



SERVICE ANIMAL GUIDE



Service Animal Guide

Introduction

This pamphlet is designed to assist the general public. This pamphlet is not intended as a comprehensive overview of the law governing service animals. It is not intended to constitute legal advice. For legal advice regarding service animals, you should contact an attorney. If after reading this pamphlet you believe your rights to use a service animal have been violated, please contact Protection & Advocacy System, Inc. (“P&A”) for further assistance. In addition, the Wyoming State Bar Association operates a lawyer referral service. For lawyer referrals, please contact the Wyoming State Bar office at (307) 632-9061.

THE QUICK FACTS

People in Wyoming use service animals.

These animals are usually trained “*service dogs*,” although other animals may qualify.

Individuals with disabilities can use “*service animals*” in any privately owned business and any public location and have the same rights to enjoy access and usage of services, as any other customers or clients.

No one can refuse or otherwise discriminate against the use of these animals.

Federal laws and Wyoming state laws allow for fines and other penalties against anyone for violating these rights.

BASIC QUESTIONS AND ANSWERS

Q. What is a service animal?

A. The Americans with Disabilities Amendments Act of 2008 (commonly referred to as “ADA”) defines a service animal as “any animal that is individually trained to do work or perform tasks for the benefit of an individual with a disability.” Under the law, a service animal is a working animal, not a pet. The most common service animals in Wyoming are dogs.

Q. What do service animals do?

A. Service animals perform some of the functions and tasks that the individual with a disability cannot perform for himself or herself. Generally, animals that provide only emotional support/therapy are not considered “service animals.” (But see “housing” and “transportation,” below). Some areas of assistance:

Leading—“Seeing eye dogs” are one type of service animal used by some individuals who have a visual disability.

Sound discrimination—Alerting persons with hearing impairments.

General assistance (mobility)—Activities include: pulling wheelchairs, carrying and picking up things, helping to maintain balance when walking, rising or sitting, and opening/closing doors and drawers for people with a mobility or physical disability. These animals can be trained to assist with many other individual needs.

Sense and alert—Although it is unknown why or how, some animals are able to notify their owners of oncoming seizures, enabling individuals to position themselves safely.

Q. What laws apply to service animals?

A. The primary laws protecting the rights of persons with disabilities who use service animals are the federal ADA and Public Health and Safety laws of Wyoming. The federal Fair Housing Act and Air Carrier Access Act also have specific service animal protections.

Q. What protections do the laws give?

A. With few exceptions, a person with a disability using a service animal is entitled to access the same services as are available to a person without a disability. The service animal must be permitted to accompany its owner/handler (the person with the disability) to all areas where members of the public are normally allowed to go unless its presence or behavior creates a fundamental alteration or direct threat to safety.

Q. Where do the laws apply?

A. Under the ADA, public facilities and privately-owned businesses that serve the public, such as restaurants, hotels & motels, airlines, public transportation, retail stores, taxicabs, theaters, sports & health facilities, hospitals, medical offices, and others, are prohibited from discriminating against individuals with disabilities because they are using a service animal. In 2001, Wyoming passed a state statute, which reinforces these rights and allows for a state penalty.

Q. What is the penalty for not allowing access to a service dog?

A. In addition to federal penalties and enforcement, under Wyoming Law, one could be fined a penalty of \$750.00 for each occurrence.

Q. For what kinds of disabilities can a service animal be useful?

A. Here is a list of some of the conditions where a service animal can be useful as an assistive aid (note that many are not openly apparent):

Spinal cord/ brain injuries	Spina bifida
Visual and hearing impairments	Seizure disorders/ epilepsy
Heart/ respiratory disease	Psychiatric disorders
Arthritis	Multiple sclerosis
Cerebral palsy	Ataxia / poor balance
Muscular dystrophy	

Q. Does a service animal have to wear a vest or tag to identify it as a service animal?

A. No. There is no legal requirement that the animal wear any special gear or identification. In addition, the owner or handler is not required to carry any special certifications. An exception could be for emotional-support animals. Identifying gear, however, can be helpful in avoiding problems. Individuals may ask the handler; “Is this a service dog?” However, individuals MAY NOT ask the person about the nature or extent of his or her disability.

