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Report of the Task Force

To Ensure Integrity in the Use of Service Animals

As authorized by RESOLVE Chapter 36, LD 872, 127th Maine State Legislature
"Resolve, Establishing a Task Force To Ensure Integrity in the Use of Service Animals"

February 1, 2016
Department of Agriculture, Conservation and Forestry

I. Introduction

During the 2015 session of the 127th Maine State Legislature, several bills were introduced regarding issues related to service animals. Among them, LD 872 was approved as a Resolve to study the issue. Another bill, LD 547 (regarding service dog registration) was voted “ought-not-to-pass” by the Committee on Agriculture, Conservation and Forestry. LD 221 (regarding service animals in housing accommodations) was carried over by the Judiciary Committee.

The Resolve, LD 872 (see Appendix I) asked the Department of Agriculture, Conservation and Forestry to convene a Task Force to Ensure Integrity in the Use of Service Animals (Task Force) to review and make recommendations about service animal issues, including training requirements, certification and documentation of service animals, housing issues, and public education. The study under this Resolve covers some of the housing issues raised in LD 221.

Duties Requested by Resolve

The Resolve, LD 872, identified the following duties of the Task Force:

A. To study:

- Training requirements for service animals;
- Certifying organizations and existing certification requirements for service animals and development of new state-based certification requirements, if needed;
- The necessity of educating the public about service animals and methods of disseminating information about service animals;
- Documentation of training and certification of service animals and the development of additional documentation and proofs, if needed; and
- Housing issues related to service animals; and

B. To report the task force's recommendations, including any proposed legislation, to the Joint Standing Committee on Agriculture, Conservation and Forestry.

Task Force Participants

Consistent with the Resolve, the Commissioner of Agriculture, Conservation and Forestry invited people representing various constituencies to serve on the Task Force. The Task Force participants included service dog users who have physical and/or non-physical disabilities, service dog trainers, business associations, apartment owner associations, the public education system, disability rights advocates, attorneys, and the State Accessibility Coordinator.

The following individuals constituted the Task Force:

Kathy Hecht, Instructor, State Founder and Head Trainer for Salute of Service; Adjunct
Professor, University of Maine Machais
Tina Hewett-Gordon, Chair, Maine Restaurant Association; General Manager, Nonantum Resort
Peter Gore, Vice President of Government Relations, Maine State Chamber of Commerce
Barbara Archer Hirsch, Commission Counsel, Maine Human Rights Commission
Kathy Hamblen, Director of Special Education, Gorham School District
Rosemary Moeykens, Legislative Committee Chair, Maine Real Estate Managers Association
Daniel J. Bernier, Esq., Counsel for Central Maine Apartment Owners Association
Pauline Lamontagne, Esq., President of Pine Tree Guide Dog Users
Sean McDonough, Pawsitive Dognosis
Kristin L. Aiello, Managing Attorney, Disability Rights Maine
Eric Dibner, State Accessibility Coordinator, Maine Department of Labor

Additional participants at the meetings included:

Suzan Morris, DogPowered Assistance Dog Association
Donna Hodges, Central Maine Apartment Owners Association
Liam Hughes, Animal Welfare Director, Department of Agriculture, Conservation and Forestry
Melissa Macaluso, Office of the Commissioner, DACF
Judi Bayly
Linda Wichowski, Salute of Service
Dr. Jonathan Morris

II. Summary of Recommendations

There are eleven recommendations which are generally summarized here and detailed in chapter IV of the Report, with related documents in the Appendices. The Task Force operated by consensus. Important issues where consensus could not be reached are mentioned in the Report and are identified as unresolved.

The Task Force recommends statutory changes in three areas:

- Distinguish service animals from assistance animals in Title 5;
- Expand the language about misrepresentation of service animal or assistance animal; and
- Additional changes in Titles 7 and 17 for consistency with Title 5 proposed changes.

The Task Force did not reach consensus about establishing a State certification or identification card system for service animals, even if the system was voluntary. Federal regulations would bar a mandatory certification system for service animals.¹ The Task Force recommends that a letter be sent to Maine's Congressional delegation regarding misrepresentation of animals as service animals, requesting federal agencies to investigate effective methods to discourage misrepresentation of service animals by individuals and organizations, including changes in federal law, if needed.

The Task Force recommends a robust public education effort by the State about rights and responsibilities regarding service animals and assistance animals. A website should be developed containing State-sanctioned guidance, which would include, among other materials:

- Links to State and federal rules and guidance;
- Model policy for assistance animals in housing accommodations;
- Model policy for service animals in public accommodations; and
- Model signage ("Service Dogs Welcome") for public accommodations and housing.

The Task Force recommends a broad educational program that involves business associations, healthcare practitioner associations, housing management associations,

¹ Americans with Disabilities Act, Title II, Nondiscrimination on the Basis of Disability in State and Local Government Services regulations at 35 CFR § 35.136(f) say, "A public entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal."

municipal officers, service animal trainers and user organizations, disability rights organizations, State agencies, and individuals who use service or assistance animals.

The Task Force recommends a staff position be created in the Maine Human Rights Commission for public information officer.

III. Discussion and Findings

General Findings

The Task Force identified a number of overarching findings and pertinent facts about the service animal situation. These are:

Service animals for access to the community and public accommodations – Dogs (and, in rare cases, miniature horses) that are individually trained to do work or perform tasks play a critical role in ensuring the independence of people with disabilities to access their communities.

Assistance animals in housing – Assistance animals, including emotional support animals, provide vital support and therapeutic benefits for qualified persons with disabilities who rely on them in order to use and enjoy their housing.

Harm from misuse/misrepresentation – The misuse and misrepresentation of service animals and assistance animals harms those people who rely on legitimate service or assistance animals.

Federal precedence – Federal laws limit what the State can change regarding definitions, rights and responsibilities around service animals.

Certification for public access – A mandatory requirement for certification or documentation of service animals for access to public accommodations would not be allowed under the Americans with Disabilities Act.²

Documentation for reasonable accommodation in housing – Housing providers may require reasonable documentation of an individual's need for an assistance animal or service animal when the need for the accommodation is not obvious.

Confusion in the public about service animals and assistance animals – The public is confused regarding rights and responsibilities involving service animals, both in public accommodation settings and in housing.

Terminology – There is public confusion about the meanings and legitimate usage of terms related to service animals and assistance animals. These terms are not understood or applied by the public or by professionals in a consistent manner.

Lack of reliable information resources – Business owners, other public accommodations, housing providers, people with disabilities, and the public in general should be better informed

² *Ibid.*

about rights and responsibilities involving service animals and assistance animals, but lack the appropriate information resources, training, and model policies.

Increase in use and misuse – The Task Force did not have the resources to quantify the number of people in Maine who use service animals and assistance animals or the prevalence of misrepresentation of animals as service animals or assistance animals. There does not seem to be consistent, reliable data on the use of such animals, although some limited information is available.³ While there is no scientific research to support these findings, the Task Force agreed that the following conditions apply in Maine:

- The number of persons who use service animals or assistance animals is not known.
- There is an increasing use of service animals and of assistance animals by individuals who have disabilities.
- There are increasing complaints about misuse and misrepresentation of animals as service animals or assistance animals. This is consistently reported by Task Force members and their colleagues and in news and social media.

Certification and Documentation

A service animal is a dog individually trained to do work or perform tasks for the benefit of a person who has a disability...

28 C.F.R. § 36.104
Title 5 M.R.S. § 4553(9-E)(B)

The prerequisite for a legitimate service animal or assistance animal is that it is providing a benefit for a person who has a disability. Beyond, that, any system of certification and documentation would call for a determination that the individual animal meets a specified definition. The Task Force quickly recognized the necessity to clarify what definitions apply in what circumstances, and then went on to consider certification methods.

What definitions should Maine rely on?

Terminology in Maine statutes, though meant to be

³ The Animal Welfare Division in Department of Agriculture, Conservation and Forestry reports that in 2015, with 142 municipalities reporting, there were **298 service animals registered** by municipal Clerks. [3/3/15] (see Appendix XII.B.)

The American Community Survey estimates 208,400 persons who have one or more disabilities reside in Maine (www.maine.gov/labor/cwri/disabilities/index.html). Service Dog Central (www.servicedogcentral.org/content/) says, "There may be as many as 0.9% of persons with disabilities who use service animals." The SDC website and others question whether the percentage is correct. Multiplying 0.9% x 208,400 would suggest there are **1,876 service dogs** in Maine. [Articles retrieved 11/23/15.]

The Maine Real Estate Managers Association surveyed its members (see Appendix XII.A.), reporting that assistance or service animals reside in 12.4% of the 9,334 rental units reported. *If that were a representative sample* of rental households in Maine, which total 160,766 units, there could be **19,935 service and assistance animals** in rental housing units in Maine. [Rosemary Moeykens email survey, 12/15/15.]

equal to terminology used in federal statutes or rules, varies in some ways. Moreover, terms used by the public and professionals in common parlance are quite varied *and undefined*. The Task Force concluded that terminology in Maine law should be made clearer and terms should be used consistently in official materials and discussion. (See Appendix II, Glossary of Terms, and Appendix IV, Maine and Federal Definitions of Terms.)

A “service dog” is a “service animal.” A service animal is a dog individually trained to do work or perform tasks for the benefit of a person who has a disability. Service animals are the only animals which persons who have a disability are entitled to bring with them into public accommodations.

(The Department of Justice has issued regulations to include miniature horses as “service animals.” This change has not been made to the Maine Human Rights Commission’s regulations. The Task Force did not delve into this realm much, as it is outside its scope.)

“Assistance animal” is a term used in U.S. Department of Housing and Urban Development (HUD) guidance issued 4/25/13. (See Appendix X, HUD Guidance FHEO-2013-01.) An assistance animal is a form of reasonable accommodation for people with disabilities under the federal Fair Housing Act and Section 504 of the Rehabilitation Act of 1973. The HUD guidance is applicable to almost all housing units in the U.S.

“Assistance animal” is not a term currently used in Maine law. Nonetheless, Maine’s current definition for “service animal” does include language in 5 M.R.S. § 4553(9-E)(A), applicable solely to housing accommodations, that tracks the language of the HUD guidance. Thus, Maine law incorporates the concept of an assistance animal which is applicable in housing but which uses the term “service animal” to identify such animals.

**An assistance animal...
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.**

HUD Guidance FHEO-2013-01

Assistance animals are animals that have been determined necessary to mitigate the effects of a physical or mental disability or are animals individually trained to do work or perform tasks for the benefit of a person with a disability. They include the type of animal many people call an “emotional support animal” or a “comfort animal.” Some assistance animals would qualify as service animals. Assistance animals are not pets, and they are not always dogs. Assistance animals in housing are a reasonable accommodation for the person who has a disability, subject to a case-by-case evaluation of each individual request. (See Housing section, below, for discussion of assistance animal issues.)

People who own assistance animals do not gain the right to bring them into public accommodations, unless, of course, the animal is a service dog trained to do work or perform tasks for the individual. Service animals are the only animals which persons who have a disability are entitled to bring with them into public accommodations.

Numerous other terms are used to describe dogs that perform various functions, and sometimes these are used loosely with regard to service animals or assistance animals. (See Appendix II, Glossary of Terms.) The Task Force believes there is little the State could do to alter the inconsistent terminology used by the public, but consistent usage of terms in federal and Maine law and other official documents would help improve understanding.

The Task Force finds that the definitions for “service animal” in Maine law are presented in a way that may contribute to confusion. The “service animal” definition in 5 M.R.S. § 4553(9-E) includes animals that are called “assistance animals” in the federal housing guidance. This may contribute to misguided assumptions about what types of dogs qualify as a service animal in public accommodations. The distinction between assistance animals in housing and service animals allowable in public accommodations should be clearer in the law.

Throughout this report, the term “service animal” is used to mean a service dog (or miniature horse) in public accommodations, and the term “assistance animal” is used to mean an animal in housing.

Arguments in favor of certification and documentation of service animals for use in public accommodations

The discussion here is concerned with *service animals*. Issues around documentation of *assistance animals* are discussed in the section on Housing Accommodations.

People who use service animals often face discrimination or mistreatment when another member of the public or a person in authority, such as a facility manager or even a public official, does not recognize the individual has a disability which requires use of the service animal. For people who have disabilities which are not readily visible – *e.g.*, balance impairment, anxiety disorder, PTSD – a dog may be essential for their mobility or participation in activities; but other people challenge their right, ask unnecessary questions, to the point of harassment.

Members of the Task Force who are service dog users feel the State should make available an official documentation for service animals. Having documentation indicating the legitimacy of their dog would put to rest unneeded questioning by the “service dog police.” They recommend the State establish a voluntary system for documenting trained service dogs that meet certain standards. If service animal handlers could get an official card or service-dog tag, it could make the recognition of their rights much simpler.

Some jurisdictions have adopted certification systems. For example, Michigan recently enacted a voluntary identification patch system for service animals, to be operated through their civil rights department. California provides that county animal control departments can issue tags. Also of note, British Columbia has adopted a strict requirement that all service dogs must be certified.⁴

Arguments against certification and documentation of service animals for use in public accommodations

For a number of reasons, *mandatory* verification of service animals would be problematic. The State cannot require certification or documentation of service animals for access to public accommodations because such a requirement runs afoul of the federal Americans with Disabilities Act (ADA). The U.S. Department of Justice (DOJ) regulations prohibit a public entity or a private business from asking about the nature or extent of an individual's disability, including proof that an animal has been certified, trained or licensed as a service animal.

In its analysis of the 2010 ADA regulations, DOJ addressed whether to require documentation of psychiatric service dogs so they might easily be distinguished from comfort animals:

The proposal would... require persons with disabilities to obtain medical documentation and carry it with them any time they seek to engage in ordinary activities of daily life in their communities— something individuals without disabilities have not been required to do. Accordingly, the Department has concluded that a documentation requirement of this kind would be unnecessary, burdensome, and contrary to the spirit, intent, and mandates of the ADA.⁵

The requirement in federal and Maine law is that service animals be individually trained for disability work. The type of training is not specified. Federal and State law do not require professional training of service dogs, and the person who is the dog owner may do the training, as long as the dog is individually trained to do work or perform tasks in relation to the person's disability. Thus, a dog may be properly trained and there may be no paperwork that goes with the training. There are professional dog training organizations that provide paperwork certifying service dogs, but training provided by such organizations can cost tens of thousands of dollars.

