SERVICE WITH A SMILE:  
A DISCUSSION ABOUT SERVICE ANIMALS AND THE LAW

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Kentucky Bar Association
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JAN CLARK is a partner and co-founder of the Institute for Compassion in Justice in Lexington. Before her retirement in 2005 Ms. Clark served as Director of Continuing Legal Education for the Kentucky Bar Association for eighteen years and then served a six-year term as a member of the KBA Continuing Legal Education Commission. Ms. Clark is a member of the Kentucky Bar Association’s Animal Law Section and Education Law Section and is involved with the KBA Committee on Diversity in the Profession and the Committee for Child Protection and Domestic Violence. She earned her B.S., with honors, from Western Kentucky University; M.P.A in Public Administration from the University of Kentucky’s Martin School of Public Administration, and J.D. from the University of Kentucky College of Law.
LON HODGE is a self-described service dog advocate and Americans with Disabilities Act (ADA) evangelist. He is a medically retired, 100% disabled veteran and Army officer who has beaten the survival odds, not only during his military career, but also throughout his life. He now uses his life to be of service to others.

During junior high his father was critically wounded in Vietnam and later died of his wounds. His mother subsequently fell into a deep depression and, as a result, Mr. Hodge spent two years at Father Flanagan's Boys Town in Nebraska. He then returned to Pueblo, Colorado to graduate from high school.

While in the service (1973-76 and 1977-81), his Medical Corps duties entailed the primary responsibility for physically and psychologically wounded soldiers. He was also an instructor at the Academy of Health Sciences and a field placement supervisor for medical personnel who were counseling and treating wounded personnel at Brooke Army Medical Center. Receiving injuries of his own, Mr. Hodge received an honorable discharge in 1981.

His academic career at Baylor, North Carolina and Maryland was quite a success. He was a National Endowment for the Arts Fellow in Literature, and became a nationally recognized poet with the publication of his book of poetry entitled Fishing for the Moon. However, as the accolades poured in, the physical injuries and PTSD soon took control of his life. Severe panic attacks, agoraphobia, elevated heart rate, night terrors and excessive prescription drug treatment provided by the VA resulted in years of stress and anxiety.

Along came a labradoodle named Gander! Gander, who became Lon's service dog, is a survivor himself. He was saved from a Colorado high kill shelter and was sent to a prison program in Canon City, Colorado, for obedience training. He was then rescued and trained by Freedom Service Dogs in Englewood, Colorado. It was there, in September 2012, that Mr. Hodge and Gander became a team. Since then they have never been apart and he credits Gander with literally saving his life.

In 2014 Gander received the American Kennel Club's (AKC) first ever award for Canine Excellence presented to a non-pedigreed pup. He has received the Rotary Humanitarian/Patriot Award and recently received, at a Hollywood gala, the American Humane Association's 2016 Service Dog Hero Award.

This inseparable team is on a mission. Together they have traveled the United States for Operation Fetch to encourage education and awareness for PTSD, veteran suicide, service dogs, and persons with visible and invisible disabilities. They have been the victims of considerable discrimination. Mr. Hodge's efforts to educate businesses regarding the rights of disabled individuals with service dogs have turned him into the ADA evangelist he is today. Many businesses with which he had difficulties have turned around and asked him to train staff regarding service dog rights under the ADA.
I. INTRODUCTION

Individuals with disabilities may use service animals and emotional support animals for a variety of reasons. These materials provide an overview of how major federal civil rights laws govern rights of individuals using service animals/businesses and state and local programs. Kentucky also has statutes that utilize a different definition of service animal. It is recommended the law that offers the most protection for service animals be utilized. These materials discuss service animals in a number of different settings as the rules and allowances related to access with service animals will vary according to the law applied and the setting.

II. AMERICANS WITH DISABILITIES ACT (ADA)

A. Definition

"Service Animal" is defined by Title II (which covers state and local programs) and Title III (which covers places of public accommodation/private businesses such as restaurants or retail merchants) of the Americans with Disabilities Act (ADA) regulations. A service animal 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. The sections of the federal regulations applying to service animals for public entities and for places of public accommodations (Title II and Title III of the ADA) can be found at 28 C.F.R. §35.104 and 28 C.F.R. §36.104, respectively.

B. Service Animal Work

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:

1. Assisting individuals who are blind or have low vision with navigation and other tasks;
2. Alerting individuals who are deaf or hard of hearing to the presence of people or sounds;
3. Providing non-violent protection or rescue work;
4. Pulling a wheelchair;
5. Assisting an individual during a seizure;
6. Alerting individuals to the presence of allergens;
7. Retrieving items such as medicine or the telephone;
8. Providing physical support and assistance with balance and stability to individuals with mobility disabilities;
9. Helping individuals with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

Emotional support animals, comfort animals, and therapy dogs are not service animals under Title II and Title III of the ADA. Other species of animals, whether wild or domestic, trained or untrained, are not considered service animals either. The work or tasks performed by a service animal must be directly related to the individual's disability. It does not matter if a person has a note from a doctor that states that the person has a disability and needs to have the animal for emotional support. A doctor's letter does not turn an animal into a service animal.

Examples of animals that fit the ADA's definition of "service animal" because they have been specifically trained to perform a task for the person with a disability:

- **Guide Dog or Seeing Eye® Dog** is a carefully trained dog that serves as a travel tool for persons who have severe visual impairments or are blind.
- **Hearing or Signal Dog** is a dog that has been trained to alert a person who has a significant hearing loss or is deaf when a sound occurs, such as a knock on the door.
- **Psychiatric Service Dog** is a dog that has been trained to perform tasks that assist individuals with disabilities to detect the onset of psychiatric episodes and lessen their effects. Tasks performed by psychiatric service animals may include reminding the handler to take medicine, providing safety checks or room searches, or turning on lights for persons with Post Traumatic Stress Disorder, interrupting self-mutilation by persons with dissociative identity disorders, and keeping disoriented individuals from danger.
- **SSigDOG** (sensory signal dogs or social signal dog) is a dog trained to assist a person with autism. The dog alerts the handler to distracting repetitive movements common among those with autism, allowing the person to stop the movement (*e.g.*, hand flapping).
- **Seizure Response Dog** is a dog trained to assist a person with a seizure disorder. How the dog serves the person depends on the person's needs. The dog may stand guard over the person during a seizure or the dog may go for help. A few dogs have learned to
predict a seizure and warn the person in advance to sit down or move to a safe place.

