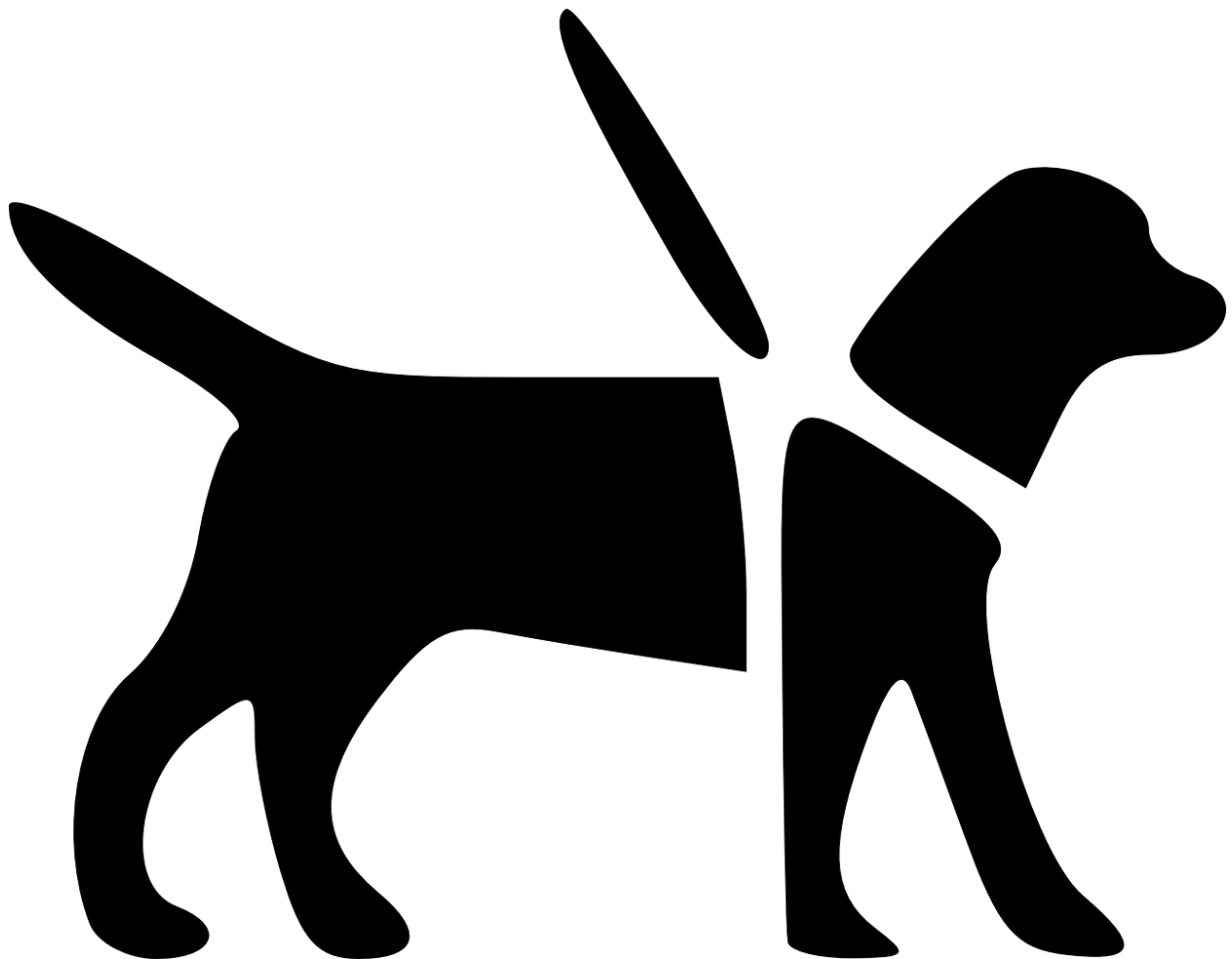


Dogs, Horses and

Ferrets:

**Clearing Up the Confusion on Service
Animals and other Support Animals**



TIMELINE:

Introduction	10 min.
Review of Objectives	10 min.
1. Service, Emotional Support & Officer K-9's	25 min.
2. The American with Disabilities Act	45 min.
3. The Federal Fair Housing Act	45 min.
4. State Laws	35 min.
Conclusion/Review	<u>10 min.</u>
Total	180 min.
	(3 hours)

OBJECTIVES

Upon completion of this course, the student will be able to:

1. Identify what classifies a service dog under the American with Disabilities Act.
2. Explain when Emotional Support Animals are and are not protected by various laws.
3. Understand how Officer K-9's are classified and how to treat them in a rental situation.
4. Understand the requirements for training a service dog.
5. Identify the questions allowed to ask someone who has a service dog to verify the allowance of the dog.
6. Understand when a service dog may be excluded from ADA.
7. Explain how service dogs are classified under the Fair Housing Act.
8. Explain how an Emotional Support Animal would be allowed under the Fair Housing Act.
9. Know the questions allowed to be asked under the Fair Housing Act and Section 504.
10. Understand what the state laws in New Jersey, New York and Pennsylvania say regarding service animals.

Introduction

It's been estimated that approximately 750,000 service dogs are in use across the United States. Many of our population rely on the support of service animals, emotional support animals, or the protection an Officer K-9 provides. From our veterans to the disabled and more, there is absolutely a need. Unfortunately, there has been vast abuse with these animal classifications.

Our hope is to clarify this by the end of the class and give you insight on how to handle these in each situation. You may run into this confusion under the following circumstances:

- Tenants looking to rent a house with a no pet policy
- Buyers looking to purchase a condo in an association with a no pet policy
- Short-term tenants bringing their animal on vacation where no pets are allowed

There are lots of rumors going around about what is and what isn't a protected animal, so let's try to focus on what the law says. This way, we'll be sure to handle everyone appropriately and keep ourselves out of trouble.

Section 1:

Service Animals, Emotional Support Animals & Officer K-9's

Many people with disabilities use a service animal to fully participate in everyday life. Dogs can be trained to perform many important tasks to assist people with disabilities, such as providing stability for a person who has difficulty walking, picking up items for a person who uses a wheelchair, preventing a child with autism from wandering away, or alerting a person who has hearing loss when someone is approaching from behind.

What is a **Service Animal**? Let's look at what the American with Disabilities Act says:

“a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability. “

Further, it states what the term “do work or perform tasks” mean:

“The dog must be trained to take a specific action when needed to assist the person with a disability. For example, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind her to take her medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure. “ (July 20, 2015)

So, for the animal to qualify as a service animal under ADA, it must be trained to perform tasks for the disabled. Also note, beginning on March 15, 2011, only dogs are recognized as service animals under titles II and III of the ADA.

What are **Emotional Support Animals**?

Emotional Support Animals or Comfort Animals are often used as a part of a medical treatment plan as therapy animals. They provide companionship, relieve loneliness and sometimes help with depression and/or anxiety.

We will discuss how this pertains to each law in future chapters.

What are **Officer K-9's**?

Police dogs, officer k-9s are working dogs and do not meet the ADA definition. There are two classifications when considering an officer k-9:

1. *On-Duty*: The police dog may accompany the handler wherever the handler has a lawful right to be.
2. *Off-Duty*: The handler must abide by the same restrictions as placed on any “pet”.

Therefore, the handler would need permission to have the dog, including rental houses or apartments. A pet fee may be charged in this case as they are considered “pets”. There are exceptions to this with some state laws.

