



DISABILITY RIGHTS

SOUTH CAROLINA



Assistance Animals In South Carolina

Service Animals and Emotional Support Animals

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QUESTIONS ABOUT SERVICE DOGS IN PUBLIC ACCOMMODATIONS

- **Can any breed of dog be barred because it is expected to be dangerous?**

No. Under federal regulations, any breed can be a service dog. Only if a dog is out of control or has not been housebroken, can it be barred or removed. It cannot be assumed that a dog of any particular breed will misbehave.

- **Is it against the law to falsely claim you are using a service animal?**

Yes. South Carolina makes it an “offense” to claim a dog is a service dog, knowing that it is not.⁹ Police can write a ticket.

- **If a service dog is ordered to be taken out of a facility, can the handler return without the dog?**

Yes. Handlers are allowed to remove the dog and then return themselves.

- **What happens if someone in the place of accommodation is allergic to dogs?**

The staff should make arrangements so that the individuals are as far apart as possible.

- **What about service dogs in hospitals or other medical facilities, like ambulances?**

Generally, service dogs are allowed anywhere the public is allowed, such as waiting rooms and most patient rooms. Service dogs do need not be allowed in sterile areas like operating rooms or special patient rooms. The US Department of Justice has indicated that service dogs should normally be allowed in an ambulance, unless there would not be enough room in the treatment compartment to safely treat the patient.

- **What about dogs in restaurants?**

The US Department of Justice has said that service dogs are allowed along buffet or self-service lines.¹⁰ The SC Department of Health and Environmental Control regulations specifically allow for service dogs in restaurants.¹¹ They are not allowed in food preparation areas.

- **Are taxis and Lyft/Uber services required to allow service dogs?**

Yes.

- **Can a facility charge more for someone with a service dog?**

No. Hotels cannot charge an extra fee for a service dog or for any special cleaning done at the end of the visit. If a service dog does damage to the room, the owner can be charged, but cleaning deposits in advance are not allowed. A hotel operator may not assign a service dog user to a designated “pet friendly” room. All room types must be available.

⁹ SC Code 47-3-980 (2019)

¹⁰ https://www.ada.gov/regs2010/service_animal_qa.html

¹¹ https://scdhec.gov/sites/default/files/media/document/Food%20-Safety%20-%20Service%20Animals%20and%20Retail%20Food%20Establishments%20FAQ_0.pdf

QUESTIONS ABOUT SERVICE DOGS IN PUBLIC ACCOMMODATIONS

- **Do vacation units/condominiums at a resort have to allow service dogs?**

It depends. If the development is considered a hotel/motel under the ADA, service dogs have to be allowed. However, the US Department of Justice (DOJ) has determined that not all resort rentals are covered by the ADA. To be covered as a hotel, the resort complex must provide “hotel” type services. DOJ noted that hotels usually make reservations for the type of room you want, not for a specific room number or unit. On the other hand, condos at resorts with individual private owners are generally specifically reserved. Also hotels usually have a walk up reservation service and have room service available.¹² If the resort does not meet the DOJ definition of a hotel, units being rented are not considered “hotels” and are not required to allow service dogs. Note: If someone has a long term rental at a resort, it may qualify as the person’s actual residence. If so, the Fair Housing Act would apply and service animals would be allowed. See the Housing Laws section of this Fact Sheet.

- **Are churches covered by the ADA service dog requirements?**

No. Places of religion are not covered by ADA Title III as places of public accommodation. Churches may voluntarily allow service dogs or emotional support animals.

- **Are private clubs covered by the ADA?**

No. They do not need to allow service animals. Private clubs are membership organizations that charge significant dues and do not allow nonmembers, except on limited bases. They are not considered places of public accommodation. On the other hand, if a private golf club generally lets the public use its facilities, it is a place of public accommodation and service dogs are allowed.

- **Are cruise ships covered by the ADA?**

Yes. Any cruise ship that makes port calls in the United States has to comply with the ADA and allow service dogs.

