

**Guidance Concerning Policies or
Practices that Unlawfully Exclude
Puppy Raisers as Handlers or
Trainers of Guide or Support
Animals' Access to Public
Accommodations**

**Prepared By Pennsylvania
Human Relations Commission**

Guidance Concerning Policies and/or Practices that Unlawfully Exclude Puppy Raisers as Handlers or Trainers of Guide or Support Animals Access to Public Accommodations

(Adopted by the Pennsylvania Human Relations Commission on July 27, 2015)

1. Introduction

The Pennsylvania Human Relations Commission (hereinafter Commission or PHRC), cognizant of the fundamental guarantee found in the Pennsylvania Human Relations Act (hereinafter PHRA) that the “The opportunity for an individual...to obtain all the accommodations, advantages, facilities and privileges of any public accommodation and of any housing accommodation and commercial property without discrimination because of race, color, familial status, religious creed, ancestry, handicap or disability, age, sex, national origin, the use of a guide or support animal because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals is hereby recognized as and declared to be a civil right which shall be enforceable as set forth in this act” sets forth the following Guidance for use by those responsible for providing public accommodations, housing accommodation or commercial property within the Commission’s jurisdiction.¹

Those responsible for providing such opportunities include, but are not limited to, those found in the Pennsylvania Human Relations Act Section 954 (i) (Housing Accommodations, 954 (j) (Commercial Property), and 954 (k) (Public Accommodation).² The Commission, in proposing this Guidance, begins with the recognition that it is the expressed public policy of the Commonwealth to “...to assure equal opportunities to all individuals and to safeguard their rights to public accommodation and to secure housing accommodation and commercial property regardless of race, color, familial status, religious creed, ancestry, age, sex, national origin, handicap or disability, use of guide or support animals because of blindness or deafness of the user or **because the user is a handler or trainer of guide or support animals.**” (emphasis added)³ The Commission further recognizes that to safeguard the right to equal opportunities for all individuals

¹ 43 P.S. § 953.

² See 43 P.S. §§ 954 (i), (j), and (k).

³ 43 P.S. § 952 (b).

requires the elimination of policies or practices that exclude individuals who are handlers or trainers of guide or support animals within the parameters set forth in this Guidance.

The Commission notes at the outset that this Guidance, as is apparent from the Guidance Heading, is limited to establishing Guidance in the area of unlawful discrimination with regard to a handler or trainer of guide or support animals. Such Guidance does not affect complaints alleging disparate treatment based upon any other protected class with regard to allegations of unlawful discrimination in employment. All other verified Complaints not related to unlawful discrimination with regard to a handler or trainer of guide or support animals in public and housing accommodations and commercial property, will continue to be processed in accordance with standard PHRC policies and procedures for investigating disparate treatment and impact cases.

2. Parameters and Purpose of Policy Guidance

In proposing this Guidance, the Commission has set forth factors that it considers to be important in determining whether, in any given case, a party has engaged in unlawful discrimination based on an individual's status as a handler or trainer of guide or support animals in violation of Section 5 of the PHRA. In so doing, the Commission reiterates its longstanding position that this Guidance is not intended to impose hard and fast rules that must be absolutely applied without regard to the specific facts involved. The Guidance is intended to provide both guidance and assistance to those who come under the jurisdiction of the Commission as it continues its effort to ensure that the right to equal opportunities, as set forth in the PHRA, is achieved.

Nothing in this Guidance shall affect statutory or regulatory requirements. The Guidance is neither an adjudication nor a regulation. There is no intent on the part of the PHRC to give the Guidance that type of binding force or effect. This Guidance indicates the manner in which the Commission intends to exercise its administrative discretion, unless it is convinced otherwise during the course of a specific proceeding. The Commission, as in the past, remains committed to ensuring that its adjudicative determinations are made on a case-by-case basis after consideration of all evidence of record in the given matter.

To this end, the Guidance may be deviated from whenever the PHRC believes that any statute or regulation requires it, or that it is otherwise appropriate to do so. The Guidance may not be cited as binding legal authority for any PHRC ruling, adjudication or other legally binding action. The legal rationales set forth in a policy may be cited as the basis for PHRC action to the extent that the Commission believes the rationale is valid in the context of the specific proceeding.

