



Service Animals in Public Settings

For government and public accommodation entities



Note: if you are NOT here for a government or public accommodation entity, or as an Animal Control Officer, you will be better served by contacting us directly with your questions:

mass.gov/mod/ContactUs

Purpose

For public-serving entities to **build confidence about your obligations around service animals.**

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Massachusetts Office on Disability

[Massachusetts Office on Disability](#) (MOD) serves as a resource to state agencies, municipalities, and members of the general public by providing information, guidance, and training on matters concerning disability-related civil rights, architectural access, and equal access and opportunity.

MOD does NOT enforce laws or intervene in disputes.

MOD's Disability Rights Unit

Provides information, technical guidance, and training on disability rights and physical access, including:

- Explaining how disability rights laws apply to a situation
- Offering guidance in navigating reasonable accommodation requests
- Providing practical suggestions for addressing an issue, as well as directing to formal recourse options

Structure

- 1. Basic concepts**
- 2. Definitions and laws**
- 3. How to deal with service animals:**
 - a. Evaluating whether to allow an animal in**
 - b. Handling behavior issues**
- 4. Less common scenarios**
- 5. Practical tips**
- 6. Sources of support**
- 7. Q&A**

1. Basic concepts

- **Where:** service animals need to be allowed pretty much anywhere the **general public is allowed**
- **What: Only service dogs** (trained and in training; and trained miniature horses).
- **How to identify: Two questions** to determine if it is a service animal:
 - *Is the dog a service animal required because of a disability?*
 - *What work or task has the dog been trained to perform?*
- **Handler responsibilities:** The handler needs to keep their animal **under control**
- **Removal:** There are **reasons you can require the handler to remove the dog**, as long as you offer the person service/access without the dog

2. Definitions

- **Context**
- **Laws**
- **Local/State government**
- **Public accommodations**
- **Disability**
- **Disability discrimination**
- **Types of animal**

What is the context?

- Housing
 - Employment
 - Airlines
 - Federal government and entities that receive federal funding
 - **State and local government**
 - **Public accommodations**
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Laws (1)

| Context | Federal Law |
|---|---|
| Housing | Fair Housing Act |
| Employment | Americans with Disabilities Act Title I |
| Airlines | Air Carriers Access Act |
| Federal government and entities receiving federal funding | Rehabilitation Act |

Laws (2)

| Context | Federal Law enforced by US Department of Justice (DOJ) | State Laws enforced by Massachusetts Commission Against Discrimination (MCAD) |
|-------------------------------|--|---|
| Public accommodations | Americans with Disabilities Act Title III | <ul style="list-style-type: none">• Dog guides in public places and transportation (MGL c.272 § 98A)• Service dog trainer rights (MGL c.129 § 39F) and Hearing dog professional trainer rights (MGL c.129, § 39D)• Other MA laws on service animals |
| State and local government | Americans with Disabilities Act (ADA) Title II | <ul style="list-style-type: none">• Same as above |

What situations are local/state government?

Any service, program, event or facility offered by a town, city or state government.

Examples:

- Public parks, beaches and playgrounds
- Libraries, town hall, police station, public schools, voting locations
- Commission, board and other public meetings held by town/city
- Festival and events organized by town/city
- Summer camp, public schools run by town/city

What is a public accommodation?

State law has broader definition than the ADA, so it applies in MA:

“A **public accommodation** is **any place**, whether licensed or unlicensed, which is **open to and accepts or solicits the patronage of the general public.**”

- Appointment-only: Access restricted to clients is usually a public accommodation e.g. dentist office, hotels
- Non-selective membership: Age or gender restrictions are not considered selective, e.g. a women’s only gym, a daycare for kids 2-5
- Exemptions:
 - Religious organizations
 - Private clubs: clubs with genuinely selective membership criteria

What is a disability?

The part of the [ADA definition of disability](#) that is relevant for service animals:

A person with a disability is someone who
has a **physical or mental impairment** that
substantially limits one or more **major life activities**

What is disability discrimination?

Government and businesses must provide people with disabilities an **equal opportunity** to access the locations, goods and services that they offer the public.

It is generally discriminatory to:

- Refuse to serve someone or give them worse service because of their disability, including creating additional barriers (such as charges or unnecessary documentation requirements)
- Separate people with disabilities from others (unless necessary to provide equitable services)
- Refuse to make reasonable accommodations (reasonable changes to rules and procedures needed to remove disability-related obstacles to equal participation)

What type of animal is it?