New Jersey has laws that protect “working dogs”:

10:5-29.9 Possessors of working dog, certain, entitlement to housing, business accommodations.

3. A member of a police, fire, law enforcement or other related emergency service agency who possesses a working dog, is entitled to rent, lease or purchase, as other members of the general public, all housing accommodations and business accommodations offered for rent, lease, or compensation in this State, subject to the rights, conditions and limitations established by law. A member of a police, fire, law enforcement or other related emergency service agency who possesses a working dog, or who obtains a working dog, shall be entitled to full and equal access to all housing accommodations and business accommodations and shall not be required to pay

extra compensation for the dog, but shall be liable for any damages done to the premises by the dog. Any provision in any lease or rental agreement prohibiting maintenance of a pet or pets on or in the premises shall not be applicable to a working dog owned by a tenant who is a member of a police, fire, law enforcement or other related emergency service agency.

Section 2:

The American with Disabilities Act

The **Americans with Disabilities Act (ADA)** became law in 1990. The **ADA** is a civil rights law that prohibits discrimination against individuals with **disabilities** in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.

The ADA requires State and local government agencies, businesses, and non-profit organizations (covered entities) that provide goods or services to the public to make “reasonable modifications” in their policies, practices, or procedures when necessary to accommodate people with disabilities. The service animal rules fall under this general principle. Accordingly, entities that have a “no pets” policy generally must modify the policy to allow service animals into their facilities.

Regarding emotional support animals, The ADA says the following:

“Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA.”

HUD says the following regarding ADA:

“The Department of Justice’s (DOJ) amendments to its regulations of Titles II and III of the ADA limit the definition of “service animal” under the ADA to include only dogs, and further define “service animal” to exclude emotional support animals. (April 25, 2013)

In the reference section you will find a link to the DOJ’s “Frequently Asked Questions about Service Animals and the ADA” Let’s go through some of the most common questions that apply to real estate.

Does the ADA require service animals to be professionally trained?

No. People with disabilities have the right to train the dog themselves and are not required to use a professional service dog training program.

Are service-animals-in-training considered service animals under the ADA?

No. Under the ADA, the dog must already be trained before it can be taken into public places. However, some State or local laws cover animals that are still in training.

What questions can a covered entity's employees ask to determine if a dog is a service animal?

In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions:

(1) is the dog a service animal required because of a disability?

and

(2) what work or task has the dog been trained to perform?

Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person's disability.

Do service animals have to wear a vest or patch or special harness identifying them as service animals?

No. The ADA does not require service animals to wear a vest, ID tag, or specific harness.

Does the ADA require that service animals be certified as service animals?

No. Covered entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry.

Note: There are individuals and organizations that sell service animal certification or registration documents online. These documents do not convey any rights under the ADA and the

Department of Justice does not recognize them as proof that the dog is a service animal.

My city requires all dogs to be vaccinated. Does this apply to my service animal?

Yes. Individuals who have service animals are not exempt from local animal control or public health requirements.

My city requires all dogs to be registered and licensed. Does this apply to my service animal?

Yes. Service animals are subject to local dog licensing and registration requirements.

My city requires me to register my dog as a service animal. Is this legal under the ADA?

No. Mandatory registration of service animals is not permissible under the ADA. However, as stated above, service animals are subject to the same licensing and vaccination rules that are applied to all dogs.

Can service animals be any breed of dog?

Yes. The ADA does not restrict the type of dog breeds that can be service animals.

If someone's dog calms them when having an anxiety attack, does this qualify it as a service animal?

It depends. The ADA makes a distinction between psychiatric service animals and emotional support animals. If the dog has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, that would qualify as a service animal. However, if the dog's mere presence provides comfort, that would not be considered a service animal under the ADA.

Who is responsible for the care and supervision of a service animal?

The handler is responsible for caring for and supervising the service animal, which includes toileting, feeding, and grooming and veterinary care. Covered entities are not obligated to supervise or otherwise care for a service animal.

Can individuals with disabilities be refused access to a facility based solely on the breed of their service animal?

No. A service animal may not be excluded based on assumptions or stereotypes about the animal's breed or how the animal might behave. However, if a particular service animal behaves in a way that poses a direct threat to the health or safety of others, has a history of such behavior, or is not under the control of the handler, that animal may be excluded. If an animal is excluded for such reasons, staff must still offer their goods or services to the person without the animal present.

If a municipality has an ordinance that bans certain dog breeds, does the ban apply to service animals?

No. Municipalities that prohibit specific breeds of dogs must make an exception for a service animal of a prohibited breed, unless the dog poses a direct threat to the health or safety of others. Under the "direct threat" provisions of the ADA, local jurisdictions need to determine, on a case-by-case basis, whether a particular service animal can be excluded based on that particular animal's actual behavior or history, but they may not exclude a service animal because of fears or generalizations about how an animal or breed might behave. It is important to note that breed restrictions differ significantly from jurisdiction to jurisdiction. In fact, some jurisdictions have no breed restrictions.

When can service animals be excluded?

"...In addition, if a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded."

What does under control mean? Do service animals have to be on a leash? Do they have to be quiet and not bark?

The ADA requires that service animals be under the control of the handler at all times. In most instances, the handler will be the individual with a disability or a third party who accompanies the individual with a disability. In the school (K-12) context and in similar settings, the school or similar entity may need to provide some assistance to enable a particular student to handle his or her service animal. The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the person's disability prevents use of these devices. In that case, the person must use voice, signal, or other effective means to maintain control of the animal. For example, a person who uses a wheelchair may use a long, retractable leash to allow her service animal to pick up or retrieve items. She may not allow the dog to wander away from her and must maintain control of the dog, even if it is retrieving an item at a distance from her. Or, a returning veteran who has PTSD and has great difficulty entering unfamiliar spaces may have a dog that is trained to enter a space, check to see that no threats are there, and come back and signal that it is safe to enter. The dog must be off leash to do its job, but may be leashed at other times. Under control also means that a service animal should not be allowed to bark repeatedly in a lecture hall, theater, library, or other quiet place. However, if a dog barks just once, or barks because someone has provoked it, this would not mean that the dog is out of control.

What can my staff do when a service animal is being disruptive?

If a service animal is out of control and the handler does not take effective action to control it, staff may request that the animal be removed from the premises.

Can hotels assign designated rooms for guests with service animals, out of consideration for other guests?

No. A guest with a disability who uses a service animal must be provided the same opportunity to reserve any available room at the hotel as other guests without disabilities. They may not be restricted to "pet-friendly" rooms.

Are hotel guests allowed to leave their service animals in their hotel room when they leave the hotel?

No, the dog must be under the handler's control at all times.

Can hotels charge a cleaning fee for guests who have service animals?

No. Hotels are not permitted to charge guests for cleaning the hair or dander shed by a service animal. However, if a guest's service animal causes damages to a guest room, a hotel is permitted to charge the same fee for damages as charged to other guests.

Can people bring more than one service animal into a public place?

Generally, yes. Some people with disabilities may use more than one service animal to perform different tasks. For example, a person who has a visual disability and a seizure disorder may use one service animal to assist with way-finding and another that is trained as a seizure alert dog. Other people may need two service animals for the same task, such as a person who needs two dogs to assist him or her with stability when walking. Staff may ask the two permissible questions about each of the dogs. If both dogs can be accommodated, both should be allowed in. In some circumstances, however, it may not be possible to accommodate more than one service animal. For example, in a crowded small restaurant, only one dog may be able to fit under the table. The only other place for the second dog would be in the aisle, which would block the space between tables. In this case, staff may request that one of the dogs be left outside.