Under Title II and III of the ADA, service animals are limited to dogs. However, entities must make reasonable modifications in policies to allow individuals with disabilities to use miniature horses if they have been individually trained to do work or perform tasks for individuals with disabilities.

C. Crime Deterrent and Comfort

The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship are not considered work or tasks for purposes of the definition of a service animal.

D. Miniature Horses

A public entity or private business must allow a person with a disability to bring a miniature horse on the premises as long as it has been individually trained to do work or perform tasks for the benefit of the individual with a disability, as long as the facility can accommodate the miniature horse's type, size, and weight. The rules that apply to service dogs also apply to miniature horses.

E. Allowable Questions

To determine if an animal is a service animal, a public entity or a private business may ask two questions:

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

These questions may not be asked if the need for the service animal is obvious (e.g., the dog is guiding an individual who is blind or is pulling a person's wheelchair). A public entity or private business may not ask about the nature or extent of an individual's disability or 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.

F. When and Where a Service Animal is Allowed

Individuals with disabilities can bring their service animals in all areas of public facilities and private businesses where members of the public, program participants, clients, customers, patrons, or invitees are allowed. A service animal can be excluded from a facility if its presence interferes with legitimate safety requirements of the facility (e.g., from a surgery or burn unit in a hospital in which a sterile field is required).
A public entity or a private business may ask an individual with a disability to remove a service animal if the animal is not housebroken or is out of control and the individual is not able to control it. A service animal must have a harness, leash or other tether, unless the handler is unable to use a tether because of a disability or the use of a tether would interfere with the service animal's ability to safely perform its work or tasks. In these cases, the service animal must be under the handler's control through voice commands, hand signals, or other effective means. If a service animal is excluded, the individual with a disability must still be offered the opportunity to obtain goods, services, and accommodations without having the service animal on the premises.

G. Other Provisions

1. A public entity or private business is not responsible for the care and supervision of a service animal.

2. A public entity or private business shall not ask nor require an individual with a disability to pay a surcharge or deposit, even if people accompanied by pets are required to pay such fees.

3. If a public entity or private business normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

H. Relationship to Other Laws

These above provisions related to service animals apply only to entities covered by the ADA. The Fair Housing Act covers service animal provisions for residential housing situations, and the Air Carrier Access Act covers service animal provisions for airline travel. The definition of a service animal under each of these laws is different than the definition under the ADA.

I. Other Support or Therapy Animals

While Emotional Support Animals or Comfort Animals are often used as part of a medical treatment plan as therapy animals, they are not considered service animals under the ADA. These support animals provide companionship, relieve loneliness, and sometimes help with depression, anxiety, and certain phobias, but do not have special training to perform tasks that assist people with disabilities. Even though some states have laws defining therapy animals, these animals are not limited to working with people with disabilities and therefore are not covered by federal laws protecting the use of service animals. Therapy animals provide people with therapeutic contact, usually in a clinical setting, to improve their physical, social, emotional, and/or cognitive functioning.
J. Handler's Responsibilities

The handler is responsible for the care and supervision of his or her service animal. If a service animal behaves in an unacceptable way and the person with a disability does not control the animal, a business or other entity does not have to allow the animal onto its premises. Uncontrolled barking, jumping on other people, or running away from the handler are examples of unacceptable behavior for a service animal. A business has the right to deny access to a dog that disrupts their business. For example, a service dog that barks repeatedly and disrupts another patron’s enjoyment of a movie could be asked to leave the theater. Businesses, public programs, and transportation providers may exclude a service animal when the animal’s behavior poses a direct threat to the health or safety of others. If a service animal is growling at other shoppers at a grocery store, the handler may be asked to remove the animal.

The ADA requires the animal to be under the control of the handler. This can occur using a harness, leash, or other tether. However, in cases where either the handler is unable to hold a tether because of a disability or its use would interfere with the service animal’s safety, effective performance of work or tasks, the service animal must be under the handler’s control by some other means, such as voice control.

The ADA does not require covered entities to provide for the care or supervision of a service animal, including cleaning up after the animal. The animal must be housebroken.

The animal should be vaccinated in accordance with state and local laws. An entity may also assess the type, size, and weight of a miniature horse in determining whether or not the horse will be allowed access to the facility.

K. Handler’s Rights

1. Public facilities and accommodations.

Titles II and III of the ADA make it clear that service animals are allowed in public facilities and accommodations. A service animal must be allowed to accompany the handler to any place in the building or facility where members of the public, program participants, customers, or clients are allowed. Even if the business or public program has a "no pets" policy, it may not deny entry to a person with a service animal. Service animals are not pets. So, although a "no pets" policy is perfectly legal, it does not allow a business to exclude service animals.

When a person with a service animal enters a public facility or place of public accommodation, the person cannot be asked about the nature or extent of his disability. Only two questions may be asked:
a. Is the animal required because of a disability?

b. What work or task has the animal been trained to perform?

These questions should not be asked, however, if the animal's service tasks are obvious. For example, the questions may not be asked if the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability.

A public accommodation or facility is not allowed to ask for documentation or proof that the animal has been certified, trained, or licensed as a service animal. Local laws that prohibit specific breeds of dogs do not apply to service animals.

A place of public accommodation or public entity may not ask an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees. Entities cannot require anything of people with service animals that they do not require of individuals in general, with or without pets. If a public accommodation normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

2. Employment.

Laws prohibit employment discrimination because of a disability. Employers are required to provide reasonable accommodation. Allowing an individual with a disability to have a service animal or an emotional support animal accompany them to work may be considered an accommodation. The Equal Employment Opportunity Commission (EEOC), which enforces the employment provisions of the ADA (Title I), does not have a specific regulation on service animals. In the case of a service animal or an emotional support animal, if the disability is not obvious and/or the reason the animal is needed is not clear, an employer may request documentation to establish the existence of a disability and how the animal helps the individual perform his or her job.

Documentation might include a detailed description of how the animal would help the employee in performing job tasks and how the animal is trained to behave in the workplace. A person seeking such an accommodation may suggest that the employer permit the animal to accompany them to work on a trial basis.

Both service and emotional support animals may be excluded from the workplace if they pose either an undue hardship or a direct threat in the workplace.
III. THE FAIR HOUSING ACT

The Fair Housing Act (FHA) protects a person with a disability from discrimination in obtaining housing. Under this law, a landlord or homeowner's association must provide reasonable accommodation to people with disabilities so that they have an equal opportunity to enjoy and use a dwelling. Emotional support animals that do not qualify as service animals under the ADA may nevertheless qualify as reasonable accommodations under the FHA. In cases when a person with a disability uses a service animal or an emotional support animal, a reasonable accommodation may include waiving a no-pet rule or a pet deposit. This animal is not considered a pet.

