

Welcome

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South Dakota Network Against Family Violence and
Sexual Assault



Together, we are
The Network.

Bridging South Dakota

- ▶ Partnership between:
 - ▶ South Dakota Network Against Family Violence and Sexual Assault (The Network)
 - ▶ Communication Service for the Deaf (CSD)
 - ▶ Disability Rights South Dakota (DRSD)
 - ▶ The Compass Center



Together, we are
The Network.

Disability *Rights*
South Dakota



CSD[®]

COMPASS CENTER
Navigating the Journey to Healing

Service Animals, Assistance Animals, and Emotional Support Animals, What are we to do?

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Presented by

Bridging South Dakota



Today's Training

- ▶ Learn the about “service animals, assistance animals and emotional support animals.”
- ▶ Learn what questions we “can” and “cannot” ask.
- ▶ Learn how to prepare for the conversation.
- ▶ Learn how to become comfortable with the conversation.
- ▶ Learn who you can contact for help.



Poll Question 1 (yes or no)

- ▶ Do you know what a “service animal” is?

“Service Animal” rules come from the Americans with Disabilities Act (ADA). They pertain to animals EVERYWHERE.



Poll Question 2 (multiple choice)

- ▶ Which of the following can be a “service animal”:
- ▶ Cat
- ▶ Dog
- ▶ Parrot
- ▶ Miniature Horse
- ▶ Snake
- ▶ Rabbit

“Service Animal”

DOGS!!!

- ▶ OK - and sometimes miniature horses



ADA DOJ rules (Department of Justice)

- ▶ Sometimes refer to “dogs” and sometimes say “animals” - but the rules are built with the understanding that service animals are dogs.



What is a “Service Animal”?

“A service animal is a dog that is individually trained to do work or perform tasks for a person with a disability.”

Service animals are used by people with various types of disabilities.

When thinking about service animals think:

- dog
- trained
- person with a disability.



What is not a “Service Animal”?

“Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.”

Pets are not service animals.

Language in South Dakota State law suggests the same definition of service animal as is used in the ADA.



Is there such a thing as a “Psychiatric Service Animal”?

Yes, a “psychiatric service animal” is a dog that is specifically trained to respond in a consistent manner to the status of their owner.



Where can “Service Animals” go?

“Generally Title II (state and local government) and Title III (public accommodations) entities must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.” (DOJ)



Poll Question 3 (yes or no)

- ▶ **I feel comfortable identifying a “service animal.**

So how do we verify that it is a “Service Animal”?

“When it is not obvious what service an animal provides, only limited inquiries are allowed.”

Staff may ask two questions:

- (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?

What about training of “Service Animals”?

Animals are trained by foundations/schools specifically with the goal of preparing and teaming service animals with people with disabilities.

Animals can be trained by the person with a disability.

Animals are not required to be trained formally.

Animals are not required to carry any identification.



“Staff cannot ask”

About the person's disability

For medical documentation

**For a special identification card or training documentation
for the dog**

**That the dog demonstrate its ability to perform the work
or task.**

Can You Spot a Fake Service Dog?

▶ <https://youtube/FyOzsqeICR8>



What does South Dakota law say about “Service Animals”?

South Dakota law says little on the topic of “service animals”.

There are rules stating:

You may not charge surcharges for participation in services.

It is a misdemeanor to interfere with someone using a “service animal”.



What if...

In general, reactions of others e.g., someone who has allergies to dogs, a fear of dogs, concerns about costs that will result from allowing a dog into a facility are not a reason to limit the presence of a “service animal”.

“Service animals” can be excluded only in limited situations, such as areas where their presence would present a danger to others.



Poll Question 4 (yes or no)

- ▶ You can exclude a service animal from a shelter.

Reasons to Exclude a Service Animal...

The dog is disruptive, growls, bites, or snaps.

The dog is not under the handler's control.

The dog is filthy, diseased, etc.

The dog is not housetrained.

