

## **Service Animals & Public Entities**

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### **What Does Federal Law Say?**

Under Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504), public entities must ensure no qualified individual with a disability be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any of its programs, services, or activities, solely on the basis of the individual's disability. Examples of public entities include state and local government agencies and their programs such as public education, employment, transportation, recreation, health care, social services, courts, voting, and town meetings.

Under Title II and Title III of the ADA, public entities must allow service animals to accompany people with disabilities in all areas of the public entity where 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 Public Entity Denies Me and My Service Animal Access?**

If a public entity denies you access to its programs or services because of your service animal, you may want to submit a written request that the state or local government 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 or Section 504, you can file a complaint with the Department of Justice [here](#). Complaints must be filed within 180 days of the date the discrimination occurred. You can also enforce your rights under the ADA or Section 504 by filing a lawsuit. Please note that the statute of limitations to file a lawsuit alleging violations of the ADA or Section 504 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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To Apply for Services at Disability Rights Idaho, fill out [an online intake here](#), or call us at: 866-262-3462.