


Axst 2018

IACUC Responsibilities Regarding Service Animals




OLAW Webinar
June 10, 2021

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Disclaimer

The examples presented in this webinar constitute recent information found in the public domain concerning service animals. The presentation is not intended to provide direct or implied legal interpretation. The examples presented may or may not be compliant with Department of Justice regulations and are provided only as an illustration of the types of policies that a variety of institutions have developed. Please consult your legal department to develop compliant policies that meet the needs of your institution.




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Office of Laboratory Animal Welfare


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The PHS Policy applies to live vertebrate animals used in work conducted or supported by...


PHS agencies and...




National Institutes of Health
Office of Laboratory Animal Welfare



FDA




BARDA
Bioscience Resource
Administration




CDC
Centers for Disease
Control and Prevention

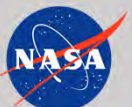
...agencies that have an MOU with OLAW.



NSF
National Science Foundation



Department of Defense



NASA
National Aeronautics and Space Administration

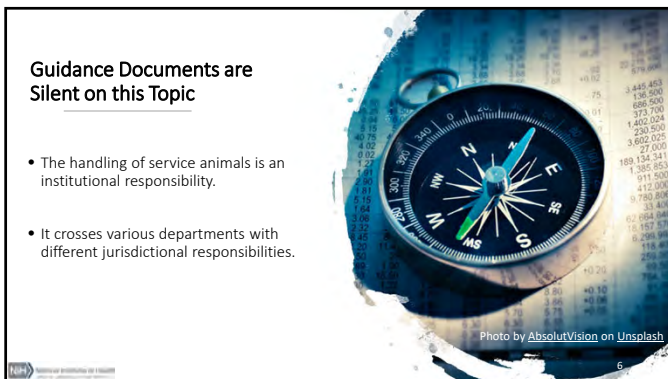
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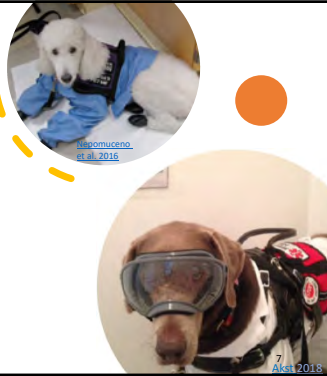
Responsible Institutional Entities

1) Institutional Animal Care and Use Committee

Especially the Institutional Veterinarian to address biosecurity, status of service animal (vaccine status, temperament, areas for water/relieving)

2) Occupational Health and Safety

To oversee the occupational health and safety aspects of the individual using the animal



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Responsible Institutional Entities

3) The legal department

To ensure compliance with the Americans with Disabilities Act

4) The Institutional Biosafety Committee

To assess the hazards encountered by the service animal

5) The Institutional Official/senior administration

To coordinate the various departments and develop compliant institutional policies



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Other Factors

The *Guide* (p. 105) states,

"Physical separation of animals by species is recommended to prevent interspecies disease transmission and to eliminate the potential for anxiety and physiological and behavioral changes due to interspecies conflict."

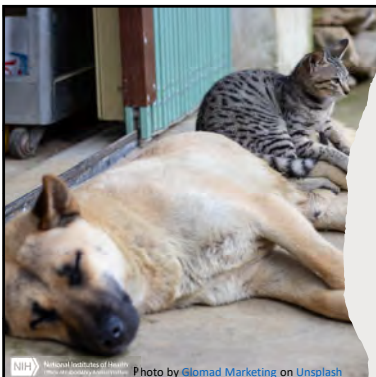


Photo by [Elismad Marketing](#) on [Unsplash](#)

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Other Factors

The Animal Welfare Act and Regulations state:

"separation by species...may be necessary for the humane handling, care, and treatment of animals." § 2143 (a) (2) (A)




Photo by Yan Laurichesse on Unsplash

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Institutional Responsibility

The key institutional entities listed should consider all applicable laws, regulations, and policies regarding this issue and their impact on:

- potential adverse effects on laboratory animal welfare,
- scientific data integrity, and
- risk to the biosecurity of the animal care and use program.