Are gyms, fitness centers, hotels, or municipalities that have swimming pools required to allow a service animal in the pool with its handler?

No. The ADA does not override public health rules that prohibit dogs in swimming pools. However, service animals must be allowed on the pool deck and in other areas where the public is allowed to go.

Do apartments, mobile home parks, and other residential properties have to comply with the ADA?

The ADA applies to housing programs administered by state and local governments, such as public housing authorities, and by places of public accommodation, such as public and private universities. In addition, the Fair Housing Act applies to virtually all types of housing, both public and privately-owned, including housing covered by the ADA. Under the Fair Housing Act, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with a disabilities, or provide emotional support to alleviate a symptom or effect of a disability.

What happens if a person thinks a covered entity's staff has discriminated against him or her?

Individuals who believe that they have been illegally denied access or service because they use service animals may file a complaint with the U.S. Department of Justice. Individuals also have the right to file a private lawsuit in Federal court charging the entity with discrimination under the ADA.

Putting What You Learned to Practice:

Let's break into groups and discuss each scenario. As a group, decide the best course of action. Be prepared to share your conclusion with the entire class.

Scenario 1

Sarah wants to go to the store to get some groceries. She has a service dog that assists in alerting her if she's about to have a seizure. The store has a sign on the entrance that clearly says "No Pets Allowed". Can her dog shop with her and why or why not?

Scenario 2

Payton has been fighting depression for a while now. His psychologist recommends he get a dog to comfort him and help fight the depression. Payton finds a wonderful dog and wants to take him everywhere with him. Payton decides to go get some dinner with a friend. While sitting in the restaurant with his friend and dog, the manager comes over and explains to Payton that the dog is not allowed and will have to be removed or they will have to leave the restaurant all together. Can Payton have the dog under ADA? Explain why.

Scenario 3

While you were recently at the shopping mall, you noticed a mall guard talking with a gentleman who has 2 dogs with him. Upon moving closer to hear the conversation, you discover the guard is telling the gentleman he can't have dogs in the mall. When the gentleman says they are service dogs, you hear the guard state "There's no way you can have 2 service dogs, one can do the job. I need to see the training paperwork for the dog and verify they have been properly trained by a professional to assist you, or you'll have to leave and take the dogs with you." Is this a violation of ADA, and why?

Section 3:

The Federal Fair Housing Act

The **Fair Housing Act** protects people from discrimination when they are renting, buying, or securing financing for any housing. The prohibitions specifically cover discrimination because of race, color, national origin, religion, sex, disability and the presence of children (familial status).

The Fair Housing Act covers most housing. In some circumstances, the Act exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members.

In the Sale and Rental of Housing: No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or handicap:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable
- Deny a dwelling
- Set different terms, conditions or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Falsely deny that housing is available for inspection, sale, or rental
- For profit, persuade owners to sell or rent (blockbusting) or
- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.

We are going to discuss **Disability (handicap)** today.

Under the FHAct and Section 504, housing providers' obligations to make reasonable accommodations for assistance animals is not just limited to "Service Animals" as defined by ADA. According to FHEO Notice published on April 25, 2013:

Persons with disabilities may request a reasonable accommodation for any assistance animal, including an emotional support animal, under both the FHAct and Section 504. In situations where the ADA and the FHAct/Section 504 apply simultaneously (e.g., a public housing agency, sales or leasing offices, or housing associated with a university or other place of education), housing providers must meet their obligations under both the reasonable accommodation standard of the FHAct/Section 504 and the service animal provisions of the ADA.

What is the **Fair Housing Act, Section 504**? Let's take a deeper look:

Section 504 of the Rehabilitation Act of 1973 states: No otherwise qualified individual with a disability in the United States. . .shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. (29 U.S.C. 794). This means that Section 504 prohibits discrimination on the basis of disability in any program or activity that receives financial assistance from any federal agency, including the U.S. Department of Housing and Urban Development (HUD) as well as in programs conducted by federal agencies including HUD. This notice applies to all housing providers covered by the FHAct, Section 504, and/or the ADA.

It continues to state, regarding assistance animals:

The FHAct and the U.S. Department of Housing and Urban Development's (HUD) implementing regulations prohibit discrimination because of disability and apply regardless of the presence of Federal Financial assistance.

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.

Assistance animals perform many disability-related functions, including but not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. For purposes of reasonable accommodation requests, neither the FHAct nor Section 504 requires an assistance animal to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals.

Housing providers are to evaluate a request for a reasonable accommodation to possess an assistance animal in a dwelling using the general principles applicable to all reasonable accommodation requests. After receiving such a request, the housing provider must consider the following:

(1) Does the person seeking to use and live with the animal have a disability — i.e., a physical or mental impairment that substantially limits one or more major life activities?

(2) Does the person making the request have a disability-related need for an assistance animal? In other words, does the animal work, provide assistance, perform tasks or services for the benefit of a person with a disability, or provide emotional support that alleviates one or more of the identified symptoms or effects of a person's existing disability?

If the answer to question (1) or (2) is "no," then the FHAct and Section 504 do not require a modification to a provider's "no pets" policy, and the reasonable accommodation request may be denied.

Where the answers to questions (1) and (2) are "yes," the FHAct and Section 504 require the housing provider to modify or provide an exception to a "no pets" rule or policy to permit a person with a disability to live with and use an assistance animal(s) in all areas of the premises where persons are normally allowed to go, unless doing so would impose an undue financial and administrative

*burden or would fundamentally alter the nature of the housing provider's services. The request may also be denied if: (1) the specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation, or (2) the specific assistance animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation. Breed, size, and weight limitations may not be applied to an assistance animal. A determination that an assistance animal poses a direct threat of harm to others or would cause substantial physical damage to the property of others must be based on an individualized assessment that relies on objective evidence about the specific animal's actual conduct — not on mere speculation or fear about the types of harm or damage an animal may cause and not on evidence about harm or damage that other animals have caused. **Conditions and restrictions that housing providers apply to pets may not be applied to assistance animals.** For example, while housing providers may require applicants or residents to pay a pet deposit, they may not require applicants and residents to pay a deposit for an assistance animal.*

*A housing provider may not deny a reasonable accommodation request because he or she is uncertain whether or not the person seeking the accommodation has a disability or a disability related need for an assistance animal. **Housing providers may ask individuals who have disabilities that are not readily apparent or known to the provider to submit reliable documentation of a disability and their disability-related need for an assistance animal.** If the disability is readily apparent or known but the disability-related need for the assistance animal is not, the housing provider may ask the individual to provide documentation of the disability related need for an assistance animal.* For example, the housing provider may ask persons who are seeking a reasonable accommodation for an assistance animal that provides emotional support to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal provides emotional support that

alleviates one or more of the identified symptoms or effects of an existing disability. Such documentation is sufficient if it establishes that an individual has a disability and that the animal in question will provide some type of disability-related assistance or emotional support.

However, a housing provider **may not ask a tenant or applicant to provide documentation showing the disability or disability-related need for an assistance animal if the disability or disability-related need is readily apparent or already known to the provider.** For example, persons who are blind or have low vision may not be asked to provide documentation of their disability or their disability-related need for a guide dog. A housing provider also may not ask an applicant or tenant to provide access to medical records or medical providers or provide detailed or extensive information or documentation of a person's physical or mental impairments. Like all reasonable accommodation requests, the determination of whether a person has a disability-related need for an assistance animal involves an individualized assessment. A request for a reasonable accommodation may not be unreasonably denied, or conditioned on payment of a fee or deposit or other terms and conditions applied to applicants or residents with pets, and a response may not be unreasonably delayed. Persons with disabilities who believe a request for a reasonable accommodation has been improperly denied may file a complaint with HUD.

