- [Stephanie] Hello, my name is Stephanie Adkisson and I am with the Iowa Civil Rights Commission. And today I am going to be talking about service animals and public accommodations. I am going to discuss what service animals are and what they do, as well as talk about the laws govering, excuse me, governing service animals in public accommodations.

To begin with, what is a public accommodation? Under the Iowa Civil Rights Act, which is found in Iowa Code 216.2, it is a place that provides goods or services to people for a fee, or offers goods and services for free that is dependent upon the government. It is not something that would be a private club and the Americans with Disabilities Act contains a similar definition of what a public accommodation is. And it is illegal to discriminate against someone in a public accommodation based on their disability. And what that means is that it is illegal to refuse or deny any person the accommodations or services of that public accommodation based on that person's disability.

When we're talking about a public accommodation and service animals under the Americans with Disabilities Act, or the ADA, what we're talking about is having a public accommodation modify their policies, practices, or procedures to allow a person with a disability to use their service animal. And the feel of the ADA is to ensure that individuals are not separated from their service animals and that the broadest access possible be provided to these service animals. And what this means is that despite the fact that most public accommodations will have a no pets policy, the policy should be modified to allow the use of a service animal. And an important thing to remember is that a service animal is not a pet. So if you kind of think about that in the back of your mind, it will help you understand more about service animals and what they are.

So now let's get into what service animals are. First of all, there are two types of animals that can be service animals. The first is a dog, a dog can be a service animal under the ADA. The second type is a miniature horse. And this always kind of gets a chuckle, because a miniature horse seems like an unusual choice to be a service animal. But the ADA specifically sets forth that only dogs and miniature horses can be service animals. There are some reasons that these two animals were chosen. Dogs, as many people know, are easy to train and easy to obtain. Miniature horses were selected for a few reasons. Number one, fewer people are allergic to miniature horses than are allergic to dogs. So that helps if someone has an allergy and needs a service animal. The size of a miniature horse is better for people for purposes of pulling, or pushing, or if they need a service animal for stability. Miniature horses tend to be between 70 and a hundred pounds and can be up to almost three feet tall. And then the other reason that a miniature horse makes a great service animal is their service life is much longer than a dog's. The average service life of a dog is about five years, where for a miniature horse, the average service life is about 27 years.

And at this point I would also like to note you may be familiar with some various other terms such as an assistance animal, an emotional support animal, a companion animal, a therapy animal, these are different than a service animal. I think sometimes they get lumped together, but typically when you're talking about those other types of animals, you're going to find those in the context of housing, for example. The Fair Housing Act provides that assistance animals must be allowed in housing if certain criteria are met by a tenant. And so you might hear about other animals being assistance animals like a cat, or a bird, or a ferret. There are no limitations under the Fair Housing Act for what type of animal can be an assistance animal. So just keep in mind that that's a separate entity, that's not under the ADA which is what we're talking about here when we talk about public accommodations.

So only dogs and miniature horses can be service animals. Now let's discuss exactly what a service animal is, what they do. Well, a service animal is one that is individually trained to do work or perform tasks for persons with disabilities. And those tasks must be directly related to the disability. So the mere fact that you have a dog that's trained to do certain things, if they're not related to that disability, it will not be considered a service animal under the ADA. I'm going to give you some examples of service animals and the kind of work that they could be trained to perform. They can guide people who are blind, they can alert a person who is deaf, they can pull a wheelchair. Service animals can protect a person whose having a seizure or remind them to take a medication.

So thinking about that definition of a service animal I just told you about, let's use the example here of a person who is deaf. So that's their disability that they are deaf, and the work or task that that service animal could be trained to provide would be to alert that person when a smoke detector is going off, for example. The deaf person would not hear that, but perhaps the dog has been trained to nudge the individual when a smoke detector is going off so that they're aware that they need to leave their home or wherever they might be. That's an example of a service animal being trained to perform specific tasks. Some things to keep in mind about service animals, a person is not required to use a professional service dog training program. The dog can be trained by the disabled person themselves, so there's no requirement that a disabled person has to produce some sort of professional training certificate to you.

Service animals in training are not considered service animals for purposes of the ADA. So if someone were to come into your center and they were training a service animal, there's no requirement under the ADA that you have to allow that training service animal in.

And then the final thing to mention right now is that service animals are not required to wear a vest. You may at times see an animal wearing a vest indicating that it is a service dog for example, but that is not a requirement. So if a dog enters your center and is not wearing a vest and someone tells you it's a service dog, it very well may be. There's no requirement that it has to wear a vest to prove that it's a service animal. Also, an animal will not be considered a service animal simply because it deters crime. The mere fact that a person feels safer with a large dog nearby for example, that's insufficient under the ADA to be considered a service animal. Remember when I mentioned that the animal must be trained to perform a specific task or work? A simple crime deterrent effect is not enough under the ADA. So you would not have to allow that service animal into the center if that was the only reason that that person has an animal with them.

