

June 22, 2004

To: LEGISLATIVE COMMITTEE ON PEOPLE WITH DISABILITIES
SUB-COMMITTEE ON SERVICE ANIMALS

From: Linda Lueck

Subject: Advisory Committee Recommendations on Service Animals

In the interest of history;

The following is a re-cap of areas that will need more attention and further follow-up before becoming a BDR;

[Passed] 1. Adopt a resolution of the Legislature: (a) stating the need for increased public awareness of the importance of service animals and service animals in training to persons with disabilities; (b) stating the need for increased public recognition of the rights of service animal users; (c) educating the public about the harm caused by fraudulently misrepresenting pets as service animals and by pet owners failing to control their animals in the presence of a service animal; (d) educating the public concerning the criminal penalties and civil liability for interference with, harming or killing a service animal or service animal in training, or for allowing an animal to interfere with, injure or kill a service animal or service animal in training; and (e) educating the public about the importance of keeping pet dogs on a leash or appropriately controlled.

Response: Regarding training and public awareness - The Office of Disability Employment Policy (ODEP) was formerly The Governor's Committee on Employment of People with Disabilities (GCEPD). Originally in 1975, our mission was to develop programs to assist people with disabilities to live independently through employment, education and public awareness, advocacy, community outreach and special events. In an exceptional role through this office, I developed a highly successful employment program, provided advocacy and technical assistance concerning the Americans with Disabilities Act and FHAA, and developed training programs for employment, education and public awareness with special emphasis on Service animals. I developed brochures and informational materials for hand-outs at special events. I conducted public awareness trainings for employers, business & industry, and people with disabilities in an effort to provide the correct information to all sides concerning the laws.

EXHIBIT H Disabilities		Document consists of 6 pages.
<input checked="checked" type="checkbox"/>	Entire document provided.	
<input type="checkbox"/>	Due to size limitations, pages _____ provided. A copy of the complete document is available through the Research Library (775/684-6827) or e-mail library@lcb.state.nv.us .	
Meeting Date: 6/28/04		

The Office of Disability Employment Policy would be the perfect location for dissemination of materials and conducting trainings, as we have done in the past. Many calls received in our office are requests for just such material even today. The focus of our office has been adjusted to primarily address policy-making today and has neglected areas of obvious and continuing questions and concerns. Rekindling the training and dissemination of informational materials does not clash with our goals and objectives. Instead, it keeps the lines of communication fluent with employers, business and people with disabilities, thus increasing the opportunities for employment of vocational rehabilitation (VR) clients and providing a dependable resource for the business world.

[Passed] 2. Send a letter to the chambers of commerce, and local government and law enforcement organizations: (a) stating the need for increased public awareness of the importance of service animals and service animals in training to persons with disabilities; (b) asking chambers of commerce, local government organizations and law enforcement agencies, to provide training to their memberships on the rights of persons with disabilities with service animals to access to public accommodations and public transportation; (c) asking chambers of commerce, local government organizations, and law enforcement agencies to provide training to their memberships on the rights of persons with disabilities with service animals to non-discrimination in employment; (d) alerting the organizations and their members to the importance of pet owners controlling their animals, including leashing of dogs, and the importance of enforcing existing local ordinances related to animal control; and (e) providing information about the criminal penalties and civil liability for interfering with, harming or killing a service animal or service animal in training, and [if applicable] for fraudulent misrepresentation of pets as service animals.

Response: In the past, I have trained Las Vegas Metro Police Department at their request. They wanted specific training on handling different disabilities in a riot or demonstration and consequent incarceration situation. I put together a task force of people affiliated to particular disabilities and organizations for the training. The information was graciously appreciated and tested with a radical group so people with disabilities demonstrating against the World Health Organization convention in Las Vegas. Film footage of Metro officers fighting off an attack by people using wheelchairs as weapons after ramming the doors of the LV Convention Center made national news. Metro was prepared, thanks to our training.