Let's sum this up. The DOJ continues the conversation when discussing applying multiple laws:

Certain entities will be subject to **both the service animal requirements of the ADA and the reasonable accommodation provisions of the FHAct and/or Section 504.** These entities include, but are not limited to, public housing agencies and some places of public accommodation, such as rental offices, shelters, residential homes, some types of multifamily housing, assisted living facilities, and housing at places of education.

The conversation continues:

In addition, the preambles state that emotional support animals that do not qualify as service animals under the ADA may "nevertheless qualify as permitted reasonable accommodations for persons with disabilities under the FHAct."

In regards to the multiple laws of ADA, FHAct and Section 504:

In cases where all three statutes apply, to avoid possible ADA violations the housing provider should apply the ADA service animal test first. This is because the covered entity may ask only whether the animal is a service animal that is required because of a disability, and if so, what work or tasks the animal has been trained to perform.

If the animal does not meet the ADA service animal test, then the housing provider must evaluate the request in accordance with the FHAct and Section 504.

Putting What You Learned to Practice:

Let's break into groups and discuss each scenario. As a group, decide the best course of action. Be prepared to share your conclusion with the entire class.

Scenario 4

John has been diagnosed with severe depression and is disabled as defined by the Fair Housing Act. His doctor prescribes John a dog to help alleviate some of his symptoms. John asks his landlord if he can have a dog as a reasonable accommodation for his disability. His landlord says yes, but tells John he'll need to pay a \$250 pet deposit and must provide proof that the animal is trained.

Did John's landlord correctly handle John's request under the Fair Housing Act? What if John wanted a cat or a ferret instead?

Scenario 5

April has rented an apartment from her landlord for the last 19 years. She recently obtained a letter from her doctor which stated she had an emotional impairment and that she was prescribing "an emotional support animal that will assist in coping and improving this condition." April obtained a support animal, a cat. Her landlord discovered the cat and posted a 7 day notice to remove the pet per their no pet policy. April gives a copy of the prescription to her landlord upon receiving the 7 day notice. What should the landlord do next?

Scenario 6

You are advertising a property for rent that you own. You receive an application from a tenant along with a letter from what appears to be a doctor that states:

To Whom It May Concern:

Michelle is under my care for panic disorder and anxiety. While she is taking steps in therapy to reduce her symptoms, they have had little impact thus far. The best tool for at this time is having a pet. This has been extremely beneficial for her symptoms in the past. In my opinion, symptoms will be much better if she is able to have a dog in her apartment. Please take into consideration her mental health disorders when considering her request.

How do you handle this?

Section 4:

New York Laws

In addition to the Federal rules we've discussed, New York has laws that refers to as Civil Rights Laws. **NY Civil Rights Law 40-c along with 47-b** state:

New York Consolidated Laws, Civil Rights Law - CVR § 40-c.

Discrimination:

2. No person shall, because of race, creed, color, national origin, sex, marital status, sexual orientation or disability, as such term is defined in section two hundred ninety-two of the executive law , be subjected to any discrimination in his or her civil rights, or to any harassment, as defined in section 240.25 of the penal law , in the exercise thereof, by any other person or by any firm, corporation or institution, or by the state or any agency or subdivision of the state.

New York Consolidated Laws, Civil Rights Law - CVR § 47-b.

Miscellaneous provisions:

1. Persons with a disability accompanied by guide dogs, hearing dogs or service dogs shall be guaranteed the right to have such dogs in their immediate custody while exercising any of the rights and privileges set forth in this article, provided that in instances of employment pursuant to section forty-seven-a of this article, such dog has been trained by a qualified person. Blind persons shall, further, have the right to carry a cane in their immediate custody while exercising any of the rights and privileges set forth in this section.

2. No person or legal entity, public or private, shall attempt to impose or maintain any direct or indirect additional charge for the admittance of a guide dog, hearing dog or service dog accompanying a person with a disability, nor shall any conditions or restrictions not specifically set forth in this article be imposed on the person's rights as set forth herein.

3. *A person engaged in training a dog to guide or otherwise aid persons with a disability, while engaged in such training activities, and a person with a disability for whom the dog is being trained, shall have the same rights and privileges set forth for persons with a disability in this article.*

4. *The term “guide dog”, or “hearing dog” shall mean a dog that is under the control, consistent with federal regulations implementing the Americans with Disabilities Act, Title III, at 28 CFR 36.302(c) , of the person using or training it and has been or is being trained to guide or otherwise to aid a person with a disability.*

5. *For the purposes of this article the term “disability” shall have the same meaning as provided for in subdivision twenty-one of section two hundred ninety-two of the executive law .*

6. *Any law, rule, or regulation conflicting with any provision of this article is, to the extent of said conflict only, deemed to be superseded by the provisions of this article.*

7. *“Service dog” means any dog under the control, consistent with federal regulations implementing the Americans with Disabilities Act, Title III, at 28 CFR 36.302(c) , of the person using or training it, and that has been or is being individually trained to do work or perform tasks for the benefit of a person with a disability.*

New Jersey Laws

In addition to the Federal rules we’ve discussed, New Jersey has laws that refers to **Laws Against Discrimination**. In addition, **New Jersey Statutes Annotated, Title 10, Civil Rights, Chapter 5, Law Against Discrimination** states:

10:5-5. Definitions

s. “Guide dog” means a dog used to assist persons who are deaf, or which is fitted with a special harness so as to be suitable as an aid to the mobility of a person who is blind, and is used by a person who is blind and has satisfactorily completed a specific course of training in the use of such a dog, and has been trained by an organization generally recognized by agencies involved in the rehabilitation of

persons with disabilities, including, but not limited to, those persons who are blind or deaf, as reputable and competent to provide dogs with training of this type.

t. “Guide or service dog trainer” means any person who is employed by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities, including, but not limited to, those persons who are blind, have visual impairments, or are deaf or have hearing impairments, as reputable and competent to provide dogs with training, as defined in this section, and who is actually involved in the training process.

u. “Housing accommodation” means any publicly assisted housing accommodation or any real property, or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more persons, but shall not include any single family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

dd. “Service dog” means any dog individually trained to the requirements of a person with a disability including, but not limited to minimal protection work, rescue work, pulling a wheelchair or retrieving dropped items. This term shall include a “seizure dog” trained to alert or otherwise assist persons with epilepsy or other seizure disorders.

10:5-29 Person with a disability; accompaniment by service or guide dog; use of public facilities; liabilities.

1. Any person with a disability accompanied by a service or guide dog trained by a recognized training agency or school is entitled, with his dog, to the full and equal enjoyment, advantages, facilities and privileges of all public facilities, subject only to the following conditions:

a. A person with a disability, if accompanied by a service or guide dog, shall keep such dog in his immediate custody at all times;

b. A person with a disability accompanied by a service or guide dog shall not be charged any extra fee or payment for admission to or use of any public facility;

c. A person with a disability who has a service or guide dog in his possession shall be liable for any damages done to the premises of a public facility by such dog .

10:5-29.2 Housing accommodations.

