

Service Animals & Places of Public Accommodation

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What Does Federal Law Say?

Under Title III of the Americans with Disabilities Act (ADA), individuals with disabilities may not be denied access to the goods, services, and benefits provided by the place of public accommodation because of their disability. Examples of places of public accommodation include private entities who own, lease, lease to, or operate facilities such as restaurants, retail stores, hotels, movie theaters, private schools, convention centers, doctors' offices, homeless shelters, transportation depots, zoos, funeral homes, day care centers, and recreation facilities including sports stadiums and fitness clubs.

Under Title III of the ADA, places of public accommodation must allow service animals to accompany people with disabilities in all areas of the place of public accommodation where the customers or the general public can go. The ADA defines a service animal as a dog that is individually trained to do work or perform tasks for people with disabilities. Dogs are the only animals that meet the service animal definition except for some specially trained miniature horses.

Examples of such work or tasks include pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with a mental illness to take prescribed medications, calming a person with a stress disorder during an anxiety attack, or performing other duties. The work or task the dog has been trained to provide must be directly related to the person's disability. A dog or other animal whose sole function is to provide comfort or emotional support does not qualify as a service animal under the ADA.

What Does State Law Say?

Idaho law recognizes that every person with a disability has the right to be accompanied by a service dog in all common carriers, airplanes, motor vehicles, and railroad trains, motor buses, streetcars, boats, or any other public conveyances or modes of transportation, hotels, lodging places, places

of public accommodations, amusement, or resort, and other places to which the general public is invited. Idaho Code §§ 18-5812A, 56-704. Under Idaho law, a “service dog” is a 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. Idaho Code § 56-701A (5). The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of Idaho law.

Idaho law also recognizes that every person who is specially training or socializing a dog for the purpose of being a service dog has the same right of access. Idaho Code § 56-704B. Under Idaho law, the individual with a disability who is using the service dog is responsible for any damages caused by the dog. Idaho Code § 56-704. If a dog causes damage to a premises or facility while being trained or socialized by an individual who does not have a disability, then the school or organization identified on the dog’s identification card shall be fully liable for any damages done to the premises or facilities by the dog. Idaho Code § 56-704B (2).

Under Idaho law, any person who intentionally denies a person using a service dog access to any place of public accommodation may be committing a misdemeanor under Idaho law. Idaho Code §18-5812A. Therefore, you could contact your local police to assist you with gaining access to the public place. In addition, Idaho Code § 56-705 states that a civil lawsuit may be filed against any person who intentionally violates the service animal law and punitive damages of at least \$500, in addition to other damages, may be awarded. For more information on filing a civil lawsuit, contact the Idaho State Bar’s Lawyer Referral Service at 208-334-4500 or your local Court Assistance Office, which can be found on the Idaho Court Assistance Website [here](#).

What Responsibilities Do Handlers Have?

Under both the ADA and Idaho law, service animals must be harnessed, leashed or tethered unless devices interfere with the service animal’s work or

the individual's disability prevents using these devices. Idaho Code § 56-704A (4). In that case, the individual must maintain control of the animal through voice, signal, or other effective controls. Additionally, a person with a disability can be asked to remove his service animal from the premises if: (1) the dog is out of control and the handler does not take effective action to control it; or (2) the dog is not housebroken. Idaho Code § 56-704A (2).

When Can My Service Animal be Denied Access?

Under Idaho law, access to dogs in training may be temporarily denied if the dog is poorly groomed so as to create a health hazard or the person accompanying the dog cannot maintain control of the dog. Idaho Code § 18-5812B(2). Under the ADA, accommodation of service animals may not be required if it would cause a fundamental alteration or would result in a safety risk. For instance, it may be appropriate to exclude a service animal from operating rooms or burn units where the animal's presence may compromise a sterile environment.

What If A Place of Public Accommodation Denies Me and My Service Animal Access?

If a place of public accommodation denies you access to its goods, services, and benefits it provides because of your service animal, you may want to submit a written request that the entity allow access for your animal. You can download DRI's sample reasonable modification request letter.

If you believe your rights have been violated under the ADA you can file a complaint with the Department of Justice [here](#). While there is no time limit for filing an ADA Title III complaint with the DOJ, it is best practice to file your complaint as soon as possible. You can also enforce your rights under the ADA by filing a lawsuit. Please note that the statute of limitations to file a lawsuit alleging violations of the ADA is two (2) years from the date the discrimination occurred. For assistance in obtaining legal representation, contact the Idaho State Bar's Lawyer Referral Service at 208-334-4500.

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