Excluding a Service Animal...

When a service animal is asked to leave, the person with the disability must be given the option to stay.

--Unless there is significant reason for doing so, a service animal should not be excluded permanently.

Allergies or fear of dogs cannot be used as a reason to exclude a service animal in a public place.

There is proper etiquette to follow when encountering a “service animal.”

- Do not engage the animal without first asking the handler, if it is “OK” to do so.
 - Service animals are working unless the handler says otherwise, and they should not be distracted from their work i.e., petting, offering food, water.
 - Explain this etiquette to children, who may not know it if they have never been around a person using a “service animal.”

Additional notes regarding “Service Animals”...

Customers with “service animals” cannot be isolated or treated differently than other customers; no surcharges allowed.

Others are not required to provide care to a “service animal”. The handler must clean up after the dog (but there are exceptions).



What about “Service Animals in Training”?

The status of “service animals in training” is addressed in South Dakota law.

The ADA definition is: “service animal in training” is not (yet) a “service animal”.



Questions?





**Let's take
10 Minutes**

So we determine it is not a “service animal.” What now?

Now it’s time to talk about whether the person is asking for a “reasonable accommodation” based upon a disability. If so, it is time for a different conversation and a process.

There are steps your agency can take ahead of time to assist all in having a respectful and effective conversation.

What Steps?

- First, look at your funding sources and see what they require you to do in response to these requests.
- Ask the question, “Does the Fair Housing Act apply to your agency/facility?”
- Look at your facility/agency and your community and determine what resources are available to address the needs that might be presented by a survivor/victim requesting a reasonable accommodation?
- Develop a policy addressing how to respond to any request for reasonable accommodations, including the inclusion of an “assistance animal” when you have a no pet policy.

What is an “Assistance Animal”?

An “assistance animal” is an animal that works, provides assistance, or performs tasks for the benefit of a person with disabilities, or provides emotional support that alleviates one or more identified symptoms or effects of a person’s disability.

An “assistance animal” is not a pet.

An “assistance animal” is a “reasonable accommodation” for a disability.

- Individuals with a disability may request to keep an assistance animal as a reasonable accommodation to a housing provider's pet restrictions.
- Housing providers cannot refuse to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling.



The Fair Housing Act requires a housing provider to allow a “reasonable accommodation” involving an assistance animal in situations that meet all the following conditions:

- A request was made to the housing provider by or for a person with a disability.**
- The request was supported by reliable disability–related information, if the disability and the disability-related need for the animal were not apparent and the housing provider requested such information, and**

- **The housing provider has not demonstrated that:**
 - **Granting the request would impose an undue financial and administrative burden on the housing provider**
 - **The request would fundamentally alter the essential nature of the housing provider's operations**
 - **The specific assistance animal in question would pose a direct threat to the health or safety of others despite any other reasonable accommodations that could eliminate or reduce the threat**
 - **The request would not result in significant physical damage to the property of others despite any other reasonable accommodations that could eliminate or reduce the physical damage.**

What is an “Emotional Support Animal”?

By definition, an “emotional support animal” can be any species.

It is not trained to provide a specific service.

These animals provide companionship, relieve loneliness, and sometimes help with depression, anxiety, or certain mental health conditions, but do not have training to perform tasks.



Poll Question 5 (yes or no)

- ▶ An animal can be an “emotional support animal” and a “psychiatric service animal”?

NO!
They can never be both!



The best way to keep it all straight...

Define “service animals” and “assistance animals” separately.

Keep them separate in your policies and in your conversations with staff and victims/survivors.

In situations where more than one law applies - ADA and FHA - Begin with the ADA

Find out if the animal meets the definition of a “service animal.”

If it does, the animal must be permitted to accompany the individual with a disability to all areas of the facility where persons are normally allowed to go.



If the animal does not meet the definition of “service animal”

Evaluate the individual’s request for a reasonable accommodation to possess an “assistance animal” in a dwelling place.

