



Frequently Asked Questions

Regarding Animals in Shelter and Survivors with Disabilities

1. How common is the intersection between domestic violence and possessing a disability?

According to the Centers for Disease Control, women with a disability are nearly twenty percent more likely than women without a disability to experience domestic violence in their lifetime. Given the discrimination that survivors with disabilities often face, it is crucial that shelters take a survivor-centered, intersectional approach to delivering services to survivors with disabilities, particularly when a survivor relies on an animal for service or emotional support.

2. What laws govern the presence of support and service animals in shelter?

Several laws apply when considering this issue. The best known law, the Americans with Disabilities Act¹ (“ADA”), applies to public accommodations, including shelters and multifamily homes, as well as state and local government-funded agencies that provide housing. The Fair Housing Act² (“FHA”) covers virtually all types of housing, including privately owned housing and federally assisted housing, with limited exceptions. The Rehabilitation Act³ covers housing providers that receive federal financial assistance from the U.S. Department of Housing and Urban Development (“HUD”) and under the Family Violence Prevention and Services Act (“FVPSA”). Finally, the Violence Against Women Act⁴ (“VAWA”) and the Victims of Crime Act (“VOCA”) both prohibit grant recipients from discrimination on the basis of disability. Both intentional and unintentional discrimination are covered by these laws. For example, a general policy of excluding animals with no exceptions will violate the law even if it is adopted without any intent to discriminate.

3. What is a disability?

All applicable laws interpret disability to mean a physical or mental impairment that substantially limits one or more major life activities for that person. A physical impairment includes any physical condition (even cosmetic) that affects one or more of the body’s systems. A mental impairment includes conditions ranging from learning disabilities to alcoholism, to emotional illness. These conditions are considered to substantially limit one or more life activities when they interfere with

¹ 42 U.S.C. § 12101.

² 42 U.S.C. § 3601.

³ 29 U.S.C. § 794.

⁴ 45 U.S.C. § 13925 (b)(13).

any activity that an average person can perform with little or no difficulty.⁵ This means virtually any mental or physical condition that makes it so the survivor has difficulty doing something that an individual with no disability could quite easily do. This definition also protects individuals from discrimination based on their association with an individual who has a disability, such as a parent with a disabled child.

4. What is a service animal?

Under the ADA, only dogs and some miniature horses (under 34 inches and 100 pounds) are recognized as service animals. A dog or miniature horse is a service animal if it is trained to do work or perform tasks for a person with a disability. For instance, a service dog might assist persons with mobility disabilities with balance or with carrying and picking up items. Note that, if the animal meets this definition, no specific license or certification is required. However, Michigan has a voluntary identification card and patch available for a service animal upon request through the Michigan Department of Civil Rights. Possessing this ID card may make the survivor's interactions with other public entities simpler. To obtain the ID card, survivors and advocates can email: MDCR-ServiceAnimals@Michigan.Gov.

5. What is an emotional support animal?

The primary function of this type of animal is to be a companion and provide emotional support, usually to a specific individual or household. While these animals are not explicitly covered under the ADA, owners do have some rights. For example, like service dogs, emotional support animals can live with their owners, regardless of "no pets" policies that an apartment complex or domestic violence shelter may have. They are also not subject to breed restrictions because of their role.

6. What is a therapy animal?

Some therapists and nonprofits have special employees called therapy dogs or other animals. These animals undergo special training and certification to provide emotional support and comfort for a wide variety of people. While these animals perform a wonderful service, they do not fall into the same category as service or emotional support animals because their job is to provide support to a wide variety of people, as opposed to an individual.

7. What should be done when a prospective participant brings an animal to shelter?

If it is clear why a survivor has brought the animal, then no questions should be asked. However, if it is not obvious what service an animal provides, then shelter staff may ask only two questions: (1) is this a pet?; and (2) what work or task has this animal been trained to perform? If a dog or miniature horse has been trained to perform a specific task, then this is a service animal covered by the ADA and all other applicable laws and no further documentation should be requested to prove the animal's status as a service animal.

If the survivor shares that the animal is for emotional support, it is best practice to believe the survivor. However, a shelter may create a consistent policy that asks all survivors who bring an emotional support animal for a statement from a health care professional stating only that the

⁵ 28 C.F.R. 36.104 (one notable exception under the definition of disability is *active* illegal drug use, that is, someone who is currently using and not seeking any form of recovery).

individual is a person with a disability and that they will be assisted by an emotional support animal—the shelter may not ask for a statement with more details about the disability.

