

Service Animal Basics: Know Your Rights and Responsibilities

Michael Richardson, MPA

October 26, 2019



Learning Goals

- **Review: What is a service animal?**
- **Discuss a few causes for confusion about service animal regulations.**
- **What can you require of patrons who bring service animals?**

2

Americans with Disabilities Act

- Title I: Employment
- Title II: State & Local Government
- Title III: Places of Public Accommodation
- Title IV: Telecommunications
- Title V: Miscellaneous Provisions



NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT

In accordance with the requirements of title II of the Americans with Disabilities Act of 1990 ("ADA"), the [name of public entity] will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

Employment: [name of public entity] does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.

Effective Communication: [Name of public entity] will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in [name of public entity's] programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

Modifications to Policies and Procedures: [Name of public entity] will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in [name of public entity] offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of [name of public entity], should contact the office of [name and contact information for ADA Coordinator] as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require the [name of public entity] to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of [name of public entity] is not accessible to persons with disabilities should be directed to [name and contact information for ADA Coordinator].

[Name of public entity] will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

Americans with Disabilities Act

- Civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, gender, national origin, age, and religion.
- Often “individualized” for the person and the context (e.g., jobs).

Congressional Purpose ADA

“The purpose of the ADA ... is to provide a clear and comprehensive national mandate to end discrimination against individuals with disabilities and to bring those individuals into the economic and social mainstream of American life.”

*The ADA is a **Civil Rights Act** meant to ensure **equal access** to programs and services.*

5

Why the Confusion?

- **Americans with Disabilities Act (ADA)**
- **U.S. Dept of Transportation/Federal Transit Administration (FTA)**
- **Fair Housing Act (FHA)**
- **Air Carrier Access Act (ACAA)**
- **State and Local Laws**

What Are Service Animals Under the ADA?

US DOJ's Definition

- “Service animals are defined as dogs that are individually trained to do work do perform tasks for people with disabilities.”
- The work or task a dog has been trained to provide must be directly related to the person's disability.

Service Animals



Fair Housing Act

- Under the FHA, the term is “Assistance Animals.”
- “An assistance animal is not a pet. It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability.”

Fair Housing Act

- For purposes of reasonable accommodation requests under the FHA, assistance animals do not have to be individually trained to do work or perform a task.
- If the person with disability does not have a readily apparent disability, the housing provider may ask for reliable medical documentation.

Air Carrier Access Act

- US airlines are not required to accept unusual or exotic service animals such as miniature horses, pigs or monkeys, if they determine that they are too large or heavy to be safely carried in the cabin, or if they would pose a direct threat to the safety of the other passengers.



Air Carrier Access Act

- **US airlines are never required to accept snakes, other reptiles, ferrets, rodents or spiders as service animals.**
- **Foreign air carriers are only required to accept dogs as service animals, and that only applies to flights to and from the US.**
- **US air carriers are required to carry an emotional support if the passenger presents the required documentation.**

State and Local Laws

- **Cities, Counties, and States may make their own service animals laws**
- **The law offering the broader coverage is the determining law**
- **Factors such as service-animals-in-training coverage are never determined by ADA**

“Service” v “Comfort” v “Companion Animal”

Service Animals. . .

. . . are trained to perform a task or work that relates directly to the individual’s disability.

Comfort Animals. . .

. . . may recognize that the individual is distressed, and will provide comfort and support by their presence. NOT a service animal.

Companion Animals. . .

. . . are helpful through their presence to people who are fearful or anxious. NOT a service animal.

“Emotional” v “Therapy” v “Assistance” Animals

Emotional Support Animals . . .

. . . is a term to describe animals prescribed - often by psychiatrists - for individuals who are anxious, depressed, (for mental health reasons). NOT a service animal unless trained to perform a specific task or function.

Therapy Animals . . .

. . . visit individuals in hospitals, nursing homes, etc. and provide comfort and engagement. They may be trained and registered but are NOT service animals.

Assistance Animal . . .

. . . is a HUD (housing) term and may not be a dog, and may or may not be trained. MIGHT be a service animal.

15

Service Animals-in-Training

- The ADA does not address service animals-in-training; it allows individual states to decide whether to offer these protections.
- Washington State does not protect untrained service animals.
- Agencies may, of course, allow service animals-in-training in their unique policy.
- Service animals-in-training may be allowed as an employment accommodation, if reasonable.



Identification of a Service Animal?

- Service Animals owners are not required to carry proof of certification or other documentation ... although some do carry papers from the agency that provided the training for their dog.
- Vests and badges identifying the animal as a service animal are optional.
- Many handlers train their own service animal, which is legal.



There is a large market in “Certificates” & “Badges”

17

Documentation Requirements: Exceptions

While the ADA says that ID, documentation, and certification cannot be required, there are exceptions.

Example: If an employee is requesting that an assistance animal may be admitted as a reasonable accommodation, some documentation may be requested.



Service Animals in the Workplace

- Just like any other Reasonable Accommodation under Title I of the ADA.
- There is no specific definition of “service animal” - the animal does not have to be a trained animal in the workplace.
- Like with other reasonable accommodations, the employer considers *undue hardship* and *direct threat* when deciding whether to allow the animal.

How Can You Be Sure?

