ANIMALS IN THE SERVICE OF PEOPLE: 
SENSE AND NONSENSE ON LAWFUL USES OF ASSISTANCE ANIMALS 

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1. Philosophical theme is equal opportunity and equal access to services.

2. Equal opportunity is the principle that access to educational, employment and other important societal benefits should not be based on an individual's immutable traits, on stereotypes, or on irrelevant characteristics.

3. Devices such as canes and wheelchairs are considered part of a person, and are primarily deemed "irrelevant characteristics" which would not support a valid basis on which to deny equal access. Since assistance animals are functionally similar to those devices, the same reasoning therefore applies.

4. Terms to consider:
   "Assistance"
   "Service"
   "Working"
   "Aid"
   "Psychiatric service"
   "Comfort"
   "Therapy"
   "Emotional support"
   "Guide"
   "Seeing Eye"
   "Dog"
   "Animal"

5. Generally guide, hearing and service dogs are permitted to accompany their disabled owner everywhere members of the public are allowed, but there are a few exceptions. For example, a member of the public would be permitted in the dining area of a restaurant, but not in the kitchen. Therefore, a guide dog would be permitted to accompany his disabled owner in the dining area of a restaurant.
6. It is also an important distinction to note that it is the handler who has access rights and not the dog. A guide dog without his blind handler has no particular access rights of his own and neither does a hearing dog or other service dog without his disabled handler.

7. "Under the Americans with Disabilities Act (ADA), businesses and organizations that serve the public must allow people with disabilities to bring their service animals into all areas of the facility where customers are normally allowed to go. This federal law applies to all businesses open to the public, including restaurants, hotels, taxis and shuttles, grocery and department stores, hospitals and medical offices, theaters, health clubs, parks, and zoos." -- U.S Department of Justice.

8. For clarification, contact the U.S. Department of Justice's ADA Information Line at 800 - 514 - 0301 (voice) or 800 - 514 - 0383 (TTY).

9. In the U.S., according to the Department of Justice's Business Brief concerning Service Animals, business owners/managers can ask 2 specific questions. 1) Is this a service dog required because of a disability? and 2) What task(s) is the dog trained to perform? If these questions are not appropriately answered, the business may exclude the animal, but not the person.

10. Though service animals of all kinds can legally accompany their disabled handler almost anywhere the handler goes, they can be excluded from areas where their presence would constitute either a fundamental alteration of goods and services available for all or a direct threat to safety. Examples where a service animal might be excluded include:

- Sterile rooms, such as operating rooms, some areas of emergency rooms/departments, some ICU rooms, some ambulances, some delivery rooms (on a case-by-case basis)
- Clean rooms where microchips are manufactured
- Places where food is prepared (though they cannot generally be excluded from dining areas where food is present) (by order of most health departments)
- Open air zoological exhibits, such as open air aviaries (at the zoo's discretion)
- Churches (at the church's discretion)
-Native American Tribal Council Chambers (at the council's discretion)
-Federal Courts (at the judge's discretion)
-Jail or prison cells (at the discretion of the facility director)
-Private clubs (at the club's discretion)
-Private homes (at the home owner's discretion)

11. So far, this discussion is centered entirely on laws of access in the United States of America. Other countries will have their own laws in place regarding the access rights of individuals accompanied by a service animal.

12. Businesses are permitted to ask whether an animal is a service animal, and what tasks the animal is trained to perform that the human handler cannot do for themselves. The business is not, however, permitted to ask for information about the specific nature of the person's disability or other invasive questions. If an animal is not trained to perform tasks to mitigate the handler's disability, then it isn't a service animal under the ADA.

13. Guide dogs usually wear a special leather harness that helps them to guide their owner. In addition to the harness, the owner will also use a leash for controlling and directing the dog. Most other types of service animal wear some sort of marking such as a vest or cape, or special gear, like a harness. However, not all service dogs will wear special markings. Under the ADA, they aren't required to be marked. Unfortunately, the presence or absence of a cape or gear alone doesn't make it clear whether or not an animal is really a service animal.

14. Unfortunately there are unscrupulous people who buy gear over the Internet to try to pass their pets off as service animals. Sadly, this is also true with certification. Anyone can forge their own certification or purchase fake certification over the Internet for their pets. Many states have begun taking steps to prosecute those who falsely claim their pets as service animals with stiff fines and jail time.

15. A service animal can be removed from a business when its presence constitutes a fundamental alteration of the goods or services offered by the business. For example, a
service dog that howls during a concert interferes with the performance of the concert and can be excluded. A service animal that misbehaves and makes unwanted contact with other patrons or is otherwise disruptive due to poor behavior can be removed. If a service animal is removed, the business must still offer their goods and services to the owner of the service animal, even if the animal itself must remain outside.

Service animals can also be removed if they pose a direct threat to the safety of others by barking, lunging, growling, snarling, or lunging at others.

16. Churches are exempt from the ADA. The only exception would be if the church opened their facilities for a public event, such as a bazaar or pancake supper where items are sold and the general public are permitted to enter.

17. The Americans With Disabilities Act generally requires businesses, including food establishments, to modify policies to permit service animals to accompany their disabled handler wherever the general public are allowed. The general rule of thumb where food is involved is that where special clothing is not required a service animal must be permitted. Where special clothing is required, such as food preparation areas, a service animal may be excluded and in fact must be excluded if necessary to comply with health statutes or ordinances.

18. Since a typical patron of a restaurant isn't asked to don a hairnet, latex gloves and an apron while in the dining area of the establishment, a service animal (including a guide dog) should be permitted to accompany a disabled handler there.

19. A service dog may generally accompany his disabled handler anywhere in a public accommodation where the public are permitted with certain exceptions. The service animal may be excluded if it poses a direct threat or fundamental alteration of the services offered by the public accommodation.

20. For example, on a case-by-case basis a ambulance crew may decide not to permit a service animal in the treatment area of an ambulance if lack of space means the dog would interfere with the necessary movement of personnel providing emergency care.
That might be a "fundamental alteration" if the presence of the dog prevents the emergency workers from performing their jobs.

