



## Service and Support Animals

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A person with a disability receives certain protections for equal access to places of business and equal opportunities for housing, which include protections for the use of a service or support animal. The protections vary depending on whether the animal is:

- A **service animal** that is individually trained to do work or perform tasks for the person with a disability.
- An **emotional support animal** that is not trained to do work or perform tasks, but provides emotional support, comfort, or companionship for the person with a disability.

### RELATIONSHIP BETWEEN STATE AND FEDERAL LAWS

Both state and federal laws address disability protections. Unlike other issues where federal law may preempt state law, for disability protections, the federal laws specify that they do not limit any equal or greater protections and rights afforded under state laws.<sup>1</sup>

This means that a property owner or establishment must adhere to whichever law provides the greater protections for a person with a disability.

### PUBLIC PLACES OF ACCOMMODATION

Both federal law under the Americans with Disabilities Act (ADA) and state law specify that a person with a disability is permitted to use a service animal in establishments<sup>2</sup> such as restaurants, retail stores, and other businesses. However, the laws do not protect the use of an emotional support animal in those places.

### Types of Animals

Under the ADA, a qualifying service animal may be a dog, or, in more limited cases, a miniature horse. Under state law, a qualifying service animal may be any animal, if it is individually trained to do work or perform tasks for the benefit of a person with a disability.

Therefore, for purposes of access to an establishment, a service animal may be a dog or any other animal. This means that a person with a disability is not limited to a trained dog or horse.

### Types of Questions

Under state law, an establishment may ask only the following question:

- Is the service animal required because of a disability?

Federal law allows an additional question, about what work or tasks the animal has been trained to perform. However, this question is not permitted under state law and therefore should not be asked.

If an animal is in training, an establishment may ask a trainer for certification of the training from a school for training service animals. An establishment can also require that an animal in training wear an identifying cape.

## HOUSING

Both federal law under the Fair Housing Act and state law specify that it is unlawful to discriminate against a buyer or renter because of a disability.<sup>3</sup>

### Types of Animals

As implemented, the federal Fair Housing Act and state law protect the use of both service and emotional support animals, if a buyer or renter has a disability-related need for the animal. For purposes of buying or renting, a service or emotional support animal may be a dog or any other animal.

### Types of Questions

Under federal law, a property owner may ask only the following questions:

- Does the person have a disability?
- Does the person have a disability-related need for the animal?

If a disability or disability-related need for an animal is not readily apparent, a property owner may ask the person to submit documentation from a health care professional to affirm that the person has a disability and that the need for the animal is disability-related.

Under federal law, documentation cannot be requested when a disability or need is apparent, and therefore documentation should not be requested if the need is apparent.

## NO REGISTRY OR IDENTIFICATION REQUIRED

State and federal laws do not require a service or support animal to be documented in an official registry, or to wear an identifying vest or identification tag. The U.S. Department of Justice does not recognize a commercially marketed “certification” or “registration,” or products such as an “official” vest, as proof that a dog is a service animal. Such documents and items do not convey any rights under the ADA.

## GENERAL PRINCIPLES

Some general principles arise under the state and federal laws regarding the use of service and emotional support animals. For example:

- A person with a disability has a general right of privacy about the disability, and cannot be asked about the nature or extent of the disability.
- Certification of an animal’s training cannot be requested.
- A vest or special harness is not required and, if used, does not itself grant any protected rights.
- A service animal must always be under the person’s control.

For guidance on federal implementation of the ADA, see U.S. Department of Justice, [Frequently Asked Questions about Service Animals and the ADA](#) (July 20, 2015).

For guidance on federal implementation of the Fair Housing Act, see U.S. Department of Housing and Urban Development, webpage on [Assistance Animals](#).

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<sup>1</sup> 42 U.S.C. ss. 3615 and 12201 (b). Other provisions apply in specific circumstances, such as air travel.

<sup>2</sup> 28 C.F.R. ss. 36.104 and 36.302 (c); and s. 106.52 (1) (fm) and (3) (am), Stats.

<sup>3</sup> 42 U.S.C. s. 3604 (f); and s. 106.50 (1m) (im) and (2r) (bg) and (br), Stats.