

Animals in the Workplace



It is increasingly more commonplace to find dogs and other animals in the workplace, and some companies now promote pet-friendly policies as an employee benefit. Perhaps this isn't surprising in a country like the United States, where it's been estimated that two out of every three people own a pet, and where the lines between home and office are increasingly blurred. These changing norms have arrived, however, alongside definition and policy confusion, leaving the commercial real estate industry to consider the advantages and disadvantages that accompany this cultural shift.

Background

From the perspective of the commercial real estate sector, property owners and managers increasingly face the need to make careful decisions concerning animals in the workplace. If you allow them, is this an amenity that attracts tenants or a nuisance that poses real concerns—or perhaps a little of both?

According to the Society for Human Resource Management, eight percent of employers allow pets to come to work with their owners. While still a small number, it represents a significant increase from just a few years ago. At the same time, an apparent proliferation of emotional support animals has been popping up persistently in the news, whether for the valuable services they can provide for some individuals or for the outlandish examples that threaten to give them a bad name—a supposed

“emotional support peacock” recently barred from boarding an airplane may be the chief example among many.

A proper analysis starts with the need for a basic understanding of the issues, and animals can essentially be characterized into three categories:

1. Service Animals
2. Emotional Support Animals
3. Pets

Allowing pets could open the door to any animal, within prescribed limits that can be set in policy. The difference between service and support animals, however, is an important distinction that, unfortunately, often leads to confusion.

U.S. PET OWNERSHIP number of households with

DOGS



**43 million
households**

CATS



**36 million
households**

Source: American Veterinary Medical Association

Service Animals

Service animals are defined by law in the Americans with Disabilities Act (ADA), and they provide assistance to individuals with severe challenges, such as blindness, deafness, epilepsy and narcolepsy. Unlike emotional support animals, service dogs, for instance, have been individually trained to do work or perform tasks directly related to an individual's needs. The dog can be any breed, but it generally has a calm temperament and appropriate energy level, and can perform important tasks such as retrieving items, opening doors or alerting medical services. For example, a dog aiding with vision impairment must be trained to guide the handler, retrieve objects, avoid obstacles and help find an exit from a room. People with disabilities can opt to train the dogs themselves and are not required to use a professional training program.

Contrary to common assumptions, the ADA does not require service animals to be certified or registered beyond any local requirements that apply to all dogs, and it does not require the animal to wear an identifying vest or ID tag. According to guidance from the U.S. Justice Department, in situations where it is not obvious that the dog is a service animal:

- Staff may ask only two specific questions: (1) Is the dog required because of a

disability? and (2) What work or task has the dog been trained to perform?

- Staff may not request any documentation for the dog, require that the dog demonstrate its task or inquire about the nature of the person's disability.

While the property's options are limited, many states have passed laws that make it a crime for individuals to fraudulently represent that they have the right to be accompanied by a service animal.

The ADA also states that "state and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go." While the ADA makes no mention of service animals in an office environment specifically, they must be considered as part of an employee's request for "reasonable accommodation." An employer may deny a request to bring a service animal to work only if it would create an undue hardship, and this is a difficult standard to meet. The individual is solely responsible for the care and supervision of the animal, and if a service animal can be considered "out of control," staff may request that the animal be removed from the premises.

Emotional Support Animals

The ADA does not define or address emotional support animals. Sometimes referred to as comfort or assistance animals, they tend not to be specifically trained. Their presence can perform a significant service in certain circumstances, which often involves assisting their owners in coping with medical conditions through companionship and comfort, allowing the owner to accomplish everyday activities with more ease. The U.S. Department of Housing and Urban Development, which provides some guidance related to residential settings, provides a definition: "An assistance animal is not a pet. It is an animal that works, provides assistance or performs tasks for

the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability."

These animals have become increasingly popular among individuals dealing with anxiety and depression, and they can also be part of a mental health treatment plan for a variety of ailments, including blindness, post-traumatic stress disorder (PTSD) and seizures. It's difficult to statistically track emotional support animals, but all signs point to a significant increase. One potential indicator has been air travel, and the numbers

have been staggering—one major airline reported carrying approximately 76,000 animals in the flight cabin in 2017, a 77 percent increase from the year before; in the same year, another airline reported an unfortunate 86 percent surge in “animal incidents” ranging from growling, barking, scratching and biting to even mauling.

