



Service Animals and the ADA

Jason Burke
State ADA Coordinator
ADA Compliance Program
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Disclaimer

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The information provided is not a substitute for professional legal advice, and is not binding on the ADA Compliance Program or the State of Alaska.

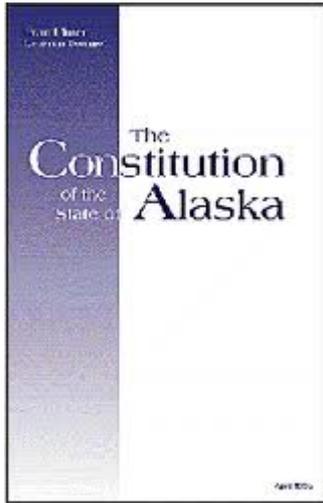
Overview

- Civics and civil rights
- Practical guidance under the ADA
- Alaska and other laws
- Resources



Image: <http://www.vchca.org/animal-services/assistance-dogs>

Civics



- Constitution
- Laws
- Regulations
- Standards
- Guidance
- Case law
- Codes
- Policy
- Practices



Equality

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graph TD; Equality([Equality]) -.-> Fair([Fair]); Equality -.-> Same([Same]); Fair -.-> AS[Accessibility Standards]; Fair -.-> RA[Reasonable Accommodation]; Fair -.-> PM[Program Modification]; Fair -.-> EC[Effective Communication]; Same -.-> G[Gender]; Same -.-> R[Race]; Same -.-> Rel[Religion]; Same -.-> PE[Program Eligibility];
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Accessibility Standards

Reasonable Accommodation

Program Modification

Effective Communication

Fair

Gender

Race

Religion

Program Eligibility

Same

Americans with Disabilities Act

Titles

I – Employment

II – State and Local Government

III – Public Accommodations

IV – Telecommunications

V – Miscellaneous provisions



The term “disability” is construed broadly.

It is illegal to discriminate against a qualified individual on the basis of disability



who can perform the essential functions of a **job**, with or without reasonable accommodation.



who can participate in or receive benefits of programs, **services**, or activities with or without reasonable modifications





Alaska Department of Administration

ADA Compliance Program



Service Animals and the ADA

PRACTICAL GUIDANCE: ADA TITLE II AND TITLE III

ADA 2010 Regulation

§ 35.136 Service animals

(a) General. Generally, a public entity shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

Potential for denial?

Talk with program lead or ADA Coordinator.



Definition under ADA titles II/III

Service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

ADA Service Animal Highlights

- Only dogs.
- Individually trained to do work or tasks.



Image: http://www.sanfrancisco.va.gov/patients/Service_Animals.asp

Conditions and Related Tasks

Condition

Work or Task

Physical

Stability, balance, pull, retrieve

Sensory

Hear, alert, see, guide

Psychiatric

Calm, ground, remind

Intellectual

Remove from danger

Other Mental

Seizure altering

Title II and III Settings

- Sidewalks and thoroughfares
- Libraries
- Courthouses
- Government buildings
- Retail stores
- Restaurants
- Places of lodging
- Stadiums, Rec. Facilities
- Dormitories

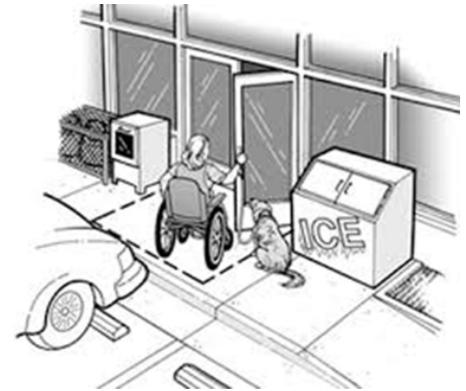


Image: <http://www.ride-away.com/general/15-handly-service-dog-tricks/>

Anywhere the public can go.

Allowable Inquiries

- If obvious, no questions allowed.
 - Refer to “individually trained” slide.
 - Certification not required.
- If unclear, provider may ask:
 - Is the dog required because of disability?
 - What tasks or work is it trained to perform?



Be careful not to ask about the *nature or extent* of a person's disability.

Handler's Control

A service animal must be harnessed, leashed, or tethered, unless these devices

- interfere with the animal's work, or
- the person's disability prevents use.

If not, the person must control the dog with voice, signal, or other effective controls.

