

DRAFT

Comment on National Standard of Canada Draft Regarding Service Dog Teams

June 7th, 2017

United Service Animal Users, Supporters, and Advocates¹

TO: Jennifer Jimenez
Canadian General Standards Board
Gatineau, Canada
K1A 1G6
Jennifer.Jimenez@tpsgc-pwgsc.gc.ca

RE: Canadian General Standards Board draft service dog teams standard,² from the Introduction and section 1 to section 9

Ms. Jimenez and the Committee on service dogs:

In spite of our acronym ("USAUSA"), the undersigned groups all have constituents who reside in or are prospective visitors to Canada. We each have a keen interest and stake in North American service dog laws, and we write to convey a prominent perspective on the May 2nd draft standard for service dog teams (hereafter, simply "draft").³

The team you collected to put this extensive document together is to be commended for the expense of so much thought and effort. However, we are concerned that its high-speed acceleration would shuttle us away from the fundamental goal of guaranteeing disability rights, for the sake of conforming government standards to a whole compendium derived from the inner workings of service dog programs.

Quite simply, *and with much due respect*, the draft misses the forest for the trees. The entire enterprise of constructing a detailed national service dog standard is misdirected. Creating such a draft so focuses contributors on imagining the preferred minutiae for some, that it misses alternative, simple approaches that can work best overall for everyone. We explain this

¹ USAUSA is an informal collaboration of diverse stakeholders.

² Document CAN/CGSB-193.1 Service Dog Teams, Date May 2, 2017–July 14, 2017.

³ The draft was posted at the following address:

<http://www.tpsgc-pwgsc.gc.ca/ongc-cgsb/programme-program/normes-standards/notification/chienservice-dogteams-eng.html>

below in seven short sections.

§1. A national service dog standard's implications

We understand that the draft, if adopted, is not meant to become law itself. However, as the draft hints,⁴ it may be incorporated as a paradigm for laws and may easily become law by legislative or regulatory reference or reproduction.

Understandably, legislators usually exist in a vacuum free of niche knowledge about service dogs that is both expert and balanced. History has shown them to over-legislate when handed a document like the present draft.⁵ It would thus be naïve to pretend such a standard would not form a likely basis for provincial laws. We can simplify our examination by seeing whether the standard would be just and viable, *if it were made law*.⁶

§2. Full of controversy, not consensus

National Standards of Canada are developed through a multi-stakeholder consensus-based consultative approach that seeks to avoid conflict of interest, thereby, strengthening the credibility of the document. –from the draft Introduction

Canadian standards are supposed to be the children of stakeholder consensus. The draft contains several controversial claims that are certainly not matters of consensus in the service dog community. The draft

4 From the Introduction:

National Standards are voluntary, however, they can be referenced in Canadian legislation and corresponding regulations for the purpose of continuity and accuracy validating their significance. Conformance to a published National Standard referenced in regulation can be verified by independent certification programs.

5 This has happened at the state level in the US, where legislators mistook an ADI internal standard as a legal standard (without ADI's sanction, but with the prompting of member programs). This has led to the consternation of lawmakers and advocates when user-based groups have been forced to devote their energy to push back on the government overreach. As an example, see the reaction to Arizona's 2016 Senate Bill 1166:

<http://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/arizona-sb-1166>

6 At first glance, it appears there are two levels to evaluating the draft. Fundamentally, it *could be* that aspects of the draft are too controversial or disenfranchising even to be advanced as a national standard, which is supposed to represent genuine consensus. If we pretend it's possible to keep a firewall between the standard and laws, some aspects of the draft could be fine for a national standard as a non-binding reference, but not appropriate for legal mandates on people's behavior. We collapse these levels due to the foreseeable incorporation of a national standard into binding laws.

Those who disagree with this simplification are free to extrapolate, as most of our comments apply regardless.

thus violates a touchstone criterion for national standards.

While many may elect the draft's norms for themselves, putting these beliefs in a position to be forced onto others is an altogether different enterprise. A mere sampling of the questionable claims are in the following statement from the draft:⁷

In order to be an effective team member and to be safe to work in public, the service dog shall be:

[...]

c) neutered;

d) categorized according to size;

e) an acceptable breed (see Appendix B, B. 3);

[...]

g) be outfitted with appropriate equipment and permanent identification.

Such controversial (and sometimes, confusing) claims—especially when fleshed out—are not proper subjects for national standardization. One need not dispute the claims oneself to recognize they are hot-button issues. According to the consensus criterion in the draft's Introduction, this should disqualify much of the draft's current content from being adopted on purely procedural grounds.

One explanation for the apparent bias in the drafting committee's approach may be that the committee disproportionately represents service dog programs over others in the community. Programs must be inherently oriented toward rigid requirements that will fit many teams in a standardized and easily replicable way. In contrast, owner-trainers don't seem to have much of a voice in the proceedings.⁸ Owner-trainers tend to have the best understanding of the value of a tailored approach to mitigating an individual's disability through a bespoke service dog relationship.

