

**New York State Attorney General
Letitia James**

Dear New Yorkers,

Everyone, regardless of differing abilities, is entitled to equal access to services and public accommodations. For many, the ability to mingle in public, whether it is for a doctor's appointment or a social engagement, depends upon being accompanied by a service animal.



Fortunately, the law protects the right of those with disabilities to fully participate in public life, with their animals with them. Public facilities may not bar service animals, and housing providers must allow service animals, even if they enforce "no pet" policies. Service animals are not pets.

This brochure discusses the laws that protect individuals who rely upon service animals. If you have questions about these laws, or if you have been discriminated against because of your service animal, please contact the Civil Rights Bureau in my office; we may be able to help.

Sincerely,

A handwritten signature in black ink that reads "Letitia James".

Letitia James



New York State Attorney General
The State Capitol
Albany, New York 12224
1-800-771-7755
www.ag.ny.gov

RESOURCES

NYS Office of Attorney General Civil Rights Bureau

28 Liberty Street
New York, NY 10005
(212) 416-8250 (voice)
(800) 788-9898 (TDD/TTY)
civil.rights@ag.ny.gov
www.ag.ny.gov

**U.S. Department of Justice
ADA Information Line**
800-514-0301 (voice) or
800-514-0383 (TDD)
<http://www.ada.gov/>

SERVICE ANIMALS

In Public Accommodations



NEW YORK STATE OFFICE
— of the —
ATTORNEY GENERAL
Civil Rights Bureau

Service Animals - A Broad Definition

A service animal is a working animal, not a pet. The Americans with Disabilities Act (ADA) defines a service animal as 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. Dogs that satisfy this definition are considered service animals under the ADA regardless of whether they have been licensed or certified by a state or local government, or any other entity.

Here are some examples of tasks a service animal might perform:

- Assisting with navigation, or stability and balance;
- Alerting to sounds or allergens;
- Pulling wheelchairs, carrying and retrieving items;
- Seizure assistance;
- Interrupting impulsive or destructive behaviors.

Service Animals Allowed Where Public is Allowed

Under the ADA and New York law, businesses and facilities that serve the public may not discriminate against individuals with disabilities. These include:

- Restaurants, hotels and retail stores;
- Theaters and sports facilities;
- Transportation, including taxicabs and buses.

In addition, they must permit a service animal in all areas of the facility where customers are allowed or the public is invited. For example, in a hospital, a service animal might be allowed in a patient or examination room, but may be excluded from operating rooms or other units where a sterile environment may be compromised.

A business may not impose extra deposits, fees or surcharges because of a service animal, but may charge a fee if a service animal causes damage — as long as it regularly charges nondisabled

customers for the same types of damages.

NOTE: A public accommodation provider is not responsible for the care or supervision of a service animal and is not required to provide food or a special location for the animal.

Any person violating these laws can be assessed damages and penalties by the State Division of Human Rights or a court of competent jurisdiction.

Documentation is not required.

A public accommodation provider cannot ask about the nature or extent of a person's disability and may not demand proof that the animal is certified. However, if it is not readily apparent that a dog is a service animal, they may ask, (1) if the animal is required because of a disability, and (2) what work the animal has been trained to perform. The business must allow the animal regardless of any stated "no pets" policy: a service animal is not a pet. Although some states have programs to certify service animals, certification is not required for a public accommodation.

NOTE: Some businesses, many of them online, sell fake service dog certifications: certificates, licenses, tags, or harnesses that identify service dogs in exchange for a fee. Individuals should be careful when dealing with businesses selling such documentation and accessories, especially those that do not provide training or evaluation, or that charge high fees.

Federal ADA Overrides State or Local Laws

Some local laws provide more limited definitions in this area, such as "seeing eye" or "guide" dogs, and in so doing may exclude other types of service animals. However, a business which refuses to admit any of the other types of service animals on the basis of these local laws (including local health department regulations) may be violating the federal ADA. For example, establishments that sell or prepare food must allow all service animals in public

areas even if local health codes prohibit animals on the premises. NOTE: A business may exclude a service animal only if the animal is out of control or not housebroken and the animal's handler does not control it. Allergies or fear of dogs are not valid reasons for denying access.

Service Animals in Housing

The Fair Housing Act prohibits discrimination in the sale or rental of housing based on an individual's disability and requires a housing provider to make "reasonable accommodations" that are necessary for an individual with a disability to fully use and enjoy the housing. This may include allowing those with a disability to have a service animal live with them, regardless of a "no pets" policy.

Like the ADA, the Fair Housing Act protects persons with physical and mental disabilities, and requires that service animal be allowed in housing. However, the animal service rules that apply to service or other animals in housing differ from the rules that apply to public accommodations in a few important ways.

- The definition of service animals under the Fair Housing Act is broader than that under the ADA. Animals that provide comfort or emotional support do not qualify as service animals under the ADA, but may qualify under the Fair Housing Act. This is not limited to dogs; any animal may qualify.
- The animal need not be specially trained as a service animal if it provides physical or emotional support, lessens the effects of the person's disability and is necessary for the person to be able to fully enjoy the housing.
- A housing provider may require an individual to provide documentation of their disability and their need for the animal (for example, letters from doctors or therapists describing the disability and explaining how the animal helps the individual).