⁴ See for Michigan:

[http://www.legislature.mi.gov/\(S\(lh43wxxrkeumbypljtyw44ry\)\)/mileg.aspx?page=getobject&objectname=mcl-Act-146-of-2015&query=on](http://www.legislature.mi.gov/(S(lh43wxxrkeumbypljtyw44ry))/mileg.aspx?page=getobject&objectname=mcl-Act-146-of-2015&query=on)

See for California:

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fac&group=30001-31000&file=30850-30854>

See for British Columbia: <http://www2.gov.bc.ca/gov/content/justice/human-rights/guide-and-service-dog>

⁵ See Sec. 36.302 at http://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm#a2010guidance

Proponents of a certification system argue that creating a voluntary State certification for service animals might result in more access for people whose dog passed the test. However, people who have legitimate service animals but who do not obtain certification might be faced with second-class treatment or be denied access (for not having the official card). A State certification system also would not take into account visitors from outside the state, who might be denied access for having no card.

Between 2003 and 2007, the Division for the Deaf in Maine Department of Labor had been required (under 26 M.R.S. § 1420-A subsection 3) to issue cards for people who used hearing dogs. The Division recognized the inequities, described above, and that its expertise was lacking for testing whether dogs were properly trained and, moreover, there was no standard for certification. The Division requested that this State-sanctioned voluntary certification process be repealed, which the Legislature did.

Certification of service animals does not seem feasible without a statewide or national administering body, accepted standards for what is being certified, fair testing practices, and means of funding. Not only might this be a burden on persons with disabilities, but it could be costly to the State.

A public accommodation may ask if a dog is a service animal

Today, the test of whether a dog is a service animal is whether it meets the statutory definition. DOJ and Maine Human Rights Commission regulations allow a limited degree of inquiry by a public accommodation, if the reason for the service animal is not obvious. Both the ADA and Maine regulations state:

A public accommodation may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. A public accommodation shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.⁶

The two-questions that are described above are the only test. Only handlers who can honestly “pass” the two-question test or whose dogs are obviously performing work, such as a guide dog for an owner who is blind, have a right to bring a dog into a public accommodation that does not allow pets. Asserting that a dog is a service animal means the handler is validating the dog has individualized training and performs work or tasks for the individual, which the handler can describe. To require further proof or paperwork, however, would require a federal rule change.

⁶ 28 CFR § 36.302 http://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm#a302; and 94-348 C.M.R. Ch. 7 § 7.16.C(6) <http://www.maine.gov/sos/cec/rules/90/94/348/348c007.doc>

Maine's "Service Dog Verification Form for Waiver of License Fee"

In Maine, municipal Clerks who license dogs administer a voluntary "certification" system for dog owners to declare their dog is a service animal (as *currently* defined in 5 M.R.S. §4553, which also includes assistance animals in housing). The system relies on the "Service Dog Verification Form for Waiver of License Fee" for dog owners who wish to have the license fee waived.⁷ The form requires the owner to attest that the dog has been trained to be a service dog or that a medical professional who signs the form has prescribed the dog for the individual.

The "Service Dog Verification Form for Waiver of License Fee" is voluntary. Its only function is to satisfy the Clerk that a third party verifies that the dog meets the definition in the law. Even so, dog owners who exercise the fee waiver option with regard to an *assistance animal* might subsequently believe that the animal is a *service dog* that has been "certified" and may accompany them wherever they want, such as in public accommodations, which is not true.

To be eligible for the fee waiver a dog must meet the definition of "service animal" in the law, and the *current* definition in statute includes assistance animals.⁸ No rights of public access pertain to assistance animals. Nonetheless, many individuals who have disabilities require an assistance animal such as an emotional support dog as an accommodation in housing, because the dog enables the individual to live independently in the community. For that reason, since 2007 Maine has offered the license-fee waiver to assistance animals.

In addition to verification for the license fee waiver, housing managers and owners also need to be able to verify that a tenant's animal is an assistance animal. But Maine does not have a uniform system for them to do so. The issues between tenants and landlords are discussed below, under Housing Accommodations.

The Task Force finds that inclusion of both types of dogs in the fee waiver system has been a point of confusion for the public. Separation of the forms for service animals and assistance animals could help distinguish which animals are which.

False certification of service animals and assistance animals

The Task Force noted numerous reports of people misrepresenting their pets as service animals or assistance animals. It also noted that some organizations and professionals contribute to the misrepresentation and confusion, whether intentional or unintentional. There is consensus on the Task Force that false use of service animals infringes on the legitimate use of service animals by persons who have disabilities. No group is more outraged about the false use of service animals than people who rely on

⁷ See http://www.maine.gov/dacf/ahw/animal_welfare/documents/ServiceDogVerificationForm.pdf

⁸ 7 M.R.S. §3907 paragraph 24-A, and §3923-A paragraph 3.A.

service animals for access to the community and housing. Therefore, the Task Force considered possible actions, procedures or laws to deter such infringements.

Education: The Task Force finds that increased education outreach and training for the public would help reduce the intentional and unintentional misuse of service and assistance animals.

Enforcement: Title 17 M.R.S. §1314-A makes misrepresentation of a service animal a civil violation. This section, Misrepresentation of a Service Dog, was a 2003 addition to the “Model White Cane Law” adopted in 1971. It focuses on protection of individuals who are blind, so it does not mention assistance animals. It does not describe any enforcement provision, and it is not enforced. §1314-A may have some deterrent value, but the Office of Attorney General agreed with the Task Force observation that its deterrent value is minimal and it does not include any mechanism for attacking the problem.⁹ The Task Force would encourage prosecution of those who are found to be committing fraudulent acts under the law.

Investigation: In addition to individuals who misrepresent their animals, there are numerous organizations and websites that offer “certifying” documentation online. They do not belong to any government agency, but documents they offer have the appearance of “official” certification. There is concern that these easily available documents enable people who do not have legitimate service or assistance animals to pretend they do. There was strong opinion in the Task Force that websites or organizations that knowingly falsify documents should be investigated and, if substantiated, should be prosecuted for deceptive trade practices.

The Task Force is concerned that there is an online industry providing letters or documentation that an animal is a service animal or assistance animal, without doing proper or adequate verification that the owner’s assertions are valid. The Task Force further finds that documentation or letters that facilitate the misrepresentation of service and assistance animals create problems for business owners, apartment owners, other tenants, and people with legitimate service animals or assistance animals.

The Task Force would like to assure that people creating documentation of service animals or assistance animals are not just in the business of writing letters or providing certifications for anyone who asks, but rather are legitimate health care providers engaged in health care practice and treating people, that they understand the definition of disability, and that they can confirm that the applicant has a disability and needs the service animal or assistance animal.

⁹ Telephone conversation, Eric Dibner with Linda Conti, Consumer Protection, Office of Attorney General, 11/18/15.

Housing Accommodations and Assistance Animals

The federal Fair Housing Act and the Maine Human Rights Act are the laws that say a landlord must consider tenant requests for reasonable accommodation, including requests for animals that provide assistance to individuals with disabilities. Often called assistance animals, these animals are not limited to dogs, and they include emotional support animals. (See Appendix II, Glossary of Terms.)

In addition to the Fair Housing Act, housing that receives federal financial assistance must comply also with Section 504 of the Rehabilitation Act of 1973.¹⁰ HUD has issued helpful guidance about service and assistance animals and reasonable accommodations in housing.¹¹ The Maine Human Rights Commission relies on HUD's guidance in the implementation of Maine's Human Rights Act.

Each reasonable accommodation request calls for an individualized assessment. Landlords can ask, "Do you have a disability," (if it is not obvious) but may not ask the nature or severity of the disability except to get information related to the accommodation request and to show the relationship between the disability and the need for the requested accommodation. The process to document an accommodation request, including assistive animals in housing, should not be overly burdensome and so intrusive as to deter and prevent persons with disabilities from obtaining reasonable accommodations.¹²

There is a perception among apartment owners and managers that there is frequent misrepresentation of pets as assistance animals by applicants or tenants who want to add an animal or animals to the unit when no pets are allowed, or who want to avoid paying a pet deposit when pets are allowed.

The documentation of need sometimes appears to the manager or owner to be inadequately supported. Some medical providers who provide documentation do not appear to have given serious thought to the question of whether the animal is truly an assistance animal or that the stated need is disability-related.

¹⁰ See implementing regulations in Title 24 of the Code of Federal Regulations – Parts 100 and 108 for the Fair Housing Act and Part 8 for Section 504.

¹¹ Notice FHEO-2013-01 dated 4/25/13 (see Appendix X) and, with the Department of Justice, a "Joint Statement, Reasonable Accommodations under the Fair Housing Act" dated 5/7/04.

¹² <http://www.justice.gov/opa/pr/department-justice-settles-civil-rights-lawsuit-alleging-discriminatory-assistance-animal>

The Task Force finds that some housing providers and tenants lack knowledge about rights and responsibilities regarding assistance animals, and also about what the limitations are for documentation that may be required to verify a need for accommodation. Housing providers and tenants both need a better understanding of their respective rights and responsibilities.

There also has been confusion for both landlords and tenants about the differing rights in public accommodations versus housing accommodations. The common misuse of terminology adds to the confusion, as discussed in the previous chapter. For example, tenants and landlords often use incorrect terms such as “therapy pet,” which is not a term used in the HUD Guidance or the Maine Human Rights Act.

The Task Force discussed methods of validating when an animal is an assistance animal, without making an intrusive inquiry. The Task Force was presented with an array of policies regarding reasonable accommodations and assistance animals, as well as forms for making an accommodation request. The Task Force agreed a model policy would help both housing providers and tenants to pose and answer the legally acceptable questions and to clarify both their rights and responsibilities.

The Task Force discussed recommending a letter be addressed to the Maine Congressional delegation regarding misrepresentation of assistance animals in housing, but there was no consensus.

Public Accommodations

State and federal service animal definitions are almost identical regarding service animals in public accommodations. The public access regulations for people who use service animals also do not differ. As discussed in previous sections, Maine and federal law both support the right of access to public places and allow only a minimum of inquiry about the service animal.

State and federal law both assign responsibility for animal behavior to the dog owner and allow proprietors of public accommodations to ask that an unruly animal be brought under control or be removed. Both the Maine and federal regulations state, “A public accommodation may ask an individual with a disability to remove a service animal from the premises if: (i) The animal is out of control and the animal’s handler does not take effective action to control it; or (ii) The animal is not housebroken.”¹³

The Task Force finds that questions that come up about acceptability of a service animal often come down to issues of the animal’s behavior and of the handler’s ability to control the animal.

¹³ 28 C.F.R. § 36.302(c)(2) and 94-348 C.M.R. Ch. 7, § 7.16(C)(2)

Once a service animal has been admitted, the main concerns for a facility are whether the animal is disruptive of the enjoyment of others. When businesses are aware of their ability to ask that an unruly animal be removed, it will help relieve some of the anxiety about losing control over their premises.

In light of the fact that there is no process for checking service animal documentation, since a requirement for such documentation runs counter to federal law, it is important to know the dog owner still is responsible for the dog's behavior. Having a service animal is not *carte blanche* to behave disruptively. So-called "service dog bullies" (dog owners who insist their dog can go anywhere unrestrained) are a serious problem for those with disabilities who rely on a service dog. Proprietors should recognize a responsibility to request any dog owner, whose unruly dog persists in disrupting others, to control the animal or remove it.

The Task Force is concerned that people who have legitimate service animals feel that they are set-upon, not only by others who question their legitimacy, but by inappropriately behaved dogs. Misbehaved dogs impair the rights of people with disabilities to participate safely in community life. A dog that attacks or otherwise interferes with a service animal can do more damage than slowing down the person with a disability. A trained service animal may not be able to work again after an attack, resulting in an expensive loss to the individual with a disability. Limiting the number of untrained dogs in public accommodations would help protect the rights of people who use legitimate service animals.

The Task Force finds that the problems faced by places of public accommodation with regard to service animals seem to be a lack of knowledge and confidence about how to verify a dog is a service animal (as opposed to an assistance animal or a pet) and when to request the animal be removed. As discussed above, documentation cannot be requested, but not all public accommodation staff, public officials and members of the public realize this. The Task Force believes that increased public awareness and consistent messages about rights and responsibilities would relieve some of the confusion and abuse.

A public accommodation may ask an individual with a disability to remove a service animal from the premises if:

(i) The animal is out of control and the animal's handler does not take effective action to control it; or

(ii) The animal is not housebroken.

28 C.F.R. § 36.302(c)(2)
94-348 C.M.R. Ch. 7, § 7.16(C)(2)

Service Animal Training

Under the ADA and the Maine Human Rights Act, a service animal is required to be trained. The laws specify only that each service animal be “individually trained to do work or perform tasks for the benefit of an individual with a disability.”¹⁴ The tasks and type of training are not specified because each person’s needs vary. The trained tasks must be related to the person’s disability.

The law does not recommend any particular protocol or dictate any standardized training requirement, not even obedience training, and there is no system for ensuring that appropriate training has been completed. The lack of any specific training requirement may have the side effect of dog owners themselves not learning or observing proper standards for the dog’s behavior, which may result in a dog causing trouble for others because its owner does not properly control it.

Professional training organizations have established training protocols. (See Appendix XI, Service Dog Training.) When training organizations partner an individual with a dog, the two are trained as a team and learn to work together. Although there are many different training regimens and styles, a well-trained service dog should successfully learn three skill sets for working in public:

- Strong obedience and socialization skills,
- Work or task skill that provides assistance directly related to the person’s disability, and
- Public access skills for the dog to work effectively in a variety of public settings.¹⁵

The service dog training community views the AKC Canine Good Citizen (CGC) test as part of basic dog training. A service dog should easily pass it, but that does not mean that dogs that pass the CGC test have sufficient training or appropriate temperament for service work. CGC dogs do not have the same access to public places as service animals. The Assistance Dogs International public access standard is the typical test used for service dogs.

People who need a service dog should be educated about what it takes for a dog to become a service animal. The Task Force recognizes that, without mandated testing or any certification process, a requirement calling for specific types of training would be meaningless.

¹⁴ 28 C.F.R. § 36.104 and Title 5 M.R.S. § 4553(9-E)(B)

¹⁵ Lois-Ann Kuntz, Ph.D., *Down East Dog News*, Vol 7:9, September 2012, p. 15; and Kathy Hecht, University of Maine at Machias.

A public education program is needed to reinforce the importance of training for all dogs. This would help all dog owners understand appropriate behavior in public, what a service dog does, and the value of service animals for access and safety of individuals who have disabilities.