Issues

- Allergies not valid excuse for denying access - Accommodate both people if possible.
- Remove from a facility only when
 - The handler does not take effective action to control a dog
 - The dog is not housebroken.
- If removed, Staff **must offer** the person an opportunity to obtain goods or services without the animal.

More Issues

- People with SAs cannot be isolated, treated differently, charged extra fees or charged like people with pets.
- Can charge for damages if normally would charge others for similar damages.
- Staff are not required to provide care or food for a service animal.

Certification under ADA

Under the ADA a service dog does not need to wear a vest or carry certification.

Certification is not required for service animals in training in Alaska.



NSAR - National Service Animal Registry
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CLICK HERE 🐾

NSAR Services

- Register Your Animal
- Public Access Test
- List of Disabilities
- Service Animal Database
- What You Need to Know**

Know The Law

- Know Your Rights
- Emotional Support Animals**
- Federal Law: ADA
- Business FAQ
- Service Animal Certification
- Airlines & Service Animals

Service Animal Products

- Service Animal Registration Kit

Yes, You Can Take Your Dog With You!
It's no secret that many businesses simply aren't pet-friendly, even though most of the population is. A large number of our clients register their dogs as Certified Service Animals not just to accompany them into stores, restaurants, motels, or on airline flights (for no extra cost), but to successfully qualify for housing where pets aren't allowed. Our Service Dog Certification documents formalize and simplify these processes and make qualifying for special housing hassle-free. If you and your service dog become certified with NSAR, both of you are immediately protected under federal law (ADA).

We also specialize in registering dogs, cats, and other animals as Emotional Support Animals (ESA) for people with emotional or psychological disabilities. Although ESAs have fewer protections under federal law, they are allowed to fly in the cabin of an aircraft with their disabled handler and to qualify for "no pet" or "limited pet" housing. [Click here](#) to find out more.

Complete Service Animal Certification Kit - ONLY \$64.95!



"I would like to thank you all for the fast service I received when I registered my two service dogs. not only was it easy but you got my information to me very quickly. The IDs have made places much easier to gain access to with out so many questions. I have vests for my dogs but it seems that if you have that ID on the vest it stops some people from asking in the first place. Thanks again!"

Miniature Horse Modifications

- Must be individually trained for the person.
- Assess whether to modify policies to allow a miniature horse if:
 1. Housebroken.
 2. Under handler's control.
 3. Can accommodate type, size, and weight.
 4. It will not compromise safety.
- Same requirements for service dogs apply.



Emotional v. Psychiatric

- Title II, III *excludes* animals that provide “emotional support, well-being, comfort, or companionship.”



- Title II, III *Includes* service dogs that perform psychiatric tasks such as safety checks or room searches for persons with PTSD, interrupting self-mutilation, and removing disoriented individuals from dangerous situations.

Not Service Animals under Title II, III

- Common Domestic



Source: <http://www.nea.org/grants/hes-a-cool-cat.html>

- Wild



Source: http://blogs.discovery.com/animal_oddities/2012/01/seizure-sensing-snake.html

Monkeys

- Certain monkeys “pose a direct threat; their behavior can be unpredictably aggressive and violent without notice or provocation.”
- “[C]apuchin monkeys are not suitable for use in public facilities.”



Image: <http://i1.ytimg.com/vi/vRzp9O9Qc1o/maxresdefault.jpg>



Image: transitions.mda.org



Alaska Department of Administration

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Service Animals and the ADA

ALASKA & OTHER LAWS



Alaska Human Rights Law (AS 18.80.200)

- “Physical or mental disability” protections under Alaska Human Rights Act are substantially similar to the ADA and other laws.
 - Nearly the same definition.
 - Applies same standards in most respects.
 - Follows the same basic rules.
 - May be more liberal in its interpretation.
- Allows governments to establish enforcement commissions with powers similar to that of Alaska State Commission for Human Rights, e.g., Anchorage Equal Rights Commission.

Service Animals in Training



Horse: <http://www.eightandfive.com/>

Service Dog: <http://www.urbanvillagelegal.com/condo-association-ban-service-dog/>

Guide Puppy: <http://louisbrailleschool.org/newsletter/summer-2007/auction-action/>

Alaska Statute Title 11, Chapter 76

Section 11.76.133

- Violation of criminal law to intentionally prevent or restrict an authorized trainer with a SA from a public facility.
 - Can ask for reasonable evidence of trainer's authorization.
 - Trainer is liable for any property damage.
 - Animal can be removed for unruly or disruptive conduct, direct threat to others, or if it creates an unusually difficult atmosphere for regular activities.

