



Service Animals Allowed



A SERVICE ANIMAL IS NOT A PET!

Service animals are allowed in any business which operates as a public accommodation



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The US Department of Justice is the source of information for this booklet. Visit the US Department of Justice website for further information:

www.ada.gov or call

1-800-514-0301 (voice)

1-800-514-0383 (TTY)

For additional information, you may also visit the Governor's Council on Disability's website at

www.disabilityinfo.mo.gov

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INTRODUCTION

This booklet contains information about the federal law, Americans with Disabilities Act of 1990 (ADA). The ADA prohibits discrimination on the basis of disability in employment, programs and services provided by state and local governments, goods and services provided by private companies, and in commercial facilities.

Also covered in this booklet is the federal law ADA, Title II, State and local government, Title III, Public Accommodations which also includes U.S. Dept. of Justice document "Commonly Asked Questions about Service Animals in Places of Business", 28 Code of Federal Regulations (CFR), Subpart C, Part 36.302 Modifications in policies, practices, or procedures and general information about service dogs assisting people with disabilities and common mistakes made by businesses.

People with disabilities accompanied by a service dog/animal have been covered by federal law since 1990. Although there are approximately 20,000 service dogs in our nation, there will be significant increase of service dogs in the next five years.

Guide dogs are only one of many types of service animals that assist people with multiple disabilities. Service animals are not pets.

Many people with disabilities are utilizing service animals to maintain their independence in the community. The Americans with Disabilities Act provides protection and guidelines in the use of service animals in public places and work places.

The Air Carrier Access Act allows for emotional support animals for the flying public that has a disability and the Fair Housing Act (and Section 504) allows for emotional support animals as reasonable accommodations in housing. Emotional support animals are not allowed in public places.

It is pertinent for businesses to recognize that customers with disabilities represent two hundred and twenty billion dollars in disposable income in the USA and three trillion dollars in the global market.

What is a Service Dog/Animal?

"A service animal is any animal that is individually trained to do work or perform tasks that benefit an individual with a disability".

--Americans with Disabilities Act 1990, Title III-4.2300

The ADA protects the rights of people with disabilities to be accompanied by their service animals. The majority of the service animals are dogs of various breeds which are trained to perform tasks that are beneficial to the individual with a disability.

Service animals may be identified as "assistance animal/dog", "support animal/dog", or "helper dog".

United States Service Dog History

Guide dogs were introduced in the United States in the late 1920's. Forty years later, dogs were trained to alert people with hearing impairment to sounds (hearing dogs). During the early 1970's, dogs were trained to retrieve items for people with mobility impairments (wheelchair users). The first "seizure alert" dog was introduced in the late 1980's. Since the enactment of the American's with Disabilities Act (ADA) 1990, doors opened for innovative animal trainers to train animals to assist many types of disabilities. Today there are approximately 20,000 service dogs working in the U.S. with the numbers rising in the next decade.

Service animals are considered a health care option and assisting resource, for example instead of or in conjunction with: wheelchair, cane, hearing aide.. Many service dogs receive specialized training through service dog training centers and cost up to \$40,000. A service dog is not just any dog!

Here is a partial list of service dogs.

GUIDE DOG or DOG GUIDE-assist people with visual impairments.

MOBILITY DOG-retrieve items, open doors, push buttons, also assisting people with disabilities with walking, balance and transferring from place to place.

HEARING ALERT-assist people with a hearing impairment to sounds.

SEIZURE ALERT/SEIZURE RESPONSE also known as **MEDICAL ALERT**-alerts to oncoming seizures and is trained to respond to seizures such as get help or stay with the person.

MEDICAL ALERT/MEDICAL RESPONSE-alerts to oncoming medical conditions, such as: heart attack, stroke, diabetes, epilepsy, panic attack, anxiety attack or post traumatic stress disorder.

NOTE: Not all people accompanied by a service animal have visible disabilities such as: hearing, epilepsy, visual, heart disease and physiological/emotional conditions.

Service animals are individually trained to perform task for people with disabilities.



COMMONLY ASKED QUESTIONS ABOUT SERVICE ANIMALS IN PLACES OF BUSINESS

Q: What are the laws that apply to my business?

