



Assistance Animals and Individuals with Disabilities under Federal Laws: Matrix and Practice Considerations

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Introduction

One of the primary goals of American civil rights laws is community access for individuals who have historically been denied an equal opportunity to participate with others. Assistance animals, including service animals, provide numerous supports and services that minimize barriers for some individuals with disabilities, thereby allowing them greater inclusion in community activities. The American with Disabilities Act (ADA) and other federal laws recognize the importance of some assistance animals for individuals with a wide variety of disabilities.

The applicable rules regarding the rights of individuals with disabilities and their assistance animals under various federal laws are not complicated. The courts and administrative agencies enforcing these laws have developed regulations and issued guidance to apply in various situations. Nonetheless, the application of the appropriate rules to a particular scenario is often very confusing. This is due in part to the difference in the definition of an assistance animal among the laws and within the ADA itself. When both the ADA and other federal or state laws are applicable, determining the rules to apply becomes particularly difficult because the definitions and standards may not be the same.

The following matrix summarizes selective federal law and the standards that apply to assistance animals in various settings. It should be considered a work in progress as the law continues to evolve in this area. In some cases state law applicable to assistance animals in public spaces will differ from the federal definitions and obligations of covered entities. In these situations, the state law must also be considered when it differs from the federal law. For more information on service animals under the ADA and assistance animals under other federal laws, please see <https://adata.org/publication/individuals-disabilities-and-their-assistance-animals-brief-history-and-definitions> and <https://adata.org/publication/assistance-animals-FHA-Section-504-ACAA>.

Assistance Animals and Federal Law at a Glance

Covered Entity	Law	Definition of Animals Covered	Regulations and Implementing Agency	Permissible Documentation and/or Questions	Other Applicable Federal Law
Employers with 15 or more employees	ADA Title I	No definition	Reasonable Accommodation if required to allow the individual to perform essential functions of the job and enjoy equal benefits and privileges of employment EEOC	2 questions: 1) does animal perform specific task related to ability to perform essential functions; and 2) is the animal a “reasonable” accommodation	
Local & State Government Programs and Services	ADA Title II	Service Animal (dogs individually trained to perform task or service) or Miniature Horse on case by case basis	Reasonable Modifications and animal must be 1) in control of handler; 2) housebroken; 3) not a danger (direct threat) to others DOJ	2 questions: 1) is animal a service animal required because of disability; and 2) what work or task has animal been trained to perform.	Section 504 FHA
Public Transportation	ADA Title II	Service animal: [A]ny guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, etc.	Shall permit service animals to accompany individuals with disabilities in vehicles and facilities. Animal must not pose a direct threat to the health or safety of drivers or other riders, create a seriously disruptive atmosphere, or are otherwise not under the rider’s control. DOT	Same as Local & State Government Programs and Services (Title II)	

Covered Entity	Law	Definition of Animals Covered	Regulations and Implementing Agency	Permissible Documentation and/or Questions	Other Applicable Federal Law
Public Accommodations (12 categories of private business)	ADA Title III	Same as Local & State Government Programs and Services (Title II) above	Same as Local & State Government Programs and Services (Title II) above DOJ	Same as Local & State Government Programs and Services (Title II) above	FHA
Private Transportation	ADA Title III	Same as Public Transportation (Title II)	Same as Public Transportation (Title II) above DOT	Same as Public Transportation (Title II) above	
Recipients of federal funding	Section 504	No definition of animals covered but OCR applies Local & State Government Programs and Services (Title II) standards	Reasonable Modifications to policies, procedures DOE and DOJ	Applies Local & State Government Programs and Services (Title II) standards as above	Title II FHA
Public K-12 education	IDEA	No definition of animals covered	Related Services necessary to allow child to receive free appropriate public education (FAPE) DOE	IEP team determines what "related services" are necessary to provide FAPE	Title II Section 504

Covered Entity	Law	Definition of Animals Covered	Regulations and Implementing Agency	Permissible Documentation and/or Questions	Other Applicable Federal Law
Public housing; three exceptions to coverage	FHA	Animals that work, provide assistance, or perform tasks for the benefit of person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of person's disability.	Reasonable accommodation to rules, policies, practices or services in order to allow person equal opportunity to use and enjoy a dwelling. Exceptions: <ul style="list-style-type: none"> • creates undue financial or administrative burden; • fundamentally alters nature of business; • creates substantial damage to housing; • or poses a direct threat. HUD	2 questions: 1) does the person have a disability (as defined under Section 504 & ADA); and 2) does the person have a disability related need for the assistance animal.	Title II Title III Section 504
All Airlines registered in the US and foreign code share partners	ACAA	All animals that are individually trained to assist a qualified person with a disability or any animal necessary for the emotional well-being of a passenger (a few species exceptions).	Must meet the size/weight (fit under the seat) and species requirements; cannot be dangerous or disruptive DOT	Emotional and Psychiatric Support animals only must bring documentation and 48 hr. advanced notice; Other animals "rely on credible verbal assurances." NOTE: some airlines have implemented new rules on their flights	

Law is often behind social realities and slow to respond to evidence that existing law needs modification. The increased use of assistance animals in a variety of settings—schools, airlines, restaurants, and transportation network companies (Uber, for example)—is forcing the courts and administrative agencies to deal with gaps in existing law. The Department of Transportation’s notice of advanced rule making regarding assistance animals under the ACAA in May of 2018 is an example of the recognition that current federal law needs clarification to ensure that individuals with disabilities continue to benefit from the supports and services provided by their assistance animals and freely participate in all settings.¹

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¹ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>