



SERVICE, ASSISTANCE and EMOTIONAL SUPPORT ANIMALS

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Feb. 5, 2021



Disabled people and the animals that help them are entitled to have access to:

- All places open to the public
- All public transportation
- Workplace
- Housing
- Schools and universities



Question No. 1: Does the person have a physical or mental disability?

A physical or mental impairment that substantially limits a “major life activity” such as:

- **Caring for oneself**
- **Lifting**
- **Breathing**
- **Reading**
- **Concentrating**
- **Bending**
- **Walking**
- **Seeing**
- **Working**
- **Eating**
- **Standing**
- **Thinking**
- **Performing manual tasks**
- **Sleeping**
- **Communicating**
- **Hearing**

Question No. 2: Where is the animal needed?

- **PLACES OPEN TO THE PUBLIC**: Americans with Disabilities Act (restaurants, offices, theaters, hotels, stores, museums, etc.)
- **TRANSPORTATION**: Air Carrier Access Act and ADA (airplanes, ships, buses, taxis, etc.)
- **WORKPLACE**: Americans with Disabilities Act
- **HOUSING**: Fair Housing Act (real estate, rental housing, HOA's, cities, zoning ordinances, etc.)

STATUTES



U.S.

- Americans with Disabilities Act (42 U.S.C. Ch. 126)
- Air Carrier Access Act (49 U.S.C § 41705)
- Fair Housing Act (42 U.S.C. § 360)



Texas

- Health and Human Resources Code (Chapter 121)
- Texas Labor Code (Chapter 21)
- Texas Health and Safety Code (§ 437.023)
- Fair Housing Act (TEX. PROP. CODE, Ch. 301)

Two Categories of Animals are recognized:

Service Animals



Animals that are **individually trained** to perform tasks for a person with a physical or mental disability. Training may be done by the owner.

Emotional Support Animals



Animals that provide emotional support, comfort or companionship for a mentally disabled person but are **not individually trained** to perform tasks.

“Therapy Animals” are not recognized by law

Provide comfort and affection to people in hospitals, nursing homes, schools, hospices, disaster areas, etc.



Service animals perform amazing tasks

- Notify diabetic person that blood sugar is low.
- Alert a person with food allergy to presence of peanuts, egg, gluten, etc.
- Alert a deaf person to baby crying, fire alarm, telephone ringing, doorbell.
- Move clothes from washer to dryer.
- Alert a person to oncoming seizure, encourage them to lie down or put on helmet.
- Open a bottle and insert straw for a person with paralysis.
- Alert a person to oncoming panic/anxiety attack, then calm them.
- Alert a person with PTSD that someone is approaching from behind.
- Hand credit card to cashier.

ESA's and trained psychiatric service animals are not the same



Service animals are trained to perform *specific tasks* for:

PTSD, Autism, Asperger's, Anxiety, Agoraphobia, Depression, ADHD, Epilepsy, Phobia, Social Anxiety, Tourette's, panic attacks, and more.

Public Accommodations





Americans with Disabilities Act



Texas Human Resources Code



Public Accommodations

- Service animals must be allowed in *all* places open to the public (incl. hotels)
-  Dogs and miniature horses only
-  Dogs only
- Must be trained to perform a specific task
- No emotional support animals
- Dog breed restrictions do not apply



Public Accommodations



- No documentation, vest, ID or proof needed
- Facility allowed to ask only two questions:
 - 1) *“Is the animal required because of a disability?”*
 - 2) *“What tasks is the animal trained to perform?”*

Public Accommodations

- Animal must be *housebroken* and always *under control*
- Facility may require leash or harness
- Facility not required to “fundamentally alter services or program”



Public Accommodations

Enforcement:



ADA:

- U.S. Attorney General may file suit.
- Individual may sue for injunction and attorney's fees, but not damages.



Texas:

- Violation is misdemeanor--\$300 fine and community service.
- Individual may sue for damages.



Public Accommodations

Falsely representing that a pet is a service animal:



 **ADA: no penalty**

 **Texas: misdemeanor to use fake vest or leash-- \$300 fine and community service**

Transportation

-  Americans with Disabilities Act
-  Air Carrier Access Act
-  Texas Human Resources Code



AIRPLANES



Air Carrier Access Act

- Only trained service dogs allowed
- No emotional support animals
- Airline may not restrict dog breeds
- Must be on lap or in foot space; not encroach
- Must be leashed, house broken, not disruptive, not a threat to health or safety





Air Carrier Access Act

United States Department of Transportation Air Transportation Service Animal Behavior and Training Attestation Form

Service Animal Handler's Name: _____

Address: _____

Phone Number: _____ Email Address: _____

Animal's Name: _____ Has your animal flown before? Circle YES or NO

Check the following boxes to certify:

I certify that my animal has been individually trained to do work or perform tasks to assist me with my disability and has been trained to behave well in a public setting without aggression toward humans or other animals.**

I understand that my animal must be harnessed, leashed, or tethered, unless I am unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks. In such cases, I understand that my animal must otherwise be under my control at all times through voice, signals or other effective means.

I understand that if my service animal engages in disruptive behavior that shows that it has not been successfully trained to behave properly in a public setting, airlines are permitted to treat my animal as a pet.

I understand that airlines may charge passengers with disabilities traveling with service animals for the cost to repair any damage caused by a passenger's service animal so long as the airline charges passengers without disabilities for the same kind of damage.

I understand that I am committing fraud by knowingly making false statements to secure disability accommodations provided under regulations of the U.S. Department of Transportation.

