



TEXAS MUNICIPAL LAW BULLETIN™

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SERVICE AND EMOTIONAL SUPPORT ANIMALS



Under Federal and State laws, disabled persons are allowed to have “service animals.” These laws include Titles II and III of the Americans with Disabilities Act

(ADA), the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, and various provisions of the Texas Human Resources Code (which also refers to them as “assistance animals”).

The ADA requires public entities to make their programs and services accessible to persons with disabilities, including their use of service animals. Service animals are an exception to ordinances that prohibit or limit owning or housing dogs. Also, local governments must ensure that the broadest feasible access be provided to service animals in all public facilities and public accommodations. Modifications to accommodate service animals at a public facility or place of accommodation may not be required if such modifications would either jeopardize the safety of the public facilities or accommodations, or would fundamentally alter their nature.

Service Animals. Only *dogs* may be service animals. To qualify they must be specifically trained or equipped to help a person with a disability. The term “disability” is broadly construed and includes physical, mental, intellectual, developmental, PTSD

and other conditions.

Inquiries are allowed when the disability is not readily apparent or known. The only inquiries allowed of a person with a service animal are: (1) whether the service animal is required because the person has a disability, and (2) what type of work the service animal is trained to perform.

- They cannot be asked about their disability.
- They cannot be required to provide documentation, such as proof of certification, training, or licensure, or a special identification card for the dog.
- They cannot be asked to have the dog demonstrate its ability as a service animal.

Emotional Support Animals (ESA). Dogs and other animals are considered ESAs or “comfort animals” when they provide *emotional* support, well-being, comfort, or companionship. ESAs are not protected under the ADA. However, under the Fair Housing Act and Section 504 of the Rehabilitation Act, housing providers, including local governments that are also housing providers, must make “reasonable accommodations” for ESAs.

For more information about service animals, email: info@texasmunicipallawyers.com



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