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What law applies to service animals in municipal buildings?

Under the federal Americans with Disabilities Act (ADA), municipalities must allow people with disabilities to bring their service animals onto any municipal property on which the general public is typically allowed. Similarly, Vermont's Fair Housing and Public Accommodation Act mandates that all animals that are training to perform as service animals must be allowed entry onto municipal property.

The ADA defines a "service animal" as a dog that is individually trained to do work or perform tasks for a person with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with post traumatic stress disorder during an anxiety attack, or performing other duties. A service animal is not a pet. If a dog meets this definition, it is considered a "service animal" under the ADA, regardless of whether the dog has been licensed or certified by a state or local government.

Sometimes it can be hard to tell if an animal is a service animal. Some service animals wear special collars and harnesses, but some do not. Some are licensed or certified as service animals or have identification papers; many do not. Only two questions may be asked when it is not obvious what service an animal provides:

1. Is the animal required because of a disability?
2. What work or task has the animal been trained to perform?

You should only ask these questions if the service animal's tasks are not obvious. For example, if the dog is pulling a person's wheelchair or guiding an individual who is blind or visually impaired, you need not ask the above questions. You may not ask about the nature or extent of a person's disability or require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, or require the animal to wear an identifying vest.

A service animal can be removed from a municipal facility if the dog is not housebroken or if it is not under the command or control of the person it is assisting. The dog must be tethered or leashed unless the handler is unable to do so because of a disability or the use of a tether or leash would interfere with the service animal's ability to safely perform its work or tasks. In these cases, the dog must be under the handler's control through voice commands, hand signals, or another effective means. If a service animal is excluded from the premises, the individual with a disability must still be allowed to obtain goods, services, and accommodations without having the service animal present.

If a municipality has a “no pet” policy, that policy does not apply to service dogs and they may not be denied entry. This does not mean a municipality must abandon its “no pets” policy, but rather that the municipality must make an exception to the general rule for service animals.

Public entities and establishments that violate the ADA or Vermont’s Fair Housing and Public Accommodations Act can face serious penalties. If you have any question regarding allowing a service animal access to a municipal facility and property, contact your municipal attorney or VLCT’s Municipal Assistance Center before you ask any questions of the disabled person or before you restrict the dog’s access.

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