A landlord or homeowner's association may not ask a housing applicant about the existence, nature, and extent of his or her disability. However, an individual with a disability who requests a reasonable accommodation may be asked to provide documentation so that the landlord or homeowner's association can properly review the accommodation request. They can ask a person to certify, in writing:

A. That the tenant or a member of his or her family is a person with a disability;
B. The need for the animal to assist the person with that specific disability; and
C. That the animal actually assists the person with a disability.

It is important to keep in mind that the ADA may apply in the housing context as well, for example with student housing. Where the ADA applies, requiring documentation or certification would not be permitted with regard to an animal that qualifies as a "service animal."

IV. INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA) AND §504 OF THE REHABILITATION ACT

A. Service Animals in Public Schools (K-12)

The ADA permits a student with a disability who uses a service animal to have the animal at school. In addition, the Individuals with Disabilities Education Act (IDEA) and §504 of the Rehabilitation Act allow a student to use an animal that does not meet the ADA definition of a service animal if that student's Individual Education Plan (IEP) or §504 team decides the animal is necessary for the student to receive a free and appropriate education. Where the ADA applies, however, schools should be mindful that the use of a service animal is a right that is not dependent upon the decision of an IEP or §504 team.

Emotional support animals, therapy animals, and companion animals are seldom allowed to accompany students in public schools. Indeed, the ADA does not contemplate the use of animals other than those meeting the definition of "service animal." Ultimately, the determination whether a
student may utilize an animal other than a service animal should be made on a case-by-case basis by the IEP or §504 team.

B. Service Animals in Postsecondary Education Settings

Under the ADA, colleges and universities must allow people with disabilities to bring their service animals into all areas of the facility that are open to the public or to students.

Colleges and universities may have a policy asking students who use service animals to contact the school's Disability Services Coordinator to register as a student with a disability. Higher education institutions may not require any documentation about the training or certification of a service animal. They may, however, require proof that a service animal has any vaccinations required by state or local laws that apply to all animals.

V. THE AIR CARRIER ACCESS ACT (ACAA)

The ACAA requires airlines to allow service animals and emotional support animals to accompany their handlers in the cabin of the aircraft.

A. Service Animals

For evidence that an animal is a service animal, air carriers may ask to see identification cards, written documentation, presence of harnesses or tags, or ask for verbal assurances from the individual with a disability using the animal. If airline personnel are uncertain that an animal is a service animal, they may ask one of the following:

1. What tasks or functions does your animal perform for you?
2. What has your animal been trained to do for you?
3. Would you describe how the animal performs this task for you?

B. Emotional Support and Psychiatric Service Animals

Individuals who travel with emotional support animals or psychiatric service animals may need to provide specific documentation to establish that they have a disability and the reason the animal must travel with them. Individuals who wish to travel with their emotional support or psychiatric animals should contact the airline ahead of time to find out what kind of documentation is required.

Examples of documentation that may be requested by the airline include current documentation (not more than one year old) on letterhead from a licensed mental health professional stating:

1. The passenger has a mental health-related disability listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM IV);
2. Having the animal accompany the passenger is necessary to the passenger's mental health or treatment;

3. The individual providing the assessment of the passenger is a licensed mental health professional and the passenger is under his or her professional care; and

4. The date and type of the mental health professional's license and the state or other jurisdiction in which it was issued.

This documentation may be required as a condition of permitting the animal to accompany the passenger in the cabin.

C. Other Animals

According to the ACAA, airlines are not required otherwise to carry animals of any kind either in the cabin or in the cargo hold. Airlines are free to adopt any policy they choose regarding the carriage of pets and other animals (for example, search and rescue dogs) provided that they comply with other applicable requirements (for example, the Animal Welfare Act).

Animals such as miniature horses, pigs, and monkeys may be considered service animals. A carrier must decide on a case-by-case basis according to factors such as the animal's size and weight; state and foreign country restrictions; whether or not the animal would pose a direct threat to the health or safety of others; or cause a fundamental alteration in the cabin service. Individuals should contact the airlines ahead of travel to find out what is permitted.

Airlines are not required to transport unusual animals such as snakes, other reptiles, ferrets, rodents, and spiders. Foreign carriers are not required to transport animals other than dogs.

D. Other Transportation under ADA

A person traveling with a service animal cannot be denied access to transportation, even if there is a "no pets" policy. In addition, the person with a service animal cannot be forced to sit in a particular spot; no additional fees can be charged because the person uses a service animal; and the customer does not have to provide advance notice that s/he will be traveling with a service animal.

The laws apply to both public and private transportation providers and include subways, fixed-route buses, paratransit, rail, light-rail, taxicabs, shuttles and limousine services.
E. Reaction/Response of Others

Allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals. If employees, fellow travelers, or customers are afraid of service animals, a solution may be to allow enough space for that person to avoid getting close to the service animal.

Most allergies to animals are caused by direct contact with the animal. A separated space might be adequate to avoid allergic reactions.

If a person is at risk of a significant allergic reaction to an animal, it is the responsibility of the business or government entity to find a way to accommodate both the individual using the service animal and the individual with the allergy.

VI. SERVICE ANIMALS IN TRAINING

A. Air Travel

The Air Carrier Access Act (ACAA) does not allow "service animals in training" in the cabin of the aircraft because "in training" status indicates that they do not yet meet the legal definition of service animal. However, like pet policies, airline policies regarding service animals in training vary. Some airlines permit qualified trainers to bring service animals in training aboard an aircraft for training purposes. Trainers of service animals should consult with airlines and become familiar with their policies.

B. Employment

In the employment setting, employers may be obligated to permit employees to bring their "service animal in training" into the workplace as a reasonable accommodation, especially if the animal is being trained to assist the employee with work-related tasks. The untrained animal may be excluded, however, if it becomes a workplace disruption or causes an undue hardship in the workplace.

C. Public Facilities and Accommodations

Titles II and III of the ADA do not cover "service animals in training" but several states have laws when they should be allowed access.

VII. FEDERAL LAWS & ENFORCEMENT

A. Public Facilities and Accommodations

Title II of the ADA covers state and local government facilities, activities, and programs. Title III of the ADA covers places of public accommodations. Section 504 of the Rehabilitation Act covers federal government facilities, activities, and programs. It also covers the entities that receive federal funding.
1. Title II and Title III complaints.

These can be filed through private lawsuits in federal court or directed to the U.S. Department of Justice.