4. A person with a disability is entitled to rent, lease or purchase, as other members of the general public, all housing accommodations offered for rent, lease, or compensation in this State, subject to the rights, conditions and limitations established by law. Nothing in this section shall require any person renting, leasing or providing for compensation real property, to modify such property in any way to provide a higher degree of care for a person with a disability than for any other person. A person with a disability who has a service or guide dog , or who obtains a service or guide dog , or who retains their former service or guide dog as a pet after its retirement from service, shall be entitled to full and equal access to all housing accommodations and shall not be required to pay extra compensation for such service or guide dog or retired pet, but shall be liable for any damages done to the premises by such dog. Any provision in any lease or rental agreement prohibiting maintenance of a pet or pets on or in the premises shall not be applicable to a working service or guide dog, or a retired service or guide dog , owned by a tenant who is a person with a disability.

10:5-29.3 Service, guide dog trainer; access to public facilities; responsibilities.

5. A service or guide dog trainer, while engaged in the actual training process and activities of service dogs or guide dogs, shall have the same rights and privileges with respect to access to public facilities, and the same responsibilities as are applicable to a person with a disability.

10:5-29.5 Violations, misrepresentation, interference with disabled persons, guide or service dogs; fine.

7. Any person who violates the provisions of P.L.1977, c.456 in a manner not otherwise prohibited by P.L.1945, c.169 (C.10:5-1 et seq.), or who fits a dog with a harness of the type commonly used by blind persons in order to represent that such dog is a guide dog when training of the type that guide dogs normally receive has not in fact, been provided, or who otherwise intentionally interferes with the rights of a person with a disability, who is accompanied by a guide or service dog, or the function or the ability to function of a guide or service dog, shall be fined not less than \$100 and not more than \$500.

10:5-29.6. Rights, privileges, conditions and restrictions of blind persons with “seeing eye” dog; application to handicapped or deaf persons with “service dogs” or “hearing ear” dogs

Whenever the law accords rights and privileges to or imposes conditions and restrictions upon blind persons with respect to their use of dogs to countervail their disability, and known and described as “seeing eye” dogs, those rights, privileges, conditions and restrictions shall also apply to persons with disabilities with respect to their use of dogs to countervail their disability, and known and described as either “service dogs” or “hearing ear” dogs.

10:5-29.7. Definitions

As used in this act:

“Housing accommodation” means the same as the term is defined in subsection u. of section 5 of P.L.1945, c. 169 (C.10:5-5);

“Public facility” means the same as the term is defined in subsection v. of section 5 of P.L.1945, c. 169 (C. 10:5-5); and

“Working dog” means any dog trained for the purpose of human search and rescue, body recovery, arson detection, bomb detection, narcotics detection, criminal apprehension, police assistance or

other related purposes, whether in the performance of such tasks or while traveling to or from such tasks.

10:5-29.9 Possessors of working dog, certain, entitlement to housing, business accommodations.

3. A member of a police, fire, law enforcement or other related emergency service agency who possesses a working dog, is entitled to rent, lease or purchase, as other members of the general public, all housing accommodations and business accommodations offered for rent, lease, or compensation in this State, subject to the rights, conditions and limitations established by law. A member of a police, fire, law enforcement or other related emergency service agency who possesses a working dog, or who obtains a working dog, shall be entitled to full and equal access to all housing accommodations and business accommodations and shall not be required to pay extra compensation for the dog, but shall be liable for any damages done to the premises by the dog. Any provision in any lease or rental agreement prohibiting maintenance of a pet or pets on or in the premises shall not be applicable to a working dog owned by a tenant who is a member of a police, fire, law enforcement or other related emergency service agency.

10:5-29.10. Violation; penalties

Any person who violates a provision of this act shall be subject to a fine of between \$100 and \$500.

10:5-29.11 Civil penalty concerning person with a disability accompanied by guide or service dogs; complaint, action with Division on Civil Rights.

1. a. Any person who interferes with or denies the access of a person with a disability accompanied by a service or guide dog to any public facility in violation of section 1 of P.L.1971, c.130 (C.10:5-29) shall, in addition to any other relief or affirmative action provided by law, be liable to a civil penalty of not less than:

(1) \$250 for the first violation;

(2) \$500 for the second violation; and

(3) \$1,000 for the third and each subsequent violation.

b. The penalty shall be collected pursuant to the "Penalty Enforcement Law of 1999," P.L. 1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the municipal court having jurisdiction. A law enforcement officer having enforcement authority in that municipality shall issue a summons for a violation of the provisions of subsection a. of this section, and shall serve and execute all process with respect to the enforcement of this section consistent with the Rules of Court.

The issuance of a summons pursuant to this subsection shall not prohibit an aggrieved party from filing a complaint or action with the Division on Civil Rights or in the Superior Court of New Jersey alleging a violation of the "Law Against Discrimination," P.L. 1945, c.169 (C.10:5-1 et seq.), based on the same incident or conduct. In any instance where an aggrieved party files a complaint or action with the Division on Civil Rights or in the Superior Court of New Jersey alleging a violation of the "Law Against Discrimination" based on the same incident or conduct for which a civil penalty has been imposed pursuant to subsection a. of this section, the Division on Civil Rights or Superior Court of New Jersey, as the case may be, shall make a de novo ruling and any adjudication by the municipal court shall not constitute res judicata for the complaint or action filed with the Division on Civil Rights or in the Superior Court of New Jersey.

c. The penalties assessed under this section shall be payable to the State Treasurer and shall be appropriated to the Department of Law and Public Safety to fund educational programs for law enforcement officers on the right of a person with a disability to have a service or guide dog in a place of public accommodation.

d. The Attorney General shall establish a public awareness campaign to inform the public about the provisions of this act.

Pennsylvania Laws

In addition to the Federal rules we've discussed, Pennsylvania has laws that refers to The Dog Law. **Pennsylvania's laws** state:

Pennsylvania Statutes Title 3 P.S. Agriculture § 459-102, Definitions

"Person with a disability." A person who receives disability insurance or supplemental security income for the aged, blind or disabled under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.) ; who receives a rent or property tax rebate under the act of March 11, 1971 (P.L. 104, No. 3), [FN6] known as the "Senior Citizens Rebate and Assistance Act," on account of disability; who has a disability certificate issued by the United States Veterans' Administration; or who has a special registration plate under 75 Pa.C.S. § 1338 (relating to person with disability plate and placard).

"Service dog." Any dog which has been or is in the process of being trained as a guide dog, signal dog or has been trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, pulling a wheelchair or fetching dropped items.

Pennsylvania laws differs with ADA by not including psychiatric support animals as a service dog. However, accommodations in Pennsylvania must comply with both state and federal laws, so full protection for psychiatric support animals comes from ADA.

Psychiatric support animals is defined as an animal that is trained in doing specific tasks, like keeping a disoriented handler from wandering into danger or a road with busy traffic if the handler is suffering from PTSD.

The Pennsylvania Human Relations Act

Section 4, Definitions:

(i) The term "**housing accommodations**" includes (1) any building, structure, mobile home site or facility, or portion thereof, which is used or occupied or is intended, arranged or designed to be used or occupied as the home residence or sleeping place of one or more individuals, groups or families whether or not living independently of each other; and (2) any vacant land offered for sale, lease or held for the purpose of constructing or locating thereon any such building, structure, mobile home site or facility. The term "**housing accommodation**" shall not include any personal residence offered for rent by the owner or lessee thereof or by his or her broker, salesperson, agent or employer.

§ 953. Right to freedom from discrimination in employment, housing and public accommodation

The opportunity for an individual to obtain employment for which he is qualified, and to obtain all the accommodations, advantages, facilities and privileges of any public accommodation and of any housing accommodation and commercial property without discrimination because of race, color, familial status, religious creed, ancestry, handicap or disability, age, sex, national origin, the use of a guide or support animal because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals is hereby recognized as and declared to be a civil right which shall be enforceable as set forth in this act.