[Passed] 3. Adopt a resolution of the Legislature designating a Service Animal Recognition Day in Nevada to heighten public awareness and provide opportunities for educating the public on the subject of service animals.

Response: I have personally worked with the Governor's office in the past and established a "Service Dog Recognition Day" on two occasions. It created a photo opportunity for the Governor to have a positive image with service dog users and puppy-raisers and acknowledge the hard work involved with associated programs.

[Failed] 4. Send a letter requesting the Office of Disability Services (ODS) in the Department of Human Resources, or the Office of Disability Employment Policy (ODEP) in the Department of Employment, Training and Rehabilitation, as appropriate, to seek funding for the publication of a booklet with information on applicable state and federal statutes protecting persons with disabilities who use service animals or persons who train service animals, for use to educate the public and to provide ready reference to statutory protections when persons are confronted with denials of access or other rights.

Response: Before any information is published regarding this subject, it must first be clarified that our NRS are in complete compliance with the ADA and FHAA and ACAA. In the past, our office has disseminated such materials, copied directly from the appropriate sources without publishing any handbook. This material was supplied by request and along with trainings.

[Failed] 5. As an alternative or in addition to #4, encourage ODS or ODEP, as appropriate, to conduct a public information campaign on issues relating to service animals and service animals in training to educate the public, including landlords and business owners, about the rights of persons using or training service animals and the importance of public cooperation in facilitating the use of service animals in Nevada. Further, encourage ODS or ODEP to forge partnerships with non-profit or private sector organizations to assist in the campaign.

Response: In the past, this office has always partnered with the all organizations and agencies to make available information and events to each other and include the public.

[Passed] 6. Send a letter to the Nevada Equal Rights Commission that: (a) emphasizes the importance of access for service animal users and persons training service animals; (b) notes the difficulties faced by such persons in resolving disputes with employers, landlords and business owners; and (c) asks the Commission to provide timely review and resolution of such complaints.

Response: In discussion with Billy Baily at the Nevada Equal Right Commission, I was informed the following: (1) NRS 651 outlines their area of investigations, and, indeed, they take complaints concerning people with disabled using service animals and discrimination. Ms. Baily mentioned the awareness of non-compliance with the ADA regulations, in particular, concerning the right of a public accommodation requiring certification or identification for service animals. She asked that training be made available on all issues involving ADA and in particular service animals.

(2). Recognizes the difficulty in resolving disputes but has a lengthy procedure for investigating and hopefully resolving such issues. If not resolved after mediation, investigation and a second attempt of mediation by the Deputy Attorney General, the case is forwarded to further litigation using the State and Federal case numbers

accordingly, which may result in additional punitive damages. Ms. Baily did say they have had very limited cases involving ADA issues. (3) Ms. Baily explained the legal avenues available using NERC for a complaint process. As in all complaints with NERC, the process is extensive because of the legal opinions and response time needed from all parties involved.

Ms. Baily asked for training available for all issues involving ADA.

[Passed] 7. Amend the NRS to require a person with a service animal in training, upon request in designated situations, to provide credible evidence of his or her expertise or training for such task, or evidence that the training, which may include the socialization process, is taking place under the auspices of an accredited or recognized training organization or school.