Educating the Public

The Task Force realized that, no matter how well-crafted the rules are, they may not be understood, much less implemented, without effective statewide public education. The members of the Task Force indicated they and their colleagues spend numerous hours as individuals and through their organizations explaining to the public how the law is intended to work. Often speaking with one person at a time, but also through public seminars and forums, service dog trainers and user groups, advocacy organizations, and public officials have delivered a consistent message about people's rights and responsibilities with service dogs and assistance animals. Yet this message reaches only a portion of Mainers.

The Task Force recommends clarifying the distinction between service animals and assistance animals in the Maine Human Rights Act in order to help public understanding that the right of public access does not extend to assistance animals. The public also needs to know that business establishments do not need to accept misbehaved animals in public accommodations. The Task Force also would like to see enforcement of the law (*e.g.*, Title 17 M.R.S. §1314-A) utilized as a reminder to the public that misrepresentation of dogs as service animals is illegal.

The Task Force finds that many medical professionals, municipal clerks, dog owners, and housing providers who are involved in verifying the need for an animal to assist a person who has a disability may not be clear about the definitions and requirements in the law. The Animal Welfare Division's form, described in a previous section, for waiver of the license fee for service dogs does not distinguish well between the two types of service animals defined in current statute. The Maine Human Rights Commission has separate pamphlets on service animals for housing and public accommodations. These should be updated if the recommended change in terminology is accepted. These are useful publications, but they only reach those who request them.

The lack of public understanding about service animals and assistance animals is costly. Public accommodations and housing providers expend their limited resources questioning and dicker over what is right. When people are not clear about what is right, they lose faith in the rule of law; many evade it, which brings harm to others. People with disabilities are effectively denied access to routine public access or to housing. Ensuing complaints bring a high toll for the State and for all involved.

The Task Force finds that Maine's efforts to inform the public about key issues for service animal and assistance animal owners have been limited, dispersed, and reactive. There is a need and a responsibility to proactively educate the public.

IV. Recommendations

Based on the findings discussed above, the Task Force makes the following recommendations to the Joint Standing Committee on Agriculture, Conservation and Forestry.

General Recommendations

NOTE: Statutory recommendations are in Appendix III.

A. Distinguish service animals from assistance animals in Title 5

Maine statutes, starting with definitions in the Human Rights Act (Title 5), should be revised to better clarify the distinction between service animals and assistance animals. For housing accommodations, use the term “assistance animal” and for public accommodations, use the term “service animal.”

B. Expand Title 17 language about misrepresentation of service animals or assistance animals

Title 17 regarding complaints about misrepresentation should be expanded to delineate what is “misrepresentation,” and the possible penalty should be increased to \$1000. The Task Force considered including similar language making misrepresentation a civil crime and establishing an avenue for redress under the Maine Human Rights Act, but no recommendation was agreed upon.

C. Additional changes for consistency with Title 5 proposed changes

Existing language in Title 7 and Title 17 should be brought into line with the proposed revised definitions in Title 5. The proposed changes here will retain the license fee waiver for both service dogs and assistance animals. However, the proposed changes do not include assistance animals under Title 17’s White Cane Law protections for pedestrians with service dogs, or the Title 17 § 3966 allowance letting service dogs into food stores.

Recommendations about Certification and Documentation

The Task Force could not reach consensus about establishing a State certification or identification card system for service animals, even a voluntary system.

Under Housing Accommodations, see next section, the Task Force includes a model form which may be used for verifying the need for an assistance animal.

D. Fee waiver verification form

The Task Force recommends that the “Service Dog Verification Form for Waiver of License Fee,” which is under the auspices of the Animal Welfare Division, be changed into two separate

forms, one for service dogs and a separate one for assistance animals, consistent with proposed Title 5 definitional changes. See Appendix VIII.

E. Letter to Congressional delegation regarding fake service animals

The Task Force recommends that the Joint Standing Committee on Agriculture, Conservation and Forestry coordinate with the Joint Standing Committee on Judiciary to address a letter to Maine’s Congressional delegation, making the following points:

- The State of Maine is frustrated that it is unable to identify when people are misrepresenting a dog as a service animal.
- The Task Force recognizes that service animals play a vital role in ensuring the rights of people with disabilities to access their communities.
- The right to service animals should be protected and safeguarded, which means that public accommodations understand their obligations to people with disabilities while ensuring that the misuse of service animals is addressed.
- A Legislative Resolve in 2015 established a Task Force to Ensure the Integrity in the Use of Service Animals. The Task Force wanted to find ways to weed out false claims, and to bring action against online registries that fraudulently issue “certification” with little basis in fact.
- Federal regulations do not allow the State to request any documentation from dog owners who falsely claim that their dog is a service animal. The dog owner may be asked two questions, which can be answered dishonestly.
- The broad language regarding service animal documentation, designed to protect persons with disabilities, sometimes has the unfortunate side effect of opening the door to fraud. Having difficulty in determining that a dog is not really a service animal may undermine the civil rights of those who legitimately need service dogs.
- When people misrepresent a poorly trained dog as a service animal, it can affect the safety and reputation of legitimate service dog users. Although public accommodations may remove poorly behaved dogs, these dogs may cause injury and disruption of legitimate service animals.
- Since Maine follows the federal rubric for service animals in public accommodations, we are requesting that you bring our concerns to the appropriate federal agencies. These agencies should investigate effective methods to discourage misrepresentation of service animals by individuals and organizations and should provide for penalties for misrepresentation of service animals.

F. Working group

The Task Force recommends that the Committee on Agriculture, Conservation and Forestry identify a working group to monitor issues regarding service animals and assistance animals, which could be an advisory group to the Maine Human Rights Commission, pursuant to Title 5 § 4566 subsection 6.

Recommendations about Housing Accommodations

G. Model policy for service animals and assistance animals in housing accommodations

The Task Force recommends a model policy and optional standard form(s) for documenting the need for an assistance animal. See Appendix VII. These forms should be placed on a public State website so that landlords would have confidence in following the model. See recommendations for Educating the Public, below.

Recommendations about Public Accommodations

H. Model policy for service animals in public accommodations

The Task Force recommends a model policy for public accommodations regarding service animals. See Appendix VI. This policy should be placed on a public State website for use by businesses. See recommendations for Educating the Public, below.

Recommendations about Service Animal Training

No recommendations.

Recommendations about Educating the Public

I. Maine Human Rights Commission public information officer

The Task Force recommends a staff position be created in the Maine Human Rights Commission for public information officer. The public information officer would be responsible for the website materials, developing a public education plan, coordinating the message for public education, developing instructional materials, providing technical assistance regarding service animals and assistance animals. Among other duties, the public information officer would identify resources and apply for grants and other funding to support the education campaign recommended below.

J. State website re service animals and assistance animals

The Task Force recommends a public website be established with State-sanctioned materials regarding service animals and assistance animals. The Task Force recommends the website be

housed by the Maine Human Rights Commission and coordinated by the public information officer. The website should include links to State and federal statutes, rules, and guidance; this Report's narrative discussion; the Task Force's recommended model policies and verification forms; answers to frequently asked questions; and signage to advertise "Service Dogs Welcome." Proposed documents are in Appendices II, and IV-XI.

K. Statewide education campaign

The Task Force recommends an educational program that involves business associations, healthcare practitioner associations, housing management associations, municipal officers, service animal trainers and user organizations, disability rights organizations, State agencies, and individuals who use service or assistance animals. The campaign should include public service announcements, speakers' panels, and other public forums. The campaign should be coordinated by the MHRC public information officer.

Appendices

- I. LD 872
 - II. Glossary of Terms
 - III. Proposed Legislation – Revisions to Maine Statutes
 - IV. Chart of Maine and Federal Definitions of Terms
 - V. Answers to Frequently Asked Questions
 - VI. Model Policy – Public Accommodations
 - VII. Model Policy – Housing Accommodations
 - VIII. Service Dog Verification Form and Assistance Animal Verification Form
 - IX. Signs - Service Dogs Welcome, Assistance Animals Welcome
 - X. HUD Guidance FHEO-2013-01
 - XI. Service Dog Training
 - XII. Maine Surveys of Service Animals and Assistance Animals
 - XIII. Dissenting Opinion
-

Appendix I

Appendix I

LD 872

Resolve, Establishing a Task Force To Ensure Integrity in the Use of Service Animals

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this resolve establishes a task force to study training and certification requirements of service animals, methods of disseminating information about service animals to the public and documentation of training and certification of service animals; and

Whereas, the business of the task force must be initiated before the 90-day period expires in order that it may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1 Task force to ensure integrity in the use of service animals.

Resolved: That the Commissioner of Agriculture, Conservation and Forestry shall convene a task force of interested parties to study:

1. Training requirements for service animals;
2. Certifying organizations and existing certification requirements for service animals and development of new state-based certification requirements, if needed;
3. The necessity of educating the public about service animals and methods of disseminating information about service animals;
4. Documentation of training and certification of service animals and the development of additional documentation and proofs, if needed; and
5. Housing issues related to service animals; and be it further

Sec. 2 Task force membership. Resolved: That the Commissioner of Agriculture, Conservation and Forestry shall invite the following individuals to participate in the task force: 2 trainers of service or therapy animals, a restaurant owner or operator, a member of the business community, a member of the Maine Human Rights Commission or a designee selected by the commission, a member from the public education system, a member of the Maine Real Estate Managers Association, a representative of the Central Maine Apartment Owners Association or the Maine Apartment Owners and Managers Association, a resident of the State with physical

disabilities, a resident of the State with nonphysical disabilities, an attorney who specializes in disability law with experience in both state and federal laws governing service animals and the state accessibility coordinator from the Department of Labor, Bureau of Rehabilitation Services; and be it further

Sec. 3 Report. Resolved: That, no later than December 2, 2015, the Commissioner of Agriculture, Conservation and Forestry shall report the task force's recommendations, including any proposed legislation, to the Joint Standing Committee on Agriculture, Conservation and Forestry. The Joint Standing Committee on Agriculture, Conservation and Forestry may submit a bill related to the subject matter of the report to the Second Regular Session of the 127th Legislature.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Appendix II

Appendix II

Glossary of Terms

Proper use of terms will help people with disabilities, business merchants, and housing managers communicate clearly about service animals and assistance animals. The terms classify different types of animals that either perform work or provide therapeutic benefits for people with disabilities. There is no universal standard of what terms to use, but the following usages have wide acceptance. The first two terms have specific meanings described in Maine and federal law.

Service Dog, Service Animal

Service dogs assist people with all kinds of disabilities by doing work or performing tasks. Under the Americans with Disabilities Act and the Maine Human Rights Act, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability. A key part of the service dog definition is that the dog is trained, either professionally or by an individual. However, there is not a requirement that service dogs be certified or that training be documented.

Service dogs help individuals with many different types of disabilities. Service dogs can be trained to work with people who use power or manual wheelchairs, have balance issues, have various types of autism, need seizure alert or response, need to be alerted to other medical issues like low blood sugar, or have psychiatric disabilities. These specially trained dogs can help by retrieving objects that are out of their person's reach, opening and closing doors, turning light switches off and on, barking to indicate that help is needed, finding another person and leading the person to the handler, providing deep pressure, and many other individual tasks as needed by a person with a disability.

Assistance Animal

Assistance animals are animals that have been determined necessary to mitigate the effects of a physical or mental disability in order to allow an individual to live in or enjoy a housing unit. Also, assistance animals include

any animal that performs tasks or a service for the benefit of an individual with a disability, including but not limited to guiding individuals with impaired vision, alerting individuals with hearing impairments to sounds, pulling a wheelchair, fetching items or providing emotional support to people with mental disabilities. While assistance animals are often dogs, they can be any type of animal.

Assistance animals might often be referred to as service animals, assistive animals, support animals, or therapeutic animals.

Emotional Support Animal

Emotional support animals (ESA's) are companions to an individual who needs comfort. ESA's are one type of assistance animal and can be any species. They do not require specialized training. The right of access to public accommodations for people with disabilities does not include public access for ESA's. Sometimes ESA's are called comfort animals or, erroneously, therapy animals (see next definition).

Emotional support animals provide companionship, relieve loneliness, and sometimes help with depression, anxiety, and certain phobias, but do not have special training to perform tasks that assist people with disabilities. While emotional support animals are often part of a medical treatment plan and provide psychological comfort or therapy for an individual, these animals are not considered service animals under the ADA. The distinction is that the assistance provided by an ESA is more passive, whereas service animals will recognize something happening and respond by performing a trained task.

Therapy Animal

Therapy animals work with a handler to provide therapeutic contact, usually to people in a clinical setting. Therapy animals are often dogs but may be other species, too. Contact with therapy animals can improve physical, social, emotional, and/or cognitive functioning, for example, in hospitals, schools, universities, group homes and libraries. Their valuable job is to provide emotional support and an understanding, listening ear anywhere they're needed. Therapy dogs also provide support at funerals, disaster sites or anywhere else emotions, grief, and tension may run high.

Therapy dogs are typically well-trained, sweet-natured, friendly dogs that are, first and foremost, pets. Therapy dog teams are most often volunteers. Their family trains them and has them certified via a therapy organization.

These animals are not limited to working with people with disabilities and are not covered by the laws protecting the use of service animals. Therapy animal teams do not have public access, and only visit facilities after an invitation to the animal handler or to the therapy animal organization.

Appendix III

Appendix III

Proposed Legislation – Revisions to Maine Statutes

A. Semantic Changes to the Definitions of “Service Animal” and “Assistance Animal”

The following proposed changes to the Maine Human Rights Act separate the definition of “assistance animals” from the definition of “service animals” and emphasize that the latter are dogs. It also states that “assistance animals” refers to housing and “service animals” refers to public accommodations. Proposed changes are highlighted, with new language underlined, and deleted language crossed out.

Affected sections of the Maine Human Rights Act:

Title 5 § 4553 Definitions

Title 5 § 4582-A

Unlawful housing discrimination on the basis of disability

Title 5 § 4592 Unlawful public accommodations

Title 5, Chapter 337: HUMAN RIGHTS ACT

§4553. DEFINITIONS

As used in this Act, unless the context or subchapter otherwise indicates, the following words have the following meanings.

...

9-E. Service animal. "Service animal" means: for the purposes of subchapter 5 (Public Accommodations), a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service dog must be directly related to the individual's disability. Examples of such work or tasks include, but are not limited to, assisting an individual who is totally or partially blind with navigation and other tasks, alerting an individual who is deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items such as medicine or a telephone, providing physical support and assistance with balance and stability to an individual with a mobility disability and helping a person with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition.