A: Under the Americans with Disabilities Act (ADA), privately owned businesses that serve the public, such as restaurants, hotels, retail stores, taxicabs, theaters, concert halls, and sports facilities, are prohibited from discriminating against individuals with disabilities. The ADA requires these businesses to allow people with disabilities to bring their service animals onto business premises in whatever areas customers are generally allowed.

Q: What is a service animal?

A: The ADA defines a service animal as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. If they meet this definition, animals are considered service animals under the ADA regardless of whether they have been licensed or certified by a state or local government.

Service animals perform some of the functions and tasks that the individual with a disability cannot perform for him or herself. "Seeing eye dogs" are one type of service animal, used by some individuals who are blind. This is the type of service animal with which most people are familiar. But there are service animals that assist persons with other kinds of disabilities in their day-to-day activities. Some examples include:

- Alerting persons with hearing impairments to sounds.
- Pulling wheelchairs or carrying and picking up things for persons with mobility impairments.
- Assisting persons with mobility impairments with balance.
- A service animal is not a pet.

Q: How can I tell if an animal is really a service animal and not just a pet?

A: Some, but not all, service animals wear special collars and harnesses. Some, but not all, are licensed or certified and have identification papers. If you are not certain that an animal is a service animal, you may ask the person who has the animal if it is a service animal required because of a disability. However, an individual who is going to a restaurant or theater is not likely to be carrying documentation of his or her medical condition or disability. Therefore, such documentation generally may not be required as a condition for providing service to an individual accompanied by a service

animal. Although a number of states have programs to certify service animals, you may not insist on proof of state certification before permitting the service animal to accompany the person with a disability.

Q: What must I do when an individual with a service animal comes to my business?

A: The service animal must be permitted to accompany the individual with a disability to all areas of the facility where customers are normally allowed to go. An individual with a service animal may not be segregated from other customers.

Q: I have always had a clearly posted "no pets" policy at my establishment. Do I still have to allow service animals in?

A: Yes. A service animal is not a pet. The ADA requires you to modify your "no pets" policy to allow the use of a service animal by a person with a disability. This does not mean you must abandon your "no pets" policy altogether but simply that you must make an exception to your general rule for service animals.

Q: My county health department has told me that only a seeing eye or guide dog has to be admitted. If I follow those regulations, am I violating the ADA?

A: Yes, if you refuse to admit any other type of service animal on the basis of local health department regulations or other state or local laws. The ADA provides greater protection for individuals with disabilities and so it takes priority over the local or state laws or regulations.

Q: Can I charge a maintenance or cleaning fee for customers who bring service animals into my business?

A: No. Neither a deposit nor a surcharge may be imposed on an individual with a disability as a condition to allowing a service animal to accompany the individual with a disability, even if deposits are routinely required for pets. However, a public accommodation may charge its customers with disabilities if a service animal causes damage so long as it is the regular practice of the entity to charge non-disabled customers for the same types of damages. For example, a hotel can charge a guest with a disability for the cost of repairing or cleaning furniture damaged by a service animal if it is the hotel's policy to charge when non-disabled guests cause such damage.

Q: I operate a private taxicab and I don't want animals in my taxi; they smell, shed hair and sometimes have "accidents." Am I violating the ADA if I refuse to pick up someone with a service animal?

A: Yes. Taxicab companies may not refuse to provide services to individuals with disabilities. Private taxicab companies are also prohibited from charging higher fares or fees for transporting individuals with disabilities and their service animals than they charge to other persons for the same or equivalent service.

Q: Am I responsible for the animal while the person with a disability is in my business?

A: No. The care or supervision of a service animal is solely the responsibility of his or her owner. You are not required to provide care or food or a special location for the animal.

Q: What if a service animal barks or growls at other people, or otherwise acts out of control?

A: You may exclude any animal, including a service animal, from your facility when that animal's behavior poses a direct threat to the health or safety of others. For example, any service animal that displays vicious behavior towards other guests or customers may be excluded. You may not make assumptions, however, about how a particular animal is likely to behave based on your past experience with other animals. Each situation must be considered individually.

Although a public accommodation may exclude any service animal that is out of control, it should give the individual with a disability who uses the service animal the option of continuing to enjoy its goods and services without having the service animal on the premises.