Q. How does someone know whether an animal is a service animal or a pet?

A. People may ask a person with disabilities if the animal is a service animal or ask what tasks the animal has been trained to perform, but they cannot require certifications or ask about the person’s disability. The ADA does not address service animals that are not yet trained. While allowing access gives a realistic training opportunity, businesses and other places of public accommodation are not required to allow entry to these animals. Their trainers should know this provision.

Q. Can someone be charged extra or put in a special section when using a service animal?

A. No. A service animal is exempt from routine pet deposits/charges or “pet section” rules. It is illegal to impose special charges that persons without disabilities do not also pay. A “no pets” policy may continue in effect, but an exception to such a policy must be made for service animals. This accommodation is also required in residential housing.

Q. What if state and federal laws conflict?

A. Wyoming law only protects service “dogs.” Federal laws, including the ADA, apply to **all** service animals. When the two laws conflict, Federal law prevails, unless the State law provides more protections to the individual, in which case the State law will take precedence. The ADA even overrules state and county health code regulations that may prohibit animals or pets that do not qualify as seeing eye or guide dogs. A service animal’s presence must create an actual, as opposed to a potential, health hazard to be excluded.

Q. What if customers or employees complain about or are afraid of a service dog?

A. Businesses and other places of public accommodation should plan ahead so that employees are trained to understand these rights and laws. Employees who are not fearful of dogs should be used to handle the interactions with the person with the service dog. Staff should be trained to explain to customers that the service dog is medically necessary and that Federal & State laws permit people with service dogs to have access to public places.

Q. How do these laws apply to “therapy dogs,” “companion animals,” and “emotional support animals”?

A. These laws do not apply to therapy dogs, companion animals, and emotional support animals. These terms apply to animals trained & used by persons without disabilities to address social therapy, personal therapy, and comfort to others.

Q. What should be done if someone denies services because of a service animal?

A. Calmly explain that the ADA and state laws protect the right to be accompanied by a service animal in places open to the public. If that fails, ask to speak to a manager or supervisor, and calmly repeat the explanation. If services continue to be denied, politely offer to call law enforcement to have them explain the law in Wyoming regarding the use of “service dogs.” (Wyoming statute § 35-13-203). Sometimes a letter to the owner of the facility or business will result in an apology and change in policy. The Wyoming Protection & Advocacy System, Inc. (“P&A”) or the Wyoming State Attorney General may be able to pursue the issue.

Housing

The federal Fair Housing Act protects individuals who have disabilities and use a service animal if three tests are met:

- The person must have a disability.
- The animal must serve a function directly related to the disability.
- The request to have the service animal must be reasonable.

NOTE: Housing and Urban Development (“HUD”), that enforces the Fair Housing Act, has included some emotional support animals within its anti-discrimination rules. A doctor’s statement of specific need related to the disability may be required to establish coverage under the Fair Housing Act. Specifically, a person who is seeking a reasonable accommodation for an emotional support animal may be required to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal provides support that alleviates at least one of the identified symptoms or effects of the existing disability.

Q. What types of housing are covered?

A. The Fair Housing Act does **not** cover hotels and motels (these are covered by the ADA). The Act covers multi-unit housing and some single-family housing. The Act generally covers single-family residences sold or rented by a private, individual owner when:

- The owner owns an interest in more than 3 such single-family houses at any one time.
- The owner has sold more than one non-owner occupied single-family house within the previous 24-month period.
- The property is sold or rented with advertising or the assistance of a person or entity that is in the business of selling or renting dwellings.
- The owner occupies and maintains one of 5 or more units in a dwelling containing living quarters intended for occupation by 5 or more families living independently of each other.