U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Civil Rights Division
Disability Rights Section – NYA
Washington, D.C. 20530
http://www.ada.gov
800-514-0301 (voice)
800-514-0383 (TTY)

2. Section 504 complaints.

These must be made to the specific federal agency that oversees the program or funding, e.g. a public school §504 complaint filing must be with the U.S. Department of Education.

B. Employment

Title I of the ADA and Sections 501 and 504 of the Rehabilitation Act prohibit discrimination in employment. The ADA covers private employers with fifteen or more employees; Section 501 applies to federal agencies; and Section 504 applies to any program or entity receiving federal financial assistance.

1. ADA complaints.

A person must file a charge with the Equal Employment Opportunity Commission (EEOC) within 180 days of an alleged violation of the ADA. This deadline may be extended to 300 days if there is a state or local fair employment practices agency that also has jurisdiction over the matter. Complaints may be filed in person, by mail, or by telephone by contacting the nearest EEOC office. This number is listed in most telephone directories under "U.S. Government." For more information:

http://www.eeoc.gov/contact/index.cfm
800-669-4000 (voice)
800-669-6820 (TTY)

2. Section 501 complaints.

Federal employees must contact their agency's Equal Employment Opportunity (EEO) officer within forty-five days of an alleged §501 violation.
3. **Section 504 complaints.**

These must be filed with the federal agency that funded the employer.

C. **Housing**

The Fair Housing Act (FHA), as amended in 1988, applies to housing. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in all housing programs and activities that are either conducted by the federal government or receive federal financial assistance. Title II of the ADA applies to housing provided by state or local government entities.

Housing complaints may be filed with the Department of Housing and Urban Development (HUD) Office of Fair Housing and Equal Opportunity.

http://www.hud.gov/fairhousing
800-669-9777 (voice)
800-927-9275 (TTY)

D. **Education**

Students with disabilities in public schools (K-12) are covered by Individuals with Disabilities Education Act (IDEA), Title II of the ADA, and §504 of the Rehabilitation Act. Students with disabilities in public postsecondary education are covered by Title II and §504. Title III of the ADA applies to private schools (K-12 and post-secondary) that are not operated by religious entities. Private schools that receive federal funding are also covered by §504.

1. **IDEA complaints.**

Parents can request a due process hearing and a review from the state educational agency if applicable in that state. They also can appeal the state agency's decision to state or federal court. You may contact the Office of Special Education and Rehabilitative Services (OSERS) for further information or to provide your own thoughts and ideas on how they may better serve individuals with disabilities, their families and their communities. For more information contact:

Office of Special Education and Rehabilitative Services
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202-7100
202-245-7468 (voice)
2. Title II of the ADA and §504 complaints.

The Office for Civil Rights (OCR) in the Department of Education enforces Title II of the ADA and §504 as they apply to education. Those who have had access denied due to a service animal may file a complaint with OCR or file a private lawsuit in federal court. An OCR complaint must be filed within 180 calendar days of the date of the alleged discrimination, unless the time for filing is extended for good cause. Before filing an OCR complaint against an institution, an individual may want to find out about the institution's grievance process and use that process to have the complaint resolved. However, an individual is not required by law to use the institutional grievance process before filing a complaint with OCR. If someone uses an institutional grievance process and then chooses to file the complaint with OCR, the complaint must be filed with OCR within sixty days after the last act of the institutional grievance process. For more information contact:

U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, S.W.
Washington, D.C. 20202-1100
Customer Service: 800-421-3481 (voice)
800-877-8339 (TTY)
E-mail: OCR@ed.gov
http://www2.ed.gov/about/offices/list/ocr/docs/howto.html

3. Title III complaints.

These may be filed with the Department of Justice.

U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Civil Rights Division
Disability Rights Section – NYA
Washington, D.C. 20530
http://www.ada.gov/
800-514-0301 (v)
800-514-0383 (TTY)

E. Transportation

Title II of the ADA applies to public transportation while Title III of the ADA applies to transportation provided by private entities. Section 504 of the Rehabilitation Act applies to federal entities and recipients of federal funding that provide transportation.

1. Title II and §504 complaints.

These may be filed with the Federal Transit Administration's Office of Civil Rights. For more information, contact:
Director, FTA Office of Civil Rights
East Building – 5th Floor, TCR
1200 New Jersey Ave., S.E.
Washington, D.C. 20590
FTA ADA Assistance Line: 888-446-4511 (voice)
800-877-8339 (Federal Information Relay Service)
http://www.fta.dot.gov/civil_rights.html
http://www.fta.dot.gov/12874_3889.html
(Complaint Form)

2. Title III complaints.

These may be filed with the Department of Justice.

U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Civil Rights Division
Disability Rights Section – NYA
Washington, D.C. 20530
http://www.ada.gov (link is external)
800-514-0301 (voice)
800-514-0383 (TTY)

Note: A person does not have to file a complaint with the respective federal agency before filing a lawsuit in federal court.

F. Air Transportation

ACAA covers airlines. Its regulations clarify what animals are considered service animals and explain how each type of animal should be treated.

ACAA complaints may be submitted to the Department of Transportation’s Aviation Consumer Protection Division. Air travelers who experience disability-related air travel service problems may call the hotline at 800-778-4838 (voice) or 800-455-9880 (TTY) to obtain assistance. Air travelers who would like the Department of Transportation (DOT) to investigate a complaint about a disability issue must submit their complaint in writing to:

Aviation Consumer Protection Division
Attn: C-75-D
U.S. Department of Transportation
1200 New Jersey Ave, S.E.
Washington, D.C. 20590

VIII. KENTUCKY LAW ON ASSISTANCE DOGS

KRS 258.500 – Kentucky law requires all public accommodations to allow people with disabilities who are accompanied by assistance dogs. Kentucky doesn't further define “assistance dogs,” but it does define disability to include physical and mental impairments, such as intellectual disabilities, organic brain syndrome,
and emotional and mental illness. Therefore, Kentucky law applies both to dogs that assist handlers with physical tasks (like pulling a wheelchair or alerting to particular sounds) and to psychiatric service dogs.

A. "Person" means person with a disability or trainer of assistance dog.

B. If a person is accompanied by an assistance dog, neither the person nor the dog shall be denied admittance to any hotel, motel, restaurant, or eating establishment, nor shall the person be denied full and equal accommodations, facilities, and privileges of all public places of amusement, theater, or resort when accompanied by an assistance dog.

C. Any person accompanied by an assistance dog shall be entitled to full and equal accommodations on all public transportation, if the dog does not occupy a seat in any public conveyance, nor endanger the public safety.