Many states have started to consider and pass laws to provide some level of certainty regarding emotional support animals, but confusion with service animals and attention-grabbing exceptions continue to lead to misconceptions and misinterpretations. As with service animals,

comfort animals don’t need to be certified, and many “certifications” or other indications are little more than scams, which the owner may or may not realize. For example, anyone can easily purchase online an official-looking “emotional support animal vest,” identification card or certificate—none of which have any legal or official status.

Even in instances where a property has a policy permitting support animals, it would never be expected to tolerate animals that are noisy, messy and/or disruptive—a situation that would seldom occur with a trained service animal.

Action Steps

As a starting point, even if guidance may be scarce, the law on service animals is clear—if an employee or guest has a disability that requires a service animal, it is a reasonable accommodation to allow the animal in the workplace in essentially all cases. The issue becomes much murkier when it comes to emotional support animals—some legal experts recommend erring on the side of inclusivity—or allowing pets in general. Studies have shown that dogs in particular can provide real benefits to the workplace including a reduction in stress and an increase in productivity. However, this is quickly negated if animals act as a source of disturbance or if individuals have allergies or fears; special consideration must always be made to ensure that the workplace remains safe and healthy. It falls to each property team or employer to determine the appropriate balance and decide whether there’s a need for a comprehensive policy and associated rules and forms.

1. Do the research

- Become familiar with the Americans with Disabilities Act rules regarding service animals and ensure that property staff is well-prepared to courteously handle such situations.
- Check to see if your state or local government has any laws regarding animals in the workplace or any specific measures related to comfort animals.
- Confirm your property’s current animal policy, if any, and check if the property owner or management firm has any processes in place to address animal issues.

2. Develop a plan

- Decide what outreach you want to undertake with tenants to determine if there is interest in further exploring this topic. A meeting or survey may be helpful, or you may want to start by holding informal discussions to gauge reactions.
- Determine whether or not a new policy on animals is needed. If an overarching policy is not desired, then it will be necessary to plan how to address this issue on a case-by-case basis.

3. Develop a policy, if needed

- Determine which animals you intend to permit. Comfort animals? All pets? Dogs exclusively?
- There are many potential rules and forms that could be implemented with an animal policy; you may opt to develop lease language, policy documents, property maps and more. The following section provides a menu of possible policy options for consideration—it is not intended as an exhaustive list but can provide direction to help property management as you consider a policy.

ANIMALS IN THE WORKPLACE

Policy Options

Animal Requirements

- Up-to-date on vaccinations as required by state law
- Free of communicable infections and/or parasites/fleas
- Well-groomed and free of odor
- Housebroken
- Obedient, well-trained and well-socialized
- No history of aggressive, violent behaviors such as biting, barking and chasing
- Size limitations

Animal Owner Responsibilities

- Signed agreement stipulating understanding of the relevant policies
- Assume all legal and financial responsibility for any damage and incidents
- Provide a security deposit
- Signed agreement stipulating that the animal is properly trained and non-aggressive
- Proof of a passed temperament test or other behavioral test
- Proof of vaccination records
- Agree to abide by a “one strike” policy
- Ensure that dog tags or identification be worn at all times on the premises
- Keep animals on leashes
- Observe any restricted areas and designated entrances, elevators and outdoor areas
- Supervise animals at all times, never allowing them to wander the office alone
- Ensure that the animal’s behavior does not interfere with other employees’ work
- Provide all necessary security items, including leashes, crates and gates
- Provide all necessary wellness items, such as waste bags, toys, food and water bowls
- Arrange schedules to provide bathroom breaks and access to food, water and exercise
- Clean any accidents immediately and thoroughly

Tenant Responsibilities

- Sign a liability release
- Provide a security deposit
- Pay for extra cleaning services of specified office areas