Rapid Research Report

Can Title II or III entities request documentation of a disability for an individual to receive a reasonable modification under the ADA?

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EXECUTIVE SUMMARY AND DEFINITIONS

This report will discuss what kind of documentation an entity may request of an individual with disabilities under Title II and Title III of the Americans with Disabilities Act ("ADA"). As many readers will know, a person with a disability can request a reasonable modification to access the programs and services of an entity under Titles II and III of the ADA. Typically, an individual with a disability requests the modification, the entity considers the request, and the entity grants the request or reasonable alternatives, unless the request would fundamentally alter the service, program, or accommodations the entity offers. In some cases, however, entities may request limited documentation from an individual in order to understand the disability-related need for a modification. While it may be appropriate to request documentation in certain situations, Title II and III entities generally cannot request extensive personal or medical documentation from an individual with a disability.

The ADA does not explicitly state that entities can require documentation of a disability for a reasonable modification under Titles II and III, and there is limited case law that directly addresses this issue. Overly broad or intrusive inquiries into the existence of a disability can perpetuate stereotypes, intrude on an individual's privacy, and lead to discriminatory treatment. Because of this, the Department of Justice ("DOJ") has stated that a Title II or Title III entity cannot make "unnecessary inquiries" into the existence of a disability.[1] An entity may only request documentation if the disability-related need for a particular modification is not obvious. Furthermore, an entity's request must be reasonable and tailored to the need for the reasonable modification.[2] The type and extent of a permissible request for documentation depends on the nature of an individual's disability and the modification the individual requests from the entity.

Notably, guidance under Title I of the ADA provides more detail regarding an inquiry into a disability and related documentation for reasonable accommodations in the context of employment. However, Titles II and III do not have the same level of detail in the regulations, guidance documents, or case law on the issue.[3] This report will focus exclusively on what is permissible under Titles II and III and will only discuss Title I as is relevant. The terms reasonable accommodation and reasonable modification are used for similar purposes throughout the ADA.[4] Title I uses the term "reasonable accommodation" whereas Titles II and III use the term "reasonable modification." This report will follow this usage and use "reasonable modification" for Title II and Title III.

First, this report will provide a brief overview of Title II and Title III of the ADA and the applicable entities that each section regulates. Second, the report will discuss the standard of reasonableness and what makes an inquiry unnecessary, drawing on Title I for guidance. Third, the report will provide illustrations regarding documentation requests in the context of Titles II and III. Fourth and finally, the report will conclude by providing general guidance for people with disabilities and Title II and Title III entities regarding what documentation requests are permissible.

I. INTRODUCTION – TITLE II AND TITLE III

a. Title II – State and Local Government

Title II of the ADA broadly prohibits public entities from discriminating against individuals based on their disability.[5] Public entities can include public schools; state and local governments; public transportation; social services; and voting facilities, among other things.[6] Title II requires public entities to ensure that their programs, activities, and services are accessible to people with disabilities.[7] This can include effective communication with people with disabilities; reasonable modifications to policies, practices, and procedures; and ensuring physical buildings are accessible to allow people

with disabilities to access programs.[8] Specifically, public entities are required to make reasonable modifications in "policies, practices, or procedures" to prevent discrimination based on disability.[9] For example, a state park that typically prohibits motorized vehicles on hiking paths could make a reasonable modification to the policy for a person who uses a motorized wheelchair for a mobility disability.[10] However, if the reasonable modification will fundamentally alter the "nature of the service, program, or activity," the entity is not required to grant that particular modification.[11] DOJ defines a fundamental alteration in the context of Title II as "something that would change the essential nature of the entity's programs or services."[12] For example, if a local government is hosting a beach volleyball tournament and an individual with disabilities is unable to participate outdoors, the government would not be required to move the tournament to an indoor space because this would fundamentally alter the program.[13]

When considering reasonable modification requests and other accessibility questions, Title II does not explicitly allow public entities to request documentation of a disability to access programs nor does it prohibit public entities from requesting documentation. However, the Title II Technical Assistance Manual does provide limited guidance regarding documentation which will be discussed below.

