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Service Animals in Food Facilities

Introduction

The California Retail Food Code (CalCode), Section 114259.5(a) does not allow live animals in a food facility. However, CalCode makes exceptions for some animals, including service animals as required by the Americans with Disabilities Act (ADA). Questions arise as to what qualifies as a service animal and the legal issues surrounding this topic. This handout is meant to help clarify these legal issues.

What is a “Service Animal”?

CalCode Section 113903(a) defines a service animal 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, or that is in training to do that work or perform those tasks. Service animal does not include any other species of animals, whether wild or domestic, trained or untrained.”

Questions that can be asked

According to the 2010 ADA revised requirements, a food facility operator can ask the following questions to determine if a customer has a legitimate service animal:

- 1) **Is this animal required because of a disability?**
- 2) **What work or task has this animal been trained to perform?**

If the customer gives credible answers to these questions, the animal is a service animal under ADA. No documentation is required.

Please note: A public entity or private business may not ask about the nature or extent of an individual’s disability. It also may not require documentation, such as proof that the animal has been certified, trained or licensed as a service animal, or require the animal to wear an identifying vest.

Requirements for Service Animals

CalCode 114259.5(b)(4) states that service animals may be allowed if the contamination of food, clean equipment, utensils, linens, and unwrapped single-use articles cannot result. Service animals are allowed in areas that are not used for food preparation and that are usually open for consumers, such as dining and sales areas, if a health or safety hazard will not result from the presence or activities of the service animal.

This section provides that service animals cannot contaminate food or food-related equipment while at the food facility. An operator can exclude the service animal if it is causing a health or safety hazard.

Accommodation of Animal

An operator does not have to accommodate the animal if it is not a service animal or is not trained to perform a service or task. Mental and emotional comfort do not meet the definition of task or service.

Conclusion

Customers utilizing trained service animals have a right to be accommodated. Trained service animals should not pose a health or safety hazard, but if a hazard does occur, the service animal can be excluded from the food facility.