21. A service animal might be excluded from an area that requires special clothing, such as a hospital ICU (Intensive Care Unit), or a computer "clean room," where the tiniest particle can ruin the manufacture of computer chips. A service animal might be excluded from an area where zoo exhibits can come in direct contact with human visitors, such as an aviary. On a case-by-case basis, a service animal might be removed if its presence is frightening a zoo exhibit to the point of harming the exhibit.

22. Service animals may also be excluded from places that are not public accommodations, including but not limited to worship services of a church, private clubs, some Native American facilities, and military bases.

23. The exceptions are few, but they do exist. The keys in evaluating whether a service animal should be permitted in a given area are:

1. Would the presence of this specific animal pose a direct (known and not just hypothesized) threat in this specific instance, not based on past experiences with other service animals or dogs in general?
2. Would the presence of this specific animal fundamentally alter the goods or services provided by the public accommodation?
3. Is there some reasonable accommodation possible? Reasonable accommodation is the art of compromise. Is there a readily achievable solution which permits the person with a disability to access goods and services, and which does not constitute an undue hardship on the business?

24. Can people be required under the ADA to provide proof they are am disabled or proof their dog is a service dog? Yes, while businesses are generally permitted only to ask whether the dog is a service animal required because of disability and what the animal has been trained to do, there are instances when more extensive proof can be required.
25. “If you file a complaint about discrimination, proof of disability and proof of training will be required. If you appear in court and you claim to be disabled and claim your dog is a service dog as part of the case you are involved in, then you will have to provide proof that your claims are true. A court will not simply take your word for it.

If you are arrested for trespass for bringing an animal into a place where pets are not permitted, your affirmative defense may be that the animal in question is a service dog, but again, you will have to prove that is the case.”

26. **Proof may include:**

Medical records from any medical providers treating you for your disability or for aspects of your disability.

SSDI determination.

SD certification from a recognized/accredited program.

Training logs if owner-trained.

Independent evaluation of your dog's training by a qualified trainer.

Certificates attesting to training and temperament, such a training class completion certificates, an obedience title or certificate, a CGC certificate, etc.

Video demonstrations of the dog's training.

In person demonstrations of the dog's training.

27. **FEDERAL STATUTES**

A. 29 U.S.C. Section 701 et. seq. (Rehabilitation Act of 1973)

Section 504 states (in part):

“No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.”
B. 42 U.S.C. Section 3604 et. seq. (Fair Housing Act)

“It shall be unlawful:

(f)(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap…

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap…

(3) Discrimination includes:

(A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises…

(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling…”

C. 42 U.S.C. Section 12111 et. seq. (Americans with Disabilities Act)

ADA[Post-2011] 1. As of March 15, 2011, only dogs are recognized as "service animals" under ADA Titles II and III 2. Disability includes "a physical, sensory, psychiatric, intellectual, or other mental disability"

28. Under the Americans with Disabilities Act (ADA), 42 U.S.C. 12101, a privately owned business that serves the public such as a restaurant is prohibited from discriminating against individuals with disabilities. The ADA requires such businesses to allow people with disabilities to bring their service animals onto business premises in whatever areas customers are generally allowed. The ADA defines a service animal as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. If they meet this definition, animals are considered service animals under the ADA regardless of whether they have been licensed or certified by a state or local government.
29. Service animals

Are any animal which performs some of the functions and tasks that the individual with a disability cannot perform for him or herself. While guide dogs are one type of service animal, used by some individuals who are blind and the type of service animal with which most people are familiar, many other types exist as well. Some, but not all, service animals wear special collars and harnesses. Some, but not all, are licensed or certified and have identification papers. If the restaurant owner is not certain that an animal is a service animal, he may ask the person who has the animal if it is a service animal required because of a disability. However, an individual who is going to a restaurant is not likely to be carrying documentation of his or her medical condition or disability. Therefore, such documentation generally may not be required as a condition for providing service to an individual accompanied by a service animal. Although a number of states have programs to certify service animals, the restaurant owner may not insist on proof of state certification before permitting the service animal to accompany the person with a disability.

30. The service animal must be permitted to accompany the individual with a disability to all areas of the facility where customers are normally allowed to go. An individual with a service animal may not be segregated from other customers. Even if the restaurant has a clearly posted "no pets" sign or policy, a service animal is not a pet and the ADA requires the restaurant owner to modify any "no pets" policy to allow the use of a service animal by a person with a disability. This does not mean the restaurant owner must abandon a "no pets" policy altogether, but simply must make an exception for service animals.

31. Even if a county health department has informed the restaurant that only a guide dog may be admitted, the business is still violating the ADA if it refuses to admit any other type of service animal on the basis of local health department regulations or other state or local laws. The ADA provides greater protection for individuals with disabilities and so it takes priority over the local or state laws or regulations. The restaurant cannot charge a maintenance or cleaning fee for customers who bring service animals into the restaurant. Neither a deposit nor a surcharge may be imposed on an individual with a disability as a
condition to allowing a service animal to accompany the individual with a disability, even if deposits are routinely required for pets. However, a public accommodation may charge its customers with disabilities if a service animal causes damage so long as it is the regular practice of the entity to charge non-disabled customers for the same types of damages.

32. The care or supervision of a service animal is solely the responsibility of his or her owner. The restaurant owner is not required to provide care or food or a special location for the animal, and may exclude any animal, including a service animal, from the restaurant when that animal's behavior poses a direct threat to the health or safety of others. For example, any service animal that displays vicious behavior towards other guests or customers may be excluded. The restaurant owner may not make assumptions, however, about how a particular animal is likely to behave based on past experience with other animals. Each situation must be considered individually. Although the restaurant owner may exclude any service animal that is out of control, he should give the individual with a disability who uses the service animal the option of continuing to enjoy its goods and services without having the service animal on the premises.