Q. Can a landlord or property manager ask about a person's disability?

A. No, unless the situation deals with housing specifically reserved for persons with disabilities, if persons with disabilities are given a priority, or if reasonable accommodations are requested to allow a service animal to reside in "no-pets" housing. Then, questions about the disability necessary to determine eligibility are permissible.

Q. Is a service animal subject to regular "pet rules," such as size, weight, or restrictions to certain "pet" areas?

A. Generally, no. A working service animal is not a "pet" and the housing provider must grant reasonable exceptions to "no-pet" rules to allow use of a service animal in all areas where people are generally welcome. However, a service animal may be required to use designated pet "restroom" areas.

Q. May a housing provider charge an extra deposit amount because of a service animal?

A. No. However, charging for actual damages caused by a service animal is acceptable.

Employment

Q. Does the ADA require employers to automatically allow employees with disabilities to bring their service animals to work?

A. No. An employee may request being accompanied by a service animal as a reasonable accommodation in the workplace. To determine the appropriate reasonable accommodation, it may be necessary for the employer to informally discuss the employee's needs with the employee. The employer must consider the request by weighing the advantages and disadvantages of the accommodation. The employer must determine whether the use of a service animal at work would result in an undue hardship to the operation of the business. In addition, the ADA allows an employer to choose among effective accommodations for the employee.

Q. Does an employer have any responsibility to an individual with a disability who is accompanied by a service animal in the workplace?

A. Yes. Employers must provide reasonable accommodations to employees who use service animals to allow them to perform the essential functions of their jobs. A reasonable accommodation can include allowing an employee to be accompanied by his or her service animal in the workplace. Examples of accommodations that employers may make for the service animal are as follows:

- providing an area for the service animal to rest while the employee is working (the animal's assistance may not be required for long periods of time);
- establishing restroom and exercise areas for the service animal where the employee can tend to the service animal's basic daily needs;
- allowing periodic breaks for the employee to care for the animal's basic needs with opportunities to walk the service animal; and
- educating other employees about the functions of service animals and proper service animal etiquette.

Q. Can employers ask for documentation that use of a service animal is necessary in the workplace?

A. Yes. Under the ADA, employers have the right to request reasonable documentation that an accommodation is needed. Appropriate documentation might be from the service animal's trainer, the employee's treating physician, or other health care professionals with knowledge of the employee's needs.

Q. Can an employer insist that a service animal be fully trained before allowing it as a reasonable accommodation?

A. Yes. The employer has the right to require that a service animal be fully trained and capable of functioning appropriately, not just for the individual with the disability, but also in terms of the employment setting. An employee who trains his or her own service animal needs to be able to document or demonstrate that the service animal is in fact trained and will not disrupt the workplace.

Transportation

Q. Can a transportation carrier require identification or "certification" of a service animal's training or of the person's disability before granting access?

A. Generally, no. Documentation containing certification, registration, or identification of a service animal's training cannot be required for access on buses, trains, taxis, rental cars, planes, U.S. registered cruise ships, or places open to the public. However, an individual with a disability should have a current vaccine record and some form of identification for the animal in case of an emergency. The bottom line is that the ADA requires public transportation entities to provide access to persons with disabilities who are traveling with service animals. When making a reservation, an individual should notify the transit agency that he or she will be traveling with a service animal. This practice can help avoid problems with drivers who are allergic to animals and allow for advanced spacing and loading planning.

Q. **Can a service animal ride in the passenger compartment on a flight?**

A. Generally, yes. The Air Carrier Access Act requires air carriers to permit service animals, including documented emotional support animals, to accompany people with disabilities on flights, in any seat the person sits in, unless the animal obstructs an aisle or emergency exit. If that occurs, the carrier must offer the opportunity to move with the animal to another seat as an alternative to requiring the service animal to travel with checked baggage. If no alternative seating is available on that flight, other flight options should be offered.