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References

Akst J. "The Challenges of Bringing Service Dogs into the Lab." The Scientist, September 18, 2018

Bruner K. "Xenna the service dog helps Navy vet do laboratory research." Colorado Arts and Sciences Magazine, December 9, 2019

Nepomuceno GM, Decker DM, Shaw JD et al. (2016) The value of safety and practicality: Recommendations for training disabled students in the sciences with a focus on blind and visually impaired students in chemistry laboratories. Journal of Chemical Health and Safety. 23(1): 5-11



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Service Animals, Emotional Support Animals, & Pets

On Campus & in the Research Facility?


Ron E. Banks, DVM
Professor, Department of Pathology
Director, Division of Comparative Medicine
Oklahoma University Health Sciences Center

Diplomate, American College of Animal Welfare
Diplomate, American College of Laboratory Animal Medicine
Diplomate, American College of Veterinary Preventive Medicine
Fellow, National Academies of Practice

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Goals of this Activity

1. Define the issue
2. Review legal foundations
3. Identify categories of animals
4. Consider institutional positions


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Define the Issue

- Approximately 61.5 million (**1:4**) experience mental health impairment.
- Approximately 13.6 million (**1:17**) live with schizophrenia, depression, or bipolar disorder.
- Increasing numbers of claims for discrimination because of their mental disability.
- Psychological disorders now account for the second greatest number of disability claims.

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Legal Foundations

Laws affecting physical & mental health afflictions:

- Americans with Disabilities Act of 1990 (ADA)
- Americans With Disabilities Act Amendments Act of 2008 (ADAAA)
- Veterans Assistance Act of 2008
- State Law
- Local (city/county) Statutes

Photo by Wesley Tingey on Unsplash

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Legal Foundations

- The ADA and associated laws/regulations are **CIVIL RIGHTS** laws and regulations.
- There are no research-specific provisions in the law.
- They are not designed to fully consider operational, procedural, or research implications.
- Even so, rights, privileges, benefits, and services are still not required if such modifications cannot be made "without much difficulty or expense" (42 U.S.C. § 12181(9)).

Photo by Tinsong Lu on Pexels

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Service Animal

Psychiatric Service Animal (PSA)

Emotional Support Animal (ESA)

Visitation Animal

Assistance Animal

Companion Animal

Pet

Categories of Animals

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Categories of Animals - Service Dog

Service Animal (DoJ Definition):

- Any dog [rare exceptions a [miniature horse](#)] that is individually trained to do work or perform tasks for the benefit of an individual with a disability.
- The task must be directly related to the person's disability, and may include a physical, sensory, psychiatric, intellectual, or other mental disability.
- Guide dogs (visual impairments or blindness) are the archetypal example of a service animal.



https://www.ada.gov/regs2010/service_animal_qa.html

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Categories of Animals - Service Dog

The DOJ is explicit that other animals **are not** service animals under the ADA / ADAAA:

- Any animal besides dogs (or maybe miniature horses in certain circumstances);
- Animals that serve solely to provide a crime deterrent effect; and
- Emotional support, comfort, or companionship animals (DOJ, 2011).



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Categories of Animals - Service Dog

No:

- Registration required
- Special tag required
- Vest to identify a service animal required



Yes:

Must be harnessed, leashed, or tethered ...

- unless these devices interfere with the animal's work or
- the individual's disability prevents using a harness, etc.



The person must maintain control of the animal through voice, signal, or other effective controls.

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Categories of Animals Service Dog

DoJ FAQ 14: Does a hospital have to allow an in-patient with a disability to keep a service animal in his or her room?

"Generally, yes. Service animals must be allowed in patient rooms and anywhere else in the hospital the public and patients are allowed to go. They cannot be excluded on the grounds that staff can provide the same services."



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Categories of Animals - Service Dog



US DOJ FAQ 16: Must a service animal be allowed to ride in an ambulance with its handler?

"Generally, Yes. However, if the space in the ambulance is crowded and the dog's presence would interfere with the emergency medical staff's ability to treat the patient, staff should make other arrangements to have the dog transported to the hospital."

https://www.ada.gov/regs2010/service_animal_ga.html

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Categories of Animals - Service Dog Summary of Critical Points

Service animals must generally be provided access to all campus locations where the public (staff or students) can go.

