



PROGRAM:	Retail Food
EFFECTIVE REGULATION:	<i>Colorado Retail Food Establishment Rules and Regulations</i> , July 1, 2013
GUIDANCE NO.:	G14-03
DATE:	June 30, 2014
SUBJECT:	Guidance - Permissibility of Service Animals in Retail Food Establishments

Purpose

The purpose of this document is to provide information regarding the permissibility of service animals in Colorado retail food establishments. Per the Americans with Disabilities Act (ADA), privately owned businesses that serve the public are required to allow people with disabilities to bring their service animals onto the business premises. The *Colorado Retail Food Establishment Rules and Regulations* are in alignment with the ADA by allowing the admittance of service animals in certain areas of retail food establishments.

Definition of a service animal

A service animal is defined 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 handler’s disability. Examples of such work or tasks include, but are not limited to, guiding people who are blind, alerting deaf individuals, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, and calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack. For the purposes of this definition, the crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks. These animals are not recognized as service animals.

Areas where service animals are allowed in retail food establishments

Per section 8-106(B)(3) of the *Colorado Retail Food Establishment Rules and Regulations*, service animals in retail food establishments are limited to areas that are open for customers, such as dining rooms and retail sales areas, provided that the contamination of food; clean equipment, utensils, and linens; and unwrapped single-use articles is controlled. The handler must be with the service animal at all times and may not go anywhere that food is prepared, including behind bars and in service areas. Individuals with disabilities who use service animals cannot be isolated from other patrons or treated less favorably than other patrons. The retail food establishment staff is not responsible for the care and supervision of a service animal.

When present, the service animal must be controlled by the handler via a leash, harness, or tether, unless these devices interfere with the service animal's work or the individual's



disability prevents the use of these devices. Should this be the case, the handler must maintain control of the animal through voice, signal, or other effective means.”

Inquiries directed to individuals with a disability who use a service animal

When it is not obvious what service an animal provides, only the following inquiries shall be made:

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

Public entities (including LPHAs) shall not require documentation or proof that the animal has been certified, trained, or licensed as a service animal.

Exclusion and removal of a service animal

A public entity may exclude or ask a handler to remove a service animal under certain circumstances. Circumstances in which a public entity may ask that service animal be removed include (1) the animal displaying aggressive or vicious behavior or acting out of control and the handler does not take effective action to control it or (2) the animal is not housebroken. This determination should be made on a case-by-case basis, and it is recommended that facilities document any incidents involving the exclusion of a service animal. Allergies and a fear of dogs are not valid reasons for denying access or refusing service to people using service animals.

An animal may be excluded from the premises if an individual states that it is a service animal but cannot describe the task the animal is trained to perform. This decision is at the discretion of the facility. Additionally, a person with a disability may be asked to remove a service animal from the premises if the animal’s behavior poses a direct threat to the health or safety of others.

If an animal is properly excluded or removed from the premises, the public entity shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises.

Emotional support and therapy animals

The ADA does not recognize dogs whose sole function is to provide comfort or emotional support as service animals, because emotional support, well-being, comfort, and/or companionship do not constitute work or tasks. Although emotional support animals can be very valuable, it is primarily their presence for comfort or security that is beneficial to the person. Therapy animals provide animal contact to one or more people who may or may not have disabilities, such as hospital patients or residents in a nursing home, and are encouraged to socialize with other people while they are working. Although service animals are not pets and are typically trained not to socialize with people, a therapy animal could meet the definition of a service animal above in certain circumstances if it is also trained to perform a specific task for a single individual with a disability.

A copy of the *Colorado Retail Food Establishment Rules and Regulations* can be downloaded from our website at www.colorado.gov/cdphe/dehs. us at (303) 692-3645 for additional information about this guidance and the regulations.