- Service animal
- Emotional support animal
- Therapy animal
- Pet

Service animal

“A service animal is a **dog**, or in rare cases a miniature horse, that has been **individually trained** to do **work** or **perform tasks** for a **person with a disability**.”

- Must have been trained to take **specific action(s)** in response to a **command** or a **sensed signal**, and those actions must **directly mitigate symptoms** or **limitations** associated with a disability
 - Training does not need to be done by a professional
 - There is no official certificate/id, vest/harness or registry
 - Animals whose sole function is to provide comfort or emotional support are not service animals
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Emotional Support Animal

An emotional support animal (ESA) is an **animal** that provides **emotional support** to a **person with a disability** by its **presence alone**.

- Sometimes called a 'comfort animal' or 'companion animal'
- Provide emotional support that helps with symptoms of the disability but not trained to do specific tasks
- Can be any type of animal that is commonly kept as a pet
- Does not require any training

Other terms for animals

- **Assistance animal** (housing) can be:
 - a service animal,
 - another type of animal that performs disability-related tasks, or
 - an emotional support animal.
- **Therapy animal**: an animal trained to provide therapeutic emotional support to strangers, e.g. to patients on a ward
- **Pet**: any other animal

3. How to deal with service animals:

- a. Evaluating whether to allow the animal in**
- b. Handling behavior issues**

Do you need to allow it? The 2 questions

- Is it a dog (or miniature horse)?
 - If not, you can **EXCLUDE it**
- Is it **obviously** a service animal?
 - **ALLOW it**
- Otherwise use the **two questions** to determine if it is a service animal:
 - *Is the dog a service animal required because of a disability?*
 - *What work or tasks has the dog been trained to perform?*
 - If the answers indicate that the dog performs **actions that help mitigate the symptoms or limitations of a disability**, then it is considered a service animal - **ALLOW it**

Notes on whether to allow the animal

- You must take them at their word
- You may ask clarifying questions if needed. Once an adequate answer has been given, further questions might be considered harassment.
- You must NOT ask:
 - About their disability,
 - For documentation (there is none officially recognized), or
 - For a task demonstration
- You are not assessing the appropriateness of the dog's tasks, just whether it meets the definition
- You may ask further questions if it's a horse or their answers indicate it is a service animal in training
- Service animals are allowed even if others have fears of or allergies to dogs

Examples: whether to allow in



Entity responsibilities

- Allow the service animal to go wherever their handler is permitted to go (unless safety threat)
- If other patrons have fears of or allergies to dogs, look for ways to accommodate both parties
- You do not have to care for, control or supervise the animal
- Do not charge fees or deposits for service animals, even if you do for pets. If you normally charge patrons for damage they cause, you may charge for damage caused by service animal

Handler's responsibilities

- Animal must be housebroken
 - Animal may not pose a legitimate, direct threat to health or safety
 - Keep animal under control at all times:
 - Must be on leash/harness/tether if possible. In rare cases where dog needs to be off leash to perform their work, need to be under some other means of control e.g. voice command
 - Keep animal from being disruptive or threatening
 - Do not allow animal to:
 - Sit on furniture meant for patrons
 - Eat from plates provided by a food service establishment
 - Ride in shopping carts
 - Follow licensing and vaccination regulations
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Excluding/asking for an animal to be removed

- If an animal is **not under control**, e.g. off leash, barking, jumping, growling, going after food, interfering with program, running away
 - Tell the handler what behavior is expected
 - Give them an opportunity to get animal under control
 - If appropriate, warn that the animal will have to leave if not controlled
 - You can exclude/ask animal to **leave immediately** if:
 - Not a service animal
 - Not housebroken
 - Direct threat to safety, or
 - Handler cannot or will not get animal under control
 - Always offer service/access without the animal present
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Patron's recourse

- Complaint to an enforcement agency:
 - US Department of Justice (DOJ), or
 - Massachusetts Commission Against Discrimination (MCAD), or
 - MA Department of Agricultural Resources (if service animal in training)
- If there could be discrimination, they will do a neutral investigation
- If investigation finds 'probable cause' that discrimination occurred:
 - Conciliation opportunities may be offered
 - If dispute not resolved, case proceeds to formal hearing/court
- May result in fines and damages, requirement for training or signage

Examples: handling behavior issues



4. Less common situations

- **Service dogs in training**
- **Miniature horses**
- **Multiple animals**
- **Public places service animals are not allowed**

Service dog trainer law

“A person accompanied by and engaged in the **raising or training of a service dog**, including a hearing, guide or assistance dog, shall have the same **rights, privileges and responsibilities** as those afforded to an individual with a disability under the Americans with Disabilities Act, 42 U.S.C. sections 12101 et seq.”