§ 7325. Discrimination on account of guide, signal or service dog or other aid animal

A person is guilty of a summary offense if he, being the proprietor, manager or employee of a theatre, hotel, restaurant or other place of public accommodation, entertainment or amusement, refuses, withholds or denies any person, who is using a guide, signal or service dog or other aid animal that has been certified by a recognized authority to assist a person, because of the physical disability, blindness or deafness of the user, or who is training a

guide, signal or support dog or other aid animal for or from a recognized authority for such a user, the use of or access to any accommodation, advantage, facility or privilege of such theatre, hotel, restaurant or other place of public entertainment or amusement.

Putting What You Learned to Practice:

Let's break into groups and discuss each scenario. As a group, decide the best course of action. Be prepared to share your conclusion with the entire class.

Scenario 7

You have a potential tenant that is applying to rent your house. He states he is a police officer and has a K-9 dog. How can you handle this?

Scenario 8

An applicant comes to your office to drop off an application. They are apparently blind and have a service dog with them. What documentation can you ask for?

Scenario 9

An applicant has been approved to move into your available rental house. They have a service dog. Can you ask for a pet deposit or charge more rent in addition to the monthly rent due to the dog?

Scenario 10

A tenant just moved out of your house. They had lived there 3 years and during that time they had a service dog, a German Shepherd. You do the move out walk thru and discover there is a tremendous amount of damage from the dog chewing on the baseboards and scratches in the door. Can you charge the tenant for the damage?

Conclusion:

Let's wrap it up:

Under ADA:

Only service dogs are covered

You can ask the 2 questions only

Emotional Support Animals are not covered

No professional training is required, nor any vest

Under FHAct and Section 504:

Service dogs are covered, along with other animals allowed under "Assistance Animals"

Emotional Support Animals are covered if they alleviate symptoms of a person's disability

No professional training is required, nor any vest

If both questions are Yes answers, the animal is allowed

A housing provider can ask for documentation of the need for the animal if the disability is not readily apparent

Under State Laws:

New York

New York laws mirror image the laws of ADA.

No person shall be denied admittance due to their service animal.

You are required to modify your "no pets" policy for a disabled individual with their service animal.

You may exclude any animal, including a service animal, when the animal's behavior poses a direct threat to the health or safety of others.

Those training a service dog have the same rights and privileges.

New Jersey

It is unlawful to deny full and equal access to a person with a disability simply because he or she is accompanied by a service or guide dog.

Service dogs must be individually trained to the requirements of a person with a disability.

Any “no pets” policy cannot be applied to prohibit an occupant with a disability from having a service or guide dog.

Persons with service or guide dog or emotional support animal cannot be required to pay extra for having the animal on the premises. However, they can be held liable for any damage caused.

Those training a service dog have the same rights and privileges.

Pennsylvania

A Service Animal may be excluded if it displays vicious behavior or disrupts activities with barking.

Pennsylvania does NOT require licenses or certificates identifying service animals

If uncertain about a support animal, you may ask:

1. Is the animal required because of a disability?
2. What task does the animal perform?

Users, handlers and trainers of support or guide animals are protected from discrimination in housing facilities.

References:

Answers to Case Studies:

Scenario 1:

Sarah's service dog is allowed to go wherever she goes.

Scenario 2:

Under ADA, emotional support animals are not protected "because they have not been trained to perform a specific job or task, therefore they do not qualify as service animals."

Scenario 3:

A person with a disability may have more than one service dog. Service dogs could be trained for different needs, therefore creating the need for more than one. The only questions the guard can ask is; Is the dog a service animal required because of a disability? And What work or task has the dog been trained to perform? The guard is not allowed to ask for any documentation, ask about the actual disability or ask the dog to demonstrate the task.

Scenario 4:

No, John's landlord did not handle his request correctly. The landlord cannot charge John a pet deposit for his animal because it is not a pet, but rather a service/companion animal required for disability. Further, the landlord cannot ask for proof that the animal is trained. Lastly, service/companion animals do not have to be just dogs; they can also be other animals, such as cats or ferrets.
(Reference page :

<https://portal.hud.gov/hudportal/HUD?src=/states/shared/working/r10/fh/questions>)

Scenario 5:

The landlord should consider the prescription from April's doctor as sufficient to accept the emotional support animal, under FHA guidelines for her disability. (See Case study HUD vs. Gordon Jong, Nancy Jong, Michael Jong and Sharon Jong.)

Scenario 6:

Because they provided documentation *from a physician, psychiatrist, social worker, or other mental health professional that the animal provides emotional support that alleviates one or more of the identified symptoms or effects of an existing disability*, they should allow the animal.

Scenario 7:

Because police dogs are not covered as a service animal, you may charge a pet fee, or deny the animal.

Scenario 8:

You would not ask for any documentation. *“a housing provider may not ask a tenant or applicant to provide documentation showing the disability or disability-related need for an assistance animal if the disability or disability-related need is readily apparent or already known to the provider.”*

Scenario 9:

No, you may NOT charge additional rent or a pet deposit due to a service dog.

Scenario 10:

Yes, the landlord can charge for damage due to the dog, even if the dog is a service animal.

U.S. Department of Justice
Civil Rights Division
Disability Rights Section

Frequently Asked Questions about Service Animals and the ADA

https://www.ada.gov/regs2010/service_animal_qa.html

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Service Animals and Assistance Animals for People with Disabilities
in Housing and HUD-Funded Programs

https://portal.hud.gov/hudportal/documents/huddoc?id=servanimals_ntcfheo2013-01.pdf

Fair Housing Act, Section 504

https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504faq

New York Laws:

https://ag.ny.gov/sites/default/files/pdfs/publications/Service%2520Animals_FAQS.pdf

<https://www.nysenate.gov/legislation/laws/CVR/40-C>

<https://www.nysenate.gov/legislation/laws/CVR/47-B>

New Jersey Laws:

<https://www.nj.gov/oag/dcr/law.html>

<https://www.nj.gov/oag/dcr/report.html>

<https://lis.njleg.state.nj.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=Publish:10.1048/Enu>

Pennsylvania Laws:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=03>

<https://codes.findlaw.com/pa/title-3-ps-agriculture/pa-st-sect-3-459-102.html>

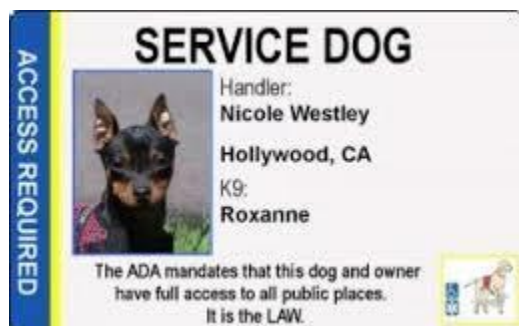
[https://www.phrc.pa.gov/Resources/Law-and-Legal/Documents/PA%20Human%20Relations%20Act%20\(1\).pdf](https://www.phrc.pa.gov/Resources/Law-and-Legal/Documents/PA%20Human%20Relations%20Act%20(1).pdf)