33. ADA [42 U.S.C. 12101]
   DEFINITION OF DISABILITY
   SEC. 12102. [Section 3]
   “(1) Disability. - The term “disability” means, with respect to an individual-
   (A) a physical or mental impairment that substantially limits one or more major
   life activities of such individual;
   (B) a record of such an impairment; or
   (C) being regarded as having such an impairment (as described in paragraph (3)).
   (2) Major life activities
   A) In general
   For purposes of paragraph (1), major life activities include, but are not limited to,
standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

(B) Major bodily functions

For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(3) Regarded as having such an impairment

For purposes of paragraph (1)(C):

(A) An individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

(4) Rules of construction regarding the definition of disability

The definition of “disability” in paragraph (1) shall be construed in accordance with the following:

(A) The definition of disability in this chapter shall be construed in favor of broad coverage of individuals under this chapter, to the maximum extent permitted by the terms of this chapter.

(B) The term “substantially limits” shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.

(C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

(D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.
(E)(i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as—

(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

(II) use of assistive technology;

(III) reasonable accommodations or auxiliary aids or services; or

(IV) learned behavioral or adaptive neurological modifications.”

SUBCHAPTER I [TITLE I] - EMPLOYMENT
DEFINITIONS
SEC. 12111. [Section 101]
“(9) Reasonable accommodation. - The term “reasonable accommodation” may include-

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(10) Undue hardship. -

(A) In general. - The term “undue hardship” means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) Factors to be considered. - In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include-

(i) the nature and cost of the accommodation needed under this chapter;
(ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.”

**DISCRIMINATION**

SEC. 12112. [Section 102]

“(a) General rule. - No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) Construction. - As used in subsection (a) of this section, the term “discriminate against a qualified individual on the basis of disability” includes-

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity’s qualified applicant or employee with a disability to the discrimination prohibited by this subchapter (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration-

(A) that have the effect of discrimination on the basis of disability; or
(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5) (A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).”

SEC. 304. PROHIBITION OF DISCRIMINATION IN SPECIFIED PUBLIC TRANSPORTATION SERVICES PROVIDED BY PRIVATE ENTITIES.

“(a) General Rule.--No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services
provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce.”

34. STATE STATUTES

A. ORS 346.620 says that a person who is blind has the right to have a dog guide with the person, and a trainer has the right to have a dog guide or dog guide trainee with the trainer, in any place of public accommodation so long as the person or trainer controls the behavior of the dog. A trainer or a person who is blind is not required to pay an additional fee or admission charge for the dog guide, and a trainer or a person who is blind is liable for any damages done to a place of public accommodation.

B. ORS 346.650 says that a person who is deaf has the right to have a hearing ear dog with the person, and a trainer of a hearing ear dog has the right to have the hearing ear dog or hearing ear dog trainee with the trainer, in any place of public accommodation so long as the person or trainer controls the behavior of the dog. A trainer of a hearing ear dog or a person who is deaf is not required to pay an additional fee or admission charge for the hearing ear dog, and a trainer of a hearing ear dog or a person who is deaf is liable for any damages done to a place of public accommodation.

C. ORS 346.680 defines an “assistance animal” as any animal trained to assist a person with a physical impairment in one or more daily life activities, including but not limited to:

(a) Dog guides, as defined in ORS 346.610;
(b) Hearing ear dogs, as defined in ORS 346.640;
(c) An animal trained to pull a wheelchair;
(d) An animal trained to fetch dropped items; and
(e) An animal trained to perform balance work.

The statute also defines “person with a physical impairment” as any person who has a permanent physical impairment, whose physical impairment limits one or more of daily life activities and who has a record of impairment and is regarded by health care
practitioners as having such an impairment, requiring the use of an assistance animal including but not limited to blindness, deafness and complete or partial paralysis.

D. Under ORS 346.685, a person with a physical impairment has the right to have an assistance animal with the person, and a trainer has the right to have an assistance animal or assistance animal trainee with the trainer, in any place of public accommodation so long as the person or trainer controls the behavior of the animal. A trainer or a person with a physical impairment is not required to pay an additional fee or admission charge for the assistance animal, and a trainer or a person with a physical impairment is liable for any damages done to a place of public accommodation.

E. ASSISTANCE DOGS FOR PERSONS WHO ARE BLIND OR DEAF
ORS 346.610:
(1) “Dog guide” means a dog that is wearing a dog guide harness and is trained to lead or guide a person who is blind.
(2) “Dog guide trainee” means a dog undergoing training to lead or guide a person who is blind.
(3) “Mode of transportation” means any mode of public transportation operating within this state except for parlor, lounge, or club car of a common carrier by railroad.
(4) “Person who is blind” means a person who has vision of 20/200 or less with the best correction or has a visual field of 20 degrees or less.
(5) “Public accommodation” means a place of public accommodation as defined in ORS 659A.400.
(6) “Trainer” means a person who trains dogs to lead or guide persons who are blind.

ORS 346.620:
(1) A person who is blind has the right to have a dog guide with the person, and a trainer has the right to have a dog guide or dog guide trainee with the trainer, in any place of public accommodation or on any mode of transportation so long as the person or trainer controls the behavior of the dog.
(2) A trainer or a person who is blind is not required to pay an additional fee or admission charge for the dog guide.
A trainer or a person who is blind is liable for any damages done to a place of public accommodation or to any mode of transportation by the dog guide.

ORS 346.630

[Prohibition against discriminating in renting housing because of dog guide; remedy]

(1) A landlord, as defined in ORS 90.100, may not refuse to rent a dwelling unit, as defined in ORS 90.100, to a person who is blind on the basis of the person’s use or possession of a dog guide.

(2) A person who is blind has a cause of action to recover compensatory damages or $200, whichever is greater, from any landlord, as defined in ORS 90.100, who refuses to rent a dwelling unit, or who charges additional rent, on the basis of the person’s use or possession of a dog guide. The court may award reasonable attorney fees to the prevailing party in an action under this section.

(3) A person who is blind is not required to pay an additional nonrefundable fee or an excessive deposit for the dog guide.

