



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Memorandum

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TO: Interested Persons

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SUBJECT: Service and Assistance Animals

Summary

This memorandum provides information on service and assistance animals. Specifically, it explains the differences between each type of animal, how each type of animal can be verified, the rights granted to individuals accompanied by a service animal, and offenses related to the misrepresentation of service or assistance animals.

Definitions

Colorado law relies on the federal definitions of “service animal” and “assistance animal.” Table 1 outlines the requirements of service and assistance animals. The federal laws addressing the use of each type of animal are further explained below.

Table 1
Service and Assistance Animal Requirements

Requirement	Service Animal	Assistance Animal
Type of animal	Dog or, in certain circumstances, a miniature horse	Not specified
Individually trained	Yes	No
Performs tasks for the benefit of an individual with a disability	Yes	Yes
Provides emotional support to an individual with a disability	No	Yes

Sources: [28 C.F.R. §§ 35.104, 35.136, and 36.104](#); [36 C.F.R. § 36.302](#); and [FHEO Notice: FHEO-2013-01, U.S. Department of Housing and Urban Development, April 2013](#).



Service Animals Covered by the Federal Americans with Disabilities Act

The federal Americans with Disabilities Act of 1990 (ADA)¹ is a civil rights law that prohibits discrimination based on a person's disability. The ADA requires covered entities, including state and local governments, businesses, and nonprofit organizations that provide goods or services to the public, to make reasonable accommodations for persons with disabilities. The use of a service animal is considered a reasonable accommodation.

ADA regulations define a "service animal" as any 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.² A dog that provides its owner emotional support or comfort does not meet the definition of a service animal. Although the definition of a service animal does not include animals other than dogs, additional ADA regulations permit the use of a miniature horse that has been trained to work or perform tasks for the benefit of a person with a disability in certain circumstances.³

Examples of work or tasks performed by service animals include:

- assisting individuals who are blind or have low vision with navigation and other tasks;
- alerting individuals who are deaf or hard of hearing to the presence of people or sounds;
- pulling a wheelchair;
- assisting an individual during a seizure;
- alerting individuals to the presence of allergens;
- retrieving items such as medicine or the telephone;
- providing physical support and assistance with balance and stability to individuals with mobility disabilities; or
- helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

The provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of the definition of a service animal.⁴

Service animals are not required to be professionally trained or to wear a vest, patch, ID tag, or special harness. Further, the presence of a vest, patch, ID tag, or harness does not confer any special privileges or protections to the owner of an animal that does not meet the definition of a

¹ [42 U.S.C. § 12.101, et seq.](#)

² [28 C.F.R. §§ 35.104](#) and [36.104](#).

³ [28 C.F.R. § 35.136](#).

⁴ [28 C.F.R. §§ 35.104](#) and [36.104](#).



service animal. A covered entity cannot require the person to provide documentation that the service animal is trained; however, certain verification questions are permitted as outlined on page 4 of this memorandum.⁵ An individual who believe that they were discriminated against based on a disability may file an [ADA complaint](#).

Service Animals Covered by the Federal Aviation Administration

The Federal Aviation Administration (FAA) regulations specify that a service animal means a dog, regardless of breed or type, that is individually trained to do work or perform tasks for the benefit of a qualified individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Animal species other than dogs, emotional support animals, comfort animals, companionship animals, and service animals in training are not service animals under the FAA regulations.⁶

Assistance Animals Covered by the Federal Fair Housing Act

The federal Fair Housing Act (FHA)⁷ protects people from discrimination when they are renting, buying, or securing financing for any housing. Under the FHA, housing providers must make reasonable accommodations for a disabled person if the accommodations are necessary for the person to use the housing. A reasonable accommodation includes allowing the use of an assistance animal.

An “assistance animal” is defined as an animal that:

- works, provides assistance, or performs tasks for the benefit of a person with a disability; or
- provides emotional support that alleviates one of more identified symptoms of a person’s disability.

It is not necessary for an assistance animal to be individually trained or certified for the purposes of making a reasonable accommodation. A housing provider cannot charge a pet deposit for a disabled person who uses an assistance animal. Individuals who believe that a request for a reasonable accommodation has been improperly denied may file a complaint with the [U.S. Department of Housing and Urban Development](#).⁸

⁵ [Frequently Asked Questions about Service Animals and the ADA, U.S. Department of Justice, Civil Rights Division](#).

⁶ [14 C.F.R. § 382.3](#).

⁷ [42 U.S.C. § 3601, et seq.](#)

⁸ [FHEO Notice: FHEO-2013-01, U.S. Department of Housing and Urban Development, April 2013](#).



Verification of a Service or Assistance Animal

Service Animal

If a person's disability or the work performed by their service animal is not readily apparent, a covered entity may ask the following questions in order to verify that the animal is a service animal:

1. Is this a service animal that is required because of a disability?
2. What work or tasks has the animal been trained to perform?⁹

A covered entity is not allowed to request any documentation for the service animal, require that the service animal demonstrate its task, or inquire about the nature of the person's disability. An individual with a disability can only be asked to remove a service animal if:

- the animal is out of control and the handler does not take effective steps to control the service animal; or
- the animal is not housebroken.¹⁰

Assistance Animal

Housing providers are to evaluate a request for a reasonable accommodation to possess an assistance animal. After receiving such a request, the housing provider must consider the following:

1. Does the person seeking to use and live with the animal have a disability (i.e., a physical or mental impairment that substantially limits one or more major life activities)?
2. Does the person making the request have a disability-related need for an assistance animal? In other words, does the animal work, provide assistance, perform tasks or services for the benefit of a person with a disability, or provide emotional support that alleviates one or more of the identified symptoms or effects of a person's existing disability?

If a person's disability is not readily apparent, a housing provider may ask the person for documentation of the disability and their disability-related need for an assistance animal. The documentation may come from a physician, psychiatrist, social worker, or other mental health professional, and is sufficient if it establishes that the person has a disability and that the animal

⁹ [36 C.F.R. § 36.302.](#)

¹⁰ [28 C.F.R. § 35.136.](#)



will provide some kind of disability-related assistance or emotional support. A housing provider may not ask an applicant to provide access to the person's medical records.¹¹

Colorado Rights for Individuals Accompanied by Service Animals

Under Colorado law, an individual with a disability or a service animal trainer has the right to be accompanied by a service animal without being required to pay an extra charge:

- in any place of employment, housing, or public accommodation;
- during any programs, services, or activities conducted by a public entity;
- for any public transportation service; or
- at any other place open to the public.

Additionally, an employer must allow an employee with a disability to keep the employee's service animal with the employee at all times in the place of employment. An employer is prohibited from discriminating against an individual in hiring, or in respect to compensation, terms, conditions, or privileges of employment, because that individual with a disability is accompanied by a service animal. Finally, an individual with a disability who owns a service animal is exempt from any state or local licensing fees or charges that might otherwise apply in connection with owning a similar animal.¹²

Related Penalties

Withholding, denying, depriving, or threatening to interfere with, the rights or privileges outlined in Colorado law related to service animals or punishing a person attempting to exercise these rights or privileges is a petty offense, which is punishable by either or both of the following:

- up to a \$300 fine; or
- 10 days in a county jail.¹³

Interfering with, injuring, or harming a service animal, or causing another dog to do the same, is a class 2 misdemeanor, which is punishable by either or both:

- a \$750 fine; or
- up to