D. No payment of additional charges for services dog for fare on transportation.

E. No person accompanied by an assistance dog shall be denied admittance and use of any public building, nor denied the use of any elevator operated for public use.

F. Any person accompanied by an assistance dog may keep the dog in his immediate custody while a tenant in any apartment, or building used as a public lodging.

G. All trainers accompanied by an assistance dog shall have in their personal possession identification verifying that they are trainers of assistance dogs.

H. The provisions of this section shall not apply unless the person complies with the legal limitations applicable to nondisabled persons and unless all requirements of KRS 258.015 (vaccination required) and 258.135 (city/county dog licensing requirements) have been complied with.

I. Assistance dogs are exempt from all state and local licensing fees.

J. Licensing authorities shall accept that the dog for which the license is sought is an assistance dog if the person requesting the license is a person with a disability or the trainer of the dog.

K. Emergency medical treatment shall not be denied to an assistance dog assigned to a person regardless of the person's ability to pay prior to treatment.

L. No person shall willfully or maliciously interfere with an assistance dog or the dog's user.
IX. CASE LAW

A. Anderson v. City of Blue Ash, 798 F.3d 338 (6th Cir. 2015)

This case stems from a dispute between Plaintiff/Appellant and the City of Blue Ash ("City") on whether Plaintiff/Appellant could keep a miniature horse at her house as a service animal for her disabled minor daughter. Plaintiff/Appellant's daughter suffers from a number of disabilities that affect her ability to walk and balance independently, and the horse enabled her to play and get exercise in her backyard without assistance from an adult. In 2013, the City passed a municipal ordinance banning horses from residential property and then criminally prosecuted Plaintiff/Appellant for violating it. Plaintiff/Appellant's defense was that the Americans with Disabilities Act ("ADA"), and the Fair Housing Amendments Act ("FHAA"), both entitled her to keep the horse at her house as a service animal for her daughter. Rejecting those arguments, the Hamilton County Municipal Court found Plaintiff/Appellant guilty. Plaintiff/Appellant filed suit in federal court arguing that the ADA and FHAA entitled her to keep her horse as a service animal. The district court granted summary judgment to the City, finding that Plaintiff/Appellant's claims were barred by claim and issue preclusion stemming from her municipal court conviction. On appeal, the Sixth Circuit found that, because the fact-finding procedures available in a criminal proceeding in municipal court differed substantially from those available in a civil proceeding, Plaintiff/Appellant's conviction had no preclusive effect on this lawsuit. Furthermore, while there was no evidence that the City's actions were motivated by discriminatory intent against the minor daughter or had a disparate impact on disabled individuals, there were significant factual disputes regarding whether the ADA or FHAA required the City to permit Plaintiff/Appellant to keep her miniature horse at her house. The district court's grant of summary judgment to the city on those claims was therefore reversed.

B. Castillo Condominium Ass'n v. U.S. Dept. of Housing and Urban Development, 821 F.3d 92 (1st Cir. 2016)

In 2010, the Castillo Condominium Association learned that Carlo Giménez Bianco (Giménez), a condominium resident, was keeping a dog on the premises and warned him that he would be fined unless he removed the dog. Giménez, who suffered from anxiety and depression, advised the board of directors that he planned to keep his emotional support dog and that he was entitled to do so under federal law. As a result of the conflict, Giménez was forced to vacate and sell his unit, and he filed a complaint of disability discrimination with the Department of Housing and Urban Development (HUD). HUD filed a charge of discrimination against the Association under the Fair Housing Act. An administrative law judge (ALJ) concluded that the association had not violated the Act because Giménez failed to prove by a preponderance of the evidence that he suffered from a mental impairment. The ALJ's decision was appealed to the Secretary, who found that Giménez suffered from a cognizable disability. The First Circuit Court of Appeals
held that substantial evidence supported the Secretary's finding that the association's refusal to allow Giménez to keep an emotional support dog in his condominium unit as a reasonable accommodation for his disability violated the Fair Housing Act. The association's petition for review was denied and the Secretary's cross petition was granted.


Plaintiffs sought damages stemming from Defendants' refusal to accommodate Plaintiffs' minor son's mental health disabilities by allowing Plaintiffs to keep a mixed-breed pit bull as an emotional support animal in their rented duplex. Plaintiffs asserted (1) housing discrimination under the Federal Housing Act ("FHA"), (2) unlawful retaliation under the FHA, (3) discrimination under the Texas Fair Housing Act ("TFHA"), and (4) unlawful retaliation under §92.331 of the Texas Property Code. Defendants filed the Motion, seeking dismissal of the complaint pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). The court found Plaintiffs had adequately pleaded all claims and denied the Defendant's motion to dismiss.

D. **De León v. Vornado Montehiedra Acquisition L.P.**, 166 F.Supp.3d 171 (D.P.R. 2016)

The defendant in this case sought to dismiss plaintiff's case, stating that the plaintiff claim did not have proper constitutional standing under the Americans with Disabilities Act (ADA). The court denied defendant's request and held that plaintiff did present sufficient evidence to establish standing under the ADA. In order to establish standing, the plaintiff needed to prove three elements: (1) actual or threatened injury; (2) causal connection between the injury and the challenged conduct; and (3) that a favorable court decision can redress the injury. The court determined that plaintiff did satisfy all three elements by showing that plaintiff's disabled daughter was not allowed in defendant's shopping mall with her service dog after the mall security guard was not properly informed of protocol regarding service dogs. Ultimately, the security guard mistakenly believed that the service dog needed documentation in order to enter the mall; however, the dog was properly identified as a certified service dog and should have been allowed into the mall. Defendant's motion to dismiss was denied.