9-F. Assistance animal. "Assistance animal" means, for the purposes of subchapter 4 (Fair Housing):

~~A. For the purposes of subchapter 4:~~

(1) An animal that has been determined necessary to mitigate the effects of a physical or mental disability by a physician, psychologist, physician's assistant, nurse practitioner or licensed social worker; or

(2) An animal individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals who are deaf or hard of hearing to intruders or sounds, providing reasonable protection or rescue work, pulling a wheelchair or retrieving dropped items.

Renumber 9-F and 9-G to 9-G and 9-H

; and

~~B. For the purposes of subchapter 5, a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of such work or tasks include, but are not limited to, assisting an individual who is totally or partially blind with navigation and other tasks, alerting an individual who is deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items such as medicine or a telephone, providing physical support and assistance with balance and stability to an individual with a mobility disability and helping a person with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition.~~

§4582-A. Unlawful housing discrimination on the basis of disability

It is unlawful housing discrimination, in violation of this Act:

1. Modifications. For any owner, lessor, sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit, at the expense of a person with physical or mental disability, reasonable modifications of existing premises occupied or to be occupied by that person if the modifications may be necessary to give that person full enjoyment of the premises, except that, with a rental, the landlord, when it is reasonable to do so, may condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

2. Accommodations. For any owner, lessor, sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to make reasonable accommodations in rules, policies, practices or services when those accommodations are necessary to give a person with physical or mental disability equal opportunity to use and enjoy the housing; or

3. ~~Service-Assistance~~ animals. For any owner, lessor, sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit the use of an assistanceservice animal or otherwise discriminate against an individual with a physical or mental disability who uses an assistanceservice animal at the housing accommodation unless it is shown by defense that the ~~service-assistance~~ animal poses a direct threat to the health or safety of others or the use of the ~~service-assistance~~ animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the housing accommodation by others. The use of an assistanceservice animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such an assistanceservice animal.

§4592. Unlawful public accommodations

This section does not require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that entity when the individual poses a direct threat to the health or safety of others. For the purposes of this section, the term "direct threat" means a significant risk to the health or safety of others that ~~can not~~cannot be eliminated by a modification of policies, practices or procedures or by the provision of auxiliary aids or services.

It is unlawful public accommodations discrimination, in violation of this Act:

...

8. Service animals. For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the public accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the public accommodation by others. The use of a service animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such a service animal. This section does not apply to assistance animals, as defined in 5 M.R.S. § 4553(9-F), unless the assistance animal also qualifies as a service animal as defined in 5 M.R.S. § 4553(9-E).

Appendix III (continued)

Proposed Legislation – Revisions to Maine Statutes

B. Complaints about “Misrepresentation”

Revisions to Title 17 Crimes, Chapter 47: Discrimination (see next page) will expand its applicability to misrepresentation of all types of service animals and assistance animals and will provide details about what constitutes misrepresentation. The possible fine is increased from \$500 to \$1000.

Revision to Title 17:

Title 17 § 1314-A Misrepresentation of Service Dog

Title 17 CRIMES, Chapter 47: DISCRIMINATION

§1314-A. MISREPRESENTATION OF SERVICE DOG ANIMAL OR ASSISTANCE ANIMAL

~~A person who fits a dog with a harness, collar, vest or sign of the type commonly used by blind persons in order to represent that the dog is a service dog or commonly used by persons with disabilities to represent that the dog is a service dog when training of the type that guide dogs normally receive has not been provided or when the dog does not meet the definition of "service dog" as defined in section 1312, subsection 7 commits a civil violation for which a fine of not more than \$500 may be adjudged.~~

A person who knowingly misrepresents as a service animal or an assistance animal any animal that does not meet the definition of "service animal" or "assistance animal," as defined in Title 5 § 4553, commits a civil violation. Misrepresentation of a service animal or an assistance animal includes but is not limited to:

1. knowingly creating documents that falsely represent that a dog is a service animal or an assistance animal;
2. knowingly providing to another person documents falsely stating that a dog is a service animal or an assistance animal;
3. knowingly fitting a dog, when said dog is not a service animal, with a harness, collar, vest or sign of the type commonly used by people who have disabilities to indicate their dog is a service animal; or
4. knowingly representing that a dog is a service animal, when said dog has not completed training to perform disability-related tasks or do disability-related work for the person who has a disability.

For a civil violation under this section a fine of not more than \$1000 may be adjudged.

Appendix III (continued)

Proposed Legislation – Revisions to Maine Statutes

C. Additional Statutory Recommendations for Consistency with the Proposed Changes to Definition of “Service Animal”

Revisions to Title 7 (Animal Welfare) and to Title 17 (Crimes regarding Animal Welfare and Discrimination under the “White Cane Law”) should be made to attain consistency with proposed revisions in Title 5 definition of “service animal.” These additional recommendations are described on the following pages.

TITLE 7

Revise Title 7 § 3907 subsection 24-A:

24-A Service dog. "Service dog" means a dog that meets the definition of "service animal" set forth in Title 5, section 4553, subsection 9-E, ~~paragraph A or B.~~ or "assistance animal" set forth in Title 5, section 4553, subsection 9-F.

Revise Title 7 § 3961-A. **Attack on service animal**

A person who owns or keeps a dog that attacks, injures or kills a service animal or assistance animal while the service animal or assistance animal is in discharge of its duties commits a civil violation for which a forfeiture of not more than \$1,000 may be adjudged.

When a person is adjudicated of a violation of this section, the court shall order the person to make restitution to the owner of the service animal for any veterinary bills and necessary retraining costs or replacement costs of the service animal or assistance animal if it is disabled or killed.

For the purposes of this section, "service animal" has the same meaning as set forth in Title 5, section 4553, subsection 9-E. For purposes of this section, "assistance animal" has the same meaning as set forth in Title 5, section 4553, subsection 9-F, paragraph A or B.

Further recommendations:

Title 7 also uses the term "service dog" in:

- § 3907 subsection 13 and 14,
- § 3922 subsection 4,
- and § 3923-A subsection 3.

These rely on the revised definition in 24-A, above, so these sections do not need to be revised.

TITLE 17

Revise **Title 17 § 1011 subsection 24-A:**

24-A Service dog. "Service dog" means a dog that meets the definition of "service animal" set forth in Title 5, section 4553, subsection 9-E, ~~paragraph A or B.~~ or "assistance animal" set forth in Title 5, section 4553, subsection 9-F.

Further recommendations:

Title 17 § 1011 subsections 13 and 14 read exactly the same as subsections 13 and 14 of Title 7 § 3907, discussed under the previous recommendation. These subsections of Title 17 rely on the definition here in 24-A. They do not need to be revised.

TITLE 17 - MODEL WHITE CANE LAW

Revise **Title 17, §1312:**

7. Service dog; definition. As used in this section, "service dog" means a dog that meets the definition of "service animal" in Title 5, section 4553, subsection 9-E, ~~paragraph B~~.

Explanation:

Title 17, Chapter 47 Discrimination, Subchapter 2 is the Model White Cane Law. The White Cane Law covers more than people who are blind. It says,

“Every totally or partially blind or otherwise physically or mentally disabled person has the right to be accompanied by a service dog.”
[Title 17 §1312.3]

The next section says,

“The driver of a vehicle approaching a... pedestrian who is...using a service dog...shall take all necessary precautions....”
[Title 17 §1313]

The foregoing sections of the White Cane Law protect people who are using a service dog for traveling on a public street or who are entering public accommodations. The term “service dog” in these sections references the definition in Title 5 § 4553 (which is proposed for revision) but the protections are not meant to extend to “assistance animals” that are not service dogs.

Deleting the reference to “paragraph B” in § 4553 subsection 9-E will continue to apply the protection of the White Cane Law to “service animals” but it will not apply to “assistance animals.”

See current language:

<http://legislature.maine.gov/legis/statutes/17/title17sec1312.html>

<http://legislature.maine.gov/legis/statutes/17/title17sec1313.html>

TITLE 17 – (continued)

Further Recommendations:

Title 17 MRSA § 1314-A, re misrepresentation, is addressed in Appendix III.B., to include both service animals and assistance animals.

Title 17 MRSA § 3966, re food stores, correctly uses the term “service animal.” § 3966 should not be changed, since the law should not allow assistance animals or emotional support animals to have access to food stores or other public accommodations, unless they are also qualified as service animals.

Appendix IV

Appendix IV

Maine and Federal Definitions of Terms

A. The Americans with Disabilities Act, Maine Human Rights Act, Fair Housing Act and Section 504 current definitions of terms regarding service animals and assistance animals –

Note: MHRA citations are the language currently (2015) in Maine statute.

ADA Title III (public accommodations)	MHRA (public accommodations)	FHA (housing) <u>and</u> §504 (publicly-funded housing)	MHRA (housing)
"Service Animal"	"Service Animal"	"Assistance Animal"	"Service Animal"
any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have	a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of such work or tasks include, but are not limited to, assisting an individual who is	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. Assistance animals perform many disability-related functions, including but not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair,	(1) An animal that has been determined necessary to mitigate the effects of a physical or mental disability by a physician, psychologist, physician's assistant, nurse practitioner or licensed social worker; or (2) An animal individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals who are deaf or hard of hearing to intruders or sounds, providing reasonable protection or rescue work, pulling a wheelchair or retrieving dropped items.

<p>low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.</p> <p>28 C.F.R. § 36.104</p>	<p>totally or partially blind with navigation and other tasks, alerting an individual who is deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items such as medicine or a telephone, providing physical support and assistance with balance and stability to an individual with a mobility disability and helping a person with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition.</p> <p>5 M.R.S. § 4553(9-E)(B)</p>	<p>fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. For purposes of reasonable accommodation requests, neither the FHAct nor Section 504 requires an assistance animal to be individually trained or certified.</p> <p>While dogs are the most common type of assistance animal, other animals can also be assistance animals.</p> <p>See HUD guidance, issued 4/25/13 (See Appendix IX)</p>	<p>5 M.R.S. § § 4553 (9-E)(A)</p>
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B. Questions that may be asked of service dog users under the State and federal laws –

ADA Title III (public accommodations)	MHRA (public accommodations)	FHA (housing) <u>and</u> §504 (publicly-funded housing)	MHRA (housing)
<p>A public accommodation shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A public accommodation may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. A public accommodation shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. Generally, a public accommodation may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (<i>e.g.</i>, the dog is observed</p>	<p>A public accommodation shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A public accommodation may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. A public accommodation shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. Generally, a public accommodation may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (<i>e.g.</i>, the dog is observed</p>	<p>Housing providers may ask individuals who have disabilities that are not readily apparent or known to the provider to submit reliable documentation of a disability and their disability-related need for an assistance animal. If the disability is readily apparent or known but the disability-related need for the assistance animal is not, the housing provider may ask the individual to provide documentation of the disability-related need for an assistance animal. For example, the housing provider may ask persons who are seeking a reasonable accommodation for an assistance animal that provides emotional support to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the</p>	<p>Not specifically addressed. HUD standard is used.</p>

<p>guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).</p> <p>28 C.F.R. § 36.302(c)(6)</p>	<p>guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).</p> <p>94-348 C.M.R. Ch. 7, § 7.16(C)(6)</p>	<p>animal provides emotional support that alleviates one or more of the identified symptoms or effects of an existing disability. Such documentation is sufficient if it establishes that an individual has a disability and that the animal in question will provide some type of disability-related assistance or emotional support.</p> <p>See HUD guidance, issued 4/25/13</p>	
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C. Allowable reasons for denial of admittance or for removal of the animal –

ADA Title III (public accommodations)	MHRA (public accommodations)	FHA (housing) <i>and</i> §504 (publicly-funded housing)	MHRA (housing)
<p>A public accommodation may ask an individual with a disability to remove a service animal from the premises if:</p> <p>(i) The animal is out of control and the animal’s handler does not take effective action to control it; or</p> <p>(ii) The animal is not housebroken.</p> <p>28 C.F.R. § 36.302(c)(2)</p>	<p>Unlawful to: refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the public accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the public accommodation by others. The use of a service animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or</p>	<p>Must allow unless doing so would impose an undue financial and administrative burden or would fundamentally alter the nature of the housing provider's services.</p> <p>The request may also be denied if: (1) the specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation, or (2) the specific assistance animal in question would cause substantial physical damage to the property of others</p> <p>Breed, size, and weight limitations may not be applied to an assistance animal. A determination that an assistance animal poses a direct threat of harm to others or would cause substantial physical</p>	<p>Unlawful for any owner, lessor, sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the housing accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the housing accommodation by others.</p> <p>5 M.R.S. § 4582-A(3).</p>

	<p>facilities by such a service animal.</p> <p>5 M.R.S. § 4592(8)</p> <p>A public accommodation may ask an individual with a disability to remove a service animal from the premises if:</p> <p>(i) The animal is out of control and the animal's handler does not take effective action to control it; or</p> <p>(ii) The animal is not housebroken.</p> <p>94-348 C.M.R. Ch. 7, § 7.16(C)(2)</p>	<p>damage to the property of others must be based on an individualized assessment that relies on objective evidence about the specific animal's actual conduct — not on mere speculation or fear about the types of harm or damage an animal may cause and not on evidence about harm or damage that other animals have caused.</p> <p>See HUD guidance, issued 4/25/13</p>	
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Appendix V

Appendix V

Answers to Frequently Asked Questions Related to Service Animals

- When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions: (1) is the dog a service animal required because of a disability, and (2) what work or task has the dog been trained to perform. Staff cannot ask about the person's disability, require medical documentation, 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.
- Allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals. When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility, for example, in a school classroom or at a homeless shelter, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.
- A person with a disability cannot be asked to remove his service animal from the premises unless: (1) the dog is out of control and the handler does not take effective action to control it or (2) the dog is not housebroken. When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.
- Establishments that sell or prepare food must allow service animals in public areas even if state or local health codes prohibit animals on the premises.
- People with disabilities who use service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals. In addition, if a business requires a deposit or fee to be paid by patrons with pets, it must waive the charge for service animals.
- If a business such as a hotel normally charges guests for damage that they cause, a customer with a disability may also be charged for damage caused by himself or his service animal.
- Staff are not required to provide care or food for a service animal.