A shelter may request that service or support animals be vaccinated and licensed in accordance with Michigan law, but if a survivor is unable to access proof of such vaccination and reports that the animal is properly licensed or vaccinated, then the survivor should be allowed to sign a sworn statement to that effect.

8. What would be considered a reasonable accommodation that must be made with regard to animals in shelter?

In general, a reasonable accommodation will include making existing facilities or services readily accessible to be used by an individual with a disability. In seeking out accommodations for individuals with service or emotional support animals, a shelter may be expected to add gates, air purifiers, crates, tanks, or other supplies to ensure that the survivor relying on the animal can take full advantage of the programming. Such changes and additions should be made unless they pose an undue hardship, or a significant difficulty or expense in light of the organization's size, resources, and structure. If one type of accommodation would pose an undue hardship then the shelter may be expected to seek out other solutions that would not pose an undue hardship.

Notably, an allergy to dogs or horses is not a valid reason for denying access or refusing service to people using service animals. When a person who is allergic to dog or horse dander and a person who uses a service animal must spend time in the same room or facility, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility. Similar accommodations may apply where another survivor or staff member suffers from severe phobia of a service or emotional support animal. Shelters should make every effort to balance these needs without excluding either individual from services or employment.

9. What responsibilities does the survivor bringing the animal to shelter have? What responsibilities do shelter staff take on?

The survivor must maintain control of the animal at all times. Service animals must be harnessed or tethered so long as that would not interfere with the animal's job. While the animal is in common areas, it should be under the direct control of its owner or an assistant. When in the presence of others, the animal is expected to well-behaved. The survivor is expected to feed, water, exercise, and clean up after the animal. However, if the survivor's disability prevents them from being able to perform any of these functions, then they may request that staff assist them. This could be considered a reasonable accommodation. If the shelter has a process by which survivors may be charged for damage caused to the property, then such policies may also apply to survivors who bring service or emotional support animals to shelter. No extra fees should be applied only to those survivors who bring a service or emotional support animal. No survivor should be charged a deposit for a service or emotional support animals to be permitted in shelter, even if the shelter has a deposit associated with pets.

10. How can disruptive behavior by a service or emotional support animal be appropriately handled?

Service animals are typically trained, often extensively, to deal with a variety of people and situations. This training usually includes early exposure to strangers and training on coping with anxiety-provoking or chaotic situations. Service animals are often chosen for their calm temperaments. When an animal is working, staff and program participants (including any children present), shouldn't pet, tease or distract the animal. Shelter staff should explain this to other program participants.

If a service or emotional support animal is disruptive (such as continually jumping on people or excessive barking) the agency may talk with the participant, warning them that the animal is interfering with programming and that the animal may need to be removed if the participant does not have the animal under control. If the behavior continues or if the behavior is dangerous (growling, threatening to bite) the participant may be asked to remove the animal immediately. In such circumstances, the shelter staff must make it clear that the participant is welcome to continue with the program without the animal and give the participant the option of speaking with the program manager about the decision to exclude the animal.

11. Under what conditions might an emotional support animal be denied access to a program?

A shelter may deny access to its program if the animal poses a direct threat or significant risk of substantial harm to the health or safety of the individual or others, but only if that risk cannot be eliminated or reduced by reasonable accommodation. A shelter must rely on objective, medically supported evidence that there is a significant risk and cannot rely on stereotypes or conjecture about possible harms. Shelters should consider what type of injury could occur and how severe it would be, the likelihood that such an injury would actually occur, and whether there are any reasonable accommodations that will eliminate the direct threat. General breed or size restrictions should not be applied to assistance animals unless there is an explicit term in your liability insurance policy requiring such exclusions. For example, shelters should not adopt a blanket rule that pit bulls are not allowed unless that is a specific provision of the shelter's liability insurance policy. Instead, any determination to exclude an emotional support animal must be made on a specific-animal basis. For example, a survivor who requires a dog with an individual history of biting children without provocation, or perhaps a survivor who has a rattle snake or other venomous support animal that has a history of escaping confinement and biting or poisoning people, may be denied permission to bring the animal to shelter if the shelter cannot ensure safety of other participants and staff through containment of these animals. On the other hand, a shelter should not have an across-the-board policy that no pit bull or snake can be allowed in shelter. Any decision to deny service must be clarify that the basis for denial is the dangerous behavior of this specific animal and not the survivor's disability or reliance on the animal. Again, in such circumstances, the shelter staff must make it clear that the participant is welcome to continue with the program without the animal and give the participant the option of speaking with the program manager about the decision to exclude the animal.

12. Who can we talk to if we have questions?

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