NOTE: Safety considerations for denying entry into a space or an accommodation for access must be based on actual risks, rather than on mere speculation, stereotypes, or generalizations about individuals with disabilities or about a dog's breed.

!!! A perceived threat without evidentiary basis will not support exclusion of a Service Animal (e.g., Pit Bull dogs) !!!

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Categories of Animals - Service Dog

You may only ask **2** questions (according to ADA):

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

Photo by Kristaps Grundsteins on Unsplash

*Any inquiry beyond these **2** questions opens your institution to litigation.*

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Categories of Animals - Service Dog

You CANNOT:

- Ask about the person's disability;
- Require medical documentation to validate the need for a service dog;
- Require a special identification card or training documentation for the dog; or
- Ask that the dog demonstrate its ability to perform the work or task.



Photo by Daniel Herron on Unsplash

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42 U.S.C. § 12181(9):

Accommodations involving modifications or adjustments in policies, practices, procedures, or environments that enable qualified individuals with a disability to enjoy equal opportunities and access to university rights, privileges, benefits, and services are still not required if they cannot be made ***"without much difficulty or expense"***

Categories of Animals - Service Dog



Photo by Jan Antonin Kolar on Unsplash

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The real questions are:

- What degree of difficulty to provide accommodation?
- How much expense to provide accommodation?

Note: This statement does NOT consider research outcomes impact. Why?

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Categories of Animals – ESA

- ESA = Emotional Support Animal
- Any species that provide:
 - Support, well-being, comfort, aid, or a calming influence.
 - Generally, through companionship, non-judgmental positive regard, affection, or focus by being close to their handler.
- ESAs do not require specific training!
- Because they are not individually trained to perform work or tasks, ESAs are not service animals!!!

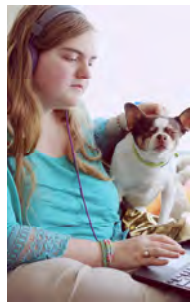


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Categories of Animals – ESA

- May or may not be **well-behaved**. For example: ESAs may bark and smell other people, whereas service dogs are trained not to.
- What distinguishes ESAs from pets is that the **owner/handler has been diagnosed** by a medical professional as having a verifiable disability (physical or mental) that is not transitory and minor.
- ESAs are virtually indistinguishable from the family pet ... and may in fact be the family pet!



Photo by [Humphrey Muleba](#) on [Pexels](#)

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Categories of Animals – ESA

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It turns out pigs can fly ... and turtles and dogs too!

And for a fee you too can obtain on-line ESA documentation!

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Flying with an Animal

- **Service dogs** are permitted in all cabins.
- **Pets** are generally allowed if caged and within certain sizes, species.
- As of January 11th, 2021, the U.S. Department of Transportation (DOT) *no longer required* airlines to accommodate **emotional support animals**.
 - Previously, airlines were required by law to accommodate owners of ESAs with proper documentation from a licensed mental health professional.

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Photo by [Kevin Hackert](#) on [Unsplash](#)

Flying with an ESA

- As of March 1st, 2021, most if not all **U.S. airlines** have discontinued their ESA programs.
- Some **International airlines** will still accept ESAs if the passenger can provide an ESA letter.
- Passengers with **psychiatric service dogs (PSD)** continue boarding the cabin of flights free of charge.

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Photo by [Michael Dziedzi](#) on [Unsplash](#)

Flying with an ESA (Special Exception)

Psychiatric Service Dog (PSD)

- A **PSD** (special exception ESA) must be individually trained to perform tasks related to the handler's disability (e.g., retrieving medication, providing pressure therapy during moments of crisis, helping the handler maintain daily routines, etc.).
- Only **dogs** can serve as PSDs.
- **ESAs** have no specific training requirements and alleviate symptoms of mental illness just through their presence.

