

GUIDE: When A Service Animal Is Present

Effective Date: 10/15/03; Rev.1/08

See Also: Disability Related Requirements In Programs, Services, and Activities

This guide serves to assist University personnel and representatives in maintaining compliance with federal, state, and local laws as well as suggestions for the safety of service animal handlers. The following information applies to access in employment, services, programs, activities and space provided by Western Washington University.

Authority:

Federal: Americans with Disabilities Act (ADA) of 1990 (42 USC 126; 28 CFR Part 35); 29 CFR 32; 34 CFR 104; Rehabilitation Act of 1973 (P.L. 93-112; 41 CFR 60); Fair Housing Act (42 USC 45; 24 CFR 100)

State: RCW 49.60.215; Chapter 162-26 WAC; Chapter WAC 162-28; WAC 162-22-100; WAC 516-52-010; RCW 9.91.170

WWU: Guide: Disability Related Requirements In Programs, Services, and Activities; Policy U2120.02 Providing Reasonable Accommodation To Job Applicants And Employees With Disabilities

Definitions:

Disability is a physical or mental impairment that substantially limits one or more life activities (42 U.S.C. 12102), or a temporary or permanent sensory, mental, or physical impairment that is medically cognizable or diagnosable; or exists as a record or history; or is perceived to exist whether or not it exists in fact (49.60.040 RCW).

Service animal is an animal that is trained for the purpose of assisting or accommodating a sensory, mental, or physical disability of a person with a disability.

Handlers are individuals with a disability using a service animal.

This document is available in alternate format by calling 360-650-3774.

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1. Western Permits Service Animals On Its Space.

Western permits service animals that assist persons with physical, mental and/or sensory disabilities on all Western space where participants and members of the public are normally allowed including food service areas.

2. Do Not Interfere With A Service Animal.

Interacting with a service animal by petting, feeding, or speaking to it may cause the animal to become distracted from its work. This can create an unsafe situation for the handler.

State law prohibits a person from interfering with or allowing his or her dog to interfere with the use of a service animal with reckless disregard and subjects the person to a misdemeanor charge.

3. Passing On The Side Of Handler When Walking Or Biking Near A Service Animal Is Advised.

To avoid distracting or scaring a service animal, walk on the side of the handler when passing. Bicyclists are encouraged to slow down when approaching a person with a service animal.

4. Asking Questions About A Disability Or Animal By University Personnel Is Limited.

When the appropriateness of the presence of a service animal for university employment, programs, services or activities is in question, a supervisor or program representative may ask a person with an animal if it is a service animal and what it is trained to do. They may not ask:

- If the person has a disability or what the disability is;
- To provide medical documentation of the disability; or
- To provide documentation that the animal is a trained service animal.

Federal or state law does not require an animal to be formally trained or certified that it has been trained. Service animals are not required to wear collars or tags indicating whether it is a trained service animal. Those who question the validity of the disability or service animal should contact:

- Human Resources (when the handler is an employee or volunteer),
- DisAbility Resources for Students (when the handler is a student), or
- The Equal Opportunity Office (when the handler is a member of the public).

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5. Documentation May Be Requested For Service Animals Under Certain Circumstances.

Documentation may be requested on a case-by-case basis by designated personnel from Human Resources, Equal Opportunity Office or DisAbility Resources For Students when:

- Required by specific policies; or
- The person's disability is not obvious; or
- The need for the service animal is questionable.

6. Service Animals May Be Excluded Under Certain Conditions.

A service animal may be excluded when one of the conditions below exist:

- a. The animal is disruptive and the handler is not effectively controlling it, for example, a dog that barks repeatedly during a lecture (consideration should be made to see if the service animal was distracted or scared by another person or animal),
- b. The presence of the service animal would fundamentally change the nature of the job, program, service or activity, or
- c. The service animal's presence, behavior or actions pose an unreasonable or direct threat to property or the health or safety of others. Risk may not be remote or speculative, such as thinking an animal might bite someone or will annoy others. Allergies and fear of animals are generally not valid reasons to exclude a service animal; a person with severe allergies may be protected under state or federal disability laws and may need to be accommodated as well.

Before deciding to exclude a service animal for reasons (b) or (c) above, Western employees or external sponsors of programs, services, or activities must consult:

- Human Resources (when the handler is an employee),
- DisAbility Resources For Students (when the handler is a student), or
- The Equal Opportunity Office (when the handler is a member of the public).

It is not necessary to receive consultation for reason (a) above.

If the service animal is to be excluded, the handler should be given the option of participating in an activity or receiving services without the service animal on the premises. If the handler decides to participate without the service animal, efforts to reasonably accommodate the person with a disability should be made.

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7. Assistance Provided By A Service Animal Should Not Be Substituted.

The consistency of service provided by the animal is important in terms of maintaining the effectiveness of service. Therefore, WWU representatives and employees should not offer assistance as a substitute for the tasks a service animal is to provide.

8. Persons With Disabilities Are Responsible For Their Service Animals.

Handlers are responsible for immediate control of their service animal at all times and may be responsible for any damage caused by a service animal. Western is not required to provide care, food or a special location for a service animal to relieve itself. Cleaning up after the animal is the responsibility of the handler. However, Western employees and program representatives should make efforts for appropriate arrangements.

9. Service Animals “In Training” Do Not Have The Same Protections.

The federal law does not apply its protections to animals that are in training – not yet able to effectively perform assistive services. Cases should be reviewed individually to determine whether the animal is “in training” and can be allowed if it performs some assistive function(s) without being disruptive.

10. Dogs Need To Be Licensed.

It is unlawful to keep or harbor a dog over 4 months of age within the City of Bellingham unless a dog license has been procured from the city.

11. Individuals Have Complaint Venues.

Individuals may inquire about or bring forth a discrimination complaint with the Western’s Equal Opportunity Office by calling 360-650-3307.

Persons with disabilities have the right to seek redress with a federal or state enforcement agency. Contact information on external enforcement agencies is available from the Equal Opportunity Office.

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Contact Information

Human Resources

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Bellingham, WA

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www.acadweb.wvu.edu/hr

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DisAbility Resources For Students

David Brunnemer

110 Old Main, Main Campus

Phone: 360.650.3083 (voice) or 360.650.3725 (TTY)

www.wvu.edu/depts/drs

David.brunnemer@wwu.edu

ADA Coordinator

Sue Guenter-Schlesinger

Equal Opportunity Office

Old Main 345

Phone: 360.650.3307

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