A tailored approach is not right for everyone, but it is optimal or necessary for many teams due to the grim supply vs. demand situation for program dogs, the often enormous expense of program dogs, the nature of some individuals' disabilities (for which owner-training is sometimes much better), etc.⁹ There is certainly not sufficient reason to disenfranchise this growing

⁷ See draft section 4.2.1.

⁸ This thought is based not just on the draft's content, but also on the composition of the committee detailed in the draft.

⁹ It is difficult to estimate the ratio of program-trained vs. owner-trained service dogs. Some of our organizations approximate that there are around 50% owner-trained teams in North America, though some would put the number higher and some lower. In any case, it is clear that the demand for service dogs far outstrips the supply, and other options are needed rather than a "thousand points of light"

population by adopting a national standard that greatly favors a program-oriented approach. This would thrust many Canadians with disabilities out in the cold, divorced from the method of disability mitigation that would facilitate their integration in society. Programs and owner-training complement each other and peacefully coexist in a society that wants all of its members to thrive.

§3. Learning first aid as a representative example of misguided mandates

The draft's relatively colossal content renders it difficult to examine each claim in the draft without creating a massive tome. Instead, we will look more closely at just one as a representative example among the many prescriptions. The draft is full of similar claims that could be substituted.

The draft advises that service dog users should be required to learn canine first aid.¹⁰ No one disputes that it's a good idea for dog owners to learn such skills. The top-level question is whether we want to give legislators justification for mandating that our whole population must do so.

Imagine an association of companies providing parenting and first aid classes were to propose that Canadian parents be required to learn first aid for children—or simply that they weren't being good, standardized parents if they didn't. Again, no one disputes that learning first aid is a good idea. However, setting it up so that this could be mandated misses the mark.

Some parents are medical professionals with no need for additional first aid education. Some non-professionals have learned the skills by other means. And some folks simply don't have access to the companies' first aid classes due to lengthy waitlists, high costs, or geography, but that doesn't make them bad or incapable parents. They may even learn better on their own how to administer medical care to meet their children's unique needs.

Parents would rightly be in an uproar at a corporate proposal like this. They might suspect that follow-up regulations would include some verification procedure for the first aid knowledge that could not be equitably and justly implemented, and that may well favor the corporations' interests over the families'.

Even program clients can support the idea that others should not be looked

approach in which programs provide the only light.

¹⁰ See draft section 5.1.2.2. Other apt examples include the draft advising that users play with their dogs (5.1.2.6(d)), bond with their dogs (5.3.2), protect their dogs from broken glass (5.3.4.3.2), and avoid dog attacks (5.3.4.3.3). These examples are among many that illustrate how overly paternalistic the draft seems when considered as the basis for law, rather than as a user's guide for personal study.

down on if a program model doesn't fit their unique situation. If parents want to earn a program's "good parent" seal of approval because the program works for them, that is wonderful. It does not follow that the steps to earn that seal of approval are what's best for all parents, nor especially that they should be codified in a national standard.

Additionally, simply requiring a skill does not ensure that this skill will always be practiced appropriately, unless a paternalistic, ongoing system of testing and competency is established. We do **not** recommend such a system, but that is along the draft's trajectory. Considering this further, if such requirements morph into law, they are only effective with enforced consequences for non-compliance. If there are no actual consequences for failing these tests, the requirement is moot. Law enforcement professionals tend to have better priorities than enforcement of such specialized laws. So in practice, this kind of requirement creates undue burdens for those who respect the requirements and need a service dog, while not touching the lives of those without such respect.

We may think of many little things that sound like a good idea at the time. But we should not legally obligate our fellow peers to follow each of our utopian constructs. Unintended consequences abound.

§4. Top-down/medical model disenfranchises the disadvantaged

It's helpful to distinguish between the **process** and the **product** of training. There are innumerable ways to responsibly create and use a service dog. Constraining the process using a top-down, medical-model¹¹ type paradigm disenfranchises not only (and especially) owner-trainers, but also those many programs and trainers that do not subscribe to the one, "true" model.

The medical model of disability extolls that the right to disability mitigation is not inherent to the individual, but that experts should grant disability-based accommodations as if they were privileges to be awarded to those deemed worthy. The draft employs this model.¹² The medical model may be acceptable for a private organization to use in gleaning who receives **their own** services. However, it is inappropriate to require every citizen—those

¹¹ For more on the real harms that result from the medical model of disability in the service dog world, see the USAUSA documents on air travel that were submitted in a packet to the Canadian Transportation Agency in February. This includes "§7. The medical model of disability", and a survey report on the burdens of the current medical documentation requirements on US service animal teams. Additionally, it is noteworthy that in a two-day period, USDOT received almost 50 comments from the service dog community opposing the use of the medical model of disability in regulations.