The Individuals with Disabilities Education Act (IDEA) offers federal funds to states in exchange for "free appropriate public education" (FAPE) to children with certain disabilities. The Act also establishes formal administrative procedures for resolving disputes between parents and schools. When trained service dog, Wonder, attempted to join Plaintiff E.F. in kindergarten, officials at Ezra Eby Elementary School refused. Plaintiff E.F. is a child with severe cerebral palsy; Wonder assists her with various daily life activities. E.F.'s parents, Plaintiffs Stacy and Brent Fry, removed E.F. from the school and filed a complaint with the Department...
of Education’s Office for Civil Rights (OCR). The Plaintiffs claimed that the exclusion of E.F.’s service dog violated her rights under Title II of the Americans with Disabilities Act (ADA) and §504 of the Rehabilitation Act. OCR agreed, and school officials invited E.F. to return to the school. Yet, the Plaintiffs filed suit in federal court against the Defendants, Ezra Eby’s local and regional school districts, and the principal, (collectively, the school districts). In the federal suit, Plaintiffs alleged that the Defendants violated Title II and §504 and sought declaratory and monetary relief. The Defendant school districts filed a motion to dismiss. The United States District Court for the Eastern District of Michigan granted the motion. The Plaintiffs appealed to the United States Court of Appeals for the Sixth Circuit where the district court’s motion to dismiss was affirmed. Certiorari was granted. The Supreme Court of the United States vacated and remanded. The Supreme Court held that, on remand, the appeals court should: (1) establish whether (or to what extent) the plaintiff parents invoked the IDEA’s dispute resolution process before bringing this suit; and (2) decide whether Plaintiffs’ actions reveal that the gravamen of their complaint is indeed the denial of FAPE. The Court reasoned that exhaustion of the IDEA’s administrative procedures is unnecessary where the gravamen of the Plaintiffs’ suit is something other than the denial of the IDEA’s core guarantee of a FAPE.

F. In re Kenna Homes Co-op Corp., 557 S.E.2d 787 (WV 2001)

The owners of a cooperative unit kept a dog in their dwelling despite a no-pets policy. There was, however, an exception in the policy for service animals, and the Jessups argued that the small dog they kept was necessary due to various medical problems they had, including arthritis and depression. The housing authority denied the request, stating that only animals certified for the particular disability qualify as a "service animal." The West Virginia Court of Appeals held that a housing authority may require that a service animal be properly trained without violating federal law.


In this case, Kennedy House appealed the lower court’s decision in finding that it had violated Section 9-1108 of the Philadelphia Fair Practice Ordinance when it denied Jan Rubin's request for a housing accommodation in the form of a waiver of its no-dog policy. Rubin applied for a housing accommodation at Kennedy House because she suffered from multiple physical ailments. In a meeting with Kennedy House, Rubin did state that her dog was not a trained service animal that helped with her physical and mobility issues but rather helped with reminding her to take medication and getting out of bed. The lower court determined that Rubin had satisfied her burden of proving that her dog was necessary in helping with her medical issues. After reviewing the lower court's decision, the Commonwealth Court of Pennsylvania held that the lower court had erred in its decisions. Ultimately, the court found that because Ms. Rubin's physician described a disability related to her mobility, and
there was no evidence establishing a nexus between her mobility-related needs and the requested assistance animal, Ms. Rubin did not meet her burden necessary for Kennedy House to waive its no-dog policy. As a result, the court reversed the lower court's decision.


This case involved challenges to the courtroom procedure of allowing a witness to be accompanied on the witness stand by a support animal. Defendant Johnson appealed his convictions of criminal sexual assault after he was convicted of assaulting his six-year-old niece. During Defendant's trial, a black Labrador retriever was permitted to accompany the six-year-old victim to the witness stand. On appeal, the Defendant first argued that his trial counsel was ineffective for failing to object to the use of a support animal because MCL 600.2163a(4) only allows a support person. The Court of Appeals of Michigan stated that the trial court had the inherent authority to utilize support animals. Secondly, the Defendant argued that trial counsel should have objected to the notice of a support person on the basis that allowing the witnesses to testify accompanied by the support animal violated his constitutional right to due process. The court of appeals stated that there is no indication that the support dog used was visible to the jury, or that he barked, growled, or otherwise interrupted the proceedings. Therefore, the objection was meritless. Next, the Defendant argued that his counsel was ineffective for failing to request various procedural protections if the support animal was used. The court of appeals stated that the use of a support dog did not implicate the Confrontation Clause; the presence of the dog did not affect the witnesses' competency to testify or affect the oath given to the witnesses; the witnesses were still subject to cross-examination; and the trier of fact was still afforded the unfettered opportunity to observe the witnesses' demeanor. Finally, the Defendant argued that a limiting instruction should have been provided to the jury when the support animal was utilized and this rendered his counsel ineffective. The court of appeals stated that there are no Michigan jury instructions addressing the use of a support animal. Counsel was then not ineffective in failing to ask for an instruction that does not yet exist in Michigan. The court of appeals affirmed the defendant's convictions and sentence and remanded.


The plaintiff filed suit based on violations of the Americans with Disabilities Act (ADA) and the Rehabilitation Act (RA) after he was denied entrance into the Tippecanoe County Courthouse with his service dog. Initially, defendant's claims were dismissed because the court did not adequately allege that his dog was a service dog. Defendant then filed an amended complaint with plausible allegations that his dog is a service dog. The defendants moved to dismiss the case, stating that the plaintiff had not established that his dog was a service dog according to the definition listed under rules promulgated under the ADA. The court found that the plaintiff's dog was a service dog under the definition because the
dog was "individually trained to, among other things, provide [plaintiff] with balance support and assistance during episodes of PTSD." As a result, the defendant's motion to dismiss the case was denied.

J. Sak v. City of Aurelia, Iowa, 832 F.Supp.2d 1026 (N.D. Iowa 2011)

After suffering a disabling stroke, a retired police officer's pit bull mix was trained to become a service dog. However, the town where the retired police officer resided had a breed specific ordinance that prohibited pit bulls. The retired police officer and his wife brought this suit against the city alleging that the ordinance violated his rights under ADA, and also sought a preliminary injunction to enjoin the city from enforcing the ordinance. The officer's preliminary injunction was granted after the court found: 1) the officer was likely to succeed on merits of the ADA claim; 2) the officer would suffer irreparable harm absent injunction; 3) the balance of equities was in favor of injunctive relief; and 4) the national public interest in enforcement of ADA trumped more local public interest in public health and safety reflected in the ordinance.


This case considers whether student housing at the University of Nebraska-Kearney (UNK) is a "dwelling" within the meaning of the FHA. The plaintiff had a service dog (or therapy dog as the court describes it) trained to respond to her anxiety attacks. When she enrolled and signed a lease for student housing (an apartment-style residence about a mile off-campus), her requests to have her service dog were denied, citing UNK's "no pets" policy for student housing. The United States, on behalf of plaintiff, filed this suit alleging that UNK's actions violated the FHA. UNK brought a motion for summary judgment alleging that UNK's student housing is not a "dwelling" covered by the FHA. Specifically, UNK argues that students are "transient visitors" and the student housing is not residential like other temporary housing (migrant housing, halfway houses, etc.) and more akin to jail. However, this court was not convinced, finding that "UNK's student housing facilities are clearly 'dwellings' within the meaning of the FHA."
Many people with disabilities use a service animal in order to fully participate in everyday life. Dogs can be trained to perform many important tasks to assist people with disabilities, such as providing stability for a person who has difficulty walking, picking up items for a person who uses a wheelchair, preventing a child with autism from wandering away, or alerting a person who has hearing loss when someone is approaching from behind.

