

Service Animals in Places of Public Accommodation

Service animals are animals that are trained to provide a service to a person with a disability. Service animals are utilized by persons with a variety of disabilities. Service animals may lead blind people or serve as the ears of a deaf person. They may also carry and pick up items, be used for balance, and provide warnings of impending seizures or low blood sugar. Service animals may allow persons with anxiety disorders or other emotional illnesses to function in society.

Service animals must be allowed into all areas of a place of public accommodation where the general public is allowed – this includes dining and eating areas, restrooms, and areas where food is sold. A place of public accommodation cannot request that the service animal be removed unless it creates a risk. The pertinent portions of the Washington Administrative Code are below.

WAC 162-26-060 **General principles.**

(1) **Same service preferred.** The purposes of the law against discrimination are best achieved when disabled persons are treated the same as if they were not disabled. The legislature expresses this policy in RCW [49.60.215](#) with the words "regardless of." Persons should, if possible, be treated without regard to their disability or use of a dog guide or service animal. This is called "same service" in this chapter.

(2) **Reasonable accommodation.** The law protects against discrimination because of the "presence" of a disability. It does not prohibit treating disabled persons more favorably than nondisabled persons in circumstances where same service will defeat the purposes of the law against discrimination.

For example, this would be true if persons in wheelchairs and nondisabled persons are equally entitled to use the stairway to reach the second floor of a store. In such circumstances, the operator of the place of public accommodation should use the next best solution: Reasonable accommodation.

A reasonable accommodation would be to permit the shopper in the wheelchair to use an elevator to reach the second floor, even though the public in general is not permitted to use the elevator. If there is no elevator and no other safe and dignified way for the customer to reach the second floor, another reasonable accommodation would be to bring merchandise requested by the customer to the first floor. Reasonable accommodations may also include, but are not limited to, providing sign language interpreters and making printed materials available in alternate formats.

(3) **Overall objective.** People with disabilities must be afforded the full enjoyment of places of public accommodation to the greatest extent practical.

WAC 162-26-070 **General rules.**

These rules apply except where exempted by RCW [49.60.215](#) for structural changes or behavior causing risk, or excepted by ruling of the commissioners under WAC [162-06-030](#). It is an unfair practice under RCW [49.60.215](#) for any person in the operation of a place of public accommodation, because of disability or use of a trained dog guide or service animal:

- (1) To refuse to serve a person;
- (2) To charge for reasonably accommodating the special needs of a disabled person;
- (3) To require a disabled person accompanied by a trained dog guide or service animal in any of the

places listed in RCW [70.84.010](#)(3) to pay an extra charge for the trained dog guide or service animal;

(4) To treat a disabled person as not welcome, accepted, desired, or solicited the same as a nondisabled person;

(5) To segregate or restrict a person or deny a person the use of facilities or services in connection with the place of public accommodation where same service is possible without regard to the disability; or

(6) To fail to reasonably accommodate the known physical, sensory, or mental limitations of a disabled person, when same service would prevent the person from fully enjoying the place of public accommodation, as provided in WAC [162-26-080](#).

WAC 162-26-130

Use of trained dog guide or service animal.

(1) **Coverage of statute.** RCW [49.60.215](#) requires fair service in a place of public accommodation "regardless of . . . the use of a trained dog guide or service animal by a disabled person . . ." as well as because of disability itself.

(2) **Same rules apply.** All of the rules of this chapter with respect to disability itself apply equally to service of a person with a disability who is using a trained dog guide or service animal. See particularly WAC [162-26-060](#) and [162-26-070](#).

WAC 162-26-135

Removal of a dog guide or service animal.

(1) **General rule.** It is an unfair practice for a place of public accommodation to ask that a trained dog guide or service animal be removed, unless that place of public accommodation can show that the presence, behavior or actions of that dog guide or service animal constitutes an unreasonable risk of injury or harm to property or other persons.

It is an unfair practice to remove a trained dog guide or service animal from the entire place of public accommodation because the dog guide or service animal presents a risk of injury or harm when in part of the place of public accommodation.

(2) Assessing risk of injury or harm.

(a) Risk to property or other persons must be immediate or reasonably foreseeable under the circumstances, not remote or speculative. Risk to persons may be given more weight than risk to property. Risk of severe injury or harm may be given more weight than risk of slight injury or harm. For example, a barber excludes a patron's dog guide because; "It might bite somebody -- I don't allow any dogs in here." This is **not** "reasonably foreseeable risk" justifying removal of the dog guide.

(b) Annoyance on the part of staff or other customers of the place of public accommodation at the presence of the dog guide or service animal is not an unreasonable "risk to property or other persons" justifying the removal of the dog guide or service animal.

(c) Risk of injury or harm to the dog guide or service animal is not a reason for a place of public accommodation to exclude the animal. The decision whether to bring the animal into a place of public accommodation under such circumstances most properly rests with the person with a disability using the dog guide or service animal.

(3) **Duty to reasonably accommodate.** When risk justifies the removal of a dog guide or service animal from the place of public accommodation, efforts must be made to reasonably accommodate the person with the disability.

(4) **Liability.** Law other than the law against discrimination governs liability for injury or harm. Generally, a person with a disability using a dog guide or service animal is responsible for the animal and may be held liable for the behavior and actions of the animal.

Points to keep in mind:

- Service animals are not pets, so a “no pets” policy does not apply.
- A business cannot charge a fee for the service animal.
- Service animals are not limited to large dogs; small dogs and other animals often work as service animals.
- Service animals will often be identified with a harness or vest, but there is no requirement that the service animal have any identification.
- If the customer does not identify the animal, you can ask if the animal is a pet. If the customer then identifies the animal as a service animal, you can only ask what type of service the animal provides. You cannot ask the customer about his or her disability, and you cannot ask for proof or a medical note.
- If an animal is identified as a service animal, you must allow the animal into all public parts of the business, including where food is sold and eaten.
- It is reasonable to expect that the service animal should remain in physical or voice control of its owner at all times, that the animal not defecate or urinate inside, and that the animal not bark excessively or act aggressively toward people. Keep in mind, however, that sometimes it is a service animals job to warn its handler of surroundings or impending events, and it might do so with a bark or a growl.