- **Are there service dogs for individuals with a mental or emotional disabilities?**

Yes. If the dog has been trained to perform a specific task to assist with the individual’s disability, whether physical or mental, its benefit is considered different from that of general emotional support. These service dogs may be referred to as “psychiatric” service dogs. For example, dogs have been trained to notice their owner is becoming anxious and go over to calm the owner. Also the dog may signal the owner that mental health medication is needed. Without such specific task training, an animal could be an emotional support animal providing general comfort to an owner with an emotional disability, but it would not be considered a “service dog.” See the Housing and Employment sections of this Fact Sheet for more information about Emotional Support Animals and Service Animals in those settings.

- **What about vaccinations for rabies? What about dog licenses?**

The ADA does not exempt service dogs from state/local requirements to have animals vaccinated.¹³ If dog licensing requirements apply to all dogs, then a service dog also needs to have a license.

¹² Title III ADA Regulations: 28 CFR § 36.104 (Definitions); https://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm#a104.

¹³ https://www.ada.gov/regs2010/service_animal_qa.html

STATE AND LOCAL GOVERNMENTS

SERVICE DOGS IN PUBLIC SCHOOLS

Public schools are local government entities, so Title II of the ADA requires them to allow service dogs.¹⁵ Service dogs may be used by students or by their parents or other visitors. For example, if the parent has a disability and uses a service dog, the school would be required to allow the animal. This could be for a parent-teacher conference or other school-related activity.

The use of service dogs by students is a special area of law. School programs for students with disabilities are generally covered by the Individuals with Disabilities Education Act (IDEA)¹⁶ and Section 504 of the Rehabilitation Act of 1973.¹⁷ Under these laws, parents and schools prepare a written Individual Educational Program (IEP) or a “504 Plan” covering the type of school services and supports needed by the child. If there is an agreement about having a service dog and what support the school will provide, it should be included in a student’s IEP or 504 Plan.

Neither the IDEA nor Section 504 specifically deal with using service dogs. Schools may claim that a service dog is unnecessary for educational purposes and that services a dog would provide are already offered by teachers or other staff. However, where a family and medical providers of a student with disabilities have determined that a service dog is appropriate, the right of the student to have a service dog in school should be recognized under the ADA.¹⁸ Using a service dog is likely to help the child in many situations and is not just an educational benefit. An essential part of having a service dog is developing a bond between the user and the dog. That process is interrupted if a student and service dog are separated during the school day.

There are practical aspects to having a service dog at school. The ADA and federal regulations about service dogs require that the dog be under the control of its handler. This can be using a leash or harness, or, as necessary, by voice or other type command.¹⁹ For students with disabilities, personally controlling a dog may not be feasible due to the severity of a student’s disability or young age. Courts have generally held that schools are not required to provide an aide or handler to perform this legal requirement. However, where the need for issuing commands or controlling the dog is only occasionally, courts have required the school to provide an aide to assist the student in controlling the dog. Otherwise, the parent would need to provide that assistance. In some cases, parents have come to school or paid an independent person; some districts may object to having non-school employees in the classroom.

Similarly, government entities like schools are not required to care for a student’s service dog.²⁰ Depending on the length of the school day, there may be an issue of providing food or water for the dog or letting it outdoors to relieve itself. Older students who are mobile or independently use wheelchairs would normally be able to perform these tasks. However, caring for the dog can be an issue for students with severe physical or intellectual disabilities or for a child who cannot safely go out independently. In some cases, a service dog can be trained not to have water/food during the day and not to need to relieve itself. Also, where a child can generally care for the dog or is making progress toward fully caring for the dog, a school may need to provide someone to assist or direct the student. Otherwise, the parent would need to provide someone to come in for animal care.

¹⁵ Wherever “dog” is used in this section, include miniature horse.

¹⁶ 20 U.S.C. §§ 1400 and following and 34 CFR §§ 300.1 and following.

¹⁷ 29 US Code § 794 and 34 CFR §§ 104 and following.

¹⁸ https://www.supremecourt.gov/opinions/16pdf/15-497_p8k0.pdf Fry v. E. F. Napoleon Community Schools.