Consider the following:

First, does the person seeking to use and live with the animal have a disability - i.e., a physical or mental impairment that substantially limits one or more major life activities?



Second, does the person making the request have a disability-related need for an assistance animal?

In other words, does the animal work, provide assistance, perform tasks or services for the benefit of a person with a disability, or provide emotional support that alleviates one or more of the identified symptoms or effects of a person's existing disability?



What can we ask?

Housing providers, including some shelters, may ask individuals who have disabilities that are not readily apparent or known to the provider to submit reliable documentation of a disability and their disability-related need for the assistance animal.

If the disability is readily apparent or known but the disability-related need for the assistance animal is not, the housing provider may ask the individual to provide documentation of the disability-related need for an assistance animal.



For example

The housing provider may ask persons who are seeking a reasonable accommodation for an assistance animal that provides emotional support to provide documentation from:

- a physician
- psychiatrist
- social worker
- or other mental health professional



The documentation should include that the assistance animal alleviates one or more of the identified symptoms or effects of an existing disability

Trauma Informed Practices and Recommendations

- ▶ Have a policy/procedure for requesting accommodations/auxiliary aids and services that includes assistance animals.
- ▶ Make a survivor feel at ease by letting them know that their service animal or assistance animal is welcome.
- ▶ Consider creating shelter documents that educate about service animals and assistance animals.
- ▶ Build relationships with local animal shelters, veterinarians, Humane Societies, animal foster family networks or animal rescue organizations.
- ▶ Request donations of basic animal necessities i.e., animal crates, carriers, bedding, flea shampoo, collars, leashes and food.

Critical Steps

Be prepared: Don't wait until someone appears with a service animal or assistance animal to decide how to respond.

- **Develop a policy addressing the presence of “service animals” in the shelter.**
- **Develop a policy on providing “reasonable accommodations” which includes responding to requests related to service animals and assistance animals.**
- **Develop a pet policy.**

Be Informed - Continuously train staff on the difference between “service animals” and “assistance animals”

What questions we can and cannot ask?

When can we exclude service or assistance animals?

Who can we contact with questions?

Do your best to serve all who come for assistance and support -

Have respectful conversations and interactions.

Questions?



Thank You for all you do!

Resources

- ▶ FHEO Notice: FHEO-2020-01 Subject: Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs
 - ▶ <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>
- ▶ Service Animals and Emotional Support Animals - ADA National Network 2014
 - ▶ <https://adata.org/publication/service-animals-booklet>
- ▶ Service Animals Fact Sheet - ADA National Network 2014
 - ▶ <https://adata.org/factsheet/service-animals>
- ▶ Joint Statement of the Department of Housing and Urban Development and the Department of Justice Reasonable Accommodations Under the Fair Housing Act (May 17, 2004)
 - ▶ <https://www.hud.gov/sites/documents/huddojstatement.pdf>
- ▶ FAQ on Emotional Support Animals Michigan State University College of Law
 - ▶ <https://www.animallaw.info/article/faqs-emotional-support-animals>
- ▶ Service Animals in Training - SD Law SDCL 20-13-1.17 and SDCL 20-13-23.2

Bridging South Dakota Contact Information



Communication Service for the Deaf

2310 North Maple Avenue

Rapid City, SD 57701

605-394-6864

Email: kpeterston@csd.org

1707 4th Avenue, SE Suite C

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605-626-2668

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Together, we are
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Disability Rights South Dakota

2520 East Franklin Street, Ste 2

Pierre SD 57501

1.800.658.4782 Voice/TTY

605.224.8294

Email – CJ.Moit@DRSDlaw.org



The Compass Center

If you are in crisis and are in need for immediate assistance, please call
1.877.IN.CRISIS

1704 South Cleveland Avenue, Ste 3

Sioux Falls SD

605.339.0166

605.336.3874 FAX

Email – Rashel@thecompasscenter.org