

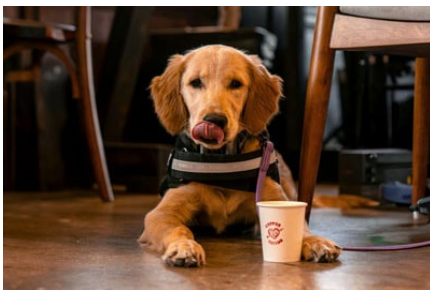


Service Animals vs. Emotional Support Animals—A Wisconsin Hotelier’s Guide

9/19/2024 0 COMMENTS

At Your Service

with Attorney Bob



Dear Attorney Bob,

We’ve been getting more requests from guests traveling with animals, and there’s a lot of confusion about what our responsibilities are when it comes to service animals versus emotional support animals. We want to make sure we follow Wisconsin law and the ADA, but also maintain a smooth operation. What exactly are we required to do, and what can we ask our guests about their animals?

Thank you,
Uncertain in Wisconsin



nextgenlegalsc.com

Archives

- [October 2024](#)
- [September 2024](#)
- [August 2024](#)
- [April 2024](#)
- [March 2024](#)

Categories

[All](#)

Dear Uncertain in Wisconsin,

This is a question I hear a lot from hotel professionals, and it's a great one to ask, especially with the evolving legal landscape around service animals and emotional support animals (ESAs). The distinction between service animals and ESAs is crucial, especially in hotels and lodging where creating a welcoming environment is paramount. Both **federal law** (namely, the **ADA**) and **Wisconsin state law** offer clear rules, and understanding these is key to managing guest interactions smoothly. Let's break this down.

Service Animals: Your Legal Obligations

Under the **ADA**, service animals are defined as **dogs or miniature horses** that have been trained to perform specific tasks directly related to a person's disability. In contrast, **Wisconsin law** more broadly defines service animals to include **any animal** that is trained to perform tasks to benefit an individual with a disability. This could include guiding someone who is blind, detecting seizures, or calming someone with PTSD during an anxiety attack. Notably, **Wisconsin law also covers service animals in training**, a key difference from the ADA.

What You Can Ask:

If a guest comes to your hotel with a dog or animal claiming it is a service animal, you are allowed to ask two specific questions:

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

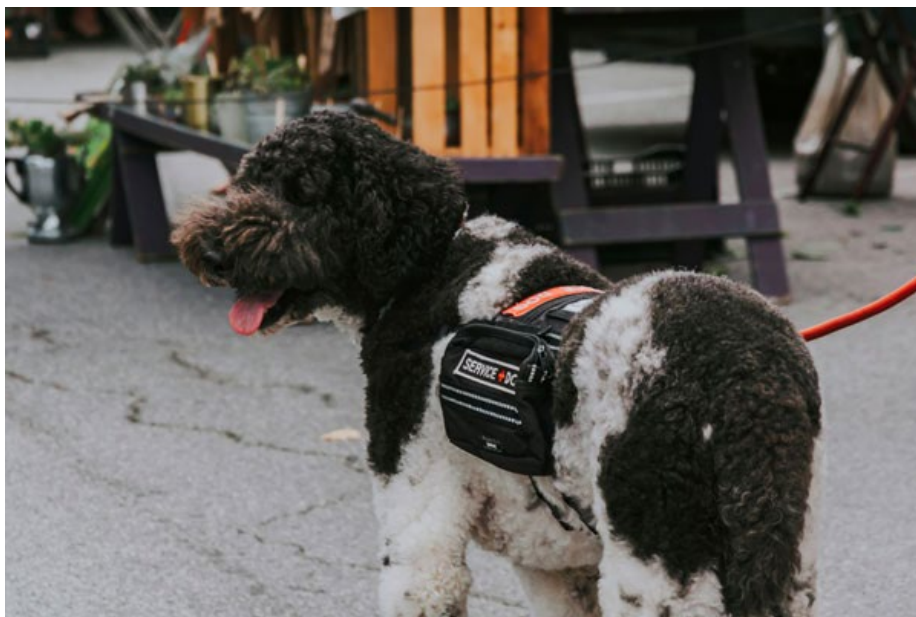
You **cannot ask for documentation** proving the dog is a service animal, nor can you ask about the guest's specific disability. Similarly, you shouldn't ask the guest to have the dog demonstrate the task it's trained to do. Your role here is to accommodate, not investigate.