So let's talk now about one of the most important parts of this presentation and that is what questions can you ask an individual who comes into your center and says that they have a service animal with them? You can ask two questions of that individual. The first question you may ask is is the animal required because of a disability? The second question you may ask is what work or task has the animal been trained to perform? These are the only two questions you can ask the individual about their service animal and you may only do so when it's not readily apparent. So you're only going to be allowed to ask those questions when the animal's service tasks are not obvious. And there are some instances where it will be obvious what the service animal is there for. For example, if you observe a dog guiding an individual who is blind. In that instance it's readily apparent that the person has a disability because they're blind, and that the animal has been trained to perform the task of guiding them. So in that instance you do not get to ask any questions of the person that has come in with a service animal. Another example where it might be obvious that a person has a disability and that the animal has been trained to perform a task would be if the animal is pulling a person's wheelchair for them, or if they're providing stability or balance to an individual with an observable mobility disability. In those instances you cannot ask those questions.

So oftentimes people wonder whether documentation can be requested when someone enters an establishment with a service animal. And the answer to that is no, absolutely not. You cannot request medical documentation and you also cannot request any sort of demonstration of the service animal performing their task. Again, you may only ask that person those questions I discussed on the previous slide, is the animal required because of a disability and what work or task has the animal been trained to perform? And again, you may only ask those questions when the answer's not readily apparent to you. You also cannot ask for any sort of registration that the service animal is actually a service animal. That's not permissible under the ADA and in fact, the Department of Justice does not recognize any sort of online animal registration as a service animal certification as proof that it's a service animal. That's something that some individuals may go online and obtain, but it's not a requirement under the ADA. And so you cannot require that someone entering your center with a service animal produce some sort of certificate that it was registered.

There are three exceptions when you do not have to allow a service animal into your center. Those three are if having the service animal in your center would fundamentally alter the nature of the services that you provide, if the animal is out of control, or if that particular animal is a direct threat to the health and safety of others. Now I will break these down into a little more detail so you understand when these exceptions apply.

The first is when allowing a service animal in would fundamentally change the nature of what you're providing. Is there some sort of change to a physical structure or a change in policy? This is something that you're not really going to see when you have a service animal in a center, that's not going to be common. One example is that there was a court case where a blind student needed a service animal and the college program that the student was attending was required to make some changes. The courts decided that wasn't a fundamental alteration, merely an inconvenience. So just keep that in mind. There's really not going to be an instance when having a service animal in your center would fundamentally alter some sort of aspect of what you do. And just because it's an inconvenience, that's not sufficient to prohibit the service animal from your center.

The second exception though could be something you might see. If an animal is out of control, it may be excluded from your center. So there's a couple of things to look for when determining whether an animal is out of control. The first, is that animal under the control of their handler? If you have an animal that's on a harness, a leash, a tether, generally they're going to be considered to be under the control of their handler. Now, if that animal is jumping around on desks or chairs, that's not going to be considered to be under the control of the handler, and you can ask that person to remove their service animal from your center.

The second thing to look at is is the animal housebroken? If the animal is going to the bathroom inside of your center, you can ask that person to remove their service animal from your center. Keep in mind, though, if you do ask a person with a disability to remove their service animal from your center, you still must give the individual the opportunity to use the services that anyone else would be allowed to use just without their service animal.

And if you are allowing the service animal inside, that animal is allowed to go with their individual that owns them anywhere where public or patrons are allowed to go. So that would include the restroom, for example, you would have to allow that animal to go into the restroom with their owner.

And then the final exception is if the animal is posing a substantial and direct threat to the health or safety of others. And you want to look at that specific animal. It's insufficient to say I believe that this particular breed is dangerous and vicious, and so I'm not going to allow this service dog right here in front of me into the center. You cannot do that. You have to look at that individual animal and assess whether it is a threat to the health or safety of others. For example, if you have a service animal that comes in and displays vicious behavior towards other people in the center, if they're lunging and trying to bite them, you may ask the individual to remove that service animal. General allergies or a fear of dogs are typically not going to be enough to exclude a service animal from your center. You want to try to think if there's ways that you can perhaps move someone to another side of the room if they don't like to be around dogs. You want to try to work with all of the parties involved to make sure that this can work. Because that individual with the service animal has the right to be there obtaining the services as well.

Another thing that you cannot do is charge some sort of deposit or surcharge to allow a person with a disability to bring their service animal into your center. However, if the service animal does cause some sort of damage to your property, you can ask for that damage to be paid for so long as you would do the same thing to any other person that caused damage in your establishment. So that is something you are allowed to do.

And then a final note is that even if a local ordinance restricts a certain breed of dog, for example, that service animal, that breed, can still be allowed into your center. And that's because the ADA provides greater protection for individuals with disabilities so it takes priority over the local or state laws or regulations. So just keep that in the back of your mind that if there's an animal you know is not allowed in the city limits, that animal can still be a service animal under the Americans with Disabilities Act.

So that's my presentation, I listed my contact information on the slide in front of you. If you have any questions or want further clarification on anything, please feel free to call me or email me and I would be happy to talk with you. Thank you.