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Consultation - Accessibility Legislation
c/o Office for Disability Issues
Employment and Social Development Canada
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Office for Disability Issues staff:

Psychiatric Service Dog Partners is a US-based nonprofit that advocates internationally, with the majority of our constituents residing in the United States and Canada. We are a consumer-oriented, all-volunteer organization operated by people with disabilities, so our advocacy efforts prioritize people over corporations. We welcome the opportunity to comment on prospective nationwide disability rights legislation in Canada, as it has been a long time coming!

Your office requested "feedback on the overall goal and approach".¹ We provide such feedback below (§1), in addition to some pointers specific to the use of service animals (§2) and resources for exploring those ideas (§3).

§1. Overall goal and approach

Some countries and some Canadian provinces legislate based on something like the medical model of disability. This is a kind of model in which disability rights are granted from some third party, such as a medical worker or a large service dog business. We find this approach does not "promote equality of opportunity and increase the inclusion and participation of Canadians who have disabilities or functional limitations."²

People with disabilities deserve the opportunity for self-determination. If a competent person with a disability decides a cane, wheelchair, or service dog is the best device to facilitate their integration in society, that integration should not hinge on whether someone else authorizes it.

People with disabilities deserve inclusion in society without needing to procure or show a badge or paperwork to obtain the same goods and services others do in their daily lives without such documentation. If a person with a disability has a cane, wheelchair, or service dog that appears to be in working order and is not damaging or otherwise placing an undue burden on an establishment, that person's right to access should not depend on a documentation system wherein the default must essentially assume guilt until innocence is

1 <https://www.canada.ca/en/employment-social-development/programs/disability/consultations/accessibility-legislation.html>

2 Ibid.

proven.

§2. *Pointers specific to the use of service animals*

Here we outline recommended aspects of service animal legislation based on the desiderata above, years of expertise, and consultation with other groups. We are happy to elaborate upon request; many of these points are explained in the resources referred to in the next section.

- Different standards for service animal team access may be warranted for places of public accommodation, employment, housing, and aviation contexts
- Service animals given public access should be limited to dogs individually trained to recognize and respond to commands or changes in the person or environment, in a manner that mitigates the person's life-limiting disability
- Service dog teams must behave appropriately and not cause an undue burden in order to have access in places pets are not normally allowed; service dogs are not given a free pass to misbehave
- Service dog handlers must exercise due control in public, including the dog being on a leash, harness, or other tether connected to the person, unless the person's disability or the dog's active assistance requires not using such a tether
- Places of public accommodation should not be allowed to require documentation or special gear to verify the status of a dog as an active service dog (assuming that status is in question in the first place)
- Anyone with a disability that can be helped by a service dog can use a service dog, without legal distinctions that discriminate based on type of disability ("physical" vs. "mental")
- Since several thousand persons with disabilities have successfully trained their own service dogs, there should not be a restriction on disability mitigation based on who trains the dog (an organization-only approach disenfranchises thousands of people, especially those whose disabilities render owner-training more effective)
- No skills or public access test should be required for access with a service dog (there is no universal test or way to equitably implement a nationwide testing program that does not unduly burden many people with disabilities)
- Similar access should be given to anyone actively training a dog to be a service dog, in order to allow for the proper training of service dogs ("service dog in training" access)
- Places of public accommodation should not be allowed to charge additional fees for service dog or service dog in training teams
- Places of public accommodation are not responsible for the care or handling of service dogs or service dogs in training
- When a service dog or service dog in training is properly excluded from a place of public accommodation and the person is not, the person should still be given the opportunity to obtain the goods or services without the dog

- There should be no breed, size, or weight restrictions on service dogs or service dogs in training

§3. Resources for exploring these ideas

When it comes to service animal regulations, we generally support the US Department of Justice's regulations implementing the Americans with Disabilities Act. In particular, Titles II³ and III⁴ provide an excellent structure overall for service dog law covering places of public accommodation. USDOJ has also quite helpfully provided a discussion of their reasoning for the latest update to the Title II⁵ and Title III⁶ regulations.

Ontario attempted an update in 2014 to the Accessibility for Ontarians with Disabilities Act (AODA) regulations. This was a decent effort; we laud its better qualities and advise how to mend its faults in our comment,⁷ which your office may find particularly helpful.

Flight access is a special case. We have put a lot of energy into developing and gaining consensus around an update for US service animal flight access laws, since the current system has significant problems. As a leading member of United Service Animal Users, Supporters, and Advocates, we recently submitted the products of this effort⁸ to the Canadian Transportation Agency for their Regulatory Modernization Initiative.⁹ We wager there is no more comprehensive or consensus-based report in this area than what we produced with a diversity of other groups.

PSDP would be happy to partner with you to help develop laws that serve the best interests of Canadians. Please do contact us if we can further contribute in any way.

Warm regards,



Bradley W. Morris, MA, CPhil
 Director of Government Relations
 Psychiatric Service Dog Partners



Psychiatric Service Dog Partners' purpose is to promote the mental health of people using service dogs for psychiatric disabilities by educating, providing expertise, facilitating peer support, and promoting responsible service dog training and handling.

- <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=2ab2aab2d3d2fd0f544a5ce7aad8f04c&rgn=div5&view=text&node=28:1.0.1.1.36&idno=28#28:1.0.1.1.36.2.32.7>
- <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&n=28y1.0.1.1.37&r=PART#28:1.0.1.1.37.3.32.2>
- <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&r=APPENDIX&n=28y1.0.1.1.36.7.32.3.11>
- <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&r=APPENDIX&n=28y1.0.1.1.37.6.32.8.13>
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