- ***OK: “Is the animal required because of a disability?”***
- ***OK: “What work or task has the animal been trained to perform for you?”***
- ***NOT OK: “What is your disability?”***



Interacting with Service Animals

- Allow service animals the broadest feasible access to public entities.
- Avoid unnecessarily separating service animals from their owners.



Interacting with a Service Animal

- A service animal is a working animal.
- Always ask before approaching or petting a service animal.



Direct Threat

A service animal can be removed from the premises if it:

- **Makes a mess on the floor.**
- **Bites or jumps on another patron.**
- **Wanders away from its owner.**

Handlers must obey leash laws and keep their animals well groomed.



“Non-Violent Protection”

Service animals can provide only non-violent protection:



- **Rescue work**
 - Nudging the person to prevent self-mutilation
 - Removing Vet with PTSD from anxiety-provoking situation
- **Providing safety checks and room searches**
 - Alerting the person to the presence of others or to sounds.
- **Can service animals be trained to attack, such as when the handler is being harassed? NO.**
- **Are any breeds of dog not eligible? NO.**
 - Local laws that ban vicious breeds are VERY CONTROVERSAL.

Where to Go for ADA Information



The screenshot shows the Northwest ADA Center website. The header includes the logo and tagline: "Providing information, training, and guidance on the Americans with Disabilities Act to Alaska, Idaho, Oregon, & Washington". A search bar is located in the top right. The navigation menu includes: Home, About Us, Training, Fact Sheets, Resources, Calculators, My account, and Log out. A left sidebar lists categories: People with Disabilities, Employers, Business, State/Local Government, Healthcare Professionals, Architects/Contractors, Topic, and Services. The main content area features a section titled "Check Out Some Of Our Great Resources!" with buttons for View, Edit, and Convert, and a list of resources: Fact & Guidance Sheets, Webinar Archives, and National and State Resources. Below this is a group photo of staff. The right sidebar contains "Upcoming Events" for the 2016 National ADA Symposium (06/19/2016 to 06/22/2016) at the Hyatt Regency Denver, a "Follow Us!" section with social media icons, a "Sign up for our listserv" button, and a "Tweets by @NWADACenter" section featuring a tweet about earthquake safety tips.

Northwest ADA Center
Providing information, training, and guidance on the
Americans with Disabilities Act to Alaska, Idaho, Oregon, & Washington

Home About Us Training Fact Sheets Resources Calculators
My account Log out

People with Disabilities
Employers
Business
State/Local Government
Healthcare Professionals
Architects/Contractors
Topic
Services

Contact Us
Toll-Free
800-949-4232
Voice/TTY: 425-248-2480
VP: 425-233-8913
Relay: 7-1-1
FAX: 425-774-9303
Email: nwadactr@uw.edu
Find Your Regional ADA Center

Check Out Some Of Our Great Resources!
View Edit Convert

- Fact & Guidance Sheets
- Webinar Archives
- National and State Resources

Upcoming Events
2016 National ADA Symposium
06/19/2016 to 06/22/2016
Hyatt Regency Denver at the Colorado Convention Center 650 15th Street Denver, CO 80202

Follow Us! [f](#) [t](#) [v](#)
Sign up for our listserv
Subscribe Now!

Tweets by @NWADACenter
Northwest ADA Center @NWADACenter
Earthquake safety tips for individuals with disabilities. earthquakecountry.org/disability/ #earthquake #disabilities

www.nwadacenter.org
800-949-4232



Northwest ADA Center | 800-949-4232 | www.nwadacenter.org

ADA National Network

The screenshot shows the ADA National Network website. At the top is the logo with the text "ada National Network" and "Information, Guidance, and Training on the Americans with Disabilities Act". To the right are social media icons for phone, email, Facebook, and Twitter, with the word "Accessibility" below them. A navigation bar contains links: "THE ADA", "THE NATIONAL NETWORK", "RESOURCES", "EXPLORE BY", "NEWS", and "EVENTS". Below this is a search bar with the placeholder text "I want to find:" and a "Search" button. The main banner image depicts a group of people at an outdoor event, holding a large banner that reads "ADA 25 25 Years of the Americans with Disabilities Act". Below the banner are five tiles: 1. "CONTACT US" with a phone icon and text "Toll Free Voice or TTY 1-800-949-4232 Email Us"; 2. "Contact Your Region" with a map of the United States; 3. "Federal ADA Regulations and Standards" with an image of the U.S. Capitol; 4. "ADA Fact Sheets" with an image of a document titled "Accessible Parks"; 5. "Learn About The National Network" with an image titled "THE ROAD TO FREEDOM".

adata.org
1-800-949-4232

26

Resources

- **Service Animals (Dept. of Justice):**
https://www.ada.gov/service_animals_2010.htm
- **Frequently Asked Questions about Service Animals and the ADA:**
https://www.ada.gov/regs2010/service_animal_qa.html
- **Service Animals and Emotional Support Animals:**
<https://adata.org/publication/service-animals-booklet>

Contact Northwest ADA Center

- *ADA Hotline:* 800-949-4232
- *Email:* nwadactr@uw.edu
- *Website:* www.nwadacenter.org
- *Michael Richardson:* mike67@uw.edu

Questions?