¹⁹ 28 CFR 35.136d

²⁰ 28 CFR 35.136e

AIR TRAVEL

The Federal Air Carrier Access Act²⁴ provides rights for air travelers with disabilities. The US Department of Transportation is responsible. Currently, airlines are required to allow passengers to travel with a service dog in the cabin, at no extra cost. Until the regulations were changed in December 2020, airlines were also required to allow passengers to fly with emotional support animals. A wide variety of animals were allowed on-board with only a few exceptions. Due to concerns for safety, the regulations were changed.²⁵ All major airlines changed their policies to allow only service dogs. An emotional support animal can still fly if pets are allowed by the airline, but would be subject to any pet fees, and may not be allowed in the passenger compartment.

While no longer requiring free transportation for emotional support animals, the Department of Transportation specially recognized that there are service dogs assisting people with mental health disabilities.

The Department of Transportation also allows airlines to require a signed statement about a dog's training and vaccination status.²⁶ There are federal requirements that airlines work with airports to ensure there are appropriate service dog relief areas (SARA) at most airports.²⁷

Note: The airport itself is governed under the ADA and regulations of the US Department of Justice. Complaints about the airport services should be made to the Department of Justice. Complaints about individual airlines should be made to the US Department of Transportation.

Note: To maintain its status as a non-rabies state, Hawaii requires quarantine of all dogs/cats entering the state, though this may be waived for service dogs when proper paperwork has been submitted in advance. Generally, travelers must fly into the Honolulu airport unless prior arrangements are made. Also dogs must have a chip to clearly identify them. See Hawaii Department of Agriculture requirements.²⁸

HOUSING LAWS: SERVICE ANIMALS & EMOTIONAL SUPPORT ANIMALS

US Fair Housing Act and the SC Fair Housing Law: both of these laws make it illegal for a landlord to bar individuals with disabilities from having an animal to assist them in an apartment or other type of housing. These laws include both Service Dogs and Emotional Support Animals and refer to them, generally, as "Assistance Animals."

A landlord cannot enforce a "No Pet" rule if the person needs a service dog trained to help the person with tasks related to the person's disability. This is like the ADA law. Fair housing laws go beyond the ADA and allow other animals besides dogs as assistance animals.

Tenants who have emotional or mental health disabilities are allowed to have an Emotional Support Animal to comfort them. An ESA does not need to be trained to help with a specific task. Under the fair housing laws, no specific type of animal is required for either a Service Animal or Emotional Support Animal. You have a right to have an Assistance Animal in both your apartment and in common areas like laundry rooms or post office areas.

24 <https://www.transportation.gov/airconsumer/passengers-disabilities#:~:text=About%20the%20Air%20Carrier%20Access,of%20airlines%20under%20this%20law>

25 <https://www.transportation.gov/sites/dot.gov/files/2020-12/Service%20Animal%20Final%20Rule.pdf> and <https://www.transportation.gov/briefing-room/us-department-transportation-announces-final-rule-traveling-air-service-animals>.

26 <https://www.transportation.gov/individuals/aviation-consumer-protection/us-department-transportation-service-animal-air-0>

27 49 CFR § 27.71 – Department of Transportation: Airport facilities

28 <https://hdoa.hawaii.gov/ai/aqs/animal-quarantine-information-page/guide-service-dogs-entering-hawaii/#:~:text=The%20ser-vice%20dog%20must%20be,of%20your%20intended%20arrival%20date>

HOUSING LAWS: SERVICE ANIMALS & EMOTIONAL SUPPORT ANIMALS

QUESTIONS

- **Can you have more than one Assistance Animal?**

Yes: It is legal for a person to have more than one animal or for different purposes.

- **What kind of animal can you have?**

Although the law does not say what kinds of Assistance Animals may be used in housing, the federal government says that animals commonly kept in households are clearly allowed. If the animal is a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure, then a landlord should grant the reasonable accommodation. However, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals. If a special kind of animal is needed, your health care professional should state why you need it.³⁹

- **Does the landlord need to care for the animal?**

No, the person with a disability is responsible for feeding, maintaining, providing veterinary care, and controlling his or her Assistance Animal. The individual may do this on his or her own or with the help of family, friends, volunteers, or service providers. For example, if the animal is outdoors to relieve itself, the owner is responsible for cleanup to avoid threat to the health of others.

