

Mid-Mississippi Regional Library System Animals in the Library Policy



The Mid-Mississippi Regional Library System (MMRLS) recognizes that some patrons with disabilities may have service animals which are trained to assist or accommodate a person with a sensory, mental, or physical disability or to perform tasks for the benefit of a disabled individual. MMRLS recognizes legal rights under federal and state laws (*see excerpt from Mississippi Code*) regarding use of service animals. MMRLS also considers the safety and health of all of its customers, the public and library staff to be of utmost priority.

STATEMENT OF POLICY

No pets or animals other than legitimate, trained service animals are allowed in MMRLS libraries unless the animal is part of a library sponsored program. Owners of pets will be asked to remove them from the library.

Individuals with disabilities may bring their trained service animals into all areas of the library where members of the public are normally allowed to go. All service animals must be under the full custody and control of their handler at all times. Also, all service animals must be on a leash or harness at all times unless the handler is unable to leash or harness the animal because of a disability or use of a leash or harness would interfere with the animal's safe, effective performance of work or tasks. If the service animal cannot be leashed or harnessed, it must be otherwise under the handler's control (e.g., voice control, signals, or other effective means). Owners of the service animals are solely responsible for the supervision and care of the service animal. Therefore, owners must keep the service animal directly with them at all times.

A service animal is defined as: "an animal that is individually trained to perform tasks for people with disabilities such as guiding people who are blind, alerting people who are deaf, pulling wheelchairs, alerting and protecting a person who is having a seizure, or performing other special tasks. Service animals are working animals, not pets." If they meet this definition, animals are considered service animals under the ADA regardless of whether they are licensed or certified by a state or local government. While most service animals are dogs, other service animals include cats, birds, capuchin monkeys, and miniature horses.

Users of service animals are not required to show papers or to prove a disability. Service animals are not required to be licensed or certified by a state or local government or training program, or to be identified by a special harness or collar.

Staff may ask if an animal is a pet or a service animal required because of a disability. Staff can also ask what tasks the animal has been trained to perform. Owners of service animals will indicate that they are working animals and not pets. Terms used may include assistance, service, guide, hearing or helping animal. Staff may not ask about the owner's disability.

Staff may ask a person to remove from the library a service animal when that animal's behavior poses a direct threat to the health or safety of others. For example, any animal that displays vicious behavior toward other users. Staff may also ask a person to remove his or her service animal if it is barking uncontrollably or if its behavior is disturbing other users. Do not make assumptions about how a particular animal is likely to behave based on your past experience with other animals. Each situation must be considered individually.

In these cases, library staff should give the person with the disability the option to obtain library services without having the service animal on the premises. Fear of allergies, annoyance on the part of other customers or employees, or fear of animals in general is not valid reasons for denying access or refusing service to people with service animals. If other library users raise those issues, help them find a different place to do their work.

Staff should never pet, talk to, or otherwise distract a service animal when it is working.

Resources

Commonly Asked Questions about Service Animals in Places of Business. U.S. Department of Justice, Civil Rights Division, Disability Rights Section, July 1996. www.ada.gov/archive/animal.htm

Mississippi Code

The Mississippi legislature amended the Public Welfare Code in the 1970s to require equal access for persons with visual, hearing and other physical disabilities to public facilities and places "to which the general public is invited." Ms. Code Ann. §§ 43-6-1 to 43-6-9 (West's 2009). It also adopted accessibility specifications for public buildings and facilities, ranging from ramps, elevators and stairways to restrooms, parking spaces, water foundations, elimination of hazards and signage. Ms. Code Ann. §§ 43-6-101 to 43-6-125

Protected Class:

Persons who are blind, "visually handicapped," deaf or physically disabled. Ms. Code Ann. §§ 43-6-1 & 43-6-3.

Rights:

The "same right as the able-bodied" to full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places and full and equal access to public accommodations (and all accompanying rights and privileges). Failure to carry a white cane or use a service dog on a leash shall not constitute negligence in and of itself (negligence per se). Ms. Code Ann. §§ 43-6-3, 43-6-5 & 43-6-9.

Covered Entities:

A public accommodation or place includes streets, highways, sidewalks, walkways; common carriers and public transit; public buildings and facilities; hotels, motels, lodging places and places of amusement or resort or places to which the public is invited. Ms. Code Ann. §§ 43-6-3 & 43-6-5. Disability Rights and Public Accommodations: State-by-State Page 18 of 26

Service Animals:

Any blind, mobility-impaired or hearing-impaired person who uses a dog or other animal specifically trained as a guide, leader, listener or for any other assistance necessary in day-to-day activities shall be entitled to the full and equal accommodations of hotels, lodging places, businesses open to the public for the sale of any goods or services and all places of public accommodation, amusement, or resort and other places to which the general public is invited and (if the animal does not occupy a seat and is on a leash or sufficiently restrained) on all public transportation. No person shall be deprived of any of the above advantages or privileges or charged a fee for use of the animal. Ms. Code Ann. § 43-6-155.8 In 2000, the legislature adopted the Mississippi Support Animal Act, the terms of which are spelled out above. However, it failed to repeal a narrower statute that states: Every "totally or partially blind person" and deaf person shall have the right to be accompanied by a "guide dog or hearing ear dog" on a "blaze orange leash, especially trained for the purpose," in any of the places of public accommodation or transportation, without charge. The dog's user/owner is liable for any damage done to the premises or facilities. Ms. Code Ann. § 43-6-7.