<https://codes.findlaw.com/pa/title-43-ps-labor/pa-st-sect-43-953.html>

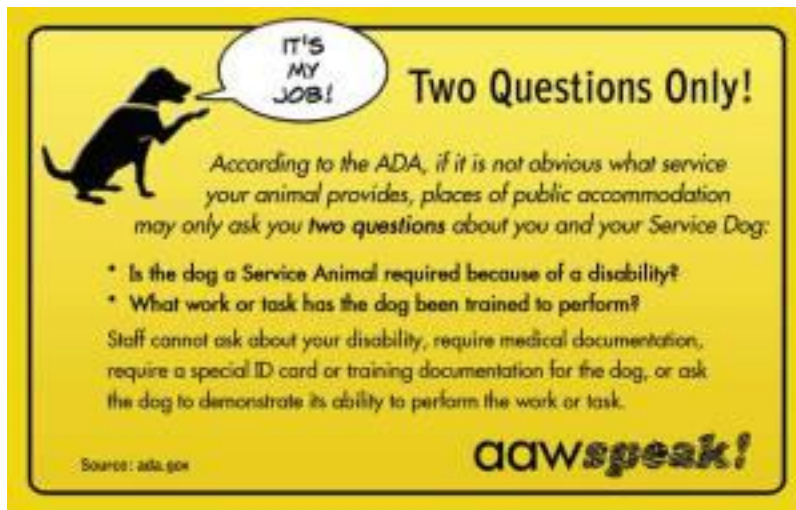
<http://www.legis.state.pa.us/cfdocs/legis/li/consCheck.cfm?txtType=HTM&ttl=18&div=00.&chpt=000.&sctn=000.&subsctn=000>

<http://www.equalhousing.org/wp-content/uploads/2017/10/Know-Your-Rights-as-a-Renter-in-PA-digital-copy.pdf>

Different examples of documentation you might see regarding service animals. Remember, registry is NOT required nor recognized under ADA:

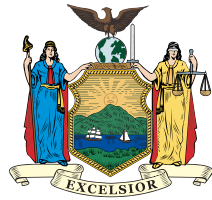


Remember the 2 questions under the ADA:





Eric T. Schneiderman
Attorney General



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
THE CAPITOL
ALBANY, NY 12224

Dear New Yorker:

As the Attorney General, one of my most important responsibilities is to safeguard the civil rights of all New Yorkers and to enforce the state's anti-discrimination laws. One way I seek to achieve this goal is through my Civil Rights Bureau, which enforces laws prohibiting discrimination on the basis of race, color, national origin, sex, religion, age, marital status, sexual orientation and disability. Using federal, state and local civil rights laws, this bureau investigates and litigates complaints alleging a pattern, practice or policy of unlawful discrimination in employment, housing, credit, education and places of public accommodation.

I am aware, however, that discrimination can result from indifference, carelessness or ignorance, rather than simple bigotry. Of course whatever the reason, the outcome is the same -- intolerance, exclusion, and the denial of equal treatment. Therefore, another major way that I am seeking to combat discrimination as Attorney General is through education and information.

The Attorney General's office developed this brochure, in cooperation with the U.S. Department of Justice, to make businesses aware of the ADA (Americans with Disabilities Act) and state regulations regarding service animals. It is my hope that this information will help businesses avoid discriminating against individuals who utilize service animals by informing you of your rights and responsibilities. If you have any questions or concerns that are not answered by this brochure, please do not hesitate to contact my Civil Rights Bureau at (212) 416-8250 (voice) or (800) 788-9898 (TDD). Together we can strive to eliminate discrimination based on ignorance.

Sincerely,

Who should you contact for help?

If you have further questions about service animals or other requirements of the ADA, you may contact:

Office of Attorney General
Eric T. Schneiderman
Civil Rights Bureau
120 Broadway, 23rd Floor
New York, New York 10271
(212) 416-8250 (voice)
or
(800) 788-9898 (TDD/TTY)

Visit the Attorney General's Website
<http://www.ag.ny.gov>

In addition, you may call the:

U.S. Department of Justice
ADA Information Line

toll-free
800-514-0301 (voice)
or
800-514-0383 (TDD)

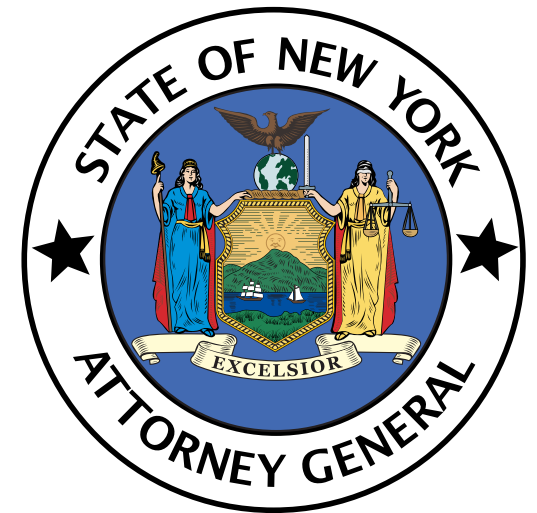
This document is available in the following alternate formats:

- Braille
- Large Print
- Audiotape
- Computer Disk

Produced by the Office of the Attorney General in conjunction with the U.S. Department of Justice.

Service Animals:

Frequently Asked Questions



Eric T. Schneiderman
Attorney General

Service Animals - *Frequently Asked Questions*

What is a service animal?

A service animal is not a pet. The Americans with Disabilities Act (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. 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.

What are the laws that apply to businesses?

Under the 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. Under New York law, no person shall be denied admittance to and/or the equal use of and enjoyment of any public facility solely because he or she has a disability and is accompanied by a guide dog, hearing dog or service dog.

Public facilities include, but are not limited to, all modes of public and private transportation, all

forms of public and private housing accommodations, buildings to which the public is invited or permitted, and all other places of public accommodations, convenience, resort, entertainment or business to which the general public is normally or customarily invited or permitted. No direct or indirect additional charge is permitted for a service animal accompanying a person with a disability.

Any person violating these laws can be assessed damages and penalties by the state Division of Human Rights or a court of competent jurisdiction. See N.Y. Civil Rights Law §§ 40-c, 47 and 47-b and N.Y. Executive Law §§ 296(2) and 296(14).

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

Some service animals wear special collars and harnesses. Some 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. 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.

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

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.

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

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, but simply that you must make an exception to your general rule for service animals.

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?

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.

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

No. Neither a deposit nor a surcharge may be imposed. However, you may charge a maintenance fee 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.

I operate a private taxicab and I don't want animals in my taxi. Am I violating the ADA if I refuse to pick up someone with a service animal?

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.

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

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.

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

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. You may not make assumptions, however, about how a particular animal is likely to behave. Although you may exclude any service animal that is out of control, you should give the individual with disability who uses the service animal the option of continuing to enjoy its goods and services without having the service animal on the premises.

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

There may be a few circumstances when you are 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 repeatedly during a movie and the owner is unable to control the dog, or the dog's barking does not serve to communicate something of benefit to the owner, the animal can be excluded.



Disability Accommodation Rights for Owners and Occupants of Condos, Cooperatives, and Other Common Interest Communities Governed by a Homeowners' Association or Similar Entity

The New Jersey Division on Civil Rights (DCR) enforces the New Jersey Law Against Discrimination (LAD), which makes it illegal for those involved in the ownership, operation, or management of condominiums or cooperatives (e.g., landlords, sellers, condominium associations or boards, cooperative associations or boards, homeowners' associations or boards) to discriminate against someone with a disability.

Examples of Illegal Conduct

- Discriminating against a prospective or actual buyer, renter, owner, or occupant because of that person's disability or because of the disability of someone associated with that person.
- Refusing to make reasonable accommodations to the rules, policies, practices, or services, when such accommodations would give someone with a disability an equal opportunity to use and enjoy the property, including public and common areas.