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Domestic		International
Alaska Airlines	<p>Flying with an ESA? Not on these!</p> <p>https://esadoctors.com/airlines-allowing-emotional-support-animals/</p>	Air China
Allegiant Air		Air New Zealand
American Airlines		All Nippon Airways
Air Canada		Cathay Pacific
Delta Air Lines		China Eastern Airlines
Frontier Airlines		China Southern Airlines
Hawaiian Airlines		Emirates
Jet Blue		Eva Air
Southwest Airlines		Korean Air
Spirit Airlines		Qatar Airways
Sun Country		Turkish Airlines
United Airlines		

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Photo by [Angelo Pardo](#) on Unsplash

Categories of Animals - Pet

Legal definition: Animals kept for pleasure, ordinary use, or companionship.

- Pets are not Service Animals.
- Pets may be ESAs.

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Institutional Positions

Just a few examples of published institutional positions regarding animals on campus.

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<p>Institutional Positions Indiana University</p> <ul style="list-style-type: none"> • Guidance developed by: Environmental Health and Safety (not IACUC) • Operational Assistance by: Disability Services Office (not IACUC) <ul style="list-style-type: none"> ◦ Assists with laboratory access request ◦ Prepares 'Needs Assessment' for EHS review <p>https://protect.iu.edu/doc/environmental-health/pdf/%20Service%20Animal%20in%20Teaching%20and%20Research%20Laboratories%20Program180622.pdf</p>	 <p>Wikimedia.org</p>
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<p>Institutional Positions Indiana University</p> <p>Animal & Personnel Safety Recommendations:</p>  <p>Wikimedia.org</p>	<p>Faculty / Supervisor / Staff:</p> <ul style="list-style-type: none"> • Ensure dog handler is following requirements • Responds to initial disruptions (if occur) • Report behavior problems to Disability Services Office (DSO) 	<p>Service Dog Owner:</p> <ul style="list-style-type: none"> • Register through the Disability Services Office • Meet with area leaders to discuss accommodations prior to need • Ensure dog behaves and does not cause disruption or injury to others • Follow requirements and recommendations • Provide any PPE for dog
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<p>Dogs must have appropriate PPE:</p> <ul style="list-style-type: none"> • Disposable or reusable boots • Disposable lab coat • Absorbent lab paper or pet pads to lie on <p>Can be excluded from lab if:</p> <ul style="list-style-type: none"> • Labs utilizing any Risk Group 2 (or higher) agents • Labs utilizing radioactive materials • Not housebroken or out of control. • Not controllable by voice command (stay, leave it) • Barks or growls inappropriately • Snapping, snarling, charging, etc. • Jumps on people 	<p>Institutional Positions Indiana University</p>  <p>Wikimedia.org</p>
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Institutional Positions Brigham Young University


The University may prohibit access due to:

- Health and safety restriction (where the animal may be in danger), or
- integrity of research.

Restricted areas may include:

- Custodial closets,
- Boiler rooms,
- Facility equipment rooms,
- Research laboratories,
- Classrooms with research/demonstration animals, areas where protective clothing is necessary ...

<https://policy.byu.edu/view/index.php?p=228> usnews.com 40



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Institutional Positions – University of Alaska

Service animals are permitted to accompany people with disabilities in **all areas of a facility** where the person is allowed to go.


The employee can ask **2** questions:

- Is the animal a service animal required because of a disability?
- What work or task has the animal been trained to perform?

Service animals can be **excluded if**:

- The animal is out of control and the handler does not take effective action to control it,
- The animal is not housebroken.
- For miniature horses, if the size, weight and type of horse cannot be accommodated in the lab.

<https://www.uaa.alaska.edu/about/administrative-services/departments/environmental-health-and-safety/documents/service-animal-policy.pdf> Alaska.edu 41



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Institutional Positions University of Wisconsin

Generally permitted in **all facilities and programs** on the UW–Madison campus with limits.


Requirements for Service Dogs (**City of Madison ordinances**):

- Vaccination
- Licensing
- Owner ID and Other Tags
- Rabies tag
- Leash
- Under Control
- Health

https://compliance.wiscweb.wisc.edu/wp-content/uploads/sites/102/2017/07/Service-dog-policy-AMENDED-therapy-ESA_12.14.17.pdf Flickr 42



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Institutional Positions

University of Wisconsin

Two specific questions:

1. Is the dog/service animal a service animal required because of a disability? And if yes,
2. What work or task has the dog/service animal been trained to perform?