- **Is it the landlord's duty to make reasonable modifications (changes) to your lease?**

Yes. However, the Fair Housing Act does not require an accommodation or lease modification if the animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through actions the individual takes to maintain or control the animal.⁴⁰

- **Does a Service Animal or Emotional Support Animal need to be vaccinated or have a city/state license?**

Federal law does not exempt assistance animals from any state/local requirement to be vaccinated against rabies or other disease. Similarly, if your town requires dogs to be licensed, you will need to comply.

39 See page 12 of HUD document at <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

40 See page 13 of HUD document at <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

HOW TO ENFORCE YOUR LEGAL RIGHTS

EMPLOYMENT

Individuals may contact the federal Equal Employment Opportunity Commission (EEOC)⁴¹ or the South Carolina Human Affairs Commission (SCHAC)⁴² to file an administrative charge for violation of employment rights under the ADA. The EEOC and SCHAC both address complaints about employment discrimination. Either the EEOC or SCHAC may direct a person or company to comply with the law or take them to court.

Before individuals can sue an employer in court, they must have filed an administrative charge with SCHAC or the EEOC and let them investigate. See Disability Rights South Carolina fact sheets in the Resources section of the DRSC Website (www.disabilityrightssouthcarolina.org); see the Fact Sheet “Reasonable Accommodations and Your Rights as an Employee.”⁴³ Normally you have only 180 days after the most recent event of employment discrimination to file your complaint; but this time is extended to 300 days in states like South Carolina with state laws on employment discrimination. However, filing in 180 days is recommended.

HOUSING

SCHAC also enforces fair housing laws. Contact SCHAC to file a complaint.⁴⁴ You may also contact the US Department of Housing and Urban Development for housing issues.⁴⁵

ADA PUBLIC ACCOMMODATIONS/STATE AND LOCAL GOVERNMENTS

For information on enforcing rights against public accommodations or commercial facilities, see Disability Rights South Carolina, ADA Title III fact sheet.⁴⁶ If your problem is with a state or local government, see the ADA Title II fact sheet.⁴⁷ You cannot sue for money damages under Title III (places of public accommodation), but the facility can be ordered to change its procedures and you can get your legal fees covered.

OTHER ENFORCEMENT ACTIONS

In South Carolina, interference with a Service Animal is a crime (misdemeanor).⁴⁸

It is unlawful in South Carolina for anyone:

1. Who has received notice that their behavior is interfering with the use of a Service Animal to continue behavior which obstructs or interferes with the safety of the Service Animal or its user.
2. To allow their dog to obstruct or intimidate or jeopardize the safety of a Service Animal or its user.
3. Take control over a Service Animal or deprive the owner of its use.

A Service Dog owner who has been affected should contact local police to file a criminal complaint. It will then be up to the local police/solicitor whether to go to court.

A convicted person can be ordered to make full restitution, including the cost of the animal’s medical expenses or replacement. Penalties include fines and imprisonment.

Separately, South Carolina law broadly prohibits disability discrimination in housing, use of public accommodations and public services.⁴⁹ Any person with a disability who has suffered discrimination has a right to sue to stop the action and to seek up to \$5000 damages, plus attorney fees and costs.⁵⁰

41 <https://www.eeoc.gov/how-file-charge-employment-discrimination>

42 <https://schac.sc.gov/>

43 <https://www.disabilityrightssc.org/reasonable-accommodation-and-your-rights-as-an-employee-with-a-disability/>

44 <https://schac.sc.gov/>

45 https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint

46 <https://www.disabilityrightssc.org/americans-with-disabilities-act-ada-title-iii-public-accommodations/>

47 <https://www.disabilityrightssc.org/title-ii-of-the-ada-state-and-local-government/>

48 SC Code §§ 47-3-910 and following (Layla’s Law)

49 SC Code of Laws § 43-33-530.

50 SC Code of Laws § 43-33-540



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SOUTH CAROLINA

Disability Rights South Carolina is the Protection and Advocacy System for South Carolina

This publication provides legal information, but is not intended to be legal advice. As the law may change, please contact Disability Rights South Carolina for updates. Please let us know if you would like this information in an alternative format. This publication was made possible by funding, in part, by SAMHSA. These contents are solely the responsibility of the grantee and do not necessarily represent the official views of SAMHSA.

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