The Department of Justice continues to receive many questions about how the Americans with Disabilities Act (ADA) applies to service animals. The ADA requires State and local government agencies, businesses, and non-profit organizations (covered entities) that provide goods or services to the public to make "reasonable modifications" in their policies, practices, or procedures when necessary to accommodate people with disabilities. The service animal rules fall under this general principle. Accordingly, entities that have a "no pets" policy generally must modify the policy to allow service animals into their facilities. This publication provides guidance on the ADA's service animal provisions and should be read in conjunction with the publication ADA Revised Requirements: Service Animals.

DEFINITION OF SERVICE ANIMAL

Q1: What is a service animal?

A: Under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person’s disability.

Q2: What does "do work or perform tasks" mean?

A: The dog must be trained to take a specific action when needed to assist the person with a disability. For example, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind her to take her medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure.
Q3: Are emotional support, therapy, comfort, or companion animals considered service animals under the ADA?

A: No. These terms are used to describe animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA. However, some State or local governments have laws that allow people to take emotional support animals into public places. You may check with your State and local government agencies to find out about these laws.

Q4: If someone’s dog calms them when having an anxiety attack, does this qualify it as a service animal?

A: It depends. The ADA makes a distinction between psychiatric service animals and emotional support animals. If the dog has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, that would qualify as a service animal. However, if the dog’s mere presence provides comfort, that would not be considered a service animal under the ADA.

Q5: Does the ADA require service animals to be professionally trained?

A: No. People with disabilities have the right to train the dog themselves and are not required to use a professional service dog training program.

Q6: Are service-animals-in-training considered service animals under the ADA?

A: No. Under the ADA, the dog must already be trained before it can be taken into public places. However, some State or local laws cover animals that are still in training.

GENERAL RULES

Q7: What questions can a covered entity’s employees ask to determine if a dog is a service animal?

A: In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions: (1) is the dog a service animal required because of a disability? And (2) what work or task has the dog been trained to perform? Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person’s disability.

Q8: Do service animals have to wear a vest or patch or special harness identifying them as service animals?

A: No. The ADA does not require service animals to wear a vest, ID tag, or specific harness.
Q9: Who is responsible for the care and supervision of a service animal?
A: The handler is responsible for caring for and supervising the service animal, which includes toileting, feeding, and grooming and veterinary care. Covered entities are not obligated to supervise or otherwise care for a service animal.

Q10: Can a person bring a service animal with them as they go through a salad bar or other self-service food lines?
A: Yes. Service animals must be allowed to accompany their handlers to and through self-service food lines. Similarly, service animals may not be prohibited from communal food preparation areas, such as are commonly found in shelters or dormitories.

Q11: Can hotels assign designated rooms for guests with service animals, out of consideration for other guests?
A: No. A guest with a disability who uses a service animal must be provided the same opportunity to reserve any available room at the hotel as other guests without disabilities. They may not be restricted to "pet-friendly" rooms.

Q12: Can hotels charge a cleaning fee for guests who have service animals?
A: No. Hotels are not permitted to charge guests for cleaning the hair or dander shed by a service animal. However, if a guest’s service animal causes damages to a guest room, a hotel is permitted to charge the same fee for damages as charged to other guests.

Q13: Can people bring more than one service animal into a public place?
A: Generally, yes. Some people with disabilities may use more than one service animal to perform different tasks. For example, a person who has a visual disability and a seizure disorder may use one service animal to assist with way-finding and another that is trained as a seizure alert dog. Other people may need two service animals for the same task, such as a person who needs two dogs to assist him or her with stability when walking. Staff may ask the two permissible questions (See Question 7) about each of the dogs. If both dogs can be accommodated, both should be allowed in. In some circumstances, however, it may not be possible to accommodate more than one service animal. For example, in a crowded small restaurant, only one dog may be able to fit under the table. The only other place for the second dog would be in the aisle, which would block the space between tables. In this case, staff may request that one of the dogs be left outside.

Q14: Does a hospital have to allow an in-patient with a disability to keep a service animal in his or her room?
A: Generally, yes. Service animals must be allowed in patient rooms and anywhere else in the hospital the public and patients are allowed to go. They cannot be excluded on the grounds that staff can provide the same services.
Q15: What happens if a patient who uses a service animal is admitted to the hospital and is unable to care for or supervise their animal?

A: If the patient is not able to care for the service animal, the patient can make arrangements for a family member or friend to come to the hospital to provide these services, as it is always preferable that the service animal and its handler not to be separated, or to keep the dog during the hospitalization. If the patient is unable to care for the dog and is unable to arrange for someone else to care for the dog, the hospital may place the dog in a boarding facility until the patient is released, or make other appropriate arrangements. However, the hospital must give the patient opportunity to make arrangements for the dog’s care before taking such steps.

Q16: Must a service animal be allowed to ride in an ambulance with its handler?

A: Generally, yes. However, if the space in the ambulance is crowded and the dog’s presence would interfere with the emergency medical staff’s ability to treat the patient, staff should make other arrangements to have the dog transported to the hospital.

CERTIFICATION AND REGISTRATION

Q17: Does the ADA require that service animals be certified as service animals?

A: No. Covered entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry.

There are individuals and organizations that sell service animal certification or registration documents online. These documents do not convey any rights under the ADA and the Department of Justice does not recognize them as proof that the dog is a service animal.

Q18: My city requires all dogs to be vaccinated. Does this apply to my service animal?

A: Yes. Individuals who have service animals are not exempt from local animal control or public health requirements.

Q19: My city requires all dogs to be registered and licensed. Does this apply to my service animal?

A: Yes. Service animals are subject to local dog licensing and registration requirements.
Q20: My city requires me to register my dog as a service animal. Is this legal under the ADA?

A: No. Mandatory registration of service animals is not permissible under the ADA. However, as stated above, service animals are subject to the same licensing and vaccination rules that are applied to all dogs.

Q21: My city/college offers a voluntary registry program for people with disabilities who use service animals and provides a special tag identifying the dogs as service animals. Is this legal under the ADA?