(4) A person who is blind is liable for any damages done to the dwelling unit by the dog guide.

ORS 346.640:

(1) “Person who is deaf” means a person whose hearing disability precludes successful processing of linguistic information through audition with or without a hearing aid.

(2) “Hearing ear dog” means a dog that is on an orange leash and that is trained to assist a person who is deaf.

(3) “Hearing ear dog trainee” means a dog undergoing training to assist a person who is deaf.

(4) “Mode of transportation” means any mode of public transportation operating within this state except for parlor, lounge, or club car of a common carrier by railroad.

(5) “Public accommodation” means a place of public accommodation as defined in ORS 659A.400.

ORS 346.650
Hearing ear dog in place of public accommodation or on public transportation for person who is deaf; liability

(1) A person who is deaf has the right to have a hearing ear dog with the person, and a trainer of a hearing ear dog has the right to have the hearing ear dog or hearing ear dog trainee with the trainer, in any place of public accommodation or on any mode of transportation so long as the person or trainer controls the behavior of the dog.

(2) A trainer of a hearing ear dog or a person who is deaf is not required to pay an additional fee or admission charge for the hearing ear dog.

(3) A trainer of a hearing ear dog or a person who is deaf is liable for any damages done to a place of public accommodation or to any mode of transportation by the hearing ear dog.

ORS 346.660

Prohibition against discriminating in renting housing because of hearing ear dog

(1) A landlord, as defined in ORS 90.100, may not refuse to rent a dwelling unit, as defined in ORS 90.100, to a person who is deaf on the basis of the use or possession of a hearing ear dog.

(2) A person who is deaf is not required to pay an additional nonrefundable fee for the hearing ear dog.

(3) A person who is deaf is liable for any damages done to the dwelling unit by the hearing ear dog.

35. ASSISTANCE ANIMALS FOR PERSONS WITH PHYSICAL IMPAIRMENT

ORS 346.680:

(1) “Assistance animal” means any animal trained to assist a person with a physical impairment in one or more daily life activities, including but not limited to:

(a) Dog guides, as defined in ORS 346.610;

(b) Hearing ear dogs, as defined in ORS 346.640;

(c) An animal trained to pull a wheelchair;

(d) An animal trained to fetch dropped items; and

(e) An animal trained to perform balance work.
(2) “Assistance animal trainee” means any animal undergoing training to assist a person with a physical impairment.

(3) “Daily life activity” includes but is not limited to:

(a) Self-care;
(b) Ambulation;
(c) Communication; or
(d) Transportation.

(4) “Mode of transportation” means any mode of transportation operating within this state.

(5) “Person with a physical impairment” means any person who has a permanent physical impairment, whose physical impairment limits one or more of daily life activities and who has a record of impairment and is regarded by health care practitioners as having such an impairment, requiring the use of an assistance animal including but not limited to blindness, deafness and complete or partial paralysis.

(6) “Public accommodation” means a place of public accommodation as defined in ORS 659A.400 including but not limited to educational institutions, airlines and restaurants. The exception stated in ORS 659A.400 (2) is not an exception under ORS 90.390 and 346.680 to 346.690.

ORS 346.685

[Rights of person with physical impairment and trainer; prohibition on admission charge for animal; access to transportation; liability for damage by animal]

(1) A person with a physical impairment has the right to have an assistance animal with the person, and a trainer has the right to have an assistance animal or assistance animal trainee with the trainer, in any place of public accommodation or on any mode of transportation so long as the person or trainer controls the behavior of the animal.

(2) A trainer or a person with a physical impairment is not required to pay an additional fee or admission charge for the assistance animal.

(3) The assistance animal shall be allowed to accompany its owner in an ambulance or other mode of transportation in the event of a medical emergency. If the owner is unconscious, the assistance animal shall be placed in an emergency veterinary clinic until the person regains consciousness and can make arrangements for the animal,
or a relative responsible for the injured person is contacted and can make arrangements for the animal, or until the injured person dies, in which case the authorities will attempt to contact the school, where the animal was trained, for further action.

(4) A trainer or a person with a physical impairment is liable for any damages done to a place of public accommodation or to any mode of transportation by the assistance animal.

ORS 346.687

[Damages recoverable for harm or theft of assistance animal]

(1) In addition to and not in lieu of any other penalty provided by state law, a person with a physical impairment who uses an assistance animal or the owner of an assistance animal may bring an action for economic and noneconomic damages against any person who steals or, without provocation, attacks the assistance animal. The person with a physical impairment or owner may also bring an action for such damages against the owner of any animal that, without provocation, attacks an assistance animal. The action authorized by this subsection may be brought by the person with a physical impairment or owner even if the assistance animal was in the custody or under the supervision of another person when the theft or attack occurred.

(2) If the theft of or unprovoked attack on an assistance animal described in subsection (1) of this section results in the death of the animal or the animal is not returned or if injuries sustained in the theft or attack prevent the animal from returning to service as an assistance animal, the measure of economic damages shall include, but need not be limited to, the replacement value of an equally trained assistance animal, without any differentiation for the age or the experience of the animal. In addition, the person with a physical impairment or owner may recover any other costs and expenses, including, but not limited to, costs of temporary replacement assistance services, whether provided by another assistance animal or a person, incurred as a result of the theft of or injury to the animal.

(3) If the theft of or unprovoked attack on an assistance animal described in subsection (1) of this section results in injuries from which the animal recovers and returns to service, or if the animal is stolen but is recovered and returns to service, the measure of economic damages shall include, but need not be limited to, the veterinary
medical expenses, costs of temporary replacement assistance services, whether provided by another assistance animal or a person, and any other costs and expenses incurred by the person with a physical impairment or owner as a result of the theft of or injury to the animal.

(4) A cause of action does not arise under this section if the person with a physical impairment, owner or the person having custody or supervision of the assistance animal was committing a criminal or civil trespass at the time of the theft of or attack on the assistance animal.