For additional information, see www.ada.gov/regs2010/service_animal_qa.html

Appendix VI

Appendix VI

Model Policy – Service Animals in Public Accommodations

The Task Force to Ensure Integrity in the Use of Service Animals in 2016 developed a sample policy to assist places of public accommodation and their staff in dealing with issues involving service animals. The policy is available to provide guidance to the public and to businesses and for those who wish to use it for training purposes. We hope you find it helpful.

Additional information resources include:

Maine Human Rights Commission
51 State House Station, 19 Union Street, Augusta, ME 04333
Phone: (207) 624-6290
Fax: (207) 624-8729
TTY: Maine Relay 711

Americans with Disabilities Act Information Line
U.S. Department of Justice
Phone: 1-(800) 514-0301
www.ada.gov
www.ada.gov/animal.htm
www.ada.gov/regs2010/service_animal_qa.html

NOTE: The Model Service Animal Policy is adapted from language used by the United States Department of Justice for ADA Title III public accommodations settlements and utilized by Disability Rights Maine for settlements involving service animals under the public accommodations provisions of the ADA and the Maine Human Rights Act.

This information does not constitute legal advice. Please consult with an attorney for specific questions about how the law may apply to your public accommodation.

These documents are available in alternate formats upon request.

Contact: [name here]_____

Service Animal Policy

[INSERT NAME OF ENTITY] POLICY REGARDING SERVICE ANIMALS FOR CUSTOMERS WITH DISABILITIES IN PUBLIC ACCOMMODATIONS

In compliance with the Maine Human Rights Act and the Americans with Disabilities Act, [ENTITY] is committed to permitting the use of service animals by its customers with disabilities. Service animals play an important role in ensuring the independence of people with disabilities, and it is therefore our policy to welcome any service animal that is individually trained to assist a person with a disability into our facilities.

[ENTITY] welcomes service animals, which may be dogs or miniature horses, that are individually trained to do work or perform tasks for the benefit of an individual with a disability. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of such work or tasks include, but are not limited to, assisting an individual who is totally or partially blind with navigation and other tasks, alerting an individual who is deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items such as medicine or a telephone, providing physical support and assistance with balance and stability to an individual with a mobility disability and helping a person with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors.

If you are not certain that an animal is a service animal, you may ask the person who has the animal if it is service animal required because of a disability. You shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal: (1) whether the animal is required because of a disability and (2) what work or task the animal has been trained to perform.

[ENTITY] will not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility impairment). We shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as this documentation is not required. Service animals do not always have a sign or symbol indicating they are service animals. [ENTITY] does not require its customers with service animals to pay any surcharge or deposit.

In the event that a particular service animal's behavior poses a direct threat to the health or safety of others, [ENTITY] has the right to exclude the service animal from its facility at that time, but may not refuse service to that individual with a disability when he or she is not accompanied by a service animal. We may ask the individual with a disability to remove the service animal from the premises if the animal is out of control and the animal's handler does not take effective action to control it or if the animal is not housebroken. Each situation will be considered individually.

[ENTITY] is committed to providing education of its staff with regard to its obligations to welcome service animals and regarding the foregoing policy.

FOR QUESTIONS PLEASE CONTACT:

Name and contact information

Appendix VII

Appendix VII

Model Policy – Service and Assistance Animals in Housing Accommodations

SAMPLE POLICY ASSISTANCE ANIMALS IN HOUSING

The following sample policy is intended to provide guidance to both tenants and property owners and housing management. This information does not constitute legal advice. Please consult one of the fair housing agencies, the Maine Human Rights Commission or a private Maine attorney if you have questions about this topic.

This sample policy is based on Fair Housing Partners of Washington State's more extensive document, at <http://www.fhcwashington.org/PDF/ServiceAnimalPolicy.pdf>.

Note: In housing, assistance animals may include service animals.

REASONABLE ACCOMMODATIONS IN HOUSING

The Federal Fair Housing Act, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act and the Maine Human Rights Act require that housing owners and managers provide reasonable accommodations for applicants and residents who have disabilities. Reasonable accommodations are changes in rules, policies, practices, or services that are necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling.

Allowing residents who have disabilities to live with their service animals and assistance animals is a reasonable accommodation. If an individual with a disability (1) needs an assistance animal (including service animals) to assist them with functional limitations related to their disability and (2) the assistance animal helps them to use and enjoy their dwelling fully, then their housing provider must allow them to have a service animal as a reasonable accommodation.

SERVICE ANIMALS AND ASSISTANCE ANIMALS ARE NOT PETS

Service animals and assistance animals help people with disabilities to deal with the effects of their disabilities. The most common assistance animals are dogs, but in housing they may be other species (cats, monkeys, etc). Assistance animals may be any breed, size or weight. Assistance animals are not required to have special licenses, to be certified, or to have any visible identification.

GUIDELINES FOR HOUSING STAFF

When an applicant or resident with a disability makes an accommodation request, housing management will consider the request promptly, and grant it when reasonable. Inquiries about living with an assistive animal should follow our reasonable accommodation policy.

DETERMINE WHETHER YOU NEED VERIFICATION

- If the person's disability is obvious to you, and if the need for the assistance animal is also apparent, do not request any additional information about the disability or the need for the accommodation. For example, a blind person with a guide dog does not need to verify his or disability or the need for a dog.
- If the disability is obvious, but the accommodation is not apparent, request only information necessary to evaluate the disability-related need for the accommodation. For example, if you know a resident has depression and she or he wants to have an assistance animal, request documentation of the disability-related need for the animal.
- If neither the disability nor the need is clear, ask for proof of both. For example, if someone with no obvious disability asks to live with an assistance animal, request that the person document both that she or he has a disability as defined under the fair housing laws and that there is a disability-related need for the animal.

IF VERIFICATION IS NEEDED

The individual should provide written verification from a doctor or other medical professional or qualified third party who, in their professional capacity, has knowledge about the person's disability and the need for reasonable accommodation. Written verification should be provided by someone with sufficient knowledge and training to verify that the applicant or resident meets the fair housing definition of a person with a disability and that there is a disability-related need for an assistance animal. **However, do not require someone to provide details about his or her disability beyond documenting a disability-related need for the animal.**

ANIMAL BEHAVIOR

If an animal is unruly or disruptive (aggressively jumping, nipping, etc.), the manager may ask the resident to remove the animal from the common area. If the inappropriate behavior happens repeatedly, the manager may request that the resident not bring the animal into common areas or ask that the animal be removed from the residential premises.

GUIDELINES FOR RESIDENTS

REQUEST FOR A SERVICE ANIMAL ACCOMMODATION

If you need to live with a service animal because of your disability, make a request to your landlord or manager for a reasonable accommodation. It is best to submit such requests in writing, but verbal requests are acceptable.

VERIFICATION OF YOUR DISABILITY AND NEED FOR A SERVICE ANIMAL

You may be asked to provide written verification that you have a disability and that a service animal is necessary to give you an equal opportunity to use and enjoy our housing community. If your landlord or manager asks for this verification, you should obtain proper verification from your doctor or other medical professional or qualified third party who, in their professional capacity, has knowledge about your disability and your need for a reasonable accommodation. (A sample form that may be used is attached.)

Animals must comply with any applicable State law and municipal ordinances.

ANIMAL CARE AND SUPERVISION

You are responsible for the care of your service animal. You must supervise your animal and retain full control of it at all times. This means that while the animal is in common areas, it is on a leash, in a carrier, or otherwise in your direct control. When in the presence of others, the animal is expected to be well behaved (not jumping or nipping at people, not snarling or barking, etc.).

You are responsible for the proper disposal of animal waste –

- Carry equipment to clean up your service animal's feces whenever the animal is in the common areas.
- Properly dispose of waste and/or litter.
- If you need assistance with clean up, arrange for such help through family, friends or advocates.

PROBLEMS

If you believe rental staff is not handling your request for a service animal properly, contact:

[insert property management contact here].

RESOURCES AND QUESTIONS

If you have questions about this topic, you may wish to consult with an attorney or contact the following agencies:

- **U.S. Department of Housing and Urban Development (HUD)** 1-800-669-9777; www.hud.gov
- **Americans with Disabilities Act Information Line, U.S. Department of Justice (DOJ)**, (800) 514-0301, TTY 800 514-0308; www.ada.gov and www.usdoj.gov/crt/ada/animal.htm and <http://www.justice.gov/crt/us-department-housing-and-urban-development>
- **Maine Human Rights Commission (MHRC)**, 51 State House Station, Augusta, Maine 04333-0051; (207) 624-6290 or www.maine.gov/mhrc/
- **Disability Rights Maine (DRM)**, 24 Stone Street, Suite 204, Augusta, Maine 04330; (800) 452-1948; <http://www.drme.org/>

[SAMPLE] REQUEST FOR REASONABLE ACCOMMODATION

Applicants or residents may use a letter with this type of language when requesting to live with a service or assistance animal as a reasonable accommodation. Use of this form is not required, but it is recommended that accommodation requests be documented in writing.

[date]

To: [Name and address of landlord or manager]

I have a disability as defined by fair housing laws. I use a [service or assistance] animal to assist me with the functional limitations related to my disability. My [service or assistance] animal enhances my ability to live independently, and to use and enjoy my dwelling fully.

Type of service or assistance animal (dog, cat, etc.): _____

As an accommodation for my disability, I request that you:

- ☐ waive your "no pet" policy
- ☐ waive your pet weight/height restrictions
- ☐ waive your pet deposit or fees
- ☐ other: _____

I have attached a letter from my doctor or other medical professional or qualified third party who, in their professional capacity, has knowledge about my disability and my need for a reasonable accommodation. The letter verifies that I have a disability as defined in fair housing laws, and that I have a disability-related need for a [service or assistance] animal.

Please advise me of your response to my request for accommodation by [date].

(sign letter)

Print name, address, and telephone number.

Guidance for Health Care and Qualified Professionals Verifying Reasonable Accommodation and Modification Requests

Dear Health Care Provider or Qualified Individual:

Fair housing laws allow an individual who has a physical, mental or sensory disability to request that a housing provider grant him or her reasonable accommodation (a change in rules, policies, or practices) or a reasonable modification (a structural change to a dwelling). Once an applicant or resident has made a request, a housing provider may ask that the person obtain written verification of disability and/or verification of the need for the accommodation, if not obvious.

Verification of disability or need may come from a medical profession or a reliable third party who is in a professional position to have knowledge about the person's disability and/or need for accommodation. The verification should state that the person meets the fair housing definition of disability and that the requested accommodation is necessary and is related to the disability. Definitions of disability are attached to this form for your convenience and review.

The verification should include the following items:

- I. **Qualification of person writing the verification letter**
- II. **Nature of the relationship** the professional has with the person making the request
- III. **Statement that** the person has a disability that meets the state definition above

Important note: Revealing a diagnosis puts an individual at risk of discrimination. Before naming a specific diagnosis or category of disability, obtain the person's informed consent.

- IV. **Describe how the accommodation or modification requested is necessary** to afford the person equal opportunity to access housing, maintain housing, or for full use and enjoyment of the housing or housing related service. Because housing providers must make only those accommodations or modifications that are necessary, be sure to use words like necessary, essential, prescribed, when describing that the condition creates a need for the accommodation or modification. The role of the verifier is to establish that the need derives from the disability.

SUPPORTING DOCUMENTATION FOR ASSISTANCE ANIMAL IN HOUSING ACCOMMODATIONS

NAME OF INDIVIDUAL: _____

NAME OF PROVIDER: _____

ADDRESS: _____

CREDENTIALS (LICENSE #): _____

The Provider is familiar with the Individual as follows: _____

QUESTION #1 – Does the above-named individual seeking to use and live with the

_____ (description of animal) have a disability? (See attached definitions.)

ANSWER: _____ (YES or NO)

QUESTION #2 – Does the above-named individual have a disability-related need for this animal?

In other words, does the animal work, provide assistance, perform tasks or services for the benefit of the individual, or provide emotional support that alleviates one or more of the identified symptoms or effects of the individual's disability?

ANSWER: _____ (YES or NO)

If the answer to both questions above is "Yes" please briefly describe how this animal will afford the individual the opportunity to use and enjoy their housing, and how the animal alleviates one or more of the identified symptoms of the individual's disability. For example, if the animal provides emotional support, explain briefly how the animal alleviates one or more of the identified symptoms or effects of the disability.

Dated: _____

Signature of Provider

[SAMPLE] RESPONSE TO REQUEST FOR REASONABLE ACCOMMODATION

Management staff may use this type of letter when responding to a request from a resident who wants to live with a service animal.

Date:

Dear [name of tenant]:

We have received your request for a reasonable accommodation. We understand you want to live with a [service or assistance] animal in our housing community. We also received the letter from your [service provider] confirming that you have a disability as defined by fair housing laws and that you have a disability-related need for the animal.

We agree to your request for your [service or assistance] animal to live in your apartment. We will waive our “no pet” policy, waive our pet weight/height restrictions, waiver our pet deposit/pet related fees, and [insert other agreements].

Our rules require residents who have animals to follow noise regulations, to dispose of animal waste properly, to keep their animals from harming or injuring others, and to ensure that the animals do not cause property damage. As noted in your rental agreement, you will be responsible for any damage caused by your animal.

We welcome your animal to our community!

Name

Title

Address and telephone number

Appendix VIII

Appendix VIII

Service Dog Verification Form and Assistance Animal Verification Form

These two forms are intended to replace the current “Service Dog Verification Form for Waiver of License Fee” after the recommendations of this report are approved. The current form is online at:
www.maine.gov/dacf/ahw/animal_welfare/documents/ServiceDogVerificationForm.pdf

Instructions

These forms are for use by Maine Municipal Clerks to verify whether an applicant for a dog license is eligible for a waiver of the license fee. The applicant for a license may have the fee waived if the applicant’s dog is a Service Animal or an Assistance Animal.

A properly filled-out and signed form is verifiable written evidence required by Municipal Clerks for licensing a dog as a Service Animal or Assistance Animal. The Clerk should keep a copy on file.

IMPORTANT NOTE: These forms only serve to verify *for purposes of licensing* that the dog has been individually trained as a Service Animal or that a medical practitioner has prescribed an Assistance Animal for the applicant. This application for fee waiver is entirely optional. Dog owners who do not apply for the fee waiver still may have legitimate Service Animals or Assistance Animals and will be entitled to all the protections of Title 5 M.R.S. § 4553.