[Massachusetts General Law c.129, § 39F](#)

Handling service dogs in training (1)

1. You will have started with the standard process of only asking the two questions, if necessary
2. If their answer to question 1 or 2 indicates it is a service dog in training, you can ask further questions to evaluate:
 - Whether they are currently engaged in raising or training the dog as a service dog
 - Whether it is housebroken

Handling service dogs in training (2)

3. Remember you have to accept their word
4. Remind them that a service dog in training has the same behavior and control expectations as a fully trained service dog
5. Handle any behavior or control issues as you would a trained service dog

Questions on service dogs in training

- Law enforced by the MA Department of Agricultural Resources
- For detailed questions, contact: Michael Cahill
(michael.cahill@mass.gov)
- An individual may complain to him if refused access to a public accommodation situation with their service dog in training

Miniature horses

- Rare
 - Similar size to large dog
 - Same handler responsibilities as service dogs
 - Ask 2 questions AND
 - Consider whether:
 - Horse is housebroken or wearing diapers
 - Handler has sufficient control
 - Facility can accommodate its size/weight
 - Presence compromises legitimate safety requirements
 - Presence results in fundamental alteration
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Multiple animals

- Some people need multiple animals
 - Ask the 2 questions
 - Allow both if they can be accommodated
 - Where only one can be accommodated, staff may request the one dog be left outside
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Places service dogs may be denied

- Pools – not in the **water** (allowed on the deck)
- Truly **sterile** areas, e.g. operating room in hospital (allowed everywhere else in hospital). Handler needs to arrange for someone to care for dog while incapacitated.
- Areas with animals sensitive to dogs, e.g. zoo, nature reserve

5. Practical tips

- **Best practices**
- **Handling difficult situations**

Best practices

- Train your frontline staff
- Have neutral reference materials on hand, e.g. DOJ or MOD guidance
- Be welcoming to service animals
- Don't interact with the dog – a working dog should be left in peace
- Take a cooperative approach to resolving issues
- It's ok to ask someone to move their dog to the same extent that you might ask someone to move their belongings that are in the way
- You can go beyond your obligations, but be consistent – have a policy

Handling difficult situations

- Treat people with disabilities the same as people without disabilities
 - Assure them of your support for service animals
 - Try to keep it simple, calm and cooperative
 - Explain clearly what the issue is and what your expectations are
 - If there is disagreement about rights and obligations, point to the DOJ's pages. The patron can call ADA line with any questions
 - If an animal poses immediate danger, you can call police/Animal Control Officer
 - If the patron believes you are being discriminatory, MOD can inform them about complaints and ensure they are clear on their rights and responsibilities
 - Note the facts of what happened, especially words and specific animal behavior
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6. Sources of support

- **MOD**
- **Animal Control Officers**
- **Other sources of information and support**

How MOD can help

- Discussing a specific situation, analyzing the detail in the context of the law.
- Suggesting practical ways to address an issue
- Informing a patron who seems to not understand their rights or responsibilities or wishes to know how to file a complaint
- Note:
 - We cannot give legal advice, only neutral information and ideas to consider
 - For callbacks within about a week - we are not staffed to respond to urgent situations. Call the ADA line for live help
 - We are not an enforcement agency: we cannot investigate or intervene in disputes

How Animal Control Officers can help

- All municipalities are required to have an ACO. The ACO's responsibilities and supervising department may vary from town to town
- If an animal is posing a public safety risk, ACO and/or police should be called
- ACOs are often already aware of problematic local dogs
- ACOs have valuable expertise and tools for handling unsafe animals
- When to call an ACO:
 - Animal is being a nuisance or danger to others
 - Animal is being mistreated
- Call 911 for immediate safety issues. Otherwise call [your ACO](#) or the police non-emergency number
- Information to provide

Other sources of information/support

- ADA service animal info from DOJ:
 - [Overview](#) ([print version of overview](#))
 - [FAQ](#) ([print version of FAQ](#))
 - ADA helpline for live support:
 - 800-514-0301 OR 1-833-610-1264 (TTY)
 - M-W, F 9:30am-12:00pm and 3:00pm-5:30pm; Th 2:30pm-5:30pm
 - [MOD guidance on service animals](#)
 - [MA laws on service animals](#)
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7. Questions?

- Post your questions in the Q&A chat
- You can submit questions for later individual discussion using our contact form: mass.gov/mod/ContactUs
- Please take our [survey](#) before leaving to help us make these presentations valuable
- Thank you for attending!