<http://www.psychdogpartners.org/wp-content/uploads/2017/02/USAUSA-CTA-Comment.pdf>

¹² See 5.1.1.1: Determination of handler's disability.

not using a program—to go through an external evaluation in order to take care of their disabilities themselves.

Codifying the medical model in a national standard would cause undue hardship to those with disabilities, and does not carry significant benefit. It would require substantial expenditures of time, money, and precious effort that those with disabilities do not possess to squander, setting up unnecessary roadblocks to disability mitigation and community integration.

Pushing this medical model on every service dog user by approving the draft standard would display an ignorance of how disability rights should work in an advanced nation. Someone with an old war wound might want to buy a used wheelchair for use on high-pain days. The government should not make this kind of personal choice hard on the person through a baroque set of paternalistic requirements.

Disability rights—including the right to use the assistive device of one's choice—are civil rights. We would be going backward if we were to extend an invitation for these rights to be invasively legislated away.

§5. Detailed standard hobbles innovation

The drafting endeavor was likely embarked on with the best intentions, but when we step back we can recognize that it would serve only short-term interests of some of the disability community. Service dog training and use currently evolve in various creatively branching ways across parties. Cementing a detailed national standard may unnecessarily and unintentionally choke the flow of improvements in service dog training and use, holding back Canadian organizations and everyone they impact.

The draft's details do not serve the interests of owner-trainers or non-partisan trainers/programs. Independent trainers and service dog users should remain empowered to tailor their training to the unique strengths and needs of each team or training system environment. Beyond that, though, the programs would be tying their own hands.

What happens when a program sees that the current standard has some flaws in practice? When the program wants to strategically reevaluate and regularly make adjustments to their training system every few years to benefit the dogs and users?

This would be forbidden if the draft were adopted as complex laws, and the program would be out of compliance if it were to act in the best interest of its teams. This is not a dilemma any trainer should have to face: we should

not encourage laws—or even national standards—to be so overwrought that they may yoke posterity with the barbarism of their forbears. The more detail with which we constrain ourselves, the less room we give ourselves to breathe.

§6. The illusion of more rules equal more safety

Since ADI, PSDP, and others already have public, freely available standards, we are faced with questions about this enterprise. Who gains what by standardizing one detailed perspective, and what would we lose?

The explicit aims of all the draft's machinations are to produce service dog teams in which a disability is mitigated and through which the public is kept safe.¹³ We hope we have made clear that a cookie-cutter approach harms those deserving folks who don't fit the mold of the fabricators.

Further, we contend that the second aim of public safety is significantly increased **only in theory** by an overly-detailed standard. We have seen localities try to legislate away danger and fraud, and adding more laws of this type generally causes more harm than good. Those who are either legally ignorant or perennially scofflaws tend to remain insulated against these changes. Meanwhile, the responsible and law-abiding square pegs discover they're out of luck when confronted with a gauntlet of round holes.

Yes, we support public safety through effective means, which can target actual disruption rather than pre-crime. However, there is no one, true program with a panacea for everyone's needs—we cannot erect such an intricate standard as if it were a universal solution. This would wrongly elevate otherwise useful arcana in a way that both hobbles innovation and disenfranchises an already disadvantaged population.

§7. An alternative approach

What could we do instead? Overall, focus on the product of training, not the process. If you are adamant about including so many nitty-gritty details, explicitly include them strictly as examples. The draft merely highlights one set of approaches that should **never** be codified in law because it could not possibly serve the unimaginably diverse needs of Canada's current or future disability populations.

A better balance between disability rights and other public interests can be

¹³ From the Introduction: "These performance requirements assure the legitimacy and efficacy of both the person with a disability, the service dog and secondary handlers (as required) to form a service dog team that can work safely in public spaces." We might hope that efficacy and safety are sufficient, as requirements to assure "legitimacy" tend to create undue burdens for people with disabilities.

struck by a much less ambitious approach. US Regulations implementing the Americans with Disabilities Act (ADA) are a highly serviceable example that is minimalistic by comparison.¹⁴ We offer this only as an example of laws that honor the view that disability rights are civil rights.

Please prioritize helping people with disabilities, versus a short-term win in the standards game with the current draft. Wisely step back and compassionately consider the big picture. Your actions can have a major impact, positive or negative, on the barriers and opportunities along the path for countless people with disabilities in the future.

Thank you for giving our comment your consideration; it is not too late to turn this titanic bus around. Please contact us so that we might provide more direct assistance with this effort.

Sincerely,
Bradley W. Morris, MA, CPhil
Director of Government Relations
Psychiatric Service Dog Partners
brad@psych.dog

Jenine Stanley
Consumer Relations Coordinator
Guide Dog Foundation for the Blind
and America's VetDogs
jenine@guidedog.org

The undersigned also support at least the general thrust of this comment:

¹⁴ Others have commented to this effect during the recent Canadian consultation on accessibility legislation. For a prime example with highly relevant details, see:

<http://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/canada-access>