If either response is "no", the animal is only permitted on campus as defined under Wisconsin Administrative Code 18.08 or as an approved accommodation as an emotional support animal (ESA) by a campus authority under the UW-Madison ESA Policy.

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Institutional Positions


University of Wisconsin

Dept. of Chemistry

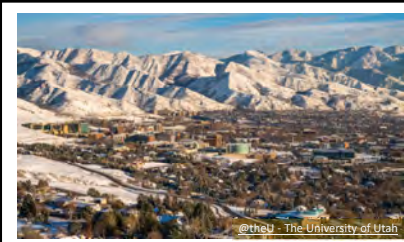
"If you anticipate working with a service animal in the laboratory at any time over the course of your enrollment, we want to make sure that both you and the members of the department are able to provide that opportunity without endangering the safety of you, your fellow students, or your animal."

"In order to achieve this goal, we will need to know the specifics of the service the animal provides with enough advance notice to make the appropriate arrangements."

<https://chem.wisc.edu/wp-content/uploads/sites/1130/2019/12/Policy-Service-Animals-in-Labs-0917.pdf>



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In general, Service Animals are not allowed in laboratories.

- The presence of a service animal has the potential to introduce organisms detrimental to experiments in the laboratory.
- Chemicals or organisms used in the laboratory may be harmful to the animal.
- Research conducted with animal subjects may be compromised by the presence of a service animal.

Access to a laboratory space may be granted on a **case-by-case basis** upon review and approval by OEHS and the Principal Investigator.

<https://oehs.utah.edu/topics/service-animals-in-laboratories>

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Institutional Positions

University of Utah



@theU - The University of Utah

A request for a service animal in laboratories working with:

- pathogenic microorganisms or materials requiring containment at Biosafety Level 2 or higher,
- radioactive materials, or
- working with or housing research animals

... must also be approved by:

- University of Utah Institutional Biosafety Committee (IBC),
- Radiation Safety Office (RSO), and/or
- Office of Comparative Medicine (OCM).

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Institutional Positions

University of Washington

Students with disabilities should be allowed to bring their service animals into the lab.

- Determine what service the animal provides. If the animal is trained to pick up items or alert the user, could materials used in the lab be harmful?
- What safety equipment is needed? Examples include dog goggles, booties, or raincoats or a mat to lie on may be appropriate.
- Is there a place for the animal to stay away from potential spills and hazards while allowing the service animal to keep the student in their line of sight and not creating an obstacle to other students?
- If a lab is not safe, the student could choose between participating without the animal or participating in a comparable assignment or experiment.

<https://www.washington.edu/doit/how-can-service-animals-be-safely-included-lab-classes>



Photo by [Ashley Whitlatch](#) on [Unsplash](#)

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Now What????



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AVMA Public Policy/Animal Welfare Division

ASSISTANCE ANIMALS: RIGHTS OF ACCESS AND THE PROBLEM OF FRAUD

04/29/21



AVMA

<https://www.avma.org/resources-tools/animal-health-welfare/service-emotional-support-and-therapy-animals>

How Do We Craft an Institutional Plan?

(AVMA's Public Policy / Animal Welfare Division)

There are several challenges:

- Lack of a centralized or standardized **form of proof** (makes fraudulent animals difficult to identify)
- Unstandardized legal and regulatory **definitions** for assistance animals
- A legal and regulatory **framework** that is complex and poorly understood by those who must implement it
- Difficulties in objectively or accurately **categorizing animals** when implementing admission policies, enabling widespread fraudulent access
- A **lack of access** for some who legitimately needs an assistance animal

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How Do We Craft an Institutional Plan?

(AAVMC Guidelines For Service Animal Access To Veterinary Teaching Facilities)

"Policies governing service animal access to veterinary teaching facilities must balance the benefits a service animal provides for its handler with the risks posed by the service animal to other animals and humans."

In human health care settings, the following areas are usually recognized to have restricted access to service animals:

- Areas of the hospital not open to the public, and
- Areas in which protective attire (e.g., masks, gowns, gloves) is required.

<https://www.aavmc.org/resources/guidelines-for-service-animal-access/>



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How Do We Craft an Institutional Plan?