Enforcement and Remedies:

Any person, firm or corporation who denies or interferes with access by members of the protected class to the public facilities or places, public accommodations, or otherwise interferes with their rights granted under the above statutes, is subject to a fine of \$100 or 60-day jail time or both. Ms. Code Ann. § 43-6-11.

COMMONLY ASKED QUESTIONS ABOUT SERVICE ANIMALS IN THE LIBRARY

Q: What are the laws that apply to the library?

A: Under the Americans with Disabilities Act (ADA), public libraries are prohibited from discriminating against individuals with disabilities. The ADA requires public libraries to allow people with disabilities to bring their trained service animals onto library premises in whatever areas customers are generally allowed.

Q: What is a service animal?

A: The ADA defines a service animal as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. If they meet this definition, animals are considered service animals under the ADA regardless of whether they have been licensed or certified by a state or local government.

Service animals perform some of the functions and tasks that the individual with a disability cannot perform for him or herself. "Seeing eye dogs" are one type of service animal, used by some individuals who are blind. This is the type of service animal with which most people are familiar. But there are service animals that assist persons with other kinds of disabilities in their day-to-day activities. Some examples include:

- Alerting persons with hearing impairments to sounds.
- Pulling wheelchairs or carrying and picking up things for persons with mobility impairments.
- Assisting persons with mobility impairments with balance.

Q: How can I tell if an animal is really a service animal and not just a pet?

A: Some, but not all, service animals wear special collars and harnesses. Some, but not all, are licensed or certified and have identification papers. If library staff is not certain that an animal is a service animal, staff may ask the person who has the animal if it is a pet or a service animal required because of a disability. Documentation is not required as a condition for providing service to an individual accompanied by a service animal. Library staff may not insist on proof of state certification before permitting the service animal to accompany the person with a disability.

Q: What must I do when an individual with a service animal comes to the library?

A: The service animal must be permitted to accompany the individual with a disability to all areas of the library where customers are normally allowed to go. An individual with a service animal may not be segregated from other customers.

Q: I have always had a clearly posted "no pets" policy at my library. Do I still have to allow service animals in?

A: Yes. A service animal is not a pet. The ADA requires public libraries to modify their "no pets" policy to allow the use of a service animal by a person with a disability. This does not mean libraries must abandon their "no pets" policy altogether but simply that libraries must make an exception to their general rule for service animals.

Q: My county health department has told me that only a seeing eye or guide dog has to be admitted. If I follow those regulations, am I violating the ADA?

A: Yes, if library staff refuse to admit any other type of service animal on the basis of local health department regulations or other state or local laws. The ADA provides greater protection for individuals with disabilities and so it takes priority over the local or state laws or regulations.

Q: Can I charge a maintenance or cleaning fee for customers who bring service animals into the library?

A: No. Neither a deposit nor a surcharge may be imposed on an individual with a disability as a condition to allowing a service animal to accompany the individual with a disability. However, a public library may charge its customers with disabilities if a service animal causes damage so long as it is the regular practice of the library to charge non-disabled customers for the same types of damages. For example, a library can charge a customer with a

disability for the cost of repairing or replacing a book damaged by a service animal if it is the library's policy to charge when non-disabled customers cause such damage.

Q: Is library staff responsible for the service animal while the customer with a disability is in the library?

A: No. The care or supervision of a service animal is solely the responsibility of his or her owner. Library staff is not required to provide care or food or a special location for the service animal.

Q: What if a service animal barks or growls at other people, or otherwise acts out of control?

A: You may exclude any service animal, from your library when that animal's behavior poses a direct threat to the health or safety of others. For example, any service animal that displays vicious behavior towards other customers or staff may be excluded. Staff may not make assumptions, however, about how a particular animal is likely to behave based on their past experience with other animals. Each situation must be considered individually.

Although a public accommodation may exclude any service animal that is out of control, it should give the individual with a disability who uses the service animal the option of continuing to enjoy library services without having the service animal on the premises.

Q: Can I exclude an animal that doesn't really seem dangerous but is disruptive to the library?

A: There may be a few circumstances when a public library is not required to accommodate a service animal--that is, when doing so would result in a fundamental alteration to the nature of library services. But when it does, for example, when a dog is barking uncontrollably, the owner may be asked to take the service animal outside.