

PENNSYLVANIA HUMAN RELATIONS COMMISSION
"ASSISTANCE, EMOTIONAL SUPPORT, AND SERVICE ANIMAL GUIDANCE"
GUIDANCE ON ASSISTANCE AND SERVICE ANIMALS UNDER THE
PENNSYLVANIA HUMAN RELATIONS ACT

1. AUTHORITY

This Guidance is an exercise of the authority granted to the Pennsylvania Human Relations Commission ("Commission") to formulate policies to effectuate the purposes of the Pennsylvania Human Relations Act ("PHRA").¹ Further, it is an exercise of the Commission's legislative mandate to construe the provisions of the PHRA liberally for the accomplishment of the purposes thereof.²

2. SCOPE

This Guidance shall apply to the PHRA which covers discrimination based on disability in the context of housing, commercial property, public accommodations, education and employment, and to the Pennsylvania Fair Educational Opportunities Act ("PFEOA") which covers discrimination based on disability in the context of educational institutions.

In issuing this Guidance, the Commission reiterates its longstanding position that this Guidance is not intended to impose hard and fast rules that must be absolutely applied without regard to the specific facts involved. Nothing in this Guidance shall affect statutory or other regulatory requirements. This Guidance is neither an adjudication nor a regulation and the Commission does not intend to give this Guidance that type of binding force or effect.

This Guidance may not be cited as binding legal authority for any Commission ruling, adjudication, or other legally binding action. The rationales set forth in this Guidance may be cited as the basis for Commission action only to the extent the Commission believes the rationale is valid in the context of a specific proceeding.

¹ The Commission has the power and the duty "[t]o formulate policies to effectuate the purposes of [the Pennsylvania Human Relations Act] and make recommendations to agencies and officers of the Commonwealth or political subdivisions of government or board, department, commission or school district thereof to effectuate such policies." 43 P.S. § 957(e).

² "The provisions of [the Pennsylvania Human Relations Act] shall be construed liberally for the accomplishment of the purposes thereof . . ." 43 P.S. § 962(a).

This Guidance is intended to demonstrate the way the Commission will exercise its administrative discretion in accepting complaints, conducting investigations, adjudicating, and mediating cases unless it is convinced otherwise during a specific proceeding. The Commission, as in the past, remains committed to ensuring that its adjudicative determinations are made on a case-by-case basis after consideration of all evidence of record. To this end, this Guidance may be deviated from when the Commission believes that any statute or regulation requires it, or that it is otherwise appropriate to do so.

3. PURPOSE

The purpose of this Guidance is to provide clarity to all Pennsylvanians regarding how the Commission will evaluate cases regarding assistance animals in housing, commercial property, public accommodations, educational environments, and the employment setting pursuant to the PHRA, 43 P.S. § 951 *et. seq.* and the PFEOA, 24 P.S. § 5001 *et. seq.* This Guidance will also clarify the distinctions between a service, assistance, and support animal.

4. NECESSITY

The Commission recognizes the need for assistance animals in housing, public accommodations, education, and employment. Courts have recognized the right of individuals with disabilities to be accompanied by assistance animals, emotional support animals and/or service animals, under various federal and state laws, including, the Fair Housing Act, the Americans with Disabilities Act (ADA), and the Pennsylvania Human Relations Act. The Commission finds that it is important for the public to understand how the Commission will evaluate complaints involving assistance animals, emotional support animals, and/or service animals.

The Commission further recognizes the need to clarify that individuals with disabilities also have protections based on the use of a guide animal because of the blindness or deafness of the user, use of a support animal because of a physical handicap of the user or because the user is a handler or trainer of support or guide animals.

5. DEFINITIONS

As used in this guidance unless a different meaning clearly appears from the context, the following definitions will apply³:

A. *Service Animal*:

The Pennsylvania Assistance and Service Animal Integrity Act (PASAIA) defines a service animal as an animal, other than an assistance animal, that qualifies as a service animal under the ADA, or as a guide or support animal under the PHRA. PASAIA aligns with the ADA's definition of service animal, and pursuant to the ADA, service animals are dogs or miniature horses that are individually trained to do work or perform tasks for people with disabilities. The PHRA's use of the term "guide animal" is synonymous with this definition.