3. Summary of Need for the Issuance of the Policy Guidance

It is important to clarify that providers of public and housing accommodations must allow puppy raisers access to their facilities in order to fully effectuate the PHRA. This is especially true, when the Americans with Disabilities Act (ADA) does not require governments or public accommodations to allow individuals without disabilities, such as

puppy raisers, access to their facilities. However, unlike the ADA, the PHRA expressly protects the rights of handlers or trainers of service animals access to public and housing accommodations. In other words, the PHRA provides more protection than its federal counterpart, the ADA.⁴

4. PHRC Executive and Legal Staff Review of the Policy Guidance

Development of the Policy Guidance springs from and is framed by the investigation, Finding of Probable Cause, and finally the Commission's Consent Order in *Deborah Rosan v. Haverford Township Free Library*, Docket No. 201106080.⁵ Reliance on the Consent Order is deemed appropriate because of its review for content and legal sufficiency by members of the Executive Staff and by the Office of Chief Counsel. Following the execution of the Consent Order, Commissioners directed the Executive Director and Office of Chief Counsel to prepare a proposed Policy Guidance consistent with the Consent Order for consideration by the Commissioners.

⁴ Pennsylvania courts interpreting the PHRA have consistently recognized that when the PHRA provides more protection than the parallel federal statutes, PHRA's expansive statutory language prevails. *Harrisburg School Dist. V. PHRC*, 466 A.2d 760, 762-763 (Pa. Commw. 1983).

⁵ A copy of the Commission's Consent Order is attached as Appendix "A."

The Policy Guidance

The PHRA states that it shall be a discriminatory practice for “any person being the owner, lessee proprietor, manager, superintendent, agent, or employee of any public accommodation” to “[r]efuse, withhold from, or deny to any person because . . . the user is a handler or trainer of support or guide animals . . . any of the accommodations, advantages, facilities, or privileges of such public accommodation, resort or amusement.” 43 P.S. § 955(i)(1).

The PHRA’s protection of handlers and trainers of guide dogs in training is in accordance with the definition of “service dog” in Pennsylvania’s Dog Law, which includes dogs “in the process of being trained as a guide dog.”⁶ Likewise, Pennsylvania’s parallel criminal statute, 18 Pa. C.S.A. § 7325, makes it a summary offense to deny service to a user of a support animal or a person “who is training a guide, signal or support dog or other aid animal for or from a recognized authority for such a user.” As long as the animals are undergoing training to be guide animals for or from a recognized authority for such a user, those who train them receive protection from the PHRA.

Therefore, it is the position of the PHRC that a Puppy Raiser for an organization that raises and trains puppies to become guide or support animals for persons with disabilities shall be considered to be a “handler or trainer of guide or support animals” as those terms are used in Section 5 (i) (1) of the PHRA.⁷

Generally, a Puppy Raiser is an individual who has agreed to serve as a custodian for a guide dog puppy until the guide dog puppy is around 12-14 months old. During that time the Puppy Raiser prepares the guide dog puppy for more rigorous training through socialization, obedience, and good manner training. Without proper socialization, the guide dog puppy is likely to become fearful or distracted in strange surroundings, thereby rendering the dog unfit to serve as a service or support animal.

The word “trainer” in the PHRA encompasses more than simply those who train animals as a profession. “A dog cannot acquire discernable skills as a service dog without some type of training,” but the training does not necessarily have to be done by a professional.⁸ It is important to note that there are no “uniform professional standards of certification for service animals or service animal trainers,” and no means by which trainers are

⁶ 3 P.S. § 459-102.

⁷ Federal regulations establish minimum requirements for service animals, including that the animal be individually trained and work for the benefit of a disabled individual. 28 C.F.R. § 36.104. *See also Green v. Housing Authority of Clackamas County*, 994 F. Supp. 1253, 1256 (D. Or. 1998). There is no requirement for the amount or type of training that animal must undergo or work the animal must provide to the disabled individual, so long as it meets those two general requirements. *Id.* At 1256.

⁸ *In re Kenna Homes Coop, Corp.*, 210 W. Va. 380, 390 (2001).

certified by local, state or federal government.⁹ While some “industry standards” exist for service animal trainers and Puppy Raisers, these standards suggest a requirement of merely more than basic obedience training.¹⁰ A trainer can therefore be a professional or non-professional, as long as he or she trains the animal and ensures that it possesses “abilities unassigned to the breed or to dogs in general.”¹¹

In other words, there is a presumption that Puppy Raisers are protected under the PHRA especially if:

- (1) the guide dog puppy or support dog puppy accompanying the Puppy Raiser is at least six months old; and
- (2) the guide dog puppy or support dog puppy is wearing a vest or other insignia that identifies the organization for which the Puppy Raiser is raising the puppy.

Finally, neither the PHRA nor this Guidance excludes the ability of the owner to remove the Puppy Raiser and guide dog puppy from a place of a public or housing accommodation if the puppy is causing an undue disturbance.

⁹ *In re Kenna*, 210 W. Va. At 391.

¹⁰ *Davis v. Ma*, 848 F. Supp. 2d 1105, 1111 (C.D. Cal. 2012).

¹¹ *Prindable v. Ass’n of Apt. Owners of 2987 Kalakaua*, 304 F. Supp. 2d 1245, 1256-57 (D. Haw. 2003).