Definitions under Sec. 11.76.133

- “authorized” means employed by, or serving as a volunteer with, a school, agency, or other facility that trains service animals;
- "identified as being in training" means wearing a device or exhibiting an insignia approved by a school, agency, or other facility that trains service animals that identifies the animal as being in training to be a service animal;

Definitions under Sec. 11.76.133

- “in training to be a service animal” means being in the pre-training or training period as required under a program ...
- "public facility" ...is owned, operated, or occupied by, or a mode of transportation owned or operated by, the state, a public corporation of the state, the University of Alaska....

Alaska Statute Title 11, Chapter 76

Section 11.76.130

Criminal law that prohibits interference with rights of “physically or mentally challenged person” from using a “certified service animal” in

- Rights of way
- Common carriers
- Public accommodation

Person is liable for any property damage done by the animal.

Alaska Statute Title 9, Chapter 65

Section 09.65.150

Civil law that obligates drivers to take precautions to avoid injury to pedestrians with disabilities or their service animal.



Image: <http://piperbasenji.blogspot.com/2012/09/guide-dogs.html>

Other Disability Rights Laws with Service Animal Provisions

- ADA Title I
- Fair Housing Act
- Air Carrier Access Act
- Individuals with Disabilities Education Act
- Rehabilitation Act
- U.S. Department of Transportation ADA Regulations



ADA Title I Employment

- A qualified employee can ask to use a service animal as a reasonable accommodation to perform the essential functions of a job, or to receive benefits of employment like similarly situated employees.
 - Interactive process might involve medical information.
 - Employer decides if person qualifies under the AD and whether the accommodation is reasonable.

Fair Housing Act

- Tenant can ask to use an assistance animal(s) as a reasonable accommodation in covered housing to have full use and enjoyment of the premises. May include “emotional support” animals.
- If the tenant’s animal does not meet the ADA service animal test, provider must evaluate using FHA guidance.

Air Carrier Access Act

- Permits dogs and other service animals to accompany a person with a disability on a flight.
 - Carriers may permit emotional support animal.
 - Accepts documentation, harnesses, markings, tags or credible verbal assurance.
 - Must keep aisle unobstructed.
 - Animal may be moved where space is available, and potentially to a cargo hold. A person may need to travel on a different flight.

Individuals with Disabilities Education Act (IDEA)

- Student with a disability may qualify under the ADA and/or IDEA.
- Individualized assessment required by the child's education team. Factors may include:
 - Types of tasks and other means
 - Dog's impact to help student function, behavior, social relationships
 - Effect of separation during school day.

ADA Requirements for Transportation

- Uses old, broad definition of service animal and the same two questions.
- ‘Service animals shall always be permitted to accompany their users in any private or public transportation vehicle or facility.’
- Identification of the role of the animal should be as brief as possible. Lengthy conversation should not happen in front of other passengers.

Service Animals and the ADA

RESOURCES





State ADA Coordinator's Office

Working to Make Alaska Modern and Accessible

The Americans with Disabilities Act (ADA) compliance program coordinates statewide implementation of disability rights laws to ensure people with disabilities have access to jobs and services within the executive branch of state government. Administrative Orders [262](#) and [129](#) establish the ADA compliance program and set the controlling policies in regard to disability issues.

Request Access or Reasonable Accommodation

- [Employee](#)
- [Member of the Public](#)

Resources

My Role Is

- [Member of the Public](#)
 - [Get/learn about access](#)
 - [Get/learn about Reasonable Accommodation](#)
 - [File a complaint](#)
- [Employee or Supervisor](#)
- [Human Resources](#)
- [Service Provider](#)
- [Procurement](#)
- [Facilities](#)
- [ADA Coordinator](#)
- [Web, Content, or IT Professional](#)

Hot Topics

- [2013 Web Access Workshop](#)
- [Ergonomics Job-Aid \(PDF\)](#)
- [News and Highlights](#)
- [Accommodation Resources](#)
- [Accessible Recreation Facilities](#)
- [Training](#)
- [Forms and Guidance](#)
- [Accessible Facilities](#)

Contact Us

- [State ADA Coordinator](#)
- [Department ADA Coordinators](#)

Information

- [Accommodation Resources](#)
- [ADA Coordinator Contact](#)
- [Facilities Access](#)
- [Information Access](#)
- [Recreation Access](#)
- [News and Highlights](#)