State of Maine
Service Dog Verification Form
For Waiver of Annual Dog License Fee for a Service Animal

Part I – Applicant and Dog Information (please print)

Applicant's Information –

Name: _____

Physical Address: _____

Telephone: Home _____ Cell _____

Dog/Animal Information –

Name: _____ Breed/Species: _____ Age: _____

Sex (circle those that apply): Male / Female (Spay / Neuter) Color: _____

Part II – Service Dog Verification

Applicant asserts that this specific dog is a service dog, qualifying under the Federal/State definition of "service dog" because it meets the following standards:

A dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by a service dog must be directly related to the handler's disability. (*The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition*). The dog specified above has been individually trained as a service dog **(check box to identify trainer):**

☐ by the Applicant

☐ by the following person _____; or

☐ provided or trained by a dog-training agency (name / location of agency):

Applicant understands that Maine law provides penalties and fines for knowingly misrepresenting a dog as a service animal. The information on this form is correct to the best of Applicant's knowledge.

Applicant signature

Date

State of Maine
Assistance Animal Verification Form
For Waiver of Annual Dog License Fee for an Assistance Animal

Part I – Applicant and Animal Information (please print)

Applicant's Information –

Name: _____

Physical Address: _____

Telephone: Home _____ Cell _____

Dog/Animal Information –

Name: _____ Breed/Species: _____ Age: _____

Sex (circle those that apply): Male / Female (Spay / Neuter) Color: _____

Part II – Assistance (including an Emotional Support) Dog/Animal:

Applicant asserts that this specific dog is an assistance animal, which term includes an emotional support dog, qualifying under the definition of “assistance animal” in the Maine Human Rights Act because it meets the following standards:

The dog/animal fulfills the function recommended by a Physician, Psychologist, Physician's Assistant, Nurse Practitioner, or Licensed Social Worker (or other healthcare practitioner approved by the Department);

NOTE: The Applicant must have his/her medical practitioner fill out and sign Part III (next page).

Applicant understands that Maine law provides penalties and fines for knowingly misrepresenting a dog or other animal as an assistance animal. The information on this form is correct to the best of Applicant's knowledge.

Applicant signature

Date

Part III – Statement of Medical Practitioner for Waiver of License Fee for an Assistance Animal

TO BE COMPLETED BY YOUR MEDICAL PRACTITIONER

The medical practitioner is a licensed Physician, Psychologist, Physician's Assistant, Nurse Practitioner, Licensed Social Worker, or other practitioner approved by the Department, who is familiar with the Applicant and attests to the need for use of an assistance dog/animal:

Practitioner's Name: _____

Address: _____

Telephone Number: _____

License or Certification Number: _____ State: _____

Applicant's Name: _____

Check boxes that apply:

- ☐ I am a medical practitioner or a Licensed Social Worker, and
- ☐ I have determined that the Applicant has a disability and has a disability-related need for an assistance animal, consistent with the definitions in Maine State law for "disability" and "assistance animal."
- ☐ I have determined that the above named individual's animal is necessary to mitigate the effects of the individual's disability.

Briefly describe how the animal mitigates one or more of the identified symptoms of the individual's disability. For example, if the animal provides emotional support, briefly explain how the animal is necessary to mitigate one or more of the identified symptoms or effects of the disability:

Practitioner understands that Maine law provides penalties and fines for knowingly misrepresenting a dog or other animal as an assistance animal. The information on this form is correct to the best of Practitioner's knowledge.

Practitioner Signature

Practitioner Printed Name

Date

Appendix IX

Appendix IX

Signs - Service Dogs Welcome, Assistance Animals Welcome

A. Text of Model Sign for Posting in Public Accommodations

NO PETS ALLOWED

Service Dogs

[service dog logo and Maine State seal]
trained to assist a person with a disability
Welcome

Dogs must be
UNDER HANDLER'S CONTROL
or can be asked to leave
State Law 5 M.R.S.A. § 4592.8

NOT Allowed: Dogs whose sole function is to provide comfort,
emotional support or companionship do not qualify as service dogs with
public accommodation under federal or Maine State law.

A. Model Sign for Posting in Public Accommodations



B. Text of Model Sign for Housing Accommodations (Pets Allowed)

PETS ALLOWED

Dogs must be
UNDER HANDLER'S CONTROL

All Animals, including Service Dogs and Assistance Animals, may not interfere with the reasonable enjoyment of housing by others.

State Law 5 M.R.S.A. 4582-A

[service dog logo and Maine State seal]

B. Model Sign for Housing Accommodations (Pets Allowed)



C. Text of Model Sign for Housing Accommodations (No Pets Allowed)

NO PETS ALLOWED
Service Dogs &
Assistance Animals Only

Dogs must be
UNDER HANDLER'S CONTROL

The tenant may be asked for documentation verifying
that their Animal is a Service Dog or Assistance Animal
unless the reasons are obvious.

All animals, including Service Dogs and Assistance Animals, may not
interfere with the reasonable enjoyment of housing by others.

State Law 5 M.R.S.A. § 4582-A

[full color Maine State seal to the left]

C. Model Sign for Housing Accommodations (No Pets Allowed)

NO PETS ALLOWED

Service Dogs & Assistance Animals Only



**Dogs must be
UNDER HANDLER'S CONTROL**

The tenant may be asked for documentation verifying that their Animal is a Service Dog or Assistance Animal unless the reasons are obvious.

All animals, including Service Dogs and Assistance Animals, may not interfere with the reasonable enjoyment of the housing by others.

State Law 5 M.R.S.A. § 4582-A

Appendix X

Appendix X

HUD Guidance FHEO-2013-01

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-2000
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

SPECIAL ATTENTION OF:

HUD Regional and Field Office Directors of Public and Indian Housing (PIH); Housing; Community Planning and Development (CPD), Fair Housing and Equal Opportunity; and Regional Counsel; CPD, PIH and Housing Program Providers

FHEO Notice: **FHEO-2013-01**

Issued: April 25, 2013

Expires: Effective until Amended, Superseded, or Rescinded

Subject: Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs

1. Purpose: This notice explains certain obligations of housing providers under the Fair Housing Act (FHA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and the Americans with Disabilities Act (ADA) with respect to animals that provide assistance to individuals with disabilities. The Department of Justice's (DOJ) amendments to its regulations [footnote 1] for Titles II and III of the ADA limit the definition of "service animal" under the ADA to include only dogs, and further define "service animal" to exclude emotional support animals. This definition, however, does not limit housing providers' obligations to make reasonable accommodations for assistance animals under the FHA or Section 504. Persons with disabilities may request a reasonable accommodation for any assistance animal, including an emotional support animal, under both the FHA and Section 504. In situations where the ADA and the FHA/Section 504 apply simultaneously (*e.g.*, a public housing agency, sales or leasing offices, or housing associated with a university or other place of education), housing providers must meet their obligations under both the reasonable accommodation standard of the FHA/Section 504 and the service animal provisions of the ADA.

2. Applicability: This notice applies to all housing providers covered by the FHA, Section 504, and/or the ADA [footnote 2].

1 Nondiscrimination on the Basis of Disability in State and Local Government Services, Final Rule, 75 Fed. Reg. 56164 (Sept. 15, 2010) (codified at 28 C.F.R. part 35); Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Final Rule, 75 Fed. Reg. 56236 (Sept. 15, 2010) (codified at 28 C.F.R. part 36).

2 Title II of the ADA applies to public entities, including public entities that provide housing, *e.g.*, public housing agencies and state and local government provided housing, including housing at state universities and other places of education. In the housing context, Title III of the ADA applies to public accommodations, such as rental offices, shelters, some types of multifamily housing, assisted living facilities and housing at places of public education. Section 504 covers housing providers that receive federal financial assistance from the U.S. Department of Housing and Urban Development (HUD). The Fair Housing Act covers virtually all types of housing, including privately owned housing and federally assisted housing, with a few limited exceptions.

3. Organization: Section I of this notice explains housing providers' obligations under the FHAct and Section 504 to provide reasonable accommodations to persons with disabilities [footnote 3] with assistance animals. Section II explains DOD's revised definition of "service animal" under the ADA. Section III explains housing providers' obligations when multiple nondiscrimination laws apply.

Section I: Reasonable Accommodations for Assistance Animals under the FHAct and Section 504

The FHAct and the U.S. Department of Housing and Urban Development's (HUD) implementing regulations prohibit discrimination because of disability and apply regardless of the presence of Federal financial assistance. Section 504 and HUD's Section 504 regulations apply a similar prohibition on disability discrimination to all recipients of financial assistance from HUD. The reasonable accommodation provisions of both laws must be considered in situations where persons with disabilities use (or seek to use) assistance animals [footnote 4] in housing where the provider forbids residents from having pets or otherwise imposes restrictions or conditions relating to pets and other animals.

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. Assistance animals perform many disability-related functions, including but not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. For purposes of reasonable accommodation requests, neither the FHAct nor Section 504 requires an assistance animal to be individually trained or certified. [footnote 5] While dogs are the most common type of assistance animal, other animals can also be assistance animals.

Housing providers are to evaluate a request for a reasonable accommodation to possess an assistance animal in a dwelling using the general principles applicable to all reasonable accommodation requests. After receiving such a request, the housing provider must consider the following:

3 Reasonable accommodations under the FHAct and Section 504 apply to tenants and applicants with disabilities, family members with disabilities, and other persons with disabilities associated with tenants and applicants. 24 CFR §§ 100.202; 100.204; 24 C.F.R. §§ 8.11, 8.20, 8.21, 8.24, 8.33, and case law interpreting Section 504.

4 Assistance animals are sometimes referred to as "service animals," "assistive animals," "support animals," or "therapy animals." To avoid confusion with the revised ADA "service animal" definition discussed in Section II of this notice, or any other standard, we use the term "assistance animal" to ensure that housing providers have a clear understanding of their obligations under the FHAct and Section 504.

5 For a more detailed discussion on assistance animals and the issue of training, see the preamble to HUD's final rule, Pet Ownership for the Elderly and Persons With Disabilities, 73 Fed. Reg. 63834, 63835 (October 27, 2008).

(1) Does the person seeking to use and live with the animal have a disability — *i.e.*, a physical or mental impairment that substantially limits one or more major life activities?

(2) Does the person making the request have a disability-related need for an assistance animal? In other words, does the animal work, provide assistance, perform tasks or services for the benefit of a person with a disability, or provide emotional support that alleviates one or more of the identified symptoms or effects of a person's existing disability?

If the answer to question (1) **or** (2) is "no," then the FHAct and Section 504 do not require a modification to a provider's "no pets" policy, and the reasonable accommodation request may be denied.

Where the answers to questions (1) **and** (2) are "yes," the FHAct and Section 504 require the housing provider to modify or provide an exception to a "no pets" rule or policy to permit a person with a disability to live with and use an assistance animal(s) in all areas of the premises where persons are normally allowed to go, unless doing so would impose an undue financial and administrative burden or would fundamentally alter the nature of the housing provider's services. The request may also be denied if: (1) the specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation, or (2) the specific assistance animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation. Breed, size, and weight limitations may not be applied to an assistance animal. A determination that an assistance animal poses a direct threat of harm to others or would cause substantial physical damage to the property of others must be based on an individualized assessment that relies on objective evidence about the specific animal's actual conduct — not on mere speculation or fear about the types of harm or damage an animal may cause and not on evidence about harm or damage that other animals have caused. Conditions and restrictions that housing providers apply to pets may not be applied to assistance animals. For example, while housing providers may require applicants or residents to pay a pet deposit, they may not require applicants and residents to pay a deposit for an assistance animal. [footnote 6]

A housing provider may not deny a reasonable accommodation request because he or she is uncertain whether or not the person seeking the accommodation has a disability or a disability related need for an assistance animal. Housing providers may ask individuals who have disabilities that are not readily apparent or known to the provider to submit reliable documentation of a disability and their disability-related need for an assistance animal. If the disability is readily apparent or known but the disability-related need for the assistance animal is not, the housing provider may ask the individual to provide documentation of the disability related need for an assistance animal. For example, the housing provider may ask persons who are seeking a reasonable accommodation for an assistance animal that provides emotional

6 A housing provider may require a tenant to cover the costs of repairs for damage the animal causes to the tenant's dwelling unit or the common areas, reasonable wear and tear excepted, if it is the provider's practice to assess tenants for any damage they cause to the premises. For more information on reasonable accommodations, see the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, *Reasonable Accommodations Under the Fair Housing Act*, <http://www.htuLgov/offices/fheo/library/huddoistatement.pdf>.

support to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal provides emotional support that alleviates one or more of the identified symptoms or effects of an existing disability. Such documentation is sufficient if it establishes that an individual has a disability and that the animal in question will provide some type of disability-related assistance or emotional support.

However, a housing provider may not ask a tenant or applicant to provide documentation showing the disability or disability-related need for an assistance animal if the disability or disability-related need is readily apparent or already known to the provider. For example, persons who are blind or have low vision may not be asked to provide documentation of their disability or their disability-related need for a guide dog. A housing provider also may not ask an applicant or tenant to provide access to medical records or medical providers or provide detailed or extensive information or documentation of a person's physical or mental impairments. Like all reasonable accommodation requests, the determination of whether a person has a disability-related need for an assistance animal involves an individualized assessment. A request for a reasonable accommodation may not be unreasonably denied, or conditioned on payment of a fee or deposit or other terms and conditions applied to applicants or residents with pets, and a response may not be unreasonably delayed. Persons with disabilities who believe a request for a reasonable accommodation has been improperly denied may file a complaint with HUD. (footnote 7)

Section II: The ADA Definition of "Service Animal"

In addition to their reasonable accommodation obligations under the FHAct and Section 504, housing providers may also have separate obligations under the ADA. **DOD's** revised ADA regulations define "service animal" narrowly as any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The revised regulations specify that "the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition." [footnote 8] Thus, trained dogs are the only species of animal that may qualify as service animals under the ADA (there is a separate provision regarding trained miniature horses [footnote 9]), and emotional support animals are expressly precluded from qualifying as service animals under the ADA.

The ADA definition of "service animal" applies to state and local government programs, services activities, and facilities and to public accommodations, such as leasing offices, social service center establishments, universities, and other places of education. Because the ADA requirements relating to service animals are different from the requirements relating to assistance animals under the FHAct and Section 504, an individual's use of a service animal in an ADA-covered facility must not be handled as a request for a reasonable accommodation under the FHAct or Section 504. Rather, in ADA-covered facilities, an animal need only meet the definition of "service animal" to be allowed into a covered facility.