Response: This item falls in the same category of unenforceable the same as mentioned in agenda items 11, 12, 13, 14, 17, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, "34," "35," 37, 48, 49 and "50." ADA declares that no certification or identification is required for a service animal. FHAA declares that only "proof of need" may be required for housing of a person using a service animal. As Mr. Doruso said in the meeting, "a certification of a service animal would create and "expectation" that every service animal would require that certification, thus, some may not have that certification and be denied access or services." Any registration would create the same "expectation and the results would be the same. Some people using service animals may be denied access or services. There is a greater number of valid, trained service animals being used than "pets being declared service animals by pet-owners." A "registry" is a "certification" by another name. It is completely not enforceable, as who will be the single expert to decide whether the animal "performs a task to benefit a person with a disability," or who will be the other expert to declare whether or not your animal is "being trained to perform a task that will benefit a person with a disability?" Who among us will be able to decipher between a "seizure dog," an "anxiety dog" or a "stability dog?" Not all training programs are "accredited schools" or "nationally recognized." Does that mean, those animals will not qualify for the "registry" in Nevada? If service dogs in training are being raised and trained for such a program that is not "accredited" or "nationally recognized" will they be denied? If the "registry" were just focused on service animals in training, 50% of all dogs trained, do not pass the entire training program. Where would the beginning and end be to qualify a service dog in training? One of the greatest abuses is a person who has taken a service dog in training that has entered the final phase of advanced training and failed but later given away by a puppy-raiser's home and turned it into another form of service dog without any formal training for a completely different disability service. If the accredited school that first trained that animal does not follow up on it, how can a registry in Nevada eliminate such fraud? The most important fact about having a service animal is the user being trained to work with the animal as a "team." Whether

a puppy-raiser or the person with the disability, the responsibility for the behavior, grooming, and use of that animal falls upon the team-mate.

A "registry" is only another word for "certification." Referring to #8, who among us is qualified to evaluate a puppy-raiser's "expertise or qualifications" as a trainer? What criterion will be used? Where will such a registry with all these experts reside and how will it be funded? Where will the appeals process and those experts reside for being denied acceptance to the registry? Not all businesses have web sites.

Not all trainers have web sites. Does that make the business any less viable? Has everyone heard of Leashes for Life, Liberty dogs or Land Home training? They are not "accredited schools" or "nationally recognized." Yet the best trained dog I have ever seen was trained by such a program for a 16 year old girl in a wheelchair, bar-none.

More than a couple of tourists come to Las Vegas using and training service animals. Will they be denied access, transportation and services because they are not "registered" in Nevada? Several years ago, the Citizens Area Transit tried to start a "registry" of service animals using the fixed route system. I called the Department of Justice, who informed me and their attorney, this was not allowable. The "registry" was designed to distinguish between service dogs and pets. People using service animals were denied access because the drivers could not tell the difference and not everyone had the preferred identification card. The "registry" was abolished.

Who will distinguish between a "pet" and a service animal? Which service should the animal perform for each disability? Where will such an expert be housed and how will it be funded?

[Passed] 8. Send a letter to the Commission on Postsecondary Education (NRS 394.383) asking the Commission to consider whether schools or programs for trainers of service animals are subject to the licensing requirements in NRS 394.415 and, if so, to monitor the licensing of such schools.

[Failed] 9. Amend the NRS to create an accreditation and licensing authority for schools or individuals training service animals in Nevada and provide the necessary appropriation to fund the accreditation and licensing authority. Further provide that only schools or individuals providing advanced or specialized training shall be required to be accredited or licensed and that socialization programs run by non-profit organizations shall not be required to be accredited or licensed.

Response: These two agenda items are complicated. It is not required in any other state to license trainers of service animals. This language crosses over the boundaries of "puppy-raisers" who are also trainers.

There are programs that take dogs from the pound or SPCA and after testing, train them for Hearing Dogs. There are programs that train only one person and one dog at a time. It is not a school. There are training programs, such as Guiding Eyes in New York that come to your house and can train either a selected dog or, in some cases, your own dog for a service animal. One man who has been certified as a "Trainer of Service Dogs" trained a Rottweiler to pull a wheelchair. That dog attacked a Guide dog three times. It is impossible to insure or monitor all programs, schools or services animals. Rather, we should concentrate on the things we can do to make effective change. Putting "teeth" into our existing laws is the most effective way of placing people on notice using service dogs that they are responsible and liable for the actions of their animals. Fines, incarceration and other penalties are clearly understood. Registries and licensing of service animals are vague, calls for a judgment and legal ramifications, is questionable as to its legality and not effective.

[Note: LCB staff has added a notation before each recommendation discussed by Ms. Lueck as to its status – either “Passed” by the Advisory Committee or “Failed.”