NOTE: Air carriers may request very specific diagnostic documentation for emotional support animals, which is not more than one year old and on letterhead from a licensed mental health professional stating:

- that the passenger has a mental health related disability;
- that having the animal accompany the passenger is necessary to the passenger's mental health or treatment or to assist the passenger (with his or her disability); and

- that the individual providing the assessment of the passenger is a licensed mental health professional and the passenger is under his or her professional care.

The purpose of the documentation is to prevent abuse by passengers who do not have medical need for emotional support animals and to ensure that passengers who have legitimate needs for emotional support animals are permitted to travel with their service animals on the aircraft.

Although not specifically required for service animals, the production of any available written documentation establishing the service animal's training or function will help reduce potential problems. Without documentation, if a person's verbal assurances that the animal is a service animal are deemed unreliable by the airline representative, the animal may legally be denied access to the passenger compartment.

Airlines are not required to accommodate every type of service animal. Some unusual service animals, such as reptiles and ferrets pose unavoidable safety and/or public health concerns and airlines are not required to accommodate them. Other unusual service animals such as monkeys must be evaluated on a case-by-case basis.

Many potential problems and delays may be avoided by giving prior notice about use of a service animal. It makes sense to alert the airline well in advance of the flight that a service animal will accompany the passenger and obtain clarification on the carrier's procedures.

Whenever a carrier decides not to accept an animal as a service animal, it must explain the reason for its decision to the passenger and document it in writing. A copy of the explanation must be provided to the passenger either at the airport, or within 10 calendar days of the denial.

Q. Does a person have to disclose his or her specific disability to the airline?

A. No, it is deemed intrusive and inconsistent with the intent of the Airline Carrier Access Act. It is, however, acceptable to ask how the service animal assists with the disability.

Q. Will security screen a service animal?

A. Yes. A service animal is subject to regular passenger screening. If security is alerted that there is a service animal, there may be an opportunity to move up in the screening process because the screening process will take longer.

Education

Q. What laws apply to service animals in the public school setting?

A. The Individuals with Disabilities Education Improvement Act of 2004 (“IDEA”), ADA, and Section 504 of the Rehabilitation Act of 1973 (“Section 504”) apply to the use of service animals in the public school setting.

Q. Does the IDEA, Section 504, and/or ADA require schools to automatically allow students with disabilities to bring their service animals to school?

A. No. A team of school professionals and the parents of the student with a disability should conduct a meeting to determine whether the student’s use of a service animal at school would qualify as a supplementary aid or service under an Individualized Education Program (“IEP”) or as a reasonable accommodation under a Section 504 plan. The key question is whether the student will be denied the opportunity to participate in or benefit from the school district’s

services, programs, or activities, or will otherwise be discriminated against on the basis of his or her disability if he or she cannot be accompanied by a service animal.

Q. What factors do IEP Teams or Section 504 Teams consider in determining whether the student should be allowed to use a service animal at school?

A. The Team should balance the educational advantages and disadvantages of permitting the animal in the school. The possible advantages include the individualized benefits that service animals provide consistent with their training. Service animals can provide helpful assistance in several areas of educational-related endeavors as well as activities of daily living which help neutralize the effects of the student's disability. The Team should consider how being accompanied by a service animal could provide benefit not only in the classroom, but also in the hallways, cafeteria, and gym. The Team should also consider whether less restrictive accommodations could enable the student to perform the essential functions of his or her educational duties. Finally, the Team should consider the possible adverse impacts of use of a service animal on other students or teachers such as the animal's disruptive behaviors, allergic reactions of others, and the animal's waste removal.

EXCEPTIONS TO THE ADA

ADA accommodations are **not** required when doing so would result in a fundamental alteration to the nature of the business, organization, or entity, such as disruptive barking or when the dog gets out of control or when the animal's presence constitutes a safety hazard (such as in a medical operating room). Allergies (if less than life threatening) and fear of animals are generally not valid reasons for denying access or services. If a service animal is validly excluded, the individual should still be given the option of obtaining services without the presence of the service animal.