b. Title III – Public Accommodations

Title III of the ADA prohibits disability-based discrimination in public accommodations and commercial facilities.[14] This category includes, but is not limited to, businesses and nonprofits that serve the public; restaurants; hotels and motels; private schools; private hospitals, and gyms, among other things.[15] Importantly, religious organizations and their facilities and private clubs that meet specific requirements are exempt from Title III.[16] Religious entities can include mosques, synagogues, churches and any places or programs that religious entities control, including schools, day care centers,

thrift shops, food banks, and shelters.[17] Religious entities are still exempt from Title III even if they are open to the public; however, religious entities are subject to Title I of the ADA if they have more than fifteen employees.[18] The rationale behind the religious exemption lies in the First Amendment to the U.S. Constitution, which protects the free exercise of religion.[19] For a private club to be exempt from the ADA, the club must have meaningful conditions for membership whose facilities are only open to members and not to the general public.[20] Private clubs are exempt from Title III of the ADA because they are, by definition, not open to the general public or considered a public accommodation. However, Title I of the ADA still applies to private clubs, and if a private club opens itself up to the general public, it may be subject to Title III of the ADA during the time it is open to the public.

The requirements for businesses under Title III are similar to those that public entities are subjected to under Title II.[21] A business is required to grant reasonable modifications to "policies, practices, or procedures" unless the modification would fundamentally alter the nature of the business's goods or services.[22] Similar to the definition of fundamental alteration for Title II, DOJ defines a fundamental alteration under Title III as "something that causes a change in the essential nature of [a] business."[23] For example, if a clothing store has a policy that allows only one customer in a fitting room at a time, the clothing store can modify that policy to allow a person with disabilities to enter the fitting room with a companion to help her in the fitting room.[24] However, the clothing store would not be required to provide assistance to a person with disabilities in the dressing room, as this could be considered a fundamental alteration to the normal business procedures of the store or a personal service explicitly not required by the statute.[25]

II. THE "REASONABLE" STANDARD

According to federal regulations, "any request for required documentation [must be] reasonable and limited to the need for the requested modification."[26] The regulations do not offer a particular definition of reasonable, leaving it up to interpretation under further guidance from DOJ and court cases. This section will explore what may or may not be reasonable in a request for documentation.

a. Unnecessary Inquiries

Although the regulations do not specifically address what kind of documentation a Title II or Title III entity may request to "verify" a disability, guidance documents and court cases provide an idea of what may or may not be permissible. Under the official language of the Title II Technical Assistance Manual, "a public entity may not make unnecessary inquiries into the existence of a disability."[27] Furthermore, Title II or III entity may only request documentation of an individual's disability if that person's disability-related need is not immediately obvious.[28] For example, if a state agency is running a traumatic brain injury program, the agency may request documentation of a severe brain injury to establish that an individual is eligible to participate in the program.[29] Traumatic brain injuries are often not immediately obvious because individuals with this disability may not need to use mobility devices or otherwise outwardly demonstrate signs of a condition that impacts their daily living. However, it is unlikely that an agency could request information about how an individual acquired the brain injury or what the individual's treatment plan is if that information is not relevant to the person's eligibility for the state program.

When evaluating a person's reasonable modification request, a Title II or Title III entity should first consider whether the disability-related need is obvious. If the need is obvious, the entity most likely should not proceed in requesting further documentation. However, if the need is not obvious, an

entity may request limited documentation from an individual. DOJ guidance encourages Title II and Title III entities to review past modifications when considering a request for a reasonable modification under the ADA.[30] For example, a middle school student has an Individualized Education Program ("IEP") accommodation to receive oral lectures in written form. If that student moves to a new high school and requests the same modification, the school evaluating that request should take into account that the student received a modification under his IEP previously.

Notably, in the context of student accommodations in schools, DOJ has stated that the prior testing results or grades of a student seeking a reasonable modification may not be relevant to the determination of an appropriate reasonable modification.[31] For example, if a student has Attention Deficit Hyperactivity Disorder ("ADHD") and seeks a reasonable modification for additional time for a test, a school does not automatically have permission to consider the student's past testing scores or time spent on tests.[32] Importantly, across Titles II and III, courts have generally concluded that in a legal case under the ADA, the person with disabilities bears the burden of proving that a modification request is reasonable, rather than an entity.[33] Because Title III does not specifically state which party bears the burden of proving the reasonableness of a modification, courts defer to guidance from DOJ.[34] For example, in *Johnson v. Gambrinus Company/Spoetzl Brewery,* the patron of a brewery sought a reasonable modification to bring his service animal into the facility, which had a no animals policy.[35] The Fifth Circuit Court of Appeals concluded that the plaintiff had proven this modification was reasonable because DOJ had stated in its regulations and associated commentary that allowing a service dog in a place of public accommodation is generally reasonable.[36] Once an individual with disabilities proves that the modification is reasonable, the burden rests on the public entity to prove that the modification would either alter the nature of the accommodation or