7 Ibid.

8 28 C.F.R. § 35.104; 28 C.F.R. § 36.104.

9 28 C.F.R. § 35.136(i); 28 C.F.R. § 36.302(c)(9).

To determine if an animal is a service animal, a covered entity shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A covered entity may ask: (1) Is this a service animal that is required because of a disability? and (2) What work or tasks has the animal been trained to perform? A covered entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. These are the only two inquiries that an ADA-covered facility may make even when an individual's disability and the work or tasks performed by the service animal are not readily apparent (*e.g.*, individual with a seizure disability using a seizure alert service animal, individual with a psychiatric disability using psychiatric service animal, individual with an autism-related disability using an autism service animal).

A covered entity may not make the two permissible inquiries set out above when it is readily apparent that the animal is trained to do work or perform tasks for an individual with a disability (*e.g.*, the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability). The animal may not be denied access to the ADA-covered facility unless: (1) the animal is out of control and its handler does not take effective action to control it; (2) the animal is not housebroken (*i.e.*, trained so that, absent illness or accident, the animal controls its waste elimination); or (3) the animal poses a direct threat to the health or safety of others that cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices and procedures. [footnote 10] A determination that a service animal poses a direct threat must be based on an individualized assessment of the specific service animal's actual conduct – not on fears, stereotypes, or generalizations. The service animal must be permitted to accompany the individual with a disability to all areas of the facility where members of the public are normally allowed to go. [footnote 11]

Section III. Applying Multiple Laws

Certain entities will be subject to both the service animal requirements of the ADA and the reasonable accommodation provisions of the FHAct and/or Section 504. These entities include, but are not limited to, public housing agencies and some places of public accommodation, such as rental offices, shelters, residential homes, some types of multifamily housing, assisted living facilities, and housing at places of education. Covered entities must ensure compliance with all relevant civil rights laws. As noted above, compliance with the FHAct and Section 504 does not ensure compliance with the ADA. Similarly, compliance with the ADA's regulations does not ensure compliance with the FHAct or Section 504. The preambles to Dal's 2010 Title II and Title III ADA regulations state that public entities or public accommodations that operate housing facilities "may not use the ADA definition [of "service animal"] as a justification for reducing their FHAct obligations." [footnote 12]

¹⁰ 28 C.F.R. § 35.136; 28 C.F.R. § 36.302(c).

¹¹ For more information on ADA requirements relating to service animals, visit DOJ's website at www.ada.gov.

¹² 75 Fed. Reg. at 56166, 56240 (Sept. 15, 2010).

The revised ADA regulations also do not change the reasonable accommodation analysis under the FHAct or Section 504. The preambles to the 2010 ADA regulations specifically note that under the FHAct, "an individual with a disability may have the right to have an animal other than a dog in his or her home if the animal qualifies as a 'reasonable accommodation' that is necessary to afford the individual equal opportunity to use and enjoy a dwelling, assuming that the use of the animal does not pose a direct threat." [footnote 13] In addition, the preambles state that emotional support animals that do not qualify as service animals under the ADA may "nevertheless qualify as permitted reasonable accommodations for persons with disabilities under the FHAct. [footnote 14] While the preambles expressly mention only the FHAct, the same analysis applies to Section 504.

In cases where all three statutes apply, to avoid possible ADA violations the housing provider should apply the ADA service animal test first. This is because the covered entity may ask only whether the animal is a service animal that is required because of a disability, and if so, what work or tasks the animal has been trained to perform. If the animal meets the test for "service animal," the animal must be permitted to accompany the individual with a disability to all areas of the facility where persons are normally allowed to go, unless (1) the animal is out of control and its handler does not take effective action to control it; (2) the animal is not housebroken (i.e., trained so that, absent illness or accident, the animal controls its waste elimination); or (3) the animal poses a direct threat to the health or safety of others that cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices and procedures. [footnote 15]

If the animal does not meet the ADA service animal test, then the housing provider must evaluate the request in accordance with the guidance provided in Section I of this notice.

It is the housing provider's responsibility to know the applicable laws and comply with each of them.

Section IV. Conclusion

The definition of "service animal" contained in ADA regulations does not limit housing providers' obligations to grant reasonable accommodation requests for assistance animals in housing under either the FHAct or Section 504. Under these laws, rules, policies, or practices must be modified to permit the use of an assistance animal as a reasonable accommodation in housing when its use may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling and/or the common areas of a dwelling, or may be necessary to allow a qualified individual with a disability to participate in, or benefit from, any housing program or activity receiving financial assistance from HUD.

¹³ 75 Fed. Reg. at 56194, 56268.

¹⁴ 75 Fed. Reg. at 56166, 56240,

¹⁵ 28 C.F.R § 35.136; 28 C.F.R. § 36.302(c).

Questions regarding this notice may be directed to the HUD Office of Fair Housing and Equal Opportunity, Office of the Deputy Assistant Secretary for Enforcement and Programs, telephone 202-619-8046.

[signed]
John Trasvinia, Assistant Secretary for
Fair Housing and Equal Opportunity

Appendix XI

Appendix XI

Service Dog Training - Best Practices and Etiquette

General Training Guidance

Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. A service dog can be any size or breed of dog. They are trained to do work or tasks that provide assistance directly related to the person's disability. The service dog should be attentive to the handler's commands and needs. They should demonstrate strong obedience and socialization skills. Additionally they must be trained to do tasks or work that assist to mitigate or alleviate some aspect of the person's disability and needs to be trained with strong public access skills.

Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

How does a service dog acquire this training? There are many different types of training regimens and training styles and the ADA does not dictate or recommend any particular protocol. A service dog can be trained by an agency, a private dog trainer or the disabled person for whom the service dog will assist. A service dog needs to be housebroken and have 3 skill sets and they are:

- Strong obedience and socialization skills,
- Work or task skill that provides assistance that must be directly related to the person's disability, and
- Public access skills which allows the dog to work effectively in a variety of public settings.

Training Standards: International Association of Assistance Dog Partners

Note: These standards are adapted from IAADP. The term "assistance dog" used by IAADP has been changed to "service dog" for consistency with Maine statutes.

For disabled citizens who want to train a dog to be their service dog, but do not know how much training or what kinds of training to give the dog, IAADP has developed a set of Minimum Training Standards for Public Access. These are drawn from the Minimum Training Standards for Service Dogs first established a decade ago by Assistance Dogs International (ADI) with consumer input from IAADP. Visit www.assistedogsinternational.org

A disabled person who wants the right to be accompanied by a service dog in public is encouraged to meet or exceed the minimum standards set forth below for training the dog for public access.

IAADP Minimum Training Standards for Public Access

1. **Amount of Schooling:** A service dog should be given a minimum of one hundred twenty (120) hours of schooling over a period of six months or more. At least thirty (30) hours should be devoted to outings that will prepare the dog to work obediently and unobtrusively in public places.

2. **Obedience Training:** A dog must master the basic obedience skills: "Sit, Stay, Come, Down, Heel" and a dropped leash recall in a store in response to verbal commands and/or hand signals.

3. **Manners:** A dog must acquire proper social behavior skills. It includes at a minimum:

- No aggressive behavior toward people or other animals - no biting, snapping, snarling, growling or lunging and barking at them when working off your property.
- No soliciting food or petting from other people while on duty.
- No sniffing merchandise or people or intruding into another dog's space while on duty.
- Socialize to tolerate strange sights, sounds, odors etc. in a wide variety of public settings.
- Ignores food on the floor or dropped in the dog's vicinity while working outside the home.
- Works calmly on leash. No unruly behavior or unnecessary vocalizations in public settings.
- No urinating or defecating in public unless given a specific command or signal to toilet in an appropriate place.

4. **Disability Related Tasks:** The dog must be individually trained to perform identifiable tasks on command or cue for the benefit of the disabled human partner. This includes alerting to sounds, medical problems, certain scents like peanuts or situations if training is involved.

For a definition of a "task" and "individually trained," and "what is not a task" and many examples of tasks performed by different kinds of service and assistance dogs, see: Traditional Service Dog Tasks - Assistance Dog Tasks: www.iaadp.org/tasks.html
Service Dog Tasks for Psychiatric Disabilities: www.iaadp.org/psd_tasks.html

5. **Prohibited Training:** Any training that arouses a dog's prey drive or fear to elicit a display of aggression for guard or defense purposes is strictly prohibited. Non-aggressive barking as a trained behavior is permitted in appropriate situations.

6. **Trainer's Responsibilities:** Trainers function as ambassadors for the service dog movement. This includes a disabled owner-trainer, a provider's staff or a volunteer with a puppy or adult dog "in training." It also includes a service dog partner or able-bodied

facilitator helping a disabled loved one to keep up a dog's training. At a minimum, you should:

- Know pertinent canine laws (i.e. leash laws and public access laws)
- Ensure the dog is healthy, flea free and the rabies vaccination is up to date
- Take time to make sure your dog is well groomed and free of any foul odor
- Show respect and consideration to other people and property.
- Use humane training methods; monitor the dog's stress level; provide rest breaks.
- Carry clean up materials. Arrange for prompt clean up if a dog eliminates or gets sick.
- Be polite and willing to educate the public about service dogs and access rights.

Testing Standard: AKC Canine Good Citizen (CGC) Test

NOTE: Dogs that have passed the CGC Test should not be confused with service dogs. Service dogs help people who have disabilities. CGC dogs do not have the same access to public places as service dogs, unless they have been trained to perform tasks or do work for an individual with a disability.

The American Kennel Club (AKC) Canine Good Citizen (CGC) Test is a 10 item test and all 10 must be passed to obtain the CGC title or certificate. Items on the Canine Good Citizen Test include:

Test 1: Accepting a friendly stranger

This test demonstrates that the dog will allow a friendly stranger to approach it and speak to the handler in a natural, everyday situation. The evaluator walks up to the dog and handler and greets the handler in a friendly manner, ignoring the dog. The evaluator and handler shake hands and exchange pleasantries. The dog must show no sign of resentment or shyness.

Test 2: Sitting politely for petting

This test demonstrates that the dog will allow a friendly stranger to touch it while it is out with its handler. With the dog sitting at the handler's side, to begin the exercise, the evaluator pets the dog on the head and body. The handler may talk to his or her dog throughout the exercise. The dog may stand in place as it is petted. The dog must not show shyness or resentment.

Test 3: Appearance and grooming

This practical test demonstrates that the dog will welcome being groomed and examined and will permit someone, such as a veterinarian, groomer or friend of the owner, to do so. It also demonstrates the owner's care, concern and sense of responsibility. The evaluator inspects the dog to determine if it is clean and groomed. The dog must appear to be in

healthy condition (i.e., proper weight, clean, healthy and alert). The handler should supply the comb or brush commonly used on the dog. The evaluator then softly combs or brushes the dog, and in a natural manner, lightly examines the ears and gently picks up each front foot. It is not necessary for the dog to hold a specific position during the examination, and the handler may talk to the dog, praise it and give encouragement throughout.

Test 4: Out for a walk (walking on a loose lead)

This test demonstrates that the handler is in control of the dog. The dog may be on either side of the handler. The dog's position should leave no doubt that the dog is attentive to the handler and is responding to the handler's movements and changes of direction. The dog need not be perfectly aligned with the handler and need not sit when the handler stops. The evaluator may use a pre-plotted course or may direct the handler/dog team by issuing instructions or commands. In either case, there should be a right turn, left turn, and an about turn with at least one stop in between and another at the end. The handler may talk to the dog along the way, praise the dog, or give commands in a normal tone of voice. The handler may sit the dog at the halts if desired.

Test 5: Walking through a crowd

This test demonstrates that the dog can move about politely in pedestrian traffic and is under control in public places. The dog and handler walk around and pass close to several people (at least three). The dog may show some interest in the strangers but should continue to walk with the handler, without evidence of over-exuberance, shyness or resentment. The handler may talk to the dog and encourage or praise the dog throughout the test. The dog should not jump on people in the crowd or strain on the leash.

Test 6: Sit and down on command and Staying in place

This test demonstrates that the dog has training, will respond to the handler's commands to sit and down and will remain in the place commanded by the handler (sit or down position, whichever the handler prefers). The dog must do sit AND down on command, then the owner chooses the position for leaving the dog in the stay. Prior to this test, the dog's leash is replaced with a line 20 feet long. The handler may take a reasonable amount of time and use more than one command to get the dog to sit and then down. The evaluator must determine if the dog has responded to the handler's commands. The handler may not force the dog into position but may touch the dog to offer gentle guidance. When instructed by the evaluator, the handler tells the dog to stay and walks forward the length of the line, turns and returns to the dog at a natural pace. The dog must remain in the place in which it was left (it may change position) until the evaluator instructs the handler to release the dog. The dog may be released from the front or the side.

Test 7: Coming when called

This test demonstrates that the dog will come when called by the handler. The handler will walk 10 feet from the dog, turn to face the dog, and call the dog. The handler may use encouragement to get the dog to come. Handlers may choose to tell dogs to "stay" or "wait" or they may simply walk away, giving no instructions to the dog.

Test 8: Reaction to another dog

This test demonstrates that the dog can behave politely around other dogs. Two handlers and their dogs approach each other from a distance of about 20 feet, stop, shake hands and exchange pleasantries, and continue on for about 10 feet. The dogs should show no more than casual interest in each other. Neither dog should go to the other dog or its handler.

Test 9: Reaction to distraction

This test demonstrates that the dog is confident at all times when faced with common distracting situations. The evaluator will select and present two distractions. Examples of distractions include dropping a chair, rolling a crate dolly past the dog, having a jogger run in front of the dog, or dropping a crutch or cane. The dog may express natural interest and curiosity and/or may appear slightly startled but should not panic, try to run away, show aggressiveness, or bark. The handler may talk to the dog and encourage or praise it throughout the exercise.

Test 10: Supervised separation

This test demonstrates that a dog can be left with a trusted person, if necessary, and will maintain training and good manners. Evaluators are encouraged to say something like, "Would you like me to watch your dog?" and then take hold of the dog's leash. The owner will go out of sight for three minutes. The dog does not have to stay in position but should not continually bark, whine, or pace unnecessarily, or show anything stronger than mild agitation or nervousness. Evaluators may talk to the dog but should not engage in excessive talking, petting, or management attempts (e.g., "there, there, it's alright").

Testing Standard: The Public Access Test

How will you know when your dog is ready to graduate from an "in training" status to the status of a full-fledged service dog with whom you are entitled to have public access rights?