NOTE: A service dog may bark in response to the handler's medical condition. It is only when the service dog's behavior is disruptive or destructive that its handler can be asked to remove it from the premises. Service animal owners must be in control of the animal at all times and an out-of-control service animal loses its right to accommodations. The handler is responsible for any damages done by his or her service dog.

PENALTIES EXIST FOR VIOLATIONS

Under Wyoming law, violators can be subject to a fine up to \$750 for each occurrence. Federal enforcement under the ADA, Fair Housing Act or Air Carrier Access Act may result in money damages to the individual and civil penalties.

SERVICE ANIMAL ETIQUETTE

Remember, the service dog is working. Do not do anything to interrupt it while it is doing its job.

Many people do not realize that a service animal is a working animal and not a pet. They may need a friendly reminder that the animal is working and should not be distracted. This is a good time to let them know some of the basic rules:

“Good Manners”

- Do speak directly to the handler, the person using the service dog.
- Do not touch the service animal without asking and receiving permission from the handler.
- Do not make distracting noises or signals at the service animal, as they may distract the animal from doing its job.
- Do not feed the service animal, as it may disrupt his/her schedule.
- Do not ask personal questions about the person's disability, or otherwise intrude on his or her privacy.

- Do not be offended if the handler does not wish to chat about the service animal or does not feel like discussing his or her disability.

This information guide and several other resources can help individuals with disabilities understand these rights and know how the general public should make accommodations for individuals' needs.



**For More Information about Service Animals
and the Law Contact:**

Protection & Advocacy System, Inc.

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7344 Stockman Street
Cheyenne, WY 82009
Voice or Relay (307) 632-3497
1-800-632-3491 (Assistance Requests Only)
FAX (307) 638-0815
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195 South Main Street
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FAX (307) 332-2842
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Wyoming Attorney General's Office

123 Capitol Building
200 W. 24th Street
Cheyenne, WY 82002
(307) 777-7841
FAX (307) 777-6869
TDD (307) 777-5351
<http://attorneygeneral.state.wy.us/>

Wyoming State Bar Lawyer Referral

4124 Laramie Street
P.O. Box 109
Cheyenne, WY 82003
307-632-9061
www.wyomingbar.org

Fair Housing of Wyoming

(307) 266-6382 (voice)
1-800-877-9965 (TDD)
www.wyfh.bizland.com/
wyfairhzng@wyoming.com

Office for Civil Rights, Denver Office

U.S. Department of Health and Human Services
1961 Stout Street -- Room 1426 FOB
Denver, CO 80294-3538
Voice Phone (303) 844-2024
FAX (303) 844-2025
TDD (303) 844-3439

DBTAC – Rocky Mountain ADA Center

Meeting the Challenge, Inc.
3630 Sinton Road, Suite 103
Colorado Springs, CO 80907
(719) 444-0268 (V/TTY)
<http://www.adainformation.org/>

ADA Information Line

U.S. Department of Justice, Civil Rights Division
1-800-514-0301 (voice)
1-800-514-0383(TDD)
www.usdoj.gov/crt/ada/adahom1.htm

Federal ADA Home Page

<http://www.ada.gov/>

U.S. Department of Transportation

1200 New Jersey Avenue, SE
Washington, DC 20590
(202) 366-4000

www.dot.gov

U.S. Department of Education

400 Maryland Avenue, SW
Washington, DC 20202
1-800-872-5327

www.ed.gov/

Job Accommodation Network

A service of the U.S. Department of Labor's
Office of Disability Employment Policy
1-800-526-7234

<http://www.jan.wvu.edu/>

Judge David L. Bazelon Center for Mental Health Law

1101 15th Street, NW, Suite 1212
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Delta Society

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www.deltasociety.org



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