threaten the health or safety of the others.[37] In *Johnson*, the brewery was unable to demonstrate how the presence of a service dog would reach this standard.[38]

b. Specific Limitations on Inquiries Under Title II

In 2024, DOJ specifically stated that a public entity should not inquire about the nature or extent of an individual's disability in two circumstances: (1) service dogs; and (2) mobility devices.[39] First, a public entity may not ask an individual about the nature or extent of her disabilities if the individual uses a service dog nor may an entity ask for a license or certification for a service dog.[40] However, as is discussed subsequently in this report, the entity may ask two permitted questions about the service dog. Second, DOJ has stated that a public entity may not inquire as to the nature or extent of an individual's disability if the person uses a wheelchair or other mobility device.[41] The entity may ask the person to provide "a credible assurance" that he requires the mobility device because of a disability.[42] Such credible assurance can include a state-issued disability parking placard, state-issued proof of disability, or a verbal representation that is "not contradicted by observable fact."[43] DOJ specifically stated that it has a "longstanding, well-established policy" that public entities may not require proof of a mobility disability to respect the privacy of individuals with disability.[44] Beyond these two specific limitations on inquiries, DOJ has not provided extensive guidance regarding documentation inquiries under Title II. However, DOJ has stated that the threshold inquiry of "whether an individual's impairment is a disability under the ADA should not demand extensive analysis" meaning that entities generally should not engage in a lengthy process to determine if a person has an ADA-eligible disability.[45]

c. Title I – EEOC Guidance in Employment

As discussed above, courts have looked to Title I guidance in the context of employment to address uncertainties under Titles II and III

regarding reasonable modifications. Under the guidance from the Equal Employment Opportunity Commission ("EEOC"), an employer and an employee should engage in an informal discussion regarding an appropriate reasonable accommodation for a disability.[46] If the disability is not obvious, the employer may ask an employee about the nature of her disability to determine the relevant reasonable accommodation.[47] An employer may also request "reasonable documentation" about a person's disability and "functional limitations," as discussed below.[48] The EEOC states that reasonable documentation includes that which would establish that a person has a disability as defined by the ADA and that the person needs a reasonable accommodation at work for that disability.[49] For example, an employer could request documentation regarding an individual's visual ability if the individual needs a screen reader for her job; however, it is unlikely that the employer could request documentation regarding how an individual acquired a visual impairment because that would not be relevant to the determination of a disability or a reasonable accommodation.

III. ILLUSTRATIONS UNDER TITLE II AND TITLE III

This section will discuss illustrations under Title II and Title III from federal court cases under the ADA in various regions in the U.S. As discussed, there is limited case law that specifically addresses the issue of documentation under Title II and Title III, so this section does not provide an exhaustive overview of cases from the Rocky Mountain Region.

a. Title II Illustration – A Student's Reasonable Modifications at a University

As discussed above, because of the limited nature of guidance under Titles II and III, courts often turn to guidance under Title I of the ADA which applies to employment situations. For example, in *Florek v. Creighton University*, a student, Ms. Florek, requested a reasonable modification for

extra time on exams, among other things, due to her traumatic brain injury.[50] The university requested medical documentation of Ms. Florek's traumatic brain injury to determine appropriate reasonable modifications.[51] Over time, Ms. Florek and the university disagreed about the modifications and the student's performance and the university ultimately dismissed Ms. Florek from the program and she subsequently brought suit for a failure to accommodate, among other claims.[52] One of Ms. Florek's claims was that the university improperly required her to provide updated documentation to renew her modifications for another semester.[53]

In response to Ms. Florek's claim regarding documentation, the court turned to guidance from the EEOC regarding what documentation an entity may request.[54] The EEOC states that an employer may "ask an individual for reasonable documentation about his/her disability and functional limitations."[55] As a result, the court in *Florek* concluded that the university was "permitted to request reasonable documentation of [the student's] disability and functional limitations."[56] However, the court did not further discuss what is considered "reasonable" under Title II. The court did state that the "uncertainties" associated with recovery from a traumatic brain injury and further uncertainties related to this particular student's injury warranted requests for renewed documentation.[57] Furthermore, the court stated that a reasonable jury could find for either side on the question of documentation finding either that: (1) Ms. Florek had submitted sufficient documentation to request a modification; or (2) Ms. Florek did not provide ongoing documentation and was therefore not entitled to reasonable modifications.[58] At trial, the jury ultimately concluded in favor of the university, meaning the university's requests for renewed documentation for the reasonable modifications were reasonable.[59]