Q: Can I exclude an animal that doesn't really seem dangerous but is disruptive to my business?

A: There may be a few circumstances when a public accommodation is not required to accommodate a service animal--that is, when doing so would result in a fundamental alteration to the nature of the business. Generally, this is not likely to occur in restaurants, hotels, retail stores, theaters, concert halls, and sports facilities. But when it does, for example, when a dog barks during a movie, the animal can be excluded.

American with Disabilities Act Definitions

Disability

The ADA defines disability as follows:

The term "disability" means, with respect to an individual-

- A. A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- B. A record of such an impairment; or
- C. Being regarded as having such an impairment.

- ADA Title III Technical Assistance Manual, III-100-2.700 [28 CFR §36.104]

Service Animal

The term "service animal" includes any animal individually trained to do work or perform tasks for the benefit of an individual with a disability.

- ADA Title III Technical Assistance Manual, III-4.2300 [28 CFR 36.301-36.310]

Private Entity

A private entity that owns, leases (or leases to), or operates a place of public accommodations.

- ADA Title III Regulations 36.104 [28CFR §36.104]

Public Entity

1. Any State or local government;
2. Any department, agency, special purpose district, or other instrumentality of a State or States or local government; or
3. Certain commuter authorities as well as AMTRAK.

- ADA Title II, Technical Assistance Manual, II-1.200 [28CFR §36.104-208]

Facility

Facility means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or conveyances, roads, walks, passageways, parking lots, or other real or personal property, including where the building, property, structure or equipment is located.

- ADA Title III Regulations 36.104 [28CFR §36.104]

Public Transportation

Public transportation means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing bases.

- ADA Title III Regulations 36.104 [28CFR §36.104]

Is Your Business a Public Accommodation?

Public accommodation.

The following private entities are considered public accommodations for purposes of this title (III), if the operations of such entities affect commerce;

A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

B) a restaurant, bar or other establishment serving food or drink;

C) a motion picture house, theater, concert hall, stadium or other place of exhibition;

D) an auditorium, convention center, lecture hall or other place of public gathering;

E) a bakery, grocery store, clothing store, hardware store, shopping center or other sales or rental establishment;

F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital or other service establishment;

G) a terminal, depot or other station used for a specified public transportation;

H) a museum, library, gallery or other place of public display or collection;

I) a park, zoo, amusement park or other place of recreation;

J) a nursery, elementary, secondary, undergraduate, postgraduate private school or other place of education;

K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service center establishment; and

L) a gymnasium, health spa, bowling alley, golf course or other place of exercise or recreation.¹

NOTE: Businesses mentioned in the above, are considered public accommodation under federal law. If you are not sure if your business is a public accommodation, call the U. S. Department of Justice Hotline.

¹ *The Americans With Disabilities Act of 1990, Title III, Section 301 (7) (A-L)*

What Are Common Mistakes Businesses Make About Service Animal Access?

"No Pets Allowed"

A business (public accommodation) is required to modify "no pets" policy, practices and procedures to allow service animals. Service animals are **not** pets.

"Pet Deposit"

A business (public accommodation) cannot charge "pet deposit" for a service animal accompanied by a person with a disability. A public accommodation is required to modify "pet deposit" policy, practices and procedures to allow service animals at no charge. Again, service animals are **not** pets.

"Proof of Disability, Unnecessary Inquiries"

A business (public accommodation) may not insist on proof of disability. A person is not required to disclose their disability. Medical information is private information. The ADA prohibits unnecessary inquiries into the existence of a disability. -ADA Technical Assistance Manual, III-4.1300.

"Proof of Service Animal Certification or Service Animal Identification"

A business (public accommodation) may not insist on proof of the certification or identification for a service animal. Some states have certification laws, however, the ADA is the prevailing law.

"Segregation"

A person with a disability accompanied by a service animal, may not be segregated from other customers in any public accommodations.

A public accommodation may not impose eligibility that either screen out or tend to screen out persons with disabilities from fully and equally enjoying any goods, services, privileges, advantages or accommodations offered to individuals without disabilities unless it can show that such requirements are necessary for the provision of the goods, services, privileges, advantages or accommodations.

