinated, leashed, etc.);
- ask for further documentation showing the connection between the disability and the need for the assistance animal.

Individuals with disabilities in emergency housing may also be permitted to have assistance animals with them in shelter. Whether this is allowed is a case by case, factual determination. The VHRC can help to sort out whether or not the situation falls within these parameters.



There is a vast amount of false information on the internet regarding service animals, requirements of registrations, certifications, vests, collars, or medical documentation. These are simply businesses trying to make money that provide false security to individuals with disabilities who have a service animal.

The truth is, there are no regulations or laws that require any of the above and any company, business or agency that claims otherwise are doing an injustice to this vulnerable population.

To assist in dismantling the confusion these advertisements cause, the Commission is providing the links below to deter individuals with disabilities from wasting their money.

[United States Dog Registry](#) While this site appears to be 'official' and offers some information with regard to what a service animal or assistance animal is, it fails to offer any information specific to the ADA laws about service animals but instead provides assurance to those with a service animal that being on their registry or buying their 'kit' is all you have to do to have a service animal. This type of advertisement also gives the false impression to places of public accommodation that these types of kits or registries are required and without them, access can be denied,

[US Service Animals Registry](#) This registry claims to be the "Official US Service Animal Registry Database." In fact, there are no "official" animal registries. Again, there are no requirements by law that any service animal be registered for any reason. Purchase of this type of registry or certification is a complete waste of money .

[United States Service Dogs](#) Another registry offering identification kits for service animals, at a price. While this registry is, as the others, not required and a waste of money, they do (in small print) at the bottom of their webpage state that they are not affiliated with the ADA however, again, do not indicate that registration, certification, vests, collars, etc. are not required by law.

[National Service Animal Registry \(NSAR\)](#) While this registry offers more definitions and information about the ADA laws, it still is a sales pitch for registration, ID cards, patches, vests and leashes that are unnecessary. Their claim is that these items will deter businesses from asking questions about your service animal.

If you or someone you know has questions about service animals requiring registration, certifications or otherwise please contact the [VHRC](#) or the [U.S. Department of Justice, Civil Rights Division](#)

## Contact Us

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Visit us on the web at  
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## RESOURCES

[Vermont Human Rights Commission](#)

[U.S. Department of Justice](#)

[U.S. Department of Housing and Urban Development](#)

[Vermont Legal Aid](#)

## NEWS

[5 Myths Disabled Patients Want Debunked](#)

[A Cancer Sniffing Dog and Her Best Friend Clint](#)

[Feds to Clarify Rules for Service Animals on Flights](#)

[VT Boy's Service Dog Helps Entire Family](#)

[Service Dogs Offer Some Mentally Ill People a New Leash on Life](#)