Florek is a case from the U.S. District Court for the District of Nebraska, meaning that it is not binding law on any Rocky Mountain states. However,

Rocky Mountain states within the Eighth Circuit, namely North Dakota and South Dakota, could turn to *Florek* for persuasive authority and use the EEOC guidance similarly. Nevertheless, the way in which courts in other federal districts and circuits view the applicability of Title I requirements to Title II and III cases varies. Some courts view the applicability of the requirements with skepticism and are reticent to apply the same standards to Title II and III cases.[60]

b. Title III Illustration – Service Animals

DOJ has specifically commented on when an inquiry into a disability may be unnecessary and discriminatory. DOJ has specifically commented on the context of an inquiry into whether a service animal is necessary. As readers may know, entities may typically only ask two questions related to a person's service animal: (1) is this animal a service animal required because of a disability; and (2) what work or task has the animal been trained to perform?[61] As discussed above, DOJ has stated that public entities should not inquire as to the "nature or extent of a person's disability" or ask for a certification or license for the animal if the person has a service animal.[62] However, the guidance regarding emotional support animals is less clear and the final rule did not cover guidance on emotional support animals. DOJ has long held that emotional support animals do not qualify as service animals.[63] However, DOJ recognizes psychiatric service animals as those who perform tasks including reminding a person with disabilities to take medication, checking a room for a person with post-traumatic stress disorder, or removing a disoriented person from a dangerous situation.[64] Importantly, DOJ has specifically stated that a request for documentation of a disability in the context of a service animal and in many others may result in unequal treatment of people with disabilities.[65]

In 2010, DOJ published a rule that discussed the ADA and Title III entities.[66] When a federal agency proposes a rule, the public has the

opportunity to comment on the rule before it is finalized.[67] A individual who comments could range from an everyday citizen to a non-profit doing disability-related work, bringing comments from a variety of perspectives. After DOJ initially proposed the 2010 rule, some individuals commented and suggested that a Title III entity could require documentation in the case of a service animal. In particular, commenters argued that a Title III entity could request documentation that was no more than one year old, was written on letterhead from a mental health professional, and stated the following three things: "(1) [t]hat the individual seeking to use the animal has a mental health-related disability; (2) that having the animal accompany the individual is necessary to the individual's mental health or treatment or to assist the person otherwise; and (3) that the person providing the assessment of the individual is a licensed mental health professional and the individual seeking to use the animal is under that individual's professional care."[68] Businesses who commented on the rule advocated for a narrow definition of service animals allowed in places of public accommodation and that DOJ should provide specific guidance on what kind of animals are permitted.[69]

In response to these comments, DOJ concluded that, "a documentation requirement of this kind would be unnecessary, burdensome, and contrary to the spirit, intent, and mandates of the ADA."[70] Furthermore, DOJ stated that broad requests for documentation could result in treating people with "psychiatric, intellectual, and other mental disabilities less favorably than persons with physical or sensory disabilities."[71] DOJ also highlighted the impractical nature of providing such documentation.[72] If the ADA required such documentation in the context of a service animal, an individual with disabilities would have to carry documentation with them anytime they, "seek to engage in ordinary activities of daily life in their communities."[73] However, DOJ addressed the issue of the definition of a service animal by narrowing the definition to service dogs only.[74] Specifically,

DOJ stated that the rule covers service dogs and, in limited circumstances, miniature horses that are service animals, but it does not cover other service animals or emotional support animals.[75] In other areas of the law, animals that are not dogs can also serve as service animals, but DOJ limited this specific rule to dogs only and included a limited exception for miniature horses.[76] Specifically, the rule requires public accommodations to "make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability." However, ponies and full size horses are not included and "covered entities may exclude this type of service animal if the presence of the miniature horse, because of its larger size and lower level of flexibility, results in a fundamental alteration to the nature of the services provided."[77] DOJ included service dogs used for psychiatric disabilities, but highlighted that any other kind of service animal is not covered under the rule.[78] This limitation means that the 2010 rule does not provide detailed guidance on how much documentation an entity could request if an individual with disabilities has an emotional support animal or an assistance animal. Therefore, if an individual seeks a reasonable modification for a service animal, a Title III entity may ask the two permitted questions above; however, if an individual has an emotional support animal, it is unclear what kind of documentation an entity could request.

