

International Association of Canine Professionals Service Dog Committee

HUD Assistance Animal and Emotional Support Animal definitions vs DOJ Service Dog (SD) Definition

At this time, the IACP acknowledges the only country that we are aware of recognizing ESAs is the United States and therefore, the rules and regulations contained in this document are those of the United States.

Service animals are defined as dogs (and sometimes miniature horses) individually trained to do work or perform tasks for people with physical, sensory, psychiatric, intellectual or other mental disability. The tasks may include pulling a wheelchair, retrieving dropped items, alerting a person to a sound, guiding a person who is visually impaired, warning and/or aiding the person prior to an imminent seizure, as well as calming or interrupting a behavior of a person who suffers from Post-Traumatic Stress. The tasks a service dog can perform are not limited to this list. However, the work or task a service dog does must be directly related to the person's disability and must be trained and not inherent. Service dogs may accompany persons with disabilities into places that the public normally goes, even if they have a "No Pets" policy. These areas include state and local government buildings, businesses open to the public, public transportation, and non-profit organizations open to the public. The law allowing public access for a person with a disability accompanied by a Service Dog is the Americans with Disabilities Act (ADA) under the Department of Justice.

Examples of Types of Service Dogs:

- Guide Dog or Seeing Eye® Dog is a carefully trained dog that serves as a travel tool for persons who have severe visual impairments or are blind.
- Hearing or Signal Dog is a dog that has been trained to alert a person who has a significant hearing loss or is deaf, when a sound occurs, such as a knock on the door.
- Psychiatric Service Dog is a dog that has been trained to perform tasks that assist individuals with disabilities to detect the onset of psychiatric episodes and lessen their effects. Tasks performed by psychiatric service animals may include reminding the handler to take prescribed medication trained in association to the sound of a preset alarm, providing safety checks or room searches, or turning on lights for persons with Post Traumatic Stress, interrupting self-mutilation by persons with dissociative identity disorders, and keeping disoriented individuals from danger.
- SSigDOG (sensory signal dogs or social signal dog) is a dog trained to assist a person with autism. The dog alerts the handler to distracting repetitive movements common among those with autism, allowing the person to stop the movement (e.g., hand flapping).

- DAD (Diabetes Alert Dog) is a dog trained to alert a person before their blood sugar becomes too high and/or too low
- Mobility Assistance Dog is a dog trained to assist the person with mobility issues. Tasks may include assisting the person in getting up, stabilizing when walking, retrieving items, turning on lights, opening doors, cabinets, etc.
- Seizure Response Dog is a dog trained to assist a person with a seizure disorder. How the dog serves the person depends on the person's needs. The dog aids the person in staying safe during the seizure or the dog may go for help. A few dogs are able to predict a seizure and warn the person that the seizure is imminent so that they may sit down or move to a safe place. This warning is not a trained task, but the response to the prediction of a seizure is what is trained. Therefore, dogs that are able to predict a seizure but are not trained to do a specific response do not meet the definition of a service dog under the Department of Justice (DOJ) Code of Federal Regulations (CFR) regarding access for individuals with disabilities (ADA)

Under Title II and III of the ADA, service animals are limited to dogs and miniature horses. Entities must make reasonable modifications in policies to allow individuals with disabilities to use miniature horses that have been individually trained to do work or perform tasks for the handler. The work or tasks performed by a service animal must be directly related to the individual's disability. Other species of animals, whether wild or domestic, trained or untrained, are not considered service animals.

Emotional support animals, comfort animals, and therapy dogs are not service animals under Title II and Title III of the ADA. It does not matter if a person has a letter from a doctor that states that the person has a disability and needs to have the animal for emotional support. A doctor's letter does not give an ESA, or therapy dogs public access rights.

An Emotional Support Animal (ESA) is not a personal pet and access for a person with a disability which requires an ESA is defined under the Housing and Urban Development (HUD) code and Section 504 of the Rehabilitation Act. An ESA is a companion animal that a medical professional has determined provides a therapeutic benefit for an individual with a mental or psychiatric disability. In addition, HUD and Section 504 under Federal Housing Act (FHA) use the term, "assistance animal." The assistance animal may not only be a service dog but includes other animals which perform tasks to assist persons with the disabilities. For example, Capuchin Monkeys, which aid persons with quadriplegia and other forms of paralysis, meet the HUD and FHA definition of "assistance animals," and, therefore, have to be permitted to reside in housing with their handlers. In other words, even though Capuchin Monkeys do perform trained tasks, they do not have public access under the DOJ. ESAs also do not have public access under the DOJ.