Tools

- [Effective Communication](#)
- [File a Complaint](#)
- [Forms and Guidance](#)
- [Training](#)

New on ADA.gov

Carmine's Broadway Feast | Complaint
Consent Decree (posted 1/9/14)

Prakel v. State of Indiana | PDF
Statement of Interest (posted 1/7/14)

DOJ Findings Letter to Rhode Island
Olmstead Letter of Findings (posted 1/6/14)

ADA Mediation Program
Two New Publications: *Resolving ADA Complaints Through Mediation* and *Questions & Answers* (posted 1/3/14)

State of Alabama
Letter of Findings (posted 12/11/13)

Newseum, Inc.
Settlement Agreement (posted 12/6/13)

Camelot Child Development Center
Settlement Agreement (posted 11/27/13)

Phoenician Golf and Resort
Settlement Agreement (posted 11/26/13)

INTRODUCTION TO THE ADA

Publications and videos that answer these questions and more: What is the ADA? Who is a person with a disability? Who must comply with the ADA? Where can you call to ask questions about the ADA?

ADA REQUIREMENTS AND TECHNICAL ASSISTANCE

Regulations, design standards, publications, video, and other media that provide information about compliance with the ADA

ADA ENFORCEMENT ACTIVITIES

The Department enforces the ADA

Featured Topics



Service Animals





ADA ASSISTANCE

FOR BUSINESS

This section provides assistance in examining your options for managing employees and serving customers with disabilities. The recent changes in the ADA regulations will extend coverage to more employees and enhance access to your place of business. Included here is assistance with employee productivity enhancements and reasonable accommodations, as well as tools to identify and remove access barriers in your business.



FOR STATE & LOCAL GOVERNMENT

This section is designed to help ADA Coordinators in state and local government entities to comply with the administrative requirements of the ADA, and to learn the new requirements of the recent regulatory changes to Title II of the ADA. Examples of best practices, as well as administrative tools for compliance and program access to local government services, can be accessed here.



FOR CONSUMERS

This section is intended to provide information and guidance for consumers with disabilities about the ADA. Included are topics designed to ensure equal opportunity in employment and equal access to goods and services. Provided is the most current information related to parking; service animals; education; accessible shopping, travel, and recreation; and, if necessary, the process for filing complaints.

Write your content here.



FOR ARCHITECTS & CONTRACTORS

Design professionals, code officials, contractors, members of the building trades and others will find basic and advanced information on accessibility requirements for the built environment, including the new 2010 ADA Standards for Accessible Design. There are practical tools for identifying barriers to accessibility and also comparisons of accessibility provisions in the ADA standards, guidelines and International Building Code.



[JAN en Español](#)[Print this Page](#) [A A A Text Size](#)[For Employers](#)[For Individuals](#)[For Others](#)[ADA Library](#)[Accommodation Search](#)[A - Z of Disabilities](#)[Publications](#)[Resources](#)

[Home](#) | [Webcast Training Archive \(2011-2014\)](#) | [JAN Search Results](#) | [Service Animals](#)

Service Animals

- [2010 Revised ADA Requirements for Service Animals - DOJ Publication](#)
- [ADA Business Brief: Service Animals - DOJ Publication](#)
- [Commonly Asked Questions About Service Animals in Places of Business - U.S. DOJ Publication](#)
- [JAN's Accommodation and Compliance Series: Service Animals as Workplace Accommodations - JAN Publication](#)
- [Service Animal Related Job Accommodations - JAN Effective Accommodation Practices Series](#)
- [Service Animals and Allergies in the Workplace - JAN Consultants' Corner](#)  [Audio Version](#)
- [Service Animals in the Workplace - JAN Consultants' Corner](#)
- [Service Dog \(Assistant Dog\) Laws - Service Dog Central Website](#)

ASK A JAN CONSULTANT

JAN provides free, confidential technical assistance about job accommodations and the Americans with Disabilities Act (ADA). [Send Us Feedback.](#)

[\(800\)526-7234 \(Voice\)](#)

[\(877\)781-9403 \(TTY\)](#)

[Live Chat](#)

[Email](#)

Other Supports

- ADA Coordinators (www.Alaska.Gov/ADA)
- Federal agencies – DOT, HUD/FHA
- Centers for Independent living
- Disability Service Providers
- State programs

Contact

Jason Burke

State ADA Coordinator

10th Floor State Office Building

Juneau, Alaska 99801

(907) 465-6929 (v/tty)

jason.burke@alaska.gov

www.Alaska.gov/ADA