c. *Title III Illustration – Individualized Education Plan at Summer Camp*

A court case out of the Eighth Circuit illustrates one court's perspective regarding a potentially unnecessary inquiry into a child's disability. In *Koester v. YMCA of Greater St. Louis,* the Eighth Circuit Court of Appeals evaluated whether the YMCA violated the ADA by requesting documentation regarding a child's disabilities in relation to his participation in a summer camp.[79] In

Koester, the plaintiff wanted to enroll her child, who had autism and Down syndrome, in a YMCA summer camp.[80] The YMCA, a public accommodation subject to Title III of the ADA, required families of children with IEPs to submit the IEPs to the YMCA.[81] The YMCA used the IEPs to determine what reasonable modifications were necessary for children with disabilities, but the YMCA did not use the IEPs to screen children out of participation in camp programs.[82] The plaintiff, Ms. Koester, objected to the requirement of her child's IEP because she thought the IEP was a confidential document that contained sensitive information.[83] Instead, Ms. Koester offered to provide additional information about the necessary modifications from her child's pediatrician.[84] The YMCA offered to accept documentation from the pediatrician that discussed her child's diagnosis, socio-emotional behavior, speech, needs for adaptive equipment, toileting information, behavioral triggers, and the child's ability to follow directions, among other things.[85] However, the plaintiff promptly filed suit under the ADA, alleging that the requirement of the IEP was discriminatory.[86]

In *Koester,* the court concluded that the IEP was not necessary in its entirety; however, the YMCA nevertheless did not discriminate against the prospective camper because the IEP request was aimed to determine reasonable modifications rather than to screen out campers with disabilities.[87] While this case does not provide instructive limitations on the extent of permissible documentation, it is a useful illustration of a case in which a Title III entity was within its limits to request documentation. This case is an Eighth Circuit case, meaning it is binding on the Rocky Mountain states of North Dakota and South Dakota; however, other circuit courts and district courts could turn to this case as persuasive authority.

IV. CONCLUSION – WHAT TO EXPECT

a. People with Disabilities – what documentation can an entity request?

Although there is no explicit guidance regarding what documentation a Title II or III entity can request when an individual with disabilities requests a reasonable modification, there are a few broad principles that individuals with disabilities can keep in mind. If an entity or individual asks a person with disabilities for documentation for a reasonable modification for an obvious disability, people with disabilities likely will not need to provide additional documentation. Individuals with less obvious disabilities can expect to provide basic, unobtrusive documentation that is directly relevant to the reasonable modification at question if an entity requests that documentation. People with disabilities likely do not need to provide documentation that reveals extensive private information or any information that is not relevant to the reasonable modification. If an individual thinks that a request for documentation is unreasonable at any time, she may state as much to the entity and ask why a particular document is necessary or pertinent to the requested reasonable modification.

For example, an individual with arthritis in her knees that impacts her ability to use a bicycle can request a reasonable modification for a city gymnasium to purchase a stationary handcycle because she cannot use a stationary bicycle without pain. The city gymnasium has a limited budget to purchase additional equipment and wants to ensure that gym patrons will use the handcycle. Because arthritis is not necessarily immediately obvious, the city gymnasium could likely ask the individual for limited documentation that demonstrates that she has arthritis that impacts her ability to use a stationary bicycle. Such documentation could include a short email from her medical provider stating that the provider treats her for arthritis. However, the gymnasium likely could not ask the individual for a full medical report of her arthritis, the history of her arthritis, her treatment plan, her medication, or

other personal details. These questions would likely constitute an "unnecessary inquiry" that is not reasonable to determine if the reasonable modification is appropriate.

If an individual with disabilities requests a reasonable modification that might "fundamentally alter the nature of the service, program, or activity" of an entity, the person should be aware that a Title II or III entity is entitled to refuse to make that modification, regardless of the documentation that a person with disabilities provides.[88] Using the above example, if the gymnasium only offers group workout classes and does not have workout equipment, like stationary bicycles, the gym could likely demonstrate that purchasing a handcycle would fundamentally change the nature of the gym's service.

b. Title II and Title III Entities – what documentation may I request from a person with disabilities?