(5) The court shall award reasonable attorney fees to the prevailing plaintiff in an action under this section. The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails in the action if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no objectively reasonable basis for appealing an adverse decision of a trial court.

ORS 346.690

[Prohibition against discrimination in renting housing because of assistance animal]

(1) A landlord, as defined in ORS 90.100, may not refuse to rent a dwelling unit, as defined in ORS 90.100, to a person with a physical impairment on the basis of the person’s use or possession of an assistance animal.

(2) A person with a physical impairment has a cause of action to recover compensatory damages or $200, whichever is greater, from any landlord who refuses to rent a dwelling unit, or who charges additional rent, on the basis of the person’s use or possession of an assistance animal. The court shall award reasonable attorney fees to the prevailing plaintiff in an action under this section. The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails in the action if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no objectively reasonable basis for appealing an adverse decision of a trial court.

(3) A person with a physical impairment is not required to pay an additional nonrefundable fee or an excessive deposit for the assistance animal.

(4) A person with a physical impairment is liable for any damages done to the dwelling unit by the assistance animal.
ORS 30.822

[Action for theft of or injury to search and rescue animal or therapy animal]

(1) In addition to and not in lieu of any other penalty provided by state law, the owner of a search and rescue animal or a therapy animal, as defined in ORS 167.352, may bring an action for economic and noneconomic damages against any person who steals or, without provocation, attacks the search and rescue animal or therapy animal. The owner may also bring an action for such damages against the owner of any animal that, without provocation, attacks a search and rescue animal or therapy animal. The action authorized by this subsection may be brought by the owner even if the search and rescue or therapy animal was in the custody or under the supervision of another person when the theft or attack occurred.

(2) If the theft of or unprovoked attack on a search and rescue animal or therapy animal described in subsection (1) of this section results in the death of the animal or the animal is not returned or if injuries sustained in the theft or attack prevent the animal from returning to service as a search and rescue animal or therapy animal, the measure of economic damages shall include, but need not be limited to, the replacement value of an equally trained animal, without any differentiation for the age or the experience of the animal.

(3) If the theft of or unprovoked attack on a search and rescue animal or therapy animal described in subsection (1) of this section results in injuries from which the animal recovers and returns to service, or if the animal is stolen and is recovered and returns to service, the measure of economic damages shall include, but need not be limited to, the costs of temporary replacement services, veterinary medical expenses and any other costs and expenses incurred by the owner as a result of the theft of or injury to the animal.

(4) No cause of action arises under this section if the owner or the person having custody or supervision of the search and rescue animal or therapy animal was committing a criminal or civil trespass at the time of the attack on the animal.

(5) The court may award reasonable attorney fees to the prevailing party in an action under this section.

ORS 167.352
(1) A person commits the crime of interfering with an assistance, a search and rescue or a therapy animal if the person intentionally or knowingly:
   (a) Injures or attempts to injure an animal the person knows or reasonably should know is an assistance animal, a search and rescue animal or a therapy animal;
   (b) Interferes with an assistance animal while the assistance animal is being used to provide assistance to a person with a physical impairment; or
   (c) Interferes with a search and rescue animal or a therapy animal while the animal is being used for search and rescue or therapy purposes.

(2) As used in this section, “assistance animal” and “person with a physical impairment” have the meanings given those terms in ORS 346.680.

(3) As used in this section and ORS 30.822:
   (a) “Search and rescue animal” means that the animal has been professionally trained for, and is actively used for, search and rescue purposes.
   (b) “Therapy animal” means that the animal has been professionally trained for, and is actively used for, therapy purposes.

(4) Interfering with an assistance, a search and rescue or a therapy animal is a Class A misdemeanor.

36. ORS 401.977 Animal emergency operations plan. (1) As used in this section:

   (b) “Service animal” means an animal that assists or performs tasks for a person with a sensory, emotional, mental or physical disability.

   (2) The Office of Emergency Management, in cooperation with the State Department of Agriculture and local governments, shall prepare a written animal emergency operations plan that provides for the evacuation, transport and temporary sheltering of companion animals and service animals during a major disaster or an emergency.

   (3) The office, in developing the plan, shall emphasize the protection of human life and shall consider:
(a) Allowing owners of service animals to be evacuated, transported and sheltered with their service animals;

(b) Establishing a sufficient number of evacuation shelters equipped to temporarily shelter companion animals and service animals in close proximity to a human sheltering facility;

(c) Allowing owners and their companion animals to be evacuated together whenever possible;

(d) Establishing an identification system to ensure that owners who are separated from their companion animals or service animals during an evacuation are provided with all information necessary to locate and reclaim their animals;

(e) Transporting companion animals or service animals, in cages or carriers that safely and securely confine the animals, in an impending major disaster or emergency;

(f) Recommending that animal shelters, humane societies, veterinary offices, boarding kennels, breeders, grooming facilities, animal testing facilities and any other entity that normally houses companion animals or service animals create evacuation plans for the animals housed at their facilities;

(g) Establishing recommended minimum holding periods for companion animals or service animals that are sheltered during a major disaster or an emergency; and

(h) Creating and promoting an educational campaign for owners of companion animals or service animals that will:

(A) Encourage owners to plan for and incorporate their animals in the owners’ personal plans in the event of a major disaster or an emergency; and

(B) Inform owners of companion animals or service animals about the animal emergency operations plan prepared under this section.
37. Local rule example

A. City of Portland Code section 23.01.070, entitled “Discrimination in Places of Public Accommodation Prohibited”, says that it shall be unlawful to discriminate in public accommodations on the basis of an individual’s race, religion, color, sex, national origin, marital status, age if the individual is 18 years of age or older, or disability, by committing any of the acts made unlawful under the provisions of ORS 659.037, 659.425, or ORS 30.670 to 30.685.

38. Cases

General principles

ADA regulations do not create a blanket right of universal access for all service animals. An animal that simply provides comfort or reassurance is equivalent to a household pet and does not qualify as a “service animal” under the ADA. There must be some evidence of individual training to set service animal apart from ordinary pet. There are no requirements as to the amount or type of training that a “service animal” must undergo to qualify under ADA, nor the type of work or assistance that it must provide, but it must at least be trained to perform tasks or do work for the benefit of a disabled individual.