Signature of the Animal Handler

Date

** A service animal that is trained to behave in a public setting will remain under the control of its handler. It does not run freely around an aircraft or an airport gate area, bark or growl repeatedly at other persons on the aircraft, bite, jump on, or cause injury to people, or urinate or defecate in the cabin or gate area. An animal that engages in such disruptive behavior shows that it has not been successfully trained to behave properly in a public setting, and airlines are not required to treat it as a service animal, even if the animal performs an assistive function for a passenger with a disability.

← • Airline may require completed DOT service animal forms

• Airline may require 48 hours advance notice

• May not require early check-in

• Bulkhead seat (or not) if requested

• To determine if dog is eligible airline may:

1. ask the two questions, or

2. observe the dog's behavior, or

3. look for things like harness or vest



AIRPLANES

Texas Human Resources Code:

- **“Public facility” includes airplanes**
- **Must be trained service *dog***
- **Dogs in training are ok**
- **No emotional support animals**
- **Airline may only ask the two questions
(needed because of disability? what tasks?)**



AIRPLANES

Enforcement:



Air Carrier Access Act

- Department of Transportation may fine.
- No private cause of action.



Texas

- Violation is misdemeanor--\$300 fine and community service.
- Individual may file suit for damages.



Transportation

BUSES, TAXIS & TRAINS



The Americans with Disabilities Act



Texas Human Resources Code



BUSES, TAXIS & TRAINS

Policies & procedures must be modified to allow service animals

unless:

- **It would pose a risk to the health or safety of others,**
- **Would fundamentally alter the nature of services, or**
- **Animal is disruptive or not under control.**



BUSES, TAXIS & TRAINS



- Only trained service animals
- Emotional support animals *not* allowed
- Only the two questions may be asked (needed because of disability? what tasks?)

BUSES, TAXIS & TRAINS

Enforcement:

Americans with Disabilities Act:

- U.S. Attorney General may file suit.
- Individual may sue for injunctive relief and attorney's fees but not damages.

Texas:

- Violation is misdemeanor--\$300 fine and community service.
- Individual may sue for damages.



Transportation

SHIPS & BOATS

- Must make *reasonable modifications* in policies, practices and procedures unless it would fundamentally alter nature of goods, services, or facilities



SHIPS & BOATS



- Service animals must be allowed if *housebroken* and *under control*.
- Emotional support animals not allowed.
- ← • Passenger must be furnished with refrigeration space for dog food.

SHIPS & BOATS



ADA

- Ship must accept “*credible verbal assurance*” of passenger that it is a service animal.



Texas

- Ship may only ask the 2 questions:
 1. Needed because of a disability?
 2. What tasks is animal trained to perform?



SHIPS & BOATS

Enforcement:



Americans with Disabilities Act

- Dept. of Transportation may refer to DOJ which may file suit.



Texas

- Violation is misdemeanor--\$300 fine and community service.
- Individual may sue for damages.



Workplace



ADA



Texas Labor Code



- Must have 15 or more employees
- Disabled employee must be qualified

Workplace

- **Employer must make “reasonable accommodation” for disability...**
- **Unless it causes undue hardship or threat to health, safety or welfare.**
- **Allowing service animals is a “reasonable accommodation.”**



Workplace

- No limitations on species of animal.
- Emotional support animals may be ok.
- Employer may inquire about disability and how an animal would help.
- Employer may require medical exam



Workplace

Enforcement:



Americans with Disabilities Act

- EEOC may file suit.
- Individual may sue to be hired, reinstated, promoted; can recover actual and punitive damages, expenses and attorney's fees.



Texas Labor Code

- Texas Workforce Commission may file suit.
- Individual may sue to be hired, reinstated, promoted; actual and punitive damages.



Housing



U.S. Fair Housing Act



Texas Fair Housing Act

Housing

- Housing providers must allow “assistance animals”
- “Assistance animals” are:
 - 1) Trained service dogs, and
 - 2) “Support animals” (incl. emotional support, and trained or untrained animals other than dogs.)
- “Common household animals” qualify as support animals (dog, cat, turtle, bird, gerbil, fish, rabbit, etc.)
- “Unique animals” which are not traditionally kept in the home (such as monkey or kangaroo): disabled person has a ‘substantial burden’ to show need for that specific type of animal.



Housing

- Applies to landlords, HOAs, cities, lenders, real estate agents, universities, zoning laws, and others
- If disability is not apparent then *reasonable information* may be requested (such as from a health care provider—but not med records, diagnosis, or a medical exam)
- No breed restrictions; city ordinances prohibiting certain types of animals do not apply
- Housing providers may not require pet deposit



Housing

Enforcement:



U.S. Fair Housing Act

- HUD may mediate or refer to DOJ to file suit
- Individual may sue for actual damages, injunctive relief, attys fees.
- May get court-appointed attorney



Texas Fair Housing Act

- Tx. Workforce Commission may award actual damages, injunction, attys fees, penalties.
- Individual may sue for actual damages, injunctive relief, attys fees.
- Entitled to court-appointed attorney.
- Attys fees may be awarded to prevailing party.



Animals are never required to be “registered,” “certified,” licensed, wear a vest, or be trained by a professional



NOT NEEDED



All state and local animal control laws still apply to service and ESA's:



- Licensing, vaccination, and registration
- Dangerous dog statutes/ordinances
- Rabies control laws
- Animal cruelty and seizure laws
- Tethering* and barking ordinances
- Leash Laws (some ADA exceptions)
- Dog in bed of pickup ordinances

*Tethering is illegal in some cities and needs to be outlawed in Texas



THE END