As discussed above, Title II and Title III entities should generally keep the principles of "reasonableness" and "necessity" in mind when considering whether to ask for documentation and the scope of that request. If an individual requesting a reasonable modification has an immediately obvious disability and the modification is directly relevant to that disability, a Title II or III entity likely should not request additional documentation. Obvious disabilities are most often those which require the use of a service dog, wheelchair, cane, or other mobility device; however, there may be obvious disabilities in which a mobility device is not necessary, and the disability is nevertheless obvious. Based on DOJ guidance discussed above, if an individual uses a service dog or a mobility device, an entity likely may not ask for much further verification of a disability. If an individual's disability is not immediately obvious, an entity can request limited, necessary, and reasonable documentation. Non-obvious disabilities can include mental disabilities; chronic illnesses such as diabetes; seizure disorders; and

traumatic brain injuries, among other things.[89] Limited, necessary, and reasonable documentation typically would not infringe on an individual's privacy, nor would it include information that is not strictly necessary to evaluate the feasibility or appropriateness of a reasonable modification.

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[2] 28 C.F.R. Appendix C to Part 35: Guidance to Revisions to ADA Title II and Title III Regulations Revising the Meaning and Interpretation of the Definition of 'Disability' and Other Provisions in Order To Incorporate the Requirements of the ADA Amendments Act, https://www.ecfr.gov/current/title-28/chapter-I/part-35/appendix-Appendix%20C%20to%20Part%2035 (last amended April 8, 2025; accessed April 15, 2025).

[3] New England ADA Center, "ADA Title II Requirements", https://www.adaactionguide.org/ada-title-ii-requirements (accessed April 14, 2025).

[4] Reasonable modifications and reasonable accommodations sometimes mean different things outside of the context of the ADA. For example, under the Fair Housing Act, a reasonable modification is a structural change to a property whereas a reasonable accommodation is a change or adjustment to a policy, procedure, or rule. *See* DC.gov Department of Disability Services "What are Reasonable Accommodations and Reasonable Modifications," https://dds.dc.gov/page/g%C2%A0what-are-reasonable-accommodations-and-reasonable-modifications (accessed April 14, 2025).

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[32] *Id.*

[33] *See, e.g. Johnson v. Gambrinus Company/Spoetzl Brewery*, 116 F.3d 1052, 1059 (5th Cir. 1997).

[34] *Id.* at 1060-61.

[35] *Id.* at 1064.

[36] *Id.*

[37] *Id.*

[38] *Id.*

[39] U.S. Department of Justice: Civil Rights Division, "Americans with Disabilities Act Title II Regulations."

[40] *Id.*

[41] *Id.*

[42] *Id.*

[43] *Id.*

[44] *Id.*

[45] U.S. Department of Justice: Civil Rights Division, "Final Rule, Amendment of ADA Title II and Title III Regulations To Implement ADA Amendments Act of 2008," (August 11, 2016) https://www.federalregister.gov/documents/2016/08/11/2016-17417/amendment-of-americans-with-disabilities-act-title-ii-and-title-iii-regulations-to-implement-ada (accessed April 15, 2025).

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[59] *Florek v.* Creighton Univ., No. 8:22CV194, 2024 U.S. Dist. LEXIS 219062 at *6-7 (De. Neb. Dec. 4, 2024).

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[65] 28 C.F.R. Appendix A to Part 36: Guidance on Revisions to ADA Regulation on Nondiscrimination on the Basis of Disability by Public Accommodations and Commercial Facilities, https://www.ecfr.gov/current/title-28/chapter-I/part-36/appendix-Appendix%20A%20to%20Part%2036 (last amended April 8, 2025; accessed April 14, 2025).

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[72] *Id.*

[73] *Id.*

[74] *Id.; see* 28 C.F.R. § 36.104, "Nondiscrimination On The Basis Of Disability By Public Accommodations And In Commercial Facilities," https://www.ecfr.gov/current/title-28/chapter-I/part-36 (accessed April 15, 2025) which defines service animal as "means 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 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,"

[75] 28 C.F.R. Appendix A to Part 36 ("As a consequence, the Department has decided to limit this rule's coverage of service animals to dogs, which are the most common service animals used by individuals with disabilities.").

[76] *Id.*

[77] *Id.*

[78] *Id.*

[79] *Koester*, 855 F.3d at 909.

[80] *Id.*

[81] *Id.*

[82] *Id.*

[83] *Id.* at 910.

[84] *Id.*

[85] *Id.*

[86] *Id.*

[87] *Id.* at 913.

[88] 28 C.F.R. § 35.130.

[89] Northeast ADA Center, "Tool 4 – Defining Disability: Obvious and Non-Obvious Disabilities," https://northeastada.org/talking-to-managers/4 (accessed April 14, 2025).