

Psychiatric Service Dogs & Emotional Support Animals: Access to Public Places & Other Settings

Psychiatric service dogs are allowed in most public places, while emotional support animals are not.

Service dogs play an essential role in the lives of many individuals with disabilities. Federal law grants certain rights and protections to people with disabilities who use guide dogs or service dogs.

Access to Public Places and the ADA

Different laws govern the use of service animals in different contexts. The Americans with Disabilities Act (ADA) governs the use of service dogs in public places.

The ADA guarantees people with disabilities who use service dogs equal access to public places such as restaurants, hospitals, hotels, theaters, shops, and government buildings. This means that these places must allow service dogs, and the ADA requires them to modify their practices to accommodate the dogs, if necessary.

However, these protections only apply to dogs that satisfy the ADA's definition of "service animal." The ADA defines a service animal as a dog that is "individually trained" to "perform tasks for the benefit of an individual with a disability." The tasks a dog has been trained to provide must be directly related to the person's disability.

A "helper monkey" or a cat cannot be considered a service animal under the ADA; the ADA limits the definition of service animals to dogs. In some limited circumstances, the ADA provides that public places should also accommodate persons with disabilities who use miniature horses to perform tasks.

The best-known example of service dogs are guide dogs that help blind people navigate safely around obstacles. Service dogs can also be trained to assist deaf individuals, wheelchair-users and other people with mobility impairments, as well as people who have psychiatric, intellectual, or other mental disabilities.

Psychiatric Service Dogs

"Psychiatric service dogs" are service dogs that provide assistance to people with psychiatric disabilities, such as severe depression, anxiety disorders, and post-traumatic stress disorder (PTSD).

Examples of work or tasks that psychiatric service dogs perform include:

- providing safety checks or room searches for individuals with PTSD
- blocking persons in dissociative episodes from wandering into danger (for example, traffic), and
- preventing or interrupting impulsive or destructive behaviors, such as self-mutilation.

Emotional Support Animals

Many individuals—both with and without disabilities—derive emotional support and comfort from dogs and other animals that are not specially trained to perform specific tasks directly related to a psychiatric disability.

The ADA considers such "emotional support animals" to be distinct from psychiatric service dogs, and treats them differently. The ADA does not grant emotional support dog owners the same right of access to public places that it gives to individuals who use psychiatric service dogs. That means that under the ADA, a movie theater, for example, must allow psychiatric service dogs to accompany their owners into the movie auditorium but can refuse to admit individuals with emotional support dogs.

The Difference Between a Psychiatric Service Dog and an Emotional Support Dog

It is not always clear—to staff at public places, and even to some people with disabilities—whether an animal accompanying an individual with a psychiatric disability or impairment is performing a psychiatric service or "merely" providing emotional support. Confusion may result in unlawful and discriminatory treatment of people with disabilities. The key distinction to remember is that a psychiatric service animal is actually trained to perform certain tasks that are directly related to an individual's psychiatric disability. The dog's primary role is not to provide emotional support. It is to assist the owner with the accomplishment of vital tasks they otherwise would not be able to perform.

independently. In addition, a psychiatric service dog must not only respond to an owner's need for help, the dog must also be trained to recognize the need for help in the first place. A dog must be able to respond *and* recognize to be a service dog.

By contrast, an emotional support dog is a pet that is not trained to perform specific acts directly related to an individual's psychiatric disability. Instead, the pet's owner simply derives a sense of well-being, safety, or calm from the dog's companionship and physical presence.

The animal companionship of an emotional support dog can have genuine therapeutic benefits for individuals with psychiatric disabilities and less severe mental impairments. But unless the dog is also trained to work—to independently recognize and respond to its owner's psychiatric disability—the dog does not qualify as a psychiatric service dog and does not receive the protections of the ADA.

For example, people with social phobia might only feel safe enough to leave their home for food or medication if their dog accompanies them. Such a dog would be considered an emotional support animal.

If, however, the same person is prone to dissociative episodes when they leave home, and their dog is trained to recognize and respond to the onset of such an episode by nudging, barking, or removing the individual to a safe location, then the dog would be considered a psychiatric service dog.

Different State Laws

Some states have laws that provide broader protection than the ADA. For example, while the ADA only applies to qualified individuals with a disability, Rhode Island's law extends those protections to cover trainers of personal assistance animals as well.

On the other hand, over a dozen states have disability discrimination laws that, unlike federal laws, exclude psychiatric service dogs from protection. (For a list of these states, see <http://www.servicedogcentral.org/content/node/464>.) This does not mean that the ADA does not apply in those states. It means that psychiatric service dog owners simply do not have additional rights under state laws in these locales. As long as federal law applies, the ADA trumps or "preempts" the more restrictive state law.

Federal Laws Granting the Right to Be Accompanied by an Emotional Support Animal

While the ADA governs the use of emotional support animals in public places, two other federal laws, the Air Carrier Access Act (ACAA) and Fair Housing Act (FHAct), govern the use of emotional service animals in housing or on commercial aircraft.

Housing

Under the Fair Housing Act, an individual with a disability may be entitled to keep an emotional support animal in housing facilities that otherwise do not allow pets. An emotional support animal—which can include animals other than dogs—must be permitted as a reasonable accommodation when an individual requires the animal in order to have an equal opportunity to use and enjoy the housing. The assistance the animal provides must relate to the individual's disability.

Airlines

Under the Air Carrier Access Act (ACAA), a commercial airline must permit emotional support dogs and other animals to accompany qualified passengers with a disability on a flight. Airlines cannot require that a passenger traveling with a service animal provide written documentation that the animal is a service animal, but the same is not true for an emotional support animal.

In both the housing and airline context, an individual with a disability will likely need to acquire a special letter from a licensed mental health professional documenting the individual's need for an emotional support animal.

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<http://www.nolo.com/legal-encyclopedia/psychiatric-service-dogs-emotional-support-animals-access-public-places-other-settings.ht>