



POLICY & PROCEDURE

PORTAGE POLICE DEPARTMENT

SUBJECT: **SERVICE ANIMALS**

SCOPE: All Department Personnel
DISTRIBUTION: Policy & Procedure Manual

REFERENCE: Federal: 28 CFR 35.104, Wisconsin
Statute: 106.52(1)(fm)

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PURPOSE: The purpose of this Policy & Procedure is to provide information to members of the Portage Police Department to ensure compliance with Federal and State requirements regarding service animals.

This Policy & Procedure consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. PROCEDURES

I. POLICY

- A. It is the policy of the Portage Police Department to take all reasonable steps to accommodate the use of service animals in accordance with Title II of the Americans with Disabilities Act (ADA) and Wisconsin State Statutes.

II. DEFINITIONS

- A. **MINIATURE HORSES:** Revised ADA regulations have a new, separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities.
(Miniature horses generally range in height from 24 inches to 34 inches measured to the shoulders and generally weigh between 70 and 100 pounds.)
- B. **SERVICE ANIMAL:** The ADA defines a service animal as any dog or miniature horse 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. The work or tasks performed by a service animal must be directly related to the owner's disability (28 CFR 35.104).

Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

- C. **SERVICE ANIMAL:** the State of Wisconsin defines a service animal as any animal that is individually trained or is being trained to do work or perform tasks for the benefit of a person with a disability, the work or task of guiding a person with impaired vision, alerting a person with impaired hearing to intruders or sound, providing minimal protection or rescue work, pulling a wheelchair, or retrieving dropped items is a service animal in accordance with WI Statute 106.52(1)(fm).

III. PROCEDURES

- A. Generally, Title II (state and local government services) and Title III (public accommodations and commercial facilities) entities according to the Americans with Disabilities Act (ADA) must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.
 - 1. Department members are expected to treat individuals with service animals with the same courtesy and respect that the department affords to all members of the public.
- B. Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.
 - 1. If an animal exhibits vicious behavior, poses a direct threat to the health of others, is not housebroken, or unreasonably disrupts or interferes with normal business operations, an officer may direct the owner to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the animal.

Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities.

When there is a legitimate reason to ask that a service animal be removed, staff of the affected entity must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.

Establishments that sell or prepare food must allow service animals in public areas even if state or local health codes prohibit animals on the premises.

- 2. Allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals. When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same

room or facility, for example, in a school classroom or at a homeless shelter, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.

3. People with disabilities who use service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals. In addition, if a business requires a deposit or fee to be paid by patrons with pets, it must waive the charge for service animals.
4. If a business such as a hotel normally charges guests for damage that they cause, a customer with a disability may also be charged for damage caused by themselves or their service animal.
5. Staff of the affected entity is not required to provide care or food for a service animal.

C. A service animal may be readily identifiable however; many service animals do not have a distinctive symbol, harness or collar. When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff of the affected entity may ask only two questions:

- Is the dog a service animal required because of a disability.
- What work or task has the animal been trained to perform.

Staff cannot ask about the person's disability, require medical documentation, require a special identification card or training documentation for the animal, or ask that the animal demonstrate its ability to perform the work or task.

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal, and no further question as to the animal's status should be asked.

The following examples are some of the ways service animals may be used to provide assistance:

- Guiding people who are blind or have low vision. Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.

- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

D. Service animals are not pets. Department members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

E. When handling calls of a complaint regarding a service animal, members of the Department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their owner into all areas that other customers or members of the public are allowed.

F. Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of their disability should be referred to the Civil Rights Division of the U.S. Department of Justice or the Wisconsin Department of Workforce Development's Equal Rights Division.

G. Miniature horses

1. Entities covered by the ADA must modify their policies to permit miniature horses where reasonable. The regulations set out four assessment factors to assist entities in determining whether miniature horses can be accommodated in their facility.

The assessment factors are:

- Whether the miniature horse is housebroken;
- Whether the miniature horse is under the owner's control;
- Whether the facility can accommodate the miniature horse's type, size, and weight;
- Whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

Keith J. Klafke
Chief of Police

This Policy & Procedure cancels and supersedes any and all previous written directives relative to the subject matter contained herein.

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