

Know Your Rights

SERVICE ANIMALS

This fact sheet is designed to help people with disabilities understand their legal rights as it pertains to service animals. This fact sheet will cover:

- (1) Equal Access to Public Places
- (2) Service Animals in the Housing Context

YOU HAVE THE RIGHT TO EQUAL ACCESS TO PUBLIC PLACES WITH A SERVICE ANIMAL.

Service animals are “dogs that are individually trained to do work or perform tasks for the benefit of an individual with a disability.”ⁱ All other animals, with the exception of miniature horses under certain circumstances, are not services animals under the Americans with Disabilities Act (“ADA”).ⁱⁱ

REMEMBER:

- The work performed by a service animal must be directly related to the individual’s disability.ⁱⁱⁱ

EXAMPLE: A guide dog trained to enter room and turn on lights for a person with PTSD

- An animal whose sole function is to provide emotional support, well-being, comfort, or companionship is not a service animal recognized by the ADA.^{iv}

WHERE YOU CAN BRING A SERVICE ANIMAL:

Under the ADA, public entities (government programs or services), public accommodations, and commercial facilities that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go. Public accommodations include: hotels, restaurants, theaters, places of public gathering, stores and shopping centers, service establishments, public transportation terminals, places of public display or collection, places of recreation, and places of education.^v

EXAMPLE: An individual with a disability is allowed to bring his or her service animal into a McDonald’s restaurant, which qualifies as a public accommodation.

Public entities and public accommodations must make reasonable modifications to policies, practices, or procedures if the modifications are necessary for individuals with disabilities to participate in the use of the public accommodation.^{vi} Such modification generally includes permitting the use of a service animal by an individual with a disability.^{vii}

REMEMBER:

- Service animals must be harnessed, leashed, or tethered, unless the devices interfere with the service animal’s work or the individual’s disability prevents using these devices.
- A public accommodation may exclude a service animal from the premises if: (1) the animal is out of control and the handler does not effectively control it;^{viii} (2) the animal is not housebroken;^{ix} (3) if the animal poses a direct threat to the health and safety of others. The business should give the person with the disability the option to obtain goods and services without having the service animal on the premises.

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EXAMPLE: If you need your service dog to alert you of something, one of the employees of the public accommodation can assume that responsibility.

- A public accommodation cannot require an individual with a disability to pay a fee for bringing a service animal into the place of public accommodation, even if people accompanied by pets are required to pay fees.^x

REMEMBER:

- If a public accommodation normally charges a fee to individuals for damaging property, an individual with a disability may be charged for any damage caused by his or her service animal.^{xi}
- A public accommodation may not ask about the nature or extent of a person's disability, but may ask two questions to determine if an animal qualifies as a service animal: (1) if the animal is required because of a disability; and (2) what work or task the animal has been trained to perform.^{xii}
- These inquiries can only be made if it is not readily apparent that an animal is trained to do work or perform tasks for an individual with a disability.^{xiii} A public accommodation cannot require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.^{xiv} Vaccination is not required under the ADA, but may be required under local ordinances.

YOU HAVE THE RIGHT TO KEEP A SERVICE ANIMAL IN YOUR HOUSE.

Under the Fair Housing Act, certain housing providers and those receiving federal funding must provide reasonable accommodations in their policies to individuals with a disability.^{xv} “A reasonable accommodation is a change, adaptation or modification to a policy, program, service or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job.” 29 U.S.C. § 794^{xvi}

EXAMPLE: This may include allowing an individual with a disability to keep a service animal in their apartment even though the complex has a no-pet policy.^{xvii}

While the ADA limits the term “service animal” to trained dogs, the Fair Housing Act recognizes that species other than dogs, with or without training, and animals that provide emotional support in order to ease the symptoms of the individual’s disability are considered service animals.

EXAMPLE: An individual who needs companionship of dog to overcome depression.

REMEMBER:

- You must be able to demonstrate a strong relationship between your ability to function, e.g. grocery shopping, walking, dressing, and companionship with your service animal. You must also show that having your animal is necessary in order to use and enjoy the residence.

YOU MAY FILE A COMPLAINT WITH:

1. **U.S. Department of Justice** (http://www.ada.gov/fact_on_complaint.htm)
2. **U.S. Department of Housing and Urban Development** (http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination)
3. **California: Department of Fair Employment and Housing** (http://dfeh.ca.gov/Complaints_ComplaintProcess.htm)

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