

trained, or licensed as a service animal.

While some service animals may have such documents, they are not required in order for the animal to be covered by the MHRA. It is a violation of the MHRA for a PA to request or require documentation proving that an animal is a service animal.

### **Terms of Use:**

People with disabilities must be allowed to be accompanied by their service animals in all areas of a place of PA where the public, clients, customers, patrons, and invitees, or others are able to go. A PA may not say certain areas of its facility as off-limits to people because they have service animals. For example, a restaurant cannot limit all patrons with service animals to one particular seating area. A PA may not ask/require a person to pay a fee, or comply with special rules, to be accompanied by their service animal, even if the PA requires those things of people with pets; service animals are NOT pets. If a PA normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

### **What if there's a problem with the Service Animal? Can it be removed?**

A PA may ask a person with a disability to remove a service animal from the premises if either (1) the animal is out of control and its handler does not take effective action to control it or (2) the animal is not housebroken. A service animal generally

must be on a halter/tether/leash, unless the handler's disability prevents using a halter/tether/leash, or doing so would interfere with the work or task the animal is trained to do. If the animal cannot be on a halter/tether/leash, it must be otherwise under the handler's control (such as through voice command or hand signals). If a service animal is properly excluded, the PA must offer the person with a disability the opportunity to get or use its goods, services, or other benefits without the presence of the service animal.

A service animal also may be removed from the premises if either (a) it is a direct threat to the health or safety of others, or (2) it would result in substantial physical damage to the property of others, or (3) it substantially interferes with the reasonable enjoyment of the PA by others. This must be based on the particular animal's behavior, and not breed-based fears or assumptions.

### **What if the PA suspects that the Service Animal is not a "real" Service Animal?**

This can be tricky, and frustrating. Since there are only two questions the PA is allowed to ask the person with a disability about the service animal, and asking any other questions or demanding to see proof otherwise of the animal's "genuine" status as a service animal, the PA must make its determination based on the limited information it has. Allowing the person to retain the use of the service animal is always the safer choice.

## **SERVICE ANIMALS IN PLACES OF PUBLIC ACCOMMODATION**



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TTY: Maine Relay 771

[www.maine.gov/mhrc](http://www.maine.gov/mhrc)

*Compliance with this section of the Maine Human Rights Act can be technical and complicated. Feel free to call us with any questions you may have!*

## General Rule:

The Maine Human Rights Act (“MHRA”) requires that a *place of public accommodation* (“PA”) allow the use of service animals by individuals with disabilities. While there are some exceptions, the general rule is one of inclusion, requiring that the PA allow the service animal to be present.

## What is a PA?

An establishment that is open to the general public; this may be by offering its goods/facilities/services to, or by soliciting/accepting patronage from, the public. Some examples include: town or state buildings/agencies, professional offices, movie theaters, stores, schools, trains, airplanes, hotels, hospitals and restaurants. A full (not exhaustive) listing of types of entities qualifying as PAs can be found at 5 M.R.S. § 4553(8).

## What counts as a Service Animal?

A “service animal” is a DOG that has been individually trained to do work or perform tasks for the benefit of a person with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. *Other species of animals are NOT considered service animals in the context of PAs.* The work or task that the dog is trained to do must be directly related to the person’s disability. Examples include: assisting a person with a visual impairment in navigation; alerting a person

with a hearing loss to the presence of people or sounds; assisting a person during a seizure; providing physical support and assistance with balance and stability to a person with a mobility disability; reminding a person with an intellectual disability to take a medication; and helping a person with a psychiatric or neurological disability by preventing or interrupting problem behaviors. A service animal is an aid that helps a person with a disability access services, like a wheelchair or cane. Service animals are NOT PETS.

## What is an Assistance Animal?

In 2016 the MHRA was amended to clarify what animals must be allowed in housing versus PAs. For HOUSING purposes ONLY, an assistance animal is an animal – not necessarily a dog- that is either determined necessary for a person with a mental or physical disability to mitigate the effects of a mental or physical disability by a licensed health professional with knowledge of the disability-related need for an assistance animal or is individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability. This can include the types of externally-observable work service animals provide but also can include providing emotional support, well-being, comfort, or companionship related to an invisible disability (such as depression, anxiety, and certain phobias); they can - but do not always - have special training to perform tasks that assist people with disabilities. In PAs, an assistance

animal does not qualify as a service animal UNLESS it is a dog, and otherwise meets the service animal definition. Many people are not aware of the distinctions between service and assistance animals.

## PA v. Housing:

The category of animals which PAs must allow (service animals) is much more restrictive than the category of animals which must be allowed in housing (assistance animals). PAs need only allow dogs individually trained to perform a disability-related task.

## What can a PA ask a person with a Service Animal?

A PA may ask ONLY TWO QUESTIONS to determine if a dog is a service animal:

1. Is the animal required because of a disability?
2. What work or task has the animal been trained to perform?

These are the ONLY permissible inquiries that may be made. The PA may not ask about the nature / extent of the person’s disability. These inquiries should not be made at all when it is readily apparent that the animal is trained to perform work for a person with a disability, such as a dog that is observed pulling a wheelchair.

## Can a PA ask for a Service Animal’s identification (tags/collar/ID)?

No! A PA shall not require documentation showing that the dog has been certified,