Modification of concert hall's policies to allow quadriplegic patron to attend performances with service animal that may have made disruptive noises at past performances, if such behavior would have been acceptable if engaged in by humans, was necessary and reasonable accommodation under ADA; modification struck well-reasoned and carefully-crafted balance between patron's needs and concert hall's interests by generally allowing access for service animals, but providing that they could be excluded under certain circumstances

*Lentini v. Cal. Center for the Arts*, 370 F.3d 837 (9th Cir. Cal. 2004)
Hospital did not violate the ADA by its treatment of disabled patient who used service animal and insisted that it remain in her room 24 hours a day; hospital did not deny admission to patient and her St. Bernard, but merely tried to accommodate all of its patients in its attempts to limit effects of dog's extremely offensive odor which permeated entire floor of hospital by closing patient's door, installing air filter in her room, and re-assigning staff who had allergic reactions, respiratory problems and skin rashes from the dog.


Reasonable accommodations allowed for quarantining animals.

*Crowder v. Kitagawa*, 81 F.3d. 1480 (9th Cir. Hawaii 1996)

"No animals" policy that fundamentally alters nature of public accommodation must be modified.

*Johnson v. Gambrinus Co.*, 116 F.3d 1052 (5th Cir. Texas 1997)

Miniature horse does not qualify as service animal where it did not assist and perform tasks for owner's benefit.


Store policy where employees inquire into what “task or function” it is that animal serves disabled person is legitimate under state law.


Defendant didn't show she had a substantial limitation in ability to walk or move such that she needed a service animal to assist her, and thus was not entitled to ADA protections.

*Satterwhite v. City of Auburn*, 945 So. 2d 1076 (Ala. Cri. App. 2006)
The Fair Housing Act encompasses all types of assistance animals regardless of training, including those that ameliorate a physical disability and those that ameliorate a mental disability such as "emotional support animals"


Landlord did not violate FHA when it delayed making a decision on a request for several months, requested tenant's school and medical records, and filed suit for declaratory judgment since it was entitled to seek additional information on tenant's disability, since initial application contained no diagnosis and it did not began eviction proceedings or remove tenant during litigation


It was reasonable for landlord to require that recognized training facility or person certify that service animal has degree of training and temperament which would enable it to ameliorate effects of its owner's disability and to require opinion of doctor about the disability and manner in which the animal helped

In re Kenna Co-op Homes, Corp., 557 S.E. 2d 787 (W. Va. 2001)

Accommodation requested by disabled employee with service dog that employer provide nonskid floor covering so that dog could maintain traction on tile flooring was required accommodation; use of service animal as assistive device was no different than use of wheelchair, scooter or walker

McDonald v. DEQ, 214 P.3d 749 (Mont. 2009)

Utah expanded its definition of what is a “service animal” by adding both "signal dogs" as well as “any other animal individually trained to do work or perform tasks for the benefit of a person with a disability”, a definition which itself includes "emotional support animals" and "psychiatric therapy animals".

39. Atypical animals

Opossum as assistance animal

Horse as an assistance animal

Monkey as an assistance animal

Birds and cats as assistance animals

Trainer not required to have professional credentials to be considered as sufficient trainer for assistance animal
Bronk v. Ineichen, 54 F.3d 425 (7th Cir. Wis.1995).

40. Broad definitions and broad protections

The core aspects of legal protection
Setting parameters and determining criteria
Determining violations and setting penalties

41. Category 1: The Disabled

* Guiding people with impaired vision
* Alerting people with impaired hearing
* Aiding people with impaired physical or mental functions
42. Category 2: The Public
* Maintaining public safety and health
* Preserving competing legal rights
* Preventing excessive or fundamental burdens

43. Two Big Questions
Hidden (and not-so-hidden) Issues ["Public" version]
Who's getting help with something that they really need help with?
Who's getting away with something they really shouldn't be getting away with? Secret concern #1: Are you really disabled?
Suspicion: (You are actually healthy.) Secret concern #2: Does the animal really assist you?
Suspicion: (It is simply your pet.) Secret concern #3: Will the animal cause trouble?
Suspicion: (It will wreck something or hurt someone.) Overall secret concern: Do I need to treat you differently?
Overall suspicion: You demand special treatment that you don't deserve.

Hidden (and not-so-hidden) Issues ["Disabled" version]
Secret concern #1: Are you trying to deny me access?
Suspicion: (I am being targeted or stonewalled.) Secret concern #2: Are you accusing me of fraud?
Suspicion: (You don't believe that I am disabled.) Secret concern #3: Do I not qualify for assistance?
Suspicion: (I have not followed some rule correctly.) Overall secret concern: Does he/she need to treat me differently?

Overall suspicion: I deserve special treatment that I haven't correctly demanded.
44. Some inherent problems:
Communication dynamics
Restriction on locations?
"All areas of a facility where the public is normally allowed to go" Acceptable "work" or "tasks"?

Alerting one to the presence of something harmful; interrupting impulsive or destructive behaviors
Sufficiency of control of the animal?
"use of a harness, restraint, lead, or tether" unless device restricts the assistance Limits of inquiry/communication?

What can and what cannot be asked or established
What can be asked: "Is that a trained service animal?"
"What is it trained to do/to assist you with?"
"Is it dangerous or unsafe?"
"Do you have medical documentation?"
(for landlords and employers only) What cannot be asked: "What type of disability do you have?"
"How was the animal trained?"
"Do you have proof of its certification?"
"Can you have it demonstrate its task?"