Illustration 1: A restaurant has an unofficial policy of seating people with visible disabilities in the least desirable parts of the restaurant. This policy violates the ADA because it establishes an eligibility criterion that discriminates against individual with certain disabilities and that is not necessary for the operation of the restaurant. The restaurant may not justify its policy on the basis of the preferences of its other customers.

- ADA Technical Assistance Manual, III-4.1100

"Separating"

Also, a person with a disability accompanied by a service animal may not insist that the dog be separated from the person with a disability in public accommodations.

-ADA Title III Technical Assistance Manual, III-4.2300

The ADA requires businesses modify their "no pets" policies, practices and procedures, to allow service animals accompanying a person with a disability.

What Are the Code of Federal Regulations (CFR) Modifying Your "No Pets Policy"?

§36.302 Modifications in policies, practices or procedures.

a) General. A public accommodation shall make reasonable modifications in policies, practices and procedures, when the modifications are necessary to afford goods, services, facilities, privileges or advantages to people with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of goods, services, facilities, privileges, advantages or accommodations. . . .

c) Service animals-(1) General. Generally, a public accommodation shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

(2) Care or supervision of service animals. Nothing in this part requires a public accommodation to supervise or care for a service animal. ¹

The ADA requires businesses to modify their "no pets" policies, practices and procedures, to allow service animals accompanied a person with a disability.

¹ 28 CFR Ch. I (7-1-94 Edition) Subpart C §36.302 *Nondiscrimination on the Bases of Disability by Public Accommodations and in Commercial Facilities*

If a Service Animal Enters Into Your Business, What Should Your Employees Ask?

1. Politely ask if their animal is a pet. This gives the person an opportunity to respond without feeling offended.

Shouting at the person "No dogs allowed" or "get your dog out of here" it's not an appropriate approach. The ADA does not require people with disabilities to provide businesses with documentation for their animal. The person with a disability could file a complaint with the Department of Justice, Civil Rights Section. Also, each state has an agency which investigates complaints of discrimination. Also, some state laws may have criminal penalties which may include fines and imprisonment. Punitive damages and penalties may be imposed if the businesses are not compliant. It's wise to use common courtesy. It's good for business.

NOTE: If an animal has a harness, cape, backpack, tags or special colored collar, this may indicate the animal is a service animal. However, certification or identification of a service animal wearing any specialized apparel or harness is not required by the ADA.

2. Ask the person if the animal is for their disability, if you aren't sure if the animal is a service animal.

Don't assume a person with a service animal is not disabled just because they do not appear to be disabled and insist on proof of their disability before admittance into your business. Disability information is personal.

If a business (public accommodation) denies access because of the presence of a service animal, the person with a disability could file a complaint with the Department of Justice, Civil Rights Section. Also, each state has an agency which investigates complaints of discrimination. Also, some state laws may have criminal penalties which may include fines and imprisonment. Punitive damages and penalties may be imposed if the businesses are not compliant. To find out if your business is a public accommodation see list.

It is essential that businesses modify their "no pets" policies, practices and procedures to allow service animals accompanied by a person with a disability.

Businesses including employee training about service animals would benefit both their business and their community.

Don't assume all disabilities are visible. Not all disabilities are visible such as: hearing, epilepsy, visual disabilities, heart condition and physiological/emotional disability.

What If a Service Animal Is Disruptive in Your Business?

There may be a few circumstances when a public accommodation is not required to accommodate a service animal—that is, when doing so would result in a fundamental alteration to the nature of the business.

Generally, this is not likely to occur in restaurants, hotels, retail stores, theaters, concert halls, and sports facilities. But when it does, for example, when a dog barks during a movie, the animal may be excluded.¹

NOTE: The person with the disability is responsible for the behavior and/or damage created by their animal. If a service animal does create a fundamental alteration that jeopardizes the safe operation of your business, they may be excluded.

Examples:

- If a service dog growls and barks at other customers, the service dog may be excluded from your business.
- If a service dog in a restaurant climbs on a customer's lap or eats food from the table the service dog may be excluded from your business.

The public accommodation should give the individual with a disability who is assisted by a service animal the option of continuing to enjoy its goods and services without having the service animal on the premises.

- (2) Care or supervision of service animals. Nothing in this part requires a public accommodation to supervise or care for a service animal.