When Can You Deny a Service Animal?

While service animals must generally be accommodated, there are a few limited situations in which you can deny access:

- **If the animal is out of control**, and the handler does not take appropriate action to manage it.
- **If the animal is not housebroken.**

Even in these cases, you should still allow the guest to stay without the animal, provided it doesn't prevent the guest from accessing your services due to their disability.



Emotional Support Animals (ESAs): A Different Set of Rules

Unlike service animals, **emotional support animals (ESAs)** are not recognized as service animals under the ADA or Wisconsin law. ESAs provide comfort or emotional support but are **not trained to perform specific tasks** related to a disability.

This distinction is crucial because you are **not required** to accommodate emotional support animals in the same way you must accommodate service animals. ESAs do not have the same legal protections, so you can treat them

like pets under your hotel's general pet policy.

What You Can Do with ESAs:

- You can **charge a pet fee** for ESAs.
- You can **restrict where ESAs are allowed** in your hotel (e.g., not allowing them in food service areas).
- You are not required to make exceptions for ESAs beyond your standard pet policies unless local laws indicate otherwise.

Wisconsin Law and the ADA: Key Points for Hotels

Wisconsin law aligns closely with the ADA when it comes to service animals, but there are additional state-specific rules you should be aware of:

- **Service animals must be allowed** in all public spaces within your hotel, including guest rooms, dining areas, and lounges.
- You **cannot charge extra fees** for service animals, even if you have a no-pet policy or charge pet fees for non-service animals.
- Wisconsin law protects **service animals in training**, so these animals must also be accommodated in public spaces.

Additionally, under **Wis. Stat. 951.079**, it is illegal to harass, injure, or kill a service animal in Wisconsin, making it a criminal offense to interfere with service animals.



Service Animals vs. Emotional Support Animals in Wisconsin

Legal Protection	Federal Law (ADA)	Wisconsin Law (Wis. Stat. 106.52(1)(fm))
Service Animals	Dogs and miniature horses trained to perform tasks	Any animal trained to perform tasks to benefit a person
Emotional Support Animals	Not covered by ADA	Not covered by Wisconsin Law
What You Can Ask	<ol style="list-style-type: none"> 1. Is the animal required due to a disability? 2. What task has it been trained to perform? 	Same questions, but can ask for training documentation for service animals in training
Documentation Requirements	Cannot ask for documentation	Same, but documentation may be requested for animals in training
Fees	Cannot charge fees for service animals	Cannot charge fees for service animals
Service Animals in Training	Not covered	Must be accommodated, documentation allowed for trainers
Harassment of		Prohibited under Wisconsin

Service Animals	Not covered	Criminal Code (Wis. Stat. 951.079)
------------------------	-------------	------------------------------------

Best Practices for Hospitality Workers in Wisconsin

1. **Train Your Staff:** Make sure all employees, especially front desk staff, are trained on the differences between service animals and ESAs. This will help prevent awkward or unlawful exchanges with guests.
2. **Set Clear Policies for ESAs:** Since emotional support animals don’t have the same legal protections, establish clear policies regarding ESAs. For example, you might allow them in guest rooms but restrict them from dining areas.
3. **Communicate Clearly with Guests:** Whether the animal is a service animal or an ESA, handle each situation with professionalism and empathy. Make your policies easily accessible and explain them clearly to avoid confusion.
4. **Understand Local Rules:** While the ADA is federal law, be aware that local or state laws may offer additional regulations on service animals or ESAs. Stay updated on changes that may impact your policies.
5. **Respect Privacy:** Never ask a guest to disclose the nature of their disability, and limit questions to the training and purpose of the service animal.



Final Thoughts

Uncertain, you're asking the right questions, and by following Wisconsin law and the ADA guidelines, you can ensure your hotel is both welcoming and compliant. Tailoring your approach to service animals versus emotional support animals will prevent misunderstandings and keep your operations running smoothly.

If you need further guidance or want to discuss how to implement these policies in your hotel, don't hesitate to reach out to me at NextGen Legal. We're here to ensure your business remains legally compliant and guest-friendly.

Warm regards,
Attorney Bob

P.S. Have more questions about ADA compliance or other hospitality law concerns? Contact us at NextGen Legal for tailored guidance to keep your hotel running smoothly!