Under the ADA there is a distinction between a ***psychiatric service animal*** and an ***emotional support animal***. If someone has a dog that calms them down when they are having an anxiety attack, the dog may qualify as a service animal if it has been trained to sense that an anxiety attack is about to happen and takes a specific action to help avoid the attack or lessen its impact. However, if the dog's mere presence provides comfort, then it is not considered a service animal. See www.ada.gov/

- Examples of tasks performed by service animals include but are not limited to:
 - Delivering medical alerts or responding to medical alerts or medical incidents
 - Providing guidance and assisting with moving and navigation
 - Providing assistance with manipulating the world around the person with a disability (picking up something and giving it to the Service Animal user)
- **Requirements**
Service Animals:
 - Are not pets
 - Must remain under the user's control at all times,
 - Are subject to any applicable local licensing and registration requirements,

- Are not required to have a special certification, or to be registered or licensed as a service animal,
- Are not required to wear a vest, or tag or any other form of identification labeling them as a service animal,
- Do not need to be professionally trained (i.e., individuals with disabilities can train their service animal)

B. *Emotional Support Animal ("ESA"):*

An animal whose presence provides a therapeutic benefit to an individual with a disability. This animal provides support that alleviates at least one identified symptom or effect of a physical or mental impairment.⁴ Emotional support animals do not have specialized training to provide their benefit to the individual with a disability.

Emotional Support Animals may also be referred to as Support Animals.

C. *Assistance Animal:*

A broad term that may be used to describe Service Animals and/or Emotional Support Animals.

D. *Guide Animal:*

The PHRA's reference to Guide Animals is synonymous with the definition of Service Animal (see above).

E. *Handicap or Disability:*

(1) a physical or mental impairment⁵ which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment; or (3) being regarded as having such an impairment, but such terms does not include current, illegal use of or addiction to a controlled substance as defined by Section 102 of the Controlled Substances Act.

⁴ Kennedy House, Inc. v. Philadelphia Comm'n on Human Relations, 143 A.3d 476 (Pa.Cmwlt. 2016).

⁵ A physical or mental impairment means a physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin, and endocrine or a mental or psychological disorder, such as mental illness, and specific learning disabilities. 16 Pa. Code § 44.4.

Major life activities are defined as functions that include but are not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.⁶

F. Handler or trainer of assistance animals:

The **handler** of an assistance animal is the person responsible for the control and supervision of the animal. This role can be fulfilled by either the individual with the disability or a third party assisting the individual with a disability.⁷ The tasks performed by the support or guide animal must relate to the individual's disability and not the handler's disability.⁸

The trainer of a support or guide animal is a person who trains or raises an assistance animal for individuals with disabilities, whether the person is a professional trainer, or serving as a volunteer with a professional trainer, who are involved in the training or raising of assistance animals for individuals with disabilities.⁹

A trainer can be a professional or non-professional as long as he or she trains the animal and ensures that it possesses abilities unassigned to the breed or to animals in general.¹⁰

6. GUIDANCE ON ASSISTANCE ANIMALS IN HOUSING

Under the PHRA and the Fair Housing Act, persons with a disability have the right to request a reasonable accommodation¹¹ to have an emotional support animal or service animal in one's home, even if there is a rule or policy prohibiting such animals as pets.¹² This request may be made at any point in the application process or at any point during tenancy. Individuals with disabilities must ensure that their assistance animal is under control, is not a disruption to others, and does not cause damage to the property; failure to meet these conditions may result in the denial of the reasonable accommodation request and/or removal of the animal from the premises.

⁶ 16 Pa. Code § 44.4.

⁷ See United States v. Gates-Chili Cent. Sch. Dist., 198 F.Supp.3d 228 (W.D.N.Y. 2016) and Johnson v. Oregon Bureau of Labor & Indus., 290 Or.App. 335, 415 P.3d 1071 (2018).

⁸ Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities; Corrections, 76 FR 13286-01.

⁹ See: Miss. Code Ann. § 43-6-153 (West).

¹¹ A reasonable accommodation is a change to a rule, policy, practice, or procedure that allows an individual with a disability to access, use, and enjoy housing. [Information for Individuals with Disabilities | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](https://www.hud.gov/section504)

¹² Revock v. Cowpet Bay W. Condo. Ass'n, 66 V.I. 905, 853 F.3d 96 (3d Cir. 2017), Jackson v. Pennsylvania Human Relations Comm'n, 308 A.3d 900 (Pa.Cmwlt. 2024).

Service Animals cannot be subjected to any charges, or fees (i.e., pet rent/fees, pet deposit, pet security) normally attributed to "pets".

Breed restrictions cannot be imposed on Service Animals.

A. **Hardships**

Factors to be considered in whether an undue hardship is imposed by the requirement that a reasonable accommodation be made for the handicap or disability of a person include the following: 1) the extent, nature, and cost of the accommodation required, including the overall size and nature of the housing accommodation or commercial property. Financial capability shall be a factor when raised as part of an undue hardship defense; 2) the extent to which a person with a handicap or disability can reasonably be expected to need and desire to use, enjoy, or benefit from the housing accommodation or commercial property which is the subject of the proposed reasonable accommodation; 3) the requirements of other laws or contracts, to the extent they are not preempted by the act; and 4) the extent to which the accommodation would pose a demonstratable threat to the harm and safety of others.