(AAVMC Guidelines For Service Animal Access To Veterinary Teaching Facilities)

Risks associated with animals in animal settings:

Disease transmission may impact animal patients:

Even fully vaccinated, healthy service animals may be passive carriers of disease impactful to animal patients.

Behavioral issues may impact animal patient:

Caused by the service animal

Associated animal patient's response to the service animal.


Welfare considerations may impact animal patients:

Distress (how will it be qualified / quantified?)

What will be the impact to outcomes?

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How Do We Craft an Institutional Plan?
(AAVMC Guidelines For Service Animal Access To Veterinary Teaching Facilities)

It may be necessary to restrict service animals from:

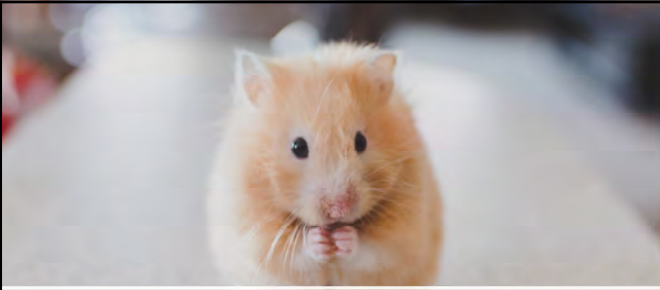
- **Exam rooms** where patients are being evaluated or treated
- **Procedure rooms** where patients are undergoing diagnostic procedures or treatment (example: radiology, anesthesia prep areas, treatment rooms)

But

Photo by Owen Beard on Unsplash

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What about research animal settings?

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How Do We Craft an Institutional Plan?
(Your Institution?)

Risks associated with animals in research settings:

Disease transmission may impact animal patients:	Behavioral issues may impact animal patient:	Welfare considerations may impact animal patients:
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Assumption that any of these MAY occur is likely not sufficient justification to prohibit service animals from animal research areas.

It might be necessary (it depends) to restrict service animals from:

Holding spaces where animals are housed	Procedure rooms where hazardous agents exist	Research spaces where discrete data collection is required	Necropsy rooms where blood or tissues may impact the service animal
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Takeaway:

OUTSIDE

THINK
THE
BOX

Pilot studies, parallel provisions, and mutually agreeable resources.

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Service Dog in the Vivarium
OLAW Scenario

The IACUC at Great Eastern University receives a request from a graduate student and his faculty advisor.

- The student has a PhD project that requires experimental work with **rats**.
- Owing to a physical disability, the student also requires the use of a **service dog**.
- The student would like permission to bring the service dog with him into the **vivarium**, and to have the service dog at his side as he performs his experiments with the rats.

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Service Dog in the Vivarium
OLAW Scenario

The student and his faculty advisor have submitted a protocol for a **pilot study** to monitor the stress levels of the rats, with the goal of establishing that the presence of this **service dog is not stressful to the rats**. Their hope is that the pilot study will clear the way for the graduate student to get started on his research with the rats.


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U.S. Department of Health
and Human Services
National Institutes of Health
Office of Laboratory Animal Welfare

Public Health Service Policy
on Humane Care and Use
of Laboratory Animals




Service Dog in the Vivarium

OLAW Scenario

QUESTION 1: Is the service dog a study animal under the PHS Policy?

- A. Yes
- B. No
- C. I don't know




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U.S. Department of Health
and Human Services
National Institutes of Health
Office of Laboratory Animal Welfare

Public Health Service Policy
on Humane Care and Use
of Laboratory Animals




Service Dog in the Vivarium

OLAW Scenario

QUESTION 1: Is the service dog a study animal under the PHS Policy?

- A. **Yes**
- B. No
- C. I don't know



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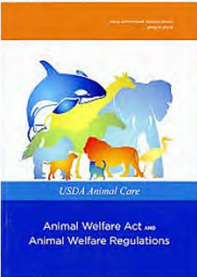
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Service Dog in the Vivarium

OLAW Scenario

QUESTION 2: Is the service dog a study animal under the Animal Welfare Act?