An excellent tool for evaluating a team's readiness to graduate [e.g. finish up formal training] is the Public Access Certification Test (PACT) which can be found on the website

of Assistance Dogs International at www.assistedogsinternational.org. The ADI Public Access Certification Test was developed over 15 years ago as a consumer protection measure by the ADI Team Testing Committee, which included input from both providers and IAADP Partner members. Overall, the goal of the test is to discover whether or not a particular team is ready to go places out in public without trainer supervision. The safety of the dog, the handler and the public were the main considerations in developing the specific exercises for testing the team.

This test creates a level playing field, since it does not matter whether it is a guide, hearing or service dog team being tested or who trained the dog. What matters is the team's performance. Every ADI program is required to administer this test before graduating and credentialing a team.

Disability mitigating tasks or work are not critiqued during the test. However, to establish a dog's eligibility to take this test to become a service dog, ADI programs would ask for a demo in advance of at least three service dog tasks, three hearing dog sound alerts or a series of tasks known as "guide dog work." To document the dog performs tasks in the home such as seizure response work, alerting to an attack of hypoglycemia late at night or fetching a portable phone or beverage, a program may ask the client to submit a video tape of the task(s).

The Public Access Test evaluates the dog's obedience and manners and the handler's skills in a variety of situations which include:

A. The handler's abilities to: (1) safely load and unload the dog from a vehicle; (2) enter a public place without losing control of the dog; (3) to recover the leash if accidentally dropped, and (4) to cope calmly with an access problem if an employee or customer questions the individual's right to bring a dog into that establishment.

B. The dog's ability to: (1) safely cross a parking lot, halt for traffic, and ignore distractions; (2) heel through narrow aisles; (3) hold a Sit-Stay when a shopping cart passes by or when a person stops to chat and pets the dog; (4) hold a Down Stay when a child approaches and briefly pets the dog; (5) hold a Sit Stay when someone drops food on the floor; hold a Down Stay when someone sets a plate of food on the floor within 18" of the dog, then removes it a minute later. [the handler may say "Leave It" to help the dog resist the temptation.] (6) remain calm if someone else holds the leash while the handler moves 20 ft. away; (7) remain calm while another dog passes within 6 ft. of the team during the test. This can occur in a parking lot or store. Alternatively, you could arrange for a neighbor with a pet dog to stroll past your residence while you load your dog into a vehicle at the beginning of the test.

*** It is highly recommended the test be videotaped to document the team passed it.

IAADP agrees with ADI's ethical position that the amount of training given to a service dog should NEVER fall below the minimum level needed to pass this Public Access Test.

Service Dog Etiquette: Tips for the General Public

Please:

- do not distract the service dog from its work, especially when they are in training
- do not tease the service dog
- speak to the handler and not the service dog
- ask the handler if you can have permission before patting the service dog
- do not ask personal questions about the handler's medical condition or disability
- do not offer or give food to the service dog without permission

Appendix XII

Appendix XII

Maine Surveys of Service Animals and Assistance Animals

A. MREMA Survey of Assistance Animals in Housing

The Maine Real Estate Managers Association surveyed its members in December 2015 about the number of assistance animals (which includes service dogs) residing in their rental housing units. Responding managers represented roughly half the housing units managed by MREMA members. Below is a table showing county-by-county responses.

County	Total # Units Managed in County	Total # Assistance Animals in County	% of Units with Assistance Animals
Androscoggin	1300	183	14.1%
Aroostook	455	56	12.3%
Cumberland	1632	94	5.8%
Franklin	32	4	12.5%
Hancock	501	85	17.0%
Kennebec	1308	172	13.1%
Knox	145	10	6.9%
Lincoln	178	24	13.5%
Oxford	123	13	10.6%
Penobscot	1861	281	15.1%
Piscataquis	128	2	1.6%
Sagadahoc	370	44	11.9%
Somerset	104	27	26.0%
York	801	71	8.9%
Waldo	298	61	20.5%
Washington	98	34	34.7%
TOTAL	9334	1161	12.4%

B. Maine Municipal Clerks Count of Service Animals, 2015

The Clerks in 142 municipalities reported to the Animal Welfare Division in Department of Agriculture, Conservation and Forestry the following numbers for registered dogs that were verified as service animals in 2015.

Acton	1
Albion	0
Alna	0
Anson	0
Arrowsic	1
Arundel	1
Atkinson	0
Auburn	9
Augusta	21
Bangor	14
Belfast	2
Benton	1
Biddeford	7
Brewer	6
Bridgewater	0
Bristol	1
Brownfield	0
Brownville	1
Buckfield	3
Bucksport	4
Buxton	1
Cambridge	0
Camden	5
Canaan	1
Cape Elizabeth	2
Caribou/Connor TWP	2
Castle Hill	0
Chapman	0
Charleston	0
China	1
Clifton	2
Clinton	1
Cooper	0
Cranberry Isles	0
Damariscotta	0
Dexter	1
Dyer Brook	0
Ellsworth	1
Enfield	1
Fairfield	3

Falmouth	4
Fayette	1
Fryeburg	0
Gorham	2
Gray	4
Hallowell	2
Hammond	0
Hampden	0
Harpswell	1
Hermon	2
Hiram	0
Hollis	1
Hope	0
Houlton	2
Hudson	0
Islesboro	0
Jay	0
Kennebunk	12
Kennebunkport	2
Kingfield	0
Kittery	0
Lee	0
Leeds	0
Levant	2
Lewiston	26
Limington	3
Lincolnville	1
Linneus	1
Ludlow	0
Machias	1
Machiasport	0
Madawaska	2
Madison	1
Mapleton	2
Mariaville	0
Marshfield	0
Milford	1
Montville	0
Mount Chase	0
Mount Desert	0

Mount Vernon	1
Newburgh	0
Newcastle	0
Newry	0
Nobleboro	1
North Berwick	1
Northport	0
North Yarmouth	1
Ogunquit	0
Old Orchard Beach	2
Old Town	2
Orient	0
Orono	2
Orrington	4
Osborn	0
Owls Head	2
Palermo	0
Poland	2
Portland	38
Presque Isle	3
Prospect	0
Richmond	1
Rockport	2
Sabattus	5
Saco	7
St. Agatha	0
St. George	0
St. John Plantation	0
Sanford	4
Scarborough	2
Sedgwick	1
Shapleigh	1
Smithfield	0
Somerville	0

Sorrento	0
South Berwick	2
South Portland	12
Standish	1
Steuben	2
Stockholm	0
Strong	0
Sumner	1
Temple	0
Thorndike	0
Turner	1
Unity	1
Vinalhaven	1
Warren	0
Washburn	2
Waterville	8
Weld	0
Wesley	0
Weston	0
West Paris	0
Westport Island	0
Wilton	2
Windham	8
Winslow	0
Wiscasset	3
Woolwich	2
Yarmouth	2
York	2

TOTAL 298

Appendix XIII

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Dissenting Opinion

A Task Force to Ensure Integrity in the Use of Service Animals

By Dan Bernier, Representing the Central Maine Apartment Owners Association

The Task Force to Ensure Integrity of the Use of Service Animals had many meetings with excellent discussions. The passion of the people with service animals was wonderful to hear. The people with service animals clearly felt that fake service animals and out of control service animals hurt them. The Task Force quickly reached consensus on that issue. Conceptually, the Task Force reached consensus on many issues; however, the purpose of the Task Force by its very name was to ensure integrity in the use of service animals. The question that has to be answered is did the Task Force achieve that goal?

The proposed signs put together by the Task Force that businesses could use are helpful. These can help businesses that do not have large legal budgets put up a sign making it clear that they have the right to deal with an out of control service animal. The question will be where will these signs be published so it is known they are reliable and a business cannot be sued just for using them, perhaps the Maine Human Rights Commission website or The Department of Agriculture website or both. The proposed signs are one of the strong points of the report.

The changes to the Human Rights Act to allow the Human Rights Commission to take action against someone who misrepresents an animal as a service animal did not get in the report. However, it appears some updating of Maine's law regarding misrepresentation will. There was consensus from the Task Force that these laws largely exist for the deterrent effect and will not likely be enforced. The Task Force could not come to consensus on giving people notice or giving notice to health care providers that it was a violation of the law to participate in misrepresenting an animal as a service animal as that might be to intimidating. We have a law that is designed for its deterrent effect, but could not come to consensus on the issue of providing notices to people that the law exists. This reduces any deterrent effect that this change in the law would have. For a law of this type, notices are commonly given.

The Task Force came to consensus that in housing a landlord may ask for verification of the need for the service animal unless the reasons for the service animal are obvious or apparent. However, the Task Force could not come to consensus on when a landlord may say no you have not provided sufficient documentation. Saying a landlord may ask for documentation without providing guidance at what point they can say no the documentation is not sufficient renders the landlords ability to ask for documentation meaningless. Landlords are often provided with one sentence letters saying a tenant needs a service animal. The landlord who refuses that service animal runs the risk of being brought in front of the Human Rights Commission, a very intimidating threat to the landlord so many landlords just let it go.

A big issue that the Task Force was not going to come to consensus on is should the law be “intentionally vague” or should it be clear? Most businesses and landlords do not want to win cases in front of the Human Rights Commission, but rather they do not want to have cases in front of the Human Rights Commission to begin with. A vague law makes it very difficult to do that. As it was clear from the beginning there would not be consensus on making changes to try to clarify Maine’s Law, the Task Force had to move onto other issues. It is important to note that it is much easier for business owners to deal with regulations, whether they agree with them or not, if they understand them. A regulation a business owner does not understand because it is too vague is very hard to comply with. An “intentionally vague” law does give the Human Rights Commission the discretion to decide each case on an individual basis. However, it also allows landlords and business owners to be intimidated very easily because it is very hard to tell what they can and cannot do. An “Intentionally vague” law works especially hard on smaller landlords and businesses that do not have large legal budgets with which to fight frivolous cases. A smaller business owner when threatened with being brought before the Human Rights Commission is much more likely to just give in because they do not have the budget to fight. During the months of the Task Force deliberations two different cases that I was dealing with demonstrate this. In one, a tenant’s dog bit the landlord’s employee. Shortly thereafter, the tenant produced a letter claiming the dog was a service animal. While this would seem like a cut and dry case, the landlord felt extremely intimidated. A second case involved a landlord evicting someone for failure to pay rent. After falling behind on rent, the tenant said they had a service animal while not producing any verification. The tenant threatened the landlord that he would “lose everything” if he proceeded. Again, the landlord felt very intimidated even though that would seem like a very cut and dry case. In each of those cases, it is far too easy for the tenant to file a complaint with the Human Rights Commission and force the landlord to go to the expense of defending themselves, and damage the landlord’s reputation that they had complaints filed against them with the Human Rights Commission.

Another issue that the Task Force spent a great deal of time on was the difference between housing and public accommodations. These differences boiled down to two major differences: First, public accommodations (being restaurants, stores and many other types of entities) only have to allow the true service animal and not the assistance animal or emotional support animals; whereas, Housing has to allow the assistance animals or emotional support animals including service animals. Second public accommodations are very limited in the questions that they can ask in verifying whether a service animal is truly needed or truly a service animal; whereas, housing may ask for written verification unless the reasons for the service animal or assistance animal are obvious or apparent. The best work of the Task Force was done in trying to put together materials to educate on those points and the Task force report needs to be commended on the work it did in that area. Current, Maine law includes assistance animals under the definition of service animals. This will hopefully be clarified.

During the Task Force one of the most interesting discussions was when two of the people with service animals said their primary concern is they do not want to be discriminated against and they argued for some sort of meaningful certification so that people would know their service animal was a true service animal. This was also brought up by several legislators during the discussions of service animal related bills. While there are details that would need to be worked out in a certification system, it is a good idea. The members of the Task Force who suggested this were told they could not do it under Federal Law as were the legislators who brought it up in the past. In reality, landlords and I suspect other business owners really do not want to have to decide who has a legitimate service animal and who does not, they would rather have someone else make that decision for them. They just want to know that any certification system is meaningful. A meaningful certification system does not mean a perfect system. Almost any certification system would be better than the system we have now where anybody can just go on line get documentation claiming their animal is a service animal. While the task force agreed the large on line industry giving out letters to anyone who asked was a problem, the Task Force could not come up with a solution.

This draws attention to another issue. During the discussion of various legislation on service animals, the legislative committees could never really get to discussing what they would want to do to solve this problem, but rather were stuck discussing what Federal Agencies would not allow them to do. In the case of housing, we are mostly talking about the Fair Housing Act and with respect to public accommodations we are talking about the American's with Disabilities Act. However, very little of what we are talking about would

you actually find if you read the Fair Housing Act or American With Disabilities Act . Most of what we are talking about has come from “guidance” or “interpretation” from HUD and when we say Federal Law we need to understand that is what we are referring to, with some of this HUD has gone through formal rule making process. The largest problem out there is HUD has limited a State’s ability to deal with these problems. In order to truly solve this problem HUD needs to give the Maine Legislature more flexibility in dealing with this problem and perhaps that needs to be addressed to HUD.

Another issue we face is do we want a system that puts no burden on the person with an animal to demonstrate that their animal is a true service animal or an assistance animal? Or do we want a system that places a reasonable burden to demonstrate that your animal qualifies as a service animal or assistance animal? A system where no burden is placed on the person is a system where fraud will run wild. When fraud runs wild, this will result in people with true service animals being treated with suspicion and resentment. A system where a reasonable burden is placed on them would benefit everyone.

With a certification system, a reasonable burden could be placed on them and fraud could be limited. In a certification system they would have to go get certified once and whatever little card they get they could just show to any landlord and any business they go to instead of having to constantly reprove that their animal is a legitimate service animal or assistance animal. We do this for parking spaces now.

We also need to decide if we want to have a system which balances the rights of people with assistance animals with the rights of other tenants to have a safe, clean, quiet place to live, or do we want a system where the only rights respected are those of the person with the assistance animal. If the system does not respect the rights of others, this will result in some treating people with assistance animals with resentment.

While the Task Force report contains good recommendations and hard work, it does not contain recommendations that will make a meaningful difference in ensuring integrity in the use of service animals. The proposal for Legislative Committees of the Maine Legislature to write a letter to our Congressional delegation and Federal Agencies is a positive step in the right direction. Federal Agencies need to give the Maine legislature more flexibility to ensure integrity in the use of service animals and assistance animals. It is important this

letter cover misrepresentation and misuse of assistance animals including service animals in both public accommodations and housing.