If the emotional support animal or service animal in question poses a direct threat to the health or safety of others or causes significant physical damage to the property of others that could not be significantly reduced by an accommodation, then the housing provider may be able to exclude the animal from the property.¹³ The housing provider must have reliable, objective evidence (i.e., current conduct or recent history) that the animal in question poses a direct threat before excluding the animal from the property.¹⁴ This cannot be based on generalizations about a specific type or breed of animal. Once a housing provider determines that the animal in question poses a direct threat, the housing provider must engage in the interactive process to determine if there is another reasonable accommodation that could significantly reduce or eliminate the threat. If there is another reasonable accommodation that could significantly reduce or eliminate the threat, then the housing provider cannot exclude the animal.¹⁵ The accommodation must eliminate or reduce the behavior to an acceptable level through actions that the individual takes to maintain or control animal (e.g. keeping the animal in a secure enclosure, placing a muzzle on the animal).¹⁶

¹³ [Assistance Animals | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

¹⁴ [huddojstatement.pdf](#)

¹⁵ Id.

¹⁶ [NFHTA National Fair Housing Forum - July 2024 - Slides](#)

B. Disabilities not Readily Observable or Apparent

Housing providers may request verification of an individual's disability and/or disability related need for a service animal or emotional support animal when the individual's disability is not readily observable or apparent. Verification may be obtained from a doctor, psychiatrist, licensed social worker, therapist, or other licensed professional with a direct knowledge of the individual's disability and/or disability related need for the animal.

C. Requests for Multiple Animals

While most requests for reasonable accommodations involve one animal, sometimes a request will involve more than one animal. This may occur when a person has a disability related need for more than one animal or there are multiple people living together and each person has a disability-related need for a separate assistance animal.¹⁷

If a housing provider receives a reasonable accommodation request for more than one animal, they may request documentation to verify the disability-related function that each animal is supposed to provide.

D. Web-based Certifications

Certifications in Pennsylvania are not required in order for a service or support animal to be approved by a housing provider. The Commission is aware that there are websites that sell certificates, registration, and licensing documents for assistance animals to anyone that participates in a short interview or answers a survey and pays a fee. These are not necessary under current Commonwealth law.

Some individuals with disabilities may believe that they need what is offered by these websites (certification, licensing, etc.) for Housing or other purposes. Housing providers should offer an individual the opportunity to obtain various forms of documentation if documentation is needed.

7. GUIDANCE ON ASSISTANCE ANIMALS IN PUBLIC ACCOMMODATIONS, INCLUDING EDUCATIONAL ENVIRONMENTS

Service animals are permitted in public accommodations. Exceptions may apply in public accommodation where an animal's presence would compromise the safety or sterility of the environment (i.e., an operating room or a burn

unit). Public accommodations are not required to admit emotional support animals because emotional support animals do not qualify as service animals or guide or support animals under the PHRA or the ADA. However, the PHRC encourages capable entities to accommodate individuals with disabilities who use emotional support animals.

A. Information that Can be Requested

If an individual's disability is not easily observable or apparent, public accommodation may make two inquiries about the service animal: 1) is it required because of a disability? and 2) what work or task has it been trained to perform?

If an individual requests to be accompanied by their service animal, a public entity can ask for certain information regarding the service animal using two questions: 1) Is the dog a service animal that is required because of a disability and 2) What work or task has your dog been trained to perform?¹⁸ An employee cannot request any documentation that shows that the dog is registered, licensed, or certified as a service animal and cannot require that the dog demonstrate the task it has been trained to do or inquire about the nature of the person's disability.¹⁹ If it is obvious what task the animal is performing, a public accommodation may not generally make inquiries about the animal.²⁰ Additionally, state and local governments may require that service animals be licensed and vaccinated, if all animals are required to be licensed and vaccinated.²¹

B. Hardship

Public accommodations may deny a reasonable accommodation request for a service animal: 1) if granting access would fundamentally alter the nature of the program; 2) if the animal poses a direct threat to the health or safety of others; 3) if the animal is out of control; and 4) if the animal is not housebroken. If an animal is excluded for such reasons, staff must still offer their goods or services to the person without the animal present.²² The ADA also does not override public health rules. For example, a gym, fitness

²² [Frequently Asked Questions about Service Animals and the ADA | ADA.gov.](#)

center, hotel, or public pool is not required to allow a service animal into the pool with its handler.²³

If it is determined that a specific animal has caused undue hardship, the public accommodation must engage in the interactive process to determine if there is another reasonable accommodation that could significantly reduce or eliminate the hardship. If there is another reasonable accommodation that could significantly reduce or eliminate the hardship, then the public accommodation cannot exclude the animal. The accommodation must eliminate or reduce the behavior to an acceptable level through actions that the individual takes to maintain or control the animal.

