



Front Office

by Todd Seiders, CLSD

New ADA service animal regulations are now in effect for hotels

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The November/December 2010 issue of *The Rooms Chronicle*® provided valuable information pertaining to guests arriving at hotels with service animals. As explained in that article, individuals checking into a hotel with a pet and claiming it is a “service animal” are essentially protected under Title III of the Americans with Disabilities Act (ADA) and the guest and service animal must be accommodated unless the animal poses a disruption or direct threat to the hotel or its guests.

Just recently the Department of Justice has updated the Americans with Disabilities Act with new regulations pertaining to service animals in places of public accommodation. These new regulations provide greater clarity for hoteliers as to what exactly is and is not considered a “service animal” and whether the animal being presented as a service animal must be accommodated by the hotel.

Dogs and miniature horses only please

Effective March 15, 2011 the term “Service Animal” means 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. Also, a public accommodation shall make reasonable modifications in policies, practices, or procedures to permit the use of a **miniature horse** by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. With the exception of dogs and miniature horses, *other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.* This means that cats, snakes, parrots, hamsters, monkeys, and various other species of pets that some hotel guests have previously claimed as “service animals” no longer fall within the newly issued regulations of the ADA. Hence, hotels are not required to recognize them as legitimate service animals nor required to permit them to reside with the guest on hotel property.



It must truly be a “service animal”

The work or tasks performed by a “service animal” 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 with navigation and other tasks, alerting individuals who are deaf or 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, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

It is important to note that according to the new guidelines, *the crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.* This essentially means that a hotel is no longer required to rely solely on the verbal assertion of the guest that the animal is indeed a "service animal" though it demonstrates no ability to serve the physical needs of the handler; and in such a situation the hotel is not required to accommodate the animal because of the protections previously afforded by the ADA.

As previously dictated by the ADA, a place of public accommodation may ask an individual with a disability to remove a service animal from the premises if:

1. The animal is out of control and the animal's handler does not take effective action to control it; or
2. The animal is not housebroken.

If a public accommodation properly excludes a service animal, it must give the individual with a disability the opportunity to obtain goods, services, and accommodations without having the service animal on the premises.

Animal must be under the handler's control

A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (*e.g.*, voice control, signals, or other effective means).

Also important to note is that a public accommodation is not responsible for the care or supervision of a service animal. This is still the responsibility of the animal's handler or travelling companion(s). In order to maintain sanitary standards inside the hotel, hotels should provide appropriate areas where service animals may be exercised, if feasible.



Inquiries about service animals

A hotel may not ask about the nature or extent of a guest's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A public accommodation may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. *However, a hotel may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.* Generally, a public accommodation may not make these inquiries about a service animal when it is readily apparent 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, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

Access to areas of a public accommodation

Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a place of public accommodation where members of the public, program participants, clients, customers, patrons, or invitees, as relevant, are allowed to go. This means that the service animal must be permitted in all areas of the hotel that the guest is allowed to go, including food and beverage outlets, function rooms, public restrooms and locker rooms, health club facilities, gift shop, business service center, and swimming pool areas. The animals are not actually allowed to enter the swimming pool or Jacuzzi itself though. Of course, the service animal must be accompanied by the guest at all times and may not be left unattended in public areas of the hotel.

Surcharges are prohibited

A public accommodation shall not ask or require an individual with a disability to pay a deposit, surcharge or "pet fee", even if non-disabled guests accompanied by pets are required to pay such fees or to comply with other requirements generally not applicable to people without pets. However, if a hotel normally charges guests for any damage their pets cause, an individual with a disability may be charged for damage caused by his or her service animal. In regards to damage to the property, no special consideration is required to be provided just because the offending animal is a service animal.

Reservations made by places of lodging

A public accommodation that owns, leases (or leases to), or operates a place of lodging, with respect to reservations made by telephone, in-person, or through a third party, shall modify its policies, practices, or procedures to ensure that individuals with disabilities can make reservations for “accessible” guestrooms during the same hours and in the same manner as individuals who do not need accessible rooms. This means that hotels must identify and describe “accessible” features in the hotels and guestrooms offered through its reservations service in enough detail to reasonably permit individuals with disabilities to assess independently whether a given hotel or guestroom meets his or her accessibility needs.

Hotels must also ensure that “accessible” guestrooms are held for use by individuals with disabilities until all other guestrooms of that type have been rented and the “accessible” room is the only remaining room of that type. But, hotels may place non-disabled guests in an “accessible” guestroom if no other “non-accessible” guestrooms remain and there are no other requests on the books for an “accessible” guestroom for that evening.

However, when a guest identifies himself as disabled and requests in advance an “accessible guestroom” or a specific type of guestroom in order to accommodate their disability, the hotel is required to ensure that the requested guestroom is blocked and removed from possible use by others on the date of arrival, and the hotel must guarantee that the specific “accessible” guestroom reserved through its reservations service is held for the reserving customer, regardless of whether a specific room is held in response to reservations made by others. In other words, if a future guest identifies they need a special type or configuration of guestroom in order to accommodate a disability, the new ADA regulations require the hotel must set that room aside for the disabled guest and may not reassign that room to any other person.

Conclusion

The revised ADA regulations as they pertain to service animals provide greater guidance and certainty for hotels and enable managers to maintain better control over their property. The revised regulations also spell out certain standards that hotels must comply with to protect those disabled guests travelling with service animals. These revised regulations were crafted primarily because of the input provided by hoteliers and other business owners/managers. The collective lodging industry should embrace and welcome these new regulations as these changes have been long awaited by most hoteliers.

Editor’s note

While the Department of Justice has released the new regulations for Title III of the ADA including the revised definition for “service animals” and the modifications in policies, practices, or procedures for places of public accommodation as they apply to service animals, the Department has yet to publish a revised ADA Business Brief or booklet on service animals. A representative of the Department of Justice has indicated that such publications will be forthcoming, but no release date has been identified. Once these items are released, *The Rooms Chronicle*® will be sure to provide them to our readers. ✧

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