- 28CFR §36.302

The ADA requires businesses modify their "no pets" policies, practices and procedures, to allow service animals accompanied by a person with a disability. Denying access to a person with a disability accompanied by their service animal violates federal law.

A person with a disability accompanied by a service animal is a consumer and spends money. Businesses including employee training about service animals would benefit both their business and their community. People with disabilities can be your best customers.

¹ Department of Justice, *Commonly Asked Questions About Service Animals in Places of Business*

Service Animal Etiquette

Always speak to the person first.

Do not pet a service dog. Ask the person for permission. The service dog/animal might be distracted from its work. There are other states that have laws with penalties for such incidents.

Please do not offer food or treats to a service dog. There are other states that have laws with penalties for such incidents.

Don't bark/whistle at the service dog. It may divert the service dog from its work. Again, there are other states that have laws with penalties for such incidents.

Please, do not ask questions about the person's disability. People feel uncomfortable discussing their disability or their service dog.

If you are afraid of dogs/animals, remove yourself and go to another area.

FINAL NOTE: Service animals are an assisting resource such as a wheelchair, hearing aid or cane. They are trained to personally assist a person with disabilities and are not considered pets under federal law.

Emergency Preparedness for Service Animal Owners

I.D. s and Licenses

Make sure your service animals and pets have I.D. tags with both your home telephone number and that of your primary out-of-town contact person. Make sure your animal's license is current.

Animal Care Plan

Plan how your pets will be cared for if you have to evacuate. Pets, in contrast to service animals, may not be allowed in emergency shelters due to health regulations, so have some animal shelters identified. Contact your local Red Cross chapter or state office of emergency management for guidance.

Establish relationships with other animal owners in your neighborhood so in case you are not home, someone will be able to help your animal.

Alternate Mobility Cues

Pets and service animals may become consumed, panicked, frightened or disoriented during and after a disaster. Keep them confined or securely leashed or harnessed. A leash (or harness) is an important item for managing a nervous or upset animal. Be prepared to use alternative ways to negotiate your environment.

Emergency Kit for Service Animals

Assemble a kit for your service animal that will last seven days. Place it in a pack that your animal can carry (if it is large enough to do so) in case you need to evacuate.

The kit should include:

- A bowl for water and food.
- A seven-day supply of food.
- A blanket for bedding.
- Plastic bags and paper towels for disposing of feces.
- Neosporin ointment for minor wounds. (Animals can easily get cut after an earthquake; as your veterinarian if there is anything specific you should include for your animal.)
- A favorite toy.
- An extra harness.

Checklist

- ✓ Make sure I.D. tags and license are current.
- ✓ Create a care plan for your animal.
- ✓ Be prepared to function without assistance from your animal. Practice emergency drills using alternate mobility cues.
- ✓ Assemble an emergency kit for your service animal.

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Other Service Animal Resources:

[Tips for People with Service Animals or Pets](http://www.prepare.org/disabilities/animaltips.htm) American Red Cross's guide for owners of service animals during emergencies. (<http://www.prepare.org/disabilities/animaltips.htm>)

[Disaster Preparedness and Response Program](http://www.avma.org/disaster/default.asp) American Veterinary Medical Association's guide for pet and service animal care during emergencies. (<http://www.avma.org/disaster/default.asp>)

[Earthquake Tips for Owners of Service Animals](http://www.preparenow.org/eqtanpet.html) Red Cross's tips for service animals. (<http://www.preparenow.org/eqtanpet.html>)

[How to Make Points of Service Accessible to Persons with Disabilities](http://www.citycent.com/dp2/service.htm) Disabled People & Disaster Planning's guide on emergency services accessibility. (<http://www.citycent.com/dp2/service.htm>)

[Disaster Preparedness for Pets](http://www.hsus.org/hsus_field/hsus_disaster_center/resources/disaster_preparedness_for_pets.html) Humane Society of the United States guide on emergency preparedness planning for pets. (http://www.hsus.org/hsus_field/hsus_disaster_center/resources/disaster_preparedness_for_pets.html)

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1-800-514-0383 (TTY)

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State of Missouri
Governor's Council on Disability
PO Box 1668
Jefferson City, MO 65102
1-800-877-8249
gcd@oa.mo.gov
www.disabilityinfo.mo.gov