C. *Miniature Horses*

Under the PHRA, miniature horses²⁴ that have been individually trained to do work or tasks for people with disabilities are considered service animals. Public accommodations must modify their policies to permit miniature horses where reasonable. There are four factors that can assist entities in determining whether miniature horses can be accommodated in their facilities: (1) whether the miniature horse is housebroken; (2) whether the miniature horse is under the owner's control; (3) whether the facility can accommodate the miniature horse's type, size, and weight; and (4) whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.²⁵

D. *Transportation*

Service Animals should generally be accommodated in most forms of routine transportation like ride sharing/hailing services, buses, trains, and other similar transportation services.

Airlines and planes fall under Federal jurisdiction and have different requirements for accommodating service and support animals.

E. *Training*

²³ Id.

²⁴ Miniature horses generally range in height from 24 to 34 inches and weigh between 70-100 pounds.

²⁵ [ADA Requirements: Service Animals | ADA.gov](#).

The PHRA protects the user of a Service Animal when the user is a handler or trainer. In Pennsylvania, handlers or trainers are permitted to bring service animals in training into public places. The service animal must always remain under the handler or trainer's control.

F. Special Considerations for Service Animals and Educational Environments

Service animals in the education context are evaluated and decided on a case-by-case basis through an interactive process between the requestor and the appropriate school officials.

Due to the variety of complications that this setting may present that may constitute undue hardship, use of Service Animals in an education setting are handled and decided on a case-by-case basis by the school district.

Some areas considered in this decision-making process for undue hardship are:

- Administrative burden (e.g., extra staff time, policy changes)
- Fundamental alteration of the nature of the program or activity
- Schools cannot deny service animals solely because they are not "pet-friendly" unless undue hardship is proven with specific, documented evidence.
- The burden is on the school to show the hardship is significant and unavoidable.
- Breeds or animal weight are not sufficient reasons to deny Service Animal requests.

Service Animals must be allowed in all areas of public accommodations where the public is normally permitted, and businesses cannot exclude them even if they have a "no pets" policy. This includes indoor and outdoor spaces, even if the facility has a "no pets" policy. Service Animals are considered medical equipment and are not pets while they are working and should not be treated by business and organizations as pets.

Businesses and public facilities, including restaurants, hotels, retail stores, movie theaters, healthcare offices, and other places open to the public, must allow service animals to accompany their handlers in all areas where the public is normally allowed.

Exceptions are limited to areas where the animal's presence would compromise safety or sterile environments, such as operating rooms or burn units.

G. Additional Clarifications

- Allergies or fear of dogs are not valid reasons to deny access for Service Animals and do not constitute undue hardship.
- Public accommodations cannot charge extra fees for Service Animals, though they may hold individuals responsible for any damage caused by the animal.
- Establishments that sell or prepare food must generally allow Service Animals in public areas even if state or local health codes prohibit animals on the premises.
- Service Animals users cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals.
- Service Animals are not pets and their users cannot be charged “pet fees.”
- Public accommodation staff are not required to provide care for or supervise a Service Animal.

8. GUIDANCE ON ASSISTANCE ANIMALS IN EMPLOYMENT

Service animals are permitted in employment. Exceptions may apply if allowing the Service animal would constitute an undue hardship. The use of service animals in an employment setting is evaluated and decided on a case-by-case basis.

Employers are not required to admit emotional support animals because emotional support animals do not qualify as service animals or guide or support animals under the PHRA or the ADA. However, the PHRC encourages capable employers to accommodate individuals with disabilities who use emotional support animals.

A. Service Animals

When a person with a disability requests a service animal as reasonable accommodation, the employer may request more extensive medical information regarding the employee’s disability and information explaining

how the need for the service animal relates to that employee's ability to perform the duties of the job.²⁶

The employee is responsible for the care and monitoring of their service animal but may need the employer to make additional accommodations that allow the employee to attend to necessary tasks (i.e., feeding the animal or taking the animal outside to relieve itself).

B. *Undue Hardship*

Undue hardship means a significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relation to the cost or difficulty of providing a specific accommodation.²⁷ This must be based on an individualized assessment of current circumstances that show that a specific reasonable accommodation would cause significant difficulty or expense.²⁸ An employer must assess this on a case-by-case basis.²⁹ An employer can require that the animal be housebroken and under the control of the owner.

If an employer determines that one particular reasonable accommodation would cause undue hardship, but a second type of reasonable accommodation would be effective and not cause undue hardship, then the employer must provide the second accommodation.³⁰

²⁶ [The ADA: Your Employment Rights as an Individual With a Disability | U.S. Equal Employment Opportunity Commission](#)

²⁷ Id.

²⁸ Id.

²⁹ Id.

³⁰ Id.