- A. Yes
- B. No
- C. I don't know



USDA Animal Care

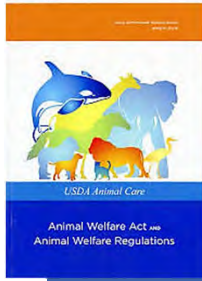
Animal Welfare Act
Animal Welfare Regulations

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Service Dog in the Vivarium
OLAW Scenario

QUESTION 2: Is the service dog a study animal under the Animal Welfare Act?

A. Yes
B. No
 C. I don't know



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Service Dog in the Vivarium
OLAW Scenario

QUESTION 3: Is it the IACUC's responsibility to ensure that the graduate student's education complies with the Americans with Disabilities Act?

A. Yes
 B. No (it is an institutional responsibility)
 C. I don't know

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Service Dog in the Vivarium
OLAW Scenario

QUESTION 3: Is it the IACUC's responsibility to ensure that the graduate student's education complies with the Americans with Disabilities Act?

A. Yes
B. No (it is an institutional responsibility)
 C. I don't know

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Service Dog in the Vivarium

OLAW Scenario: OLAW Response

The AAVMC reference links to their policy issued in 2019 on service animal access in veterinary teaching hospitals.

References:

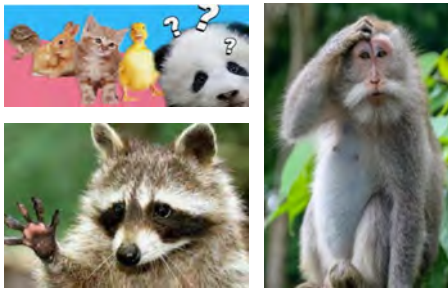
- Taboada, J.; Kogan, L.; Schoenfeld, R.; Hart, L.; Sellon, D.; Tennison, A.; Mashima, T. (2019) [AAVMC Guidelines for Service Animal Access to Veterinary Teaching Facilities](#). Washington, D.C.: Association of American Veterinary Medical Colleges.
- www.aavmc.org/assets/site_18/files/about_aavmc/service_animal_access.pdf
- <https://www.avma.org/resources-tools/animal-health-welfare/service-emotional-support-and-therapy-animals>
- For more information on accommodating students with disabilities in lab courses, visit the American Chemical Society's [Teaching Chemistry to Students with Disabilities: A Manual for High Schools, Colleges, and Graduate Programs 4th Edition](#).

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Questions



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Question 1a:


Is the IACUC responsible for service animals within the clinical/hospital setting? If so, how?

#sampson_dog

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Question 1a:
Is the IACUC responsible for service animals within the clinical/hospital setting? If so, how?

Part of Assured institution?	Not part of Assured institution?
<ul style="list-style-type: none"> • IACUC should be involved • Other institutional entities as discussed 	<ul style="list-style-type: none"> • May address how they choose

The IACUC or the animal owner may serve as their advocate.

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Question 1b
Does it matter if there is a contract with the service animal providers to do this service on behalf of the organizations?

Washington Post

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Question 1b
Does it matter if there is a contract with the service animal providers to do this service on behalf of the organizations?

—

No – animal welfare and policy developing regarding animals in these different settings are the key.

Washington Post

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Question 2

Rather than allowing access for a service animal, may an institution propose other accommodations / an alternate method to achieve the same outcomes?




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Rather than allowing access for a service animal, may an institution propose other accommodations / an alternate method to achieve the same outcomes?

That's generally not considered to be a great idea. Under some circumstances – including for animal welfare – it may be the only reasonable option. This is similar to if a person can offer the same service as the animal – it's not true access rights.




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Question 3

What is the best way to handle a situation where someone wants to bring a service animal into a lab and one of the laboratory workers is either allergic or afraid of dogs?



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Question 3

What is the best way to handle a situation where someone wants to bring a service animal into a lab and one of the laboratory workers is either allergic or afraid of dogs?

This is why it's so important to have many departments involved (e.g., Occupational Health and Safety, General Counsel) to weigh the risks and benefits of the humans, animals, and research involved.

It depends:

- potential extent of injury
- opportunities to provide alternate but equal resources
- potential for emotional distress



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Next OLAW Online Seminar:
TBD Fall 2021



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