A: Yes. Colleges and other entities, such as local governments, may offer voluntary registries. Many communities maintain a voluntary registry that serves a public purpose, for example, to ensure that emergency staff know to look for service animals during an emergency evacuation process. Some offer a benefit, such as a reduced dog license fee, for individuals who register their service animals. Registries for purposes like this are permitted under the ADA. An entity may not, however, require that a dog be registered as a service animal as a condition of being permitted in public places. This would be a violation of the ADA.

BREEDS

Q22: Can service animals be any breed of dog?

A: Yes. The ADA does not restrict the type of dog breeds that can be service animals.

Q23: Can individuals with disabilities be refused access to a facility based solely on the breed of their service animal?

A: No. A service animal may not be excluded based on assumptions or stereotypes about the animal’s breed or how the animal might behave. However, if a particular service animal behaves in a way that poses a direct threat to the health or safety of others, has a history of such behavior, or is not under the control of the handler, that animal may be excluded. If an animal is excluded for such reasons, staff must still offer their goods or services to the person without the animal present.

Q24: If a municipality has an ordinance that bans certain dog breeds, does the ban apply to service animals?

A: No. Municipalities that prohibit specific breeds of dogs must make an exception for a service animal of a prohibited breed, unless the dog poses a direct threat to the health or safety of others. Under the “direct threat” provisions of the ADA, local jurisdictions need to determine, on a case-by-case basis, whether a particular service animal can be excluded based on that particular animal’s actual behavior or history, but they may not exclude a service animal because of fears or generalizations about how an animal or breed might behave. It is important to note that breed restrictions differ significantly from jurisdiction to jurisdiction. In fact, some jurisdictions have no breed restrictions.
EXCLUSION OF SERVICE ANIMALS

Q25: When can service animals be excluded?

A: The ADA does not require covered entities to modify policies, practices, or procedures if it would "fundamentally alter" the nature of the goods, services, programs, or activities provided to the public. Nor does it overrule legitimate safety requirements. If admitting service animals would fundamentally alter the nature of a service or program, service animals may be prohibited. In addition, if a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded.

Q26: When might a service dog’s presence fundamentally alter the nature of a service or program provided to the public?

A: In most settings, the presence of a service animal will not result in a fundamental alteration. However, there are some exceptions. For example, at a boarding school, service animals could be restricted from a specific area of a dormitory reserved specifically for students with allergies to dog dander. At a zoo, service animals can be restricted from areas where the animals on display are the natural prey or natural predators of dogs, where the presence of a dog would be disruptive, causing the displayed animals to behave aggressively or become agitated. They cannot be restricted from other areas of the zoo.

Q27: What does under control mean? Do service animals have to be on a leash? Do they have to be quiet and not bark?

A: The ADA requires that service animals be under the control of the handler at all times. In most instances, the handler will be the individual with a disability or a third party who accompanies the individual with a disability. In the school (K-12) context and in similar settings, the school or similar entity may need to provide some assistance to enable a particular student to handle his or her service animal. The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the person’s disability prevents use of these devices. In that case, the person must use voice, signal, or other effective means to maintain control of the animal.

For example, a person who uses a wheelchair may use a long, retractable leash to allow her service animal to pick up or retrieve items. She may not allow the dog to wander away from her and must maintain control of the dog, even if it is retrieving an item at a distance from her. Or, a returning veteran who has PTSD and has great difficulty entering unfamiliar spaces may have a dog that is trained to enter a space, check to see that no threats are there, and come back and signal that it is safe to enter. The dog must be off leash to do its job, but may be leashed at other times. Under control also means that a service animal should not be allowed to bark repeatedly in a lecture hall, theater, library, or other quiet place. However, if a dog barks just once, or barks because someone has provoked it, this would not mean that the dog is out of control.
Q28: What can my staff do when a service animal is being disruptive?
A: If a service animal is out of control and the handler does not take effective action to control it, staff may request that the animal be removed from the premises.

Q29: Are hotel guests allowed to leave their service animals in their hotel room when they leave the hotel?
A: No, the dog must be under the handler’s control at all times.

Q30: What happens if a person thinks a covered entity’s staff has discriminated against him or her?
A: Individuals who believe that they have been illegally denied access or service because they use service animals may file a complaint with the U.S. Department of Justice. Individuals also have the right to file a private lawsuit in Federal court charging the entity with discrimination under the ADA.

MISCELLANEOUS

Q31: Are stores required to allow service animals to be placed in a shopping cart?
A: Generally, the dog must stay on the floor, or the person must carry the dog. For example, if a person with diabetes has a glucose alert dog, he may carry the dog in a chest pack so it can be close to his face to allow the dog to smell his breath to alert him of a change in glucose levels.

Q32: Are restaurants, bars, and other places that serve food or drink required to allow service animals to be seated on chairs or allow the animal to be fed at the table?
A: No. Seating, food, and drink are provided for customer use only. The ADA gives a person with a disability the right to be accompanied by his or her service animal, but covered entities are not required to allow an animal to sit or be fed at the table.

Q33: Are gyms, fitness centers, hotels, or municipalities that have swimming pools required to allow a service animal in the pool with its handler?
A: No. The ADA does not override public health rules that prohibit dogs in swimming pools. However, service animals must be allowed on the pool deck and in other areas where the public is allowed to go.

Q34: Are churches, temples, synagogues, mosques, and other places of worship required to allow individuals to bring their service animals into the facility?
A: No. Religious institutions and organizations are specifically exempt from the ADA. However, there may be State laws that apply to religious organizations.
Q35: Do apartments, mobile home parks, and other residential properties have to comply with the ADA?

A: The ADA applies to housing programs administered by state and local governments, such as public housing authorities, and by places of public accommodation, such as public and private universities. In addition, the Fair Housing Act applies to virtually all types of housing, both public and privately-owned, including housing covered by the ADA. Under the Fair Housing Act, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with a disability, or provide emotional support to alleviate a symptom or effect of a disability. For information about these Fair Housing Act requirements see HUD’s Notice on Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-funded Programs.

Q36: Do Federal agencies, such as the U.S. Department of Veterans Affairs, have to comply with the ADA?

A: No. Section 504 of the Rehabilitation Act of 1973 is the Federal law that protects the rights of people with disabilities to participate in Federal programs and services. For information or to file a complaint, contact the agency’s equal opportunity office.

Q37: Do commercial airlines have to comply with the ADA?

A: No. The Air Carrier Access Act is the Federal law that protects the rights of people with disabilities in air travel. For information or to file a complaint, contact the U.S. Department of Transportation, Aviation Consumer Protection Division, at 202-366-2220.

For more information about the ADA, please visit our website or call our toll-free number.

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