Example: If an occupant has a disability that makes walking difficult, a reasonable accommodation might be to give the occupant a reserved parking space closest to the entrance of his or her unit, even though parking is generally unreserved.

- Refusing to allow reasonable modifications of existing premises if such modifications may be necessary to give the person with a disability full enjoyment of the premises.

Examples of reasonable modifications might include installing an entry ramp, lowering the threshold of a unit, widening doorways, or installing grab bars.

A board or association may require the owner or occupant to provide a reasonable description of the proposed modifications, as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained.

The owner or occupant is responsible for the cost of any modifications or equipment. However,

it would be illegal for a board or association to charge an extra fee for reasonable modifications or accommodations for someone with a disability.

An owner or occupant who requests a disability accommodation or requests approval to make modifications to the premises must show that they may be necessary to give a person with a disability an equal opportunity to use and enjoy the premises. The board, association, or other housing provider may deny the request if it can prove that the request is unreasonable because the accommodation or modification would impose an undue administrative or financial burden on the board or association, or would fundamentally alter the nature of the board or association's operations. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the provider, the benefits that the accommodation would provide to the requester, and the availability of alternative accommodations that would effectively meet the requester's disability-related needs.

Assistance Animals Under the LAD

Sometimes, people with disabilities must rely on service or guide dogs, or emotional support animals to assist them because of the limitations arising from their disabilities.

1. **Service dogs and guide dogs.** It is unlawful to deny full and equal access to a person with a disability simply because he or she is accompanied by a service or guide dog.

A “service dog” means any dog individually trained to the requirements of a person with a disability. For example, such dogs may be trained to perform minimal protection work or tasks such as pulling a wheelchair, retrieving dropped items, or alerting or assisting a person with epilepsy or another seizure disorder.

A “guide dog” means a dog used to assist deaf or hard of hearing people, or people with visual impairments. Guide dogs must be trained by an organization generally recognized by agencies involved in the rehabilitation of the deaf or blind as reputable and competent in providing this type of training to dogs.

Trained service or guide dogs are not pets. Thus, any “no pets” policy cannot be applied to prohibit an occupant with a disability from having a service or guide dog on the premises.

- 2. Emotional support animals.** For an occupant with a disability whose medical provider prescribes an emotional support, therapy or assistance animal, reasonable accommodations may include granting an exception to a policy that bans pets or imposes weight or size restrictions. However, a housing provider may impose reasonable conditions on approvals for emotional support, therapy, or assistance animals, such as requiring that they not be permitted to roam the premises unsupervised, or that the occupant or another responsible person clean up after the animal.

In housing matters, an emotional support, therapy, or assistance animal does not need to be specially trained to serve a person with a disability. And although these animals are often dogs, other animals can also function as emotional support, therapy or assistance animals.

Persons with a service or guide dog or emotional support animal cannot be required to pay extra for having the animal on the premises. However, they can be held liable for any damage that the animal causes to the premises.

Filing a Complaint Under the LAD

When it appears that a board, association, or other housing provider has violated the LAD, there are two options for filing a complaint:

1. Administrative complaints:

An administrative complaint can be filed with the DCR within **180 days** of the act of discrimination. Any person who has been injured by discrimination based on disability (or any other characteristic protected by the LAD) or believes that such discrimination is about to occur, can contact the DCR to speak to an investigator. If DCR has jurisdiction to address the problem, DCR staff will take a written complaint,

serve it on the respondent (i.e., the person or entity charged with violating the LAD), and obtain a written answer from the respondent. DCR will then investigate the allegations. If an investigation shows enough evidence to support the complaint, and the complaint cannot be settled, a hearing will be held in the Office of Administrative Law. After that hearing, the DCR Director will issue a final decision as to whether unlawful discrimination has been proven. If discrimination has been proven, the Director will order appropriate remedies.

2. Court complaints:

As an alternative, a person can file a civil complaint in the Superior Court of New Jersey within **2 years** of the act of discrimination.

Available Remedies

The DCR and Superior Court of New Jersey may order equitable relief, compensatory damages, and attorney fees. The Superior Court may also award punitive damages. The DCR may impose civil penalties to be paid to the State government.



NJ Office of the Attorney General

CIVIL RIGHTS

The Department of Law & Public Safety, through its Division on Civil Rights, is responsible for enforcing the law. To file a complaint, contact or visit the office nearest you:

South Shore Regional Office:

1325 Boardwalk, Tennessee Ave. & Boardwalk
Atlantic City, NJ 08401
Phone: **(609) 441-3100** • Fax: (609) 441-3578

Southern Regional Office:

5 Executive Campus, Suite 107
Cherry Hill, NJ 08034
Phone: **(856) 486-4080**

Northern Regional Office:

31 Clinton Street, Newark, NJ 07102
Phone: **(973) 648-2700** • Fax: (973) 648-4405

Central Regional Office:

140 East Front Street / P.O. Box 090
Trenton, NJ 08625-0090
Phone: **(609) 292-4605** • Fax: (609) 984-3812

Visit our web site at **www.NJCivilRights.gov**

It's **not** a *choice*.
It's a right.
It's a necessity.

It's a **SUPPORT
ANIMAL.**



Support animals enable
independent
working,
learning
and living.

The **PA Human Relations Act** requires businesses to allow support or guide animals to accompany people with disabilities in all areas of a facility that are open to the public.

In Pennsylvania you have the right to live, work, and learn free from illegal discrimination. Under the Pennsylvania Human Relations Act, **it is illegal to discriminate against individuals who use support or guide animals for a disability, or against trainers or handlers of support or guide animals.**

Many people with disabilities need support animals to perform their jobs or basic life tasks.

Tasks such as:

- Opening doors
- Turning light switches on or off
- Picking up and retrieving objects
- Pulling a wheelchair
- Carrying medication
- Guiding the visually impaired
- Alerting the hearing impaired
- Calming a person with PTSD, or Post Traumatic Stress Disorder

**Equal opportunity is the
rule of law** in
Pennsylvania.

Exclusions

A support animal must remain under control at all times. If the animal's behavior poses a direct threat to the health or safety of others, the animal may be excluded. Should the animal be removed, staff must offer to meet the needs of the individual without the animal's presence.

Examples:

- A support animal displaying vicious behavior towards guests, workers or students
- A support animal compromising a sterile environment in an operating room
- A support animal barking and disrupting a movie

Allergies
& fear of dogs
are **not valid**
reasons
for denying
access
to people using
support animals.

Licensing or Certification

Some support animals are licensed or certified, and carry identification papers, but this is **NOT** a requirement in Pennsylvania.

A business owner or staff member cannot request:

- Medical documentation for the user
- Special identification card or documentation for the animal
- A demonstration of ability by the animal

But if uncertain about a support animal, you may ask:

- (1) Is the animal required because of a disability?
- (2) What task does the animal perform?

Support Animals in Employment

Users, handlers and trainers of support or guide animals are protected from discrimination in schools, housing facilities and businesses. However, in employment, only individuals who use a service animal for a disability are protected. **Employers do not need to accommodate support animal handlers or trainers.**

Partnership with a support animal is a **necessity**, not a
lifestyle choice.



Find more information on illegal discrimination, how to file a complaint, or obtain equal opportunity training or group presentations at:

www.phrc.state.pa.us

phrc@pa.gov

717-787-4410 or 717-787-7279 (TTY)