The role of an ESA may include improving one or more identified symptoms or effects of the persons' disability. Emotional support animals are not species limited. To be

afforded protection under the United States federal law pertaining to HUD, a person must meet the federal definition of a verified disability. Depending on the individual's circumstances, information verifying that the person has a disability can usually be provided by the individual himself or herself (e.g., proof that an individual under 65 years of age receives Social Security Income or Social Security Disability Income benefits or a credible statement by the individual). A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may also provide verification of a disability. An animal does not need specific training to become an emotional support animal and is not required to perform any tasks.

In the U.S., federal protection against housing discrimination is afforded to mentally disabled persons under two federal statutes: Section 504 of the Rehabilitation Act of 1973 and the Federal Fair Housing Amendments Act (FHAA) of 1988. These statutes, and the corresponding case law, create the general rule that a landlord cannot discriminate against disabled persons in housing, and if a "reasonable accommodation" will enable a disabled person to equally enjoy and use the rental unit, the landlord must provide the accommodation. Persons with disabilities may request a reasonable accommodation, such as a waiver of a "no pet's policy", for any assistance animal, including an emotional support animal, under both the FHAA and Section 504. While the FHA does apply to most housing types including those for sale or rent (apartments, condominiums and single-family homes) there are some major exclusions such as buildings with 4 or fewer units where the landlord lives in one of the units. It also excludes private owners that do not own more than 3 single family homes, do not utilize real estate agents or brokers and do not engage in anti-discriminatory advertising practices.

Neither the FHA nor section 504 of the Rehabilitation Act requires an ESA to be individually trained or certified. There are no specific breed restrictions relative to canine ESA's but if the housing provider determines that there is a "direct threat" that relies on objective evidence about a specific animal's conduct then there are grounds for the housing provider to not allow that pet. Additionally, if a housing provider's insurance carrier would cancel, substantially increase the costs of the insurance policy or adversely change the policy terms because of the presence of a certain breed of dog or a certain animal, it would be found that this imposes an undue financial and administrative burden on the housing provider. This type of claim must be substantiated by the insurance carrier directly and different but comparable insurance coverage must be considered by the landlord.

The Department of Transportation (DOT) Air Carriers Access Act (ACAA) establishes a procedure for modifying pet policies on aircraft to permit a person with a disability to travel with a prescribed emotional support animal, so long as they have appropriate documentation and the animal is not a danger to others or does not interfere with others (through unwanted attention, excessive noise, blocking aisles, inappropriate toileting, etc.).

The DOT does not require transit providers to allow access for ESA's on trains and buses. More information can be found on the "Federal Transit Administration" website: Regulations and Guidance, Civil Rights, ADA, Frequently Asked Questions. <https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/frequently-asked-questions> Section: Passenger Accompaniment – Are transit providers required to allow a passenger to travel with a comfort animal?

Regarding airline policies affecting persons flying with their personal animal/pets, most airlines charge fees and require the animal to be in a soft sided carrier that can fit under the seat. If a crated animal cannot be placed under the seat, the animal will then have to fly with the checked luggage. Air Carriers have different policies regarding transporting "Live Animals" in the luggage compartment and owners should check with the airline that they are flying regarding traveling with their pet. On the other hand, with an ESA, they are not required to be crated, nor are people charged for flying with their ESA.

With the exceptions provided to ESA's, many people who do not have a mental disability have tried to bring their animals on a plane and pass them off as an emotional support animal. Most airlines have written policies defined based on the ACAA that passengers flying with an emotional support animal must follow. While an airline is allowed to require a passenger traveling with an emotional support animal, psychiatric service dog, or assistance animal to provide written documentation that the animal does aid in the mitigation of symptoms of a disability, no such documentation is required for a service animal.

Regardless of whether the animal is an ESA, an assistance animal, or the dog is a service dog, standards of appropriate behavior apply to these animals. Any airline can deny access to a service dog or an ESA if the animal is behaving inappropriately such as roaming the cabin, showing signs of aggression to passengers or other animals, etc. If the aircraft is already airborne when the service animal behaves inappropriately, then the owner of the animal will be subject to decisions made by the air carrier in accordance with the ACAA SD regulations. It is important to remember that the goal of any airline is to ensure safe passage of its patrons. Therefore, it is the responsibility of the owner that the animal is well behaved and have appropriate, reliable manners throughout all phases of air travel.