45. State statutes
Alabama AL ST § 21-7-1 - 9; § 3-1-7; § 32-5A-220
Alaska AK ST § 09.65.150; Sec. 11.76.130; Sec. 11.76.133
Arizona AZ ST § 11-1024
Arkansas AR ST § 20-14-301 - 308
California CA CIVIL § 54 - 55.9; EDUC § 39839; FOOD & AG § 30850- 30854; HLTH & S § 121680; VEHICLE § 21963; PENAL § 365.5 - 365.7
Colorado CO ST § 18-13-107; § 24-34-801 - 804; § 42-4-808; § 18-1.3-602
Connecticut CT ST § 46a-42; § 46a-44; § 46a-64; § 53-330a
Delaware DE ST TI 16§9501 - 9506; 21§4144; 6§4501 - 4516; 31§2117
Florida FL ST § 413.08 - 081; FL ST § 316.1303
Georgia GA ST § 30-4-2 - 4; GA ST § 40-6-94; GA ST § 16-12-120; GA ST § 16-11-107.1
Hawaii HI ST § 711-1109.4; § 711-1109.5; § 143-4; § 347-13 - 20
Idaho ID ST § 18-5811 - 5812B; ID ST § 56-701 - 707
Illinois 510 ILCS 70/2.01c, 4.03, 4.04; 510 ILCS 5/15.1; 740 ILCS 13/1 - 10; 720 ILCS 630/.01 - 1; 775 I.L.C.S. 30/1 - 6
Indiana IN ST 9-21-17-21; 16-32-3-1 - 5; 22-9-6-5; 35-46-3-11.5
Iowa IA ST § 216C.1 - 11; 321.333
Kansas KS ST 39-1101 - 1113; 21-4318
Kentucky KY ST § 525.010 - 220; 258.500, 258.991; 189.575
Louisiana LA R.S. 46:1951 - 1959
Maine ME ST T. 17 § 1311 - 1316; ME ST T. 26 §§ 1420-A - 1420-C; ME ST T. 7 § 3961-A; ME ST T. 5 § 4551 - 4555
Maryland MD Code, Art. 24, § 11-502; MD HUMAN SERV § 7-701 - 709
Massachusetts MA ST 90 § 14A; MA ST 272 § 98A; MA ST 272 § 85B; MA ST 129 § 39C, D, F, § 43
Michigan MCL 287.291 and MCL 750.50a, 750.502c; MCL 752.52, 752.61 - 63
Minnesota MN ST § 169.202; 343.20; 343.21; 363A.09; 363A.19; 256C.001 - 256C.06
Mississippi MS ST § 43-6-1 - 155; § 97-41-21
Missouri MO ST 209.150, 152, 160, 162, 200, 202, 204; 304.080
Montana MT ST 49-4-202 - 217; 61-8-516
Nevada NV ST 118.105; 426.097; 426.099; 426.510; 426.515; 426.790; 426.805; 426.810; 426.800; 426.820; 484B.290; 613.330; 651.075; 704.145; and 706.366
New Hampshire NH ST § 21-P:37-a; 167-D:1 - 10; 265:41-a
New Jersey NJ ST 2A:42-109; 10:5-5; 10:5-29.1 - 10; 39:4-37.1; 48:3-33; App. A:9-43.2;
2C:29-3.1; 48:3-33; 18A:46-13.3
New Mexico NM ST § 28-7-3 - 5; § 28-11-1 - 5; § 77-1-15.1
New York NY AGRI & MKTS § 108, 110, 118, and 123-b; NY GEN OBLIG § 11-107; NY CIV RTS § 47, 47-a to c; NY PENAL § 195.11 - 12; NY PENAL § 242.00 -.15; NY PUB HOUS § 223-b; NY SOC SERV § 303-a; NY TRANS § 147; NY VEH/TRAFF § 1153
North Carolina NC ST § 14-163.1; § 168-1 - 13; § 20-175.1 - 175.4
North Dakota ND ST 25-13-01 - 06
Ohio OH ST § 955.011; OH ST § 955.43; OH ST § 2921.321; OH ST § 4511.47
Oklahoma OK ST T. 7§12 - 13; 7; 7§19.1 - 19.2; OK ST T. 21§649.3; OK ST T. 41§113.1
Oregon OR ST § 346.610 - 991; 167.352; 609.100; 401.977
South Dakota SD ST § 20-13-23.1 - 4; 32-27-7 - 8; 40-1-38 - 40
Tennessee TN ST § 44-17-404; § 39-14-208; § 62-7-112
Texas TX GOVT § 661.910; TX HUM RES § 121.002 - 007; TX PENAL § 42.091; TX TRANSP § 552.008 - 010
Utah UT ST § 62A-5b-101 - 107; § 41-6a-1007; § 18-1-3; § 76-9-307
Vermont VT ST T. 13 § 355; VT ST T. 9 § 4502; VT ST T. 23 § 1057
Virginia VA ST § 3.2-6528; § 46.2-933; § 51.5-44 - 51.5-46; § 3.2-6588
Washington WA ST 9.91.170; 49.60.010 - 040; 49.60.370 - 380; 70.84.010 - 900
Washington DC DC Code § 8-2031 - § 8-2035
West Virginia WV ST § 5-15-1 - 8; 19-20-2
Wisconsin WI ST 106.50; 106.52; 346.26; 951.097
Wyoming WY ST § 35-13-201 – 206
46. Is more information helpful or harmful?

47. 42 U.S.C. Section 12182(a):
Discrimination includes: a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations; 42 U.S.C. Section 12182(b)(2)(A)(ii) Fair Housing Act: Landlord concerns If the requested accommodation does not constitute an undue financial or administrative burden for the landlord, or fundamentally alter the nature of the housing, the landlord must provide it. An exception to a "no pets" policy qualifies as a reasonable accommodation. Bronk v. Ineichen, 54 F.3d 425, 429 (7th Cir. 1995) (balanced against landlord's economic or aesthetic concerns as expressed in a no-pets policy, deaf tenant's need for accommodation of hearing dog is per se reasonable); Fulciniti v. Village of Shadyside Condominium Association, No. 96-1825 (W.D. Pa. Nov. 20, 1998) (no evidence suggested that tenant's assistive animal created a threat or disturbance, so landlord violated FHA by failing to provide a reasonable accommodation) 42 U.S.C. Section 3604 Applies to virtually all forms of housing, whether for sale or rent. The exceptions include (a) buildings with four or fewer units where the landlord lives in one of the units, and (b) private owners who do not own more than three single family houses, do not use real estate brokers or agents, and do not use discriminatory advertisements. Applies to any program that receives federal assistance, such as public or subsidized housing Applies to any state or local government, or its instrumentalities, regardless of federal financial assistance. This would include local housing agencies, such as the public housing authority.

48. In assessing tenant requests for an assistance animal as a reasonable accommodation, landlords are entitled to consider administrative, financial, or programmatic repercussions of allowing it on the premises, including the potential disturbance to other tenants. Still, it
is difficult for landlords to establish that any particular animal constitutes a fundamental alteration or undue burden. HUD regulations governing federally assisted housing state that allowing an assistance animal does not constitute an undue burden.

49. Fair Housing Act:
Landlord concerns If the animal is particularly disruptive, or the tenant fails to ensure that it does not bother other tenants, however, the landlord may be justified in denying the accommodation. Woodside Village v. Hertzmark, FH-FL Rptr. ¶ 18,129 (Conn. Sup. Ct. 1993) (holding that federally assisted housing complex did not violate the FHA by evicting resident with mental illness for failure to walk his dog in designated areas and to use a pooper-scooper. (court rejected proposed substitute accommodation of flashing smoke alarm and doorbell for a hearing assistance dog, finding that the dog could alert the tenant to phone calls, cars in the driveway, visitors, and smoke alarms no matter where he was in the house, and that landlord's devices were less effective in ameliorating the effects of the tenant's hearing impairment) 49 U.S.C. Section 41705 Air Carrier Access Act (a) In General.—In providing air transportation, an air carrier, including (subject to section 40105 (b)) any foreign air carrier, may not discriminate against an otherwise qualified individual on the following grounds:
(1) the individual has a physical or mental impairment that substantially limits one or more major life activities.
(2) the individual has a record of such an impairment.
(3) the individual is regarded as having such an impairment. (a) Carriers must permit a service animal to accompany a passenger with a disability, may not deny transportation to a service animal on the basis that it may offend or annoy others on the aircraft, but on long flights may require passenger to provide documentation that the animal can relieve itself in a way that does not create a health or sanitation issue.
(b) Carrier must permit the animal to accompany the passenger at any seat unless the animal obstructs an aisle or emergency area.
(d) As evidence that animal is a service animal, carrier must accept identification cards, other written documentation, presence of harnesses, tags, or the credible verbal assurances of a qualified individual with a disability using the animal.
(e) If a passenger seeks to travel with an animal that is used as an emotional support or psychiatric service animal, passenger must provide current documentation on the letterhead of a licensed mental health professional stating the following:

1. The passenger has a mental or emotional disability recognized in DSM IV;
2. The passenger needs the emotional support or psychiatric service animal as an accommodation for air travel and/or for activity at the passenger’s destination;
3. The individual providing the assessment is a licensed mental health professional, and the passenger is under his or her professional care; and
4. The date and type of the mental health professional’s license and the state or other jurisdiction in which it was issued.

(f) Carrier is not required to accommodate unusual service animals, but must determine whether any factors preclude their traveling in the cabin. If no factors preclude the animal from traveling, it must be permitted. 14 C.F.R. Section 382.117 Applies to persons with disabilities on aircraft either with a service animal or with an emotional support animal. Airports themselves are generally covered under the Americans with Disabilities Act. The Emotional Overlay Rules Remedies 4. New regulations do not affect "reasonable accommodation" requests under the FHA and Section 504 "Emotional support" animals allowed "Emotional support" animals allowed

50. Defenses
1. "Direct threat" defense: use of the animal involves a fundamental alteration to the use of the facility
2. "Reasonable accommodation" defense: reasonable use of the animal has been taken into account and nothing more need be done
3. "Unreasonable hazard" defense: use of the animal exposes others to significant harm or threat which outweighs the value of the use
4. "Fraud" defense: plaintiff does not meet stated criteria as to "disabled" or "assistance" or "task"

51. Unresolved tensions "Emotional support" animals are/are not equivalent to "companion pets" Licensed trainers are better/worse than owner trainers Extensive

52. Civil Action No. 1:09-cv-02582-MSK-MEH

UNITED STATES OF AMERICA,

Plaintiffs,

v.

PATRIC LEHOUILLIER, individually, and
d/b/a LEHOUILLIER & ASSOCIATES, P.C.,

Defendants. U.S. District Court, District of Colorado
3/10/2010 Consent decree

Defendants shall:
1. Pay $30,000 to plaintiff #1; pay $10,000 to plaintiff #2; pay $10,000 to the United States as a civil penalty;
2. Provide a copy of the Service Animal Policy to each employee and to newly hired/retained employees, obtain a signed acknowledgment of receipt from each, and maintain acknowledgments in Defendant’s records;
3. Post, maintain, and refresh a sign, printed in dark bold letters, in a font 26 points or larger in size, on a contrasting white background, stating “Service Animals Welcome”, and a copy of the Service Animal Policy both which shall be conspicuously located in Defendant’s law office;
4. Have all firm employees attend a two hour program of educational training regarding the Defendant’s obligations under title III of the ADA and its implementing regulation. Such training will include a question and answer period. Employees hired after the training session will attend a two hour educational training program within their first
thirty days of work. All training will be at Defendant’s expense by an independent third party knowledgeable regarding the requirements of title III of the ADA and approved by the United States;

5. Immediately notify the United States of each allegation or complaint alleging that the Firm discriminated on the basis of disability against any individual(s) with a disability in violation of title III of the ADA or took any action in violation of the ADA;

6. Place, in all future advertising in newspapers and telephone directories and on websites, pamphlets, brochures, and other promotional literature regarding the Firm, in a conspicuous location, a statement that the Firm provides equal access to persons with disabilities as required by the Americans with Disabilities Act.