

# Frequently Asked Questions

## About Service Dogs and Emotional Support Animals



### What is considered a service animal under the Americans with Disabilities Act (ADA)?

A service animal is any dog that has been individually trained to do work or perform tasks for the benefit of an individual with a disability, and the work or task performed by the dog is directly related to the handler's disability.



### What if there is a “No Pets” policy or someone is allergic to or fearful of dogs?

Allergies or fear of dogs are not legitimate grounds to deny access or refuse service to individuals using service animals, and the ADA requires entities to make a reasonable accommodation to their “No Pets” policies to ensure access and services are not denied to individuals with disabilities.



### Where can a service animal go?

Generally, local governments and businesses (including nonprofit organizations) serving the public must allow service animals to accompany people with disabilities in all areas of the facility that are accessible to the public.



### Does the ADA offer the same protections and access for support or therapy animals as it does service animals?

No. Dogs and other animals providing emotional support, comfort, companionship or safety from crime are not considered service animals and are not protected under the ADA.

However, there are protections for emotional support animals in the Fair Housing Act (FHA) and the Air Carrier Access Act (ACAA), and you can learn more about those policies on the following pages.



**What is the key thing that distinguishes a service animal from other types of animals, such as a support or therapy animal?**

The key difference is whether the dog is engaged in recognition and response to a given situation. Therapy animals may engage in recognition and response, but they are not doing so on behalf of the handler. That fact makes them different from service animals. An emotional support animal is an animal that just by being there, provides emotional support to its owner.



**Does a service animal have to be trained or certified by an agency or instructor specializing in training such animals?**

No. Anyone can train a service animal, including the individual utilizing its service.



**Does the ADA cover dogs that are in training to be service animals?**

No. The ADA only applies to service animals that have been trained. Service dog in training laws are entirely a creature of State law.



**Is a handler required to have documentation proving the dog is a service animal?**

No. A service dog handler is not required to carry any documentation or certification proving their dog is a service dog. If the handler is presenting the animal as an Emotional Support Animal (ESA), they are required to have a letter from a physician stating the need for an ESA. This letter must be updated annually.



**How does a person prove that his or her dog is a service animal? (ADA)**

A service dog is a working animal, not a pet. If it is not readily apparent that an animal is trained to do work or perform tasks for an individual with a disability, entities are allowed to ask two questions:

- 1) Is the animal required because of a disability?
- 2) What work or tasks has the animal been trained to perform? The work or task has to relate back to the disability.

An entity CANNOT ask or require a dog to demonstrate its ability to perform the work or tasks. A service animal is NOT required to wear a vest, harness or any other gear to identify itself as a service animal. An individual DOES NOT have to disclose his or her disability, and an entity may not inquire about the nature of an individual's disability. An individual DOES NOT have to provide documentation certifying that his or her dog is a service animal, and an entity may not request such documentation to verify the dog is a service animal.



## **Are dogs the only service animals protected by the ADA?**

Only dogs are recognized as service animals under the ADA. However, entities covered by the ADA must modify their policies to permit miniature horses (shorter than 34 inches, weighing less than 100 pounds) where reasonable after a balancing-of-interest test specified in the regulations is first met.



## **What about the Fair Housing Act?**

The Fair Housing Act (FHA), which is enforced by the Department of Housing and Urban Development, has been interpreted by Housing and Urban Development to extend to “assistance animals,” which they define as including both service animals and emotional support animals. Whereas, Title II and Title III of the ADA do not require an individual to verify that a dog is a service animal, the FHA allows landlords to request documentation of an individual’s disability and the disability-related need for the assistance animal.

The FHA as interpreted by Housing and Urban Development is broader than the ADA in that it covers emotional support animals in addition to service animals, with emotional support animals — including animals other than dogs — subject to the same documentation requirements as service animals. While the FHA may not cover therapy dogs, which conduct their work off-site and may or may not live on the premises, it is entirely possible that a therapy dog might be covered by a particular state law covering service dogs in training.



## **Does an employer have to allow an employee with a disability to bring his or her service animal to work?**

The ADA requires employers to make a reasonable accommodation to individuals with disabilities, and the Equal Employment Opportunity Commission (EEOC), which administers employment aspects of the ADA, recognizes that service dogs can be a reasonable accommodation. Therefore, employers should deal with a request for a service animal in the same way they treat a request for any other reasonable accommodation.

There have been conflicting court rulings about whether needing a service animal must relate to the essential functions of a particular job; however, the best preventive law approach is to not worry about whether the service dog relates to a particular function of that individual’s job, but rather consider whether it is a reasonable accommodation (i.e. how the service animal gets the person with a disability to the same starting line as the person without a disability).

Although the ADA’s Title I regulations (the regulations governing disability discrimination in employment and put out by the EEOC), do not cover service dogs, emotional support animals or therapy animals, in December 2018, the EEOC convinced the Northern District of Iowa court that an emotional support animal may be a reasonable accommodation in certain circumstances (this case just settled for \$47,500).



## **What about service animals on airplanes?**

While the ADA grants almost universal public access to service animals on the ground, the Air Carrier Access Act (ACAA) governs air travel. As of January 2019, people with service dogs and emotional support animals are able to fly on airplanes.

With respect to service dogs, the ACAA treats service dogs differently for those with physical disabilities than it does for those with psychiatric disabilities. While both have a right to fly on the planes, the notice and documentation requirements are different.

With respect to emotional support animals, it doesn't have to be a dog, but it can get really complicated if it is not a dog. For example, air carriers never have to accommodate, "snakes, other reptiles, ferrets, rodents, and spiders." With respect to all other animals including unusual or exotic animals presented as service animals — such as miniature horses, pigs, or monkeys — the airline has to determine whether any factors preclude their traveling in the cabin as service animals. Those factors include whether the animal is too large or heavy to be accommodated in the cabin, whether the animal poses a direct threat to the health or safety of others, whether it would cause a significant disruption of services, and whether it would be prohibited from entering a foreign country that is the flight's destination. If there are no such factors precluding the animal from traveling in the cabin, the airline has to allow it.

The ACAA grants service animals access to travel with their handler in the cabin, free of charge, and for their equipment (food, crate, etc.) to be stowed as medical equipment in the cargo hold, free of charge.

The ACAA is in a considerable state of flux, as discussed immediately below, and some airlines have adopted more rigorous screening to verify emotional support animals, so you'll want to contact the airline before traveling and make sure you have the required documentation.



## **How will the Federal Aviation Administration (FAA) Reauthorization Act impact service and emotional support animals on planes?**

The FAA Reauthorization Act, which was signed into law in October 2018, may have a fundamental impact on the access service and emotional support animals have to air travel. The law requires the U.S. Secretary of Transportation to conduct rule-making proceedings to define the term "service animal" for air transportation, and to develop minimum standards for what is required for service and emotional support animals carried in aircraft cabins.

The law specifically requires the Secretary of Transportation to consider three questions:

- 1) Should the definition of "service animal" for air travel match the ADA's Title II and Title III regulations definition of that term?
- 2) What reasonable measures should be used to ensure passengers do not claim that common pets are service animals?
- 3) What reasonable measures should be taken to ensure the safety of all passengers. The law also requires the rule-making proceeding to consider whether any additional requirements it adopts for service animals could lessen access to air travel for persons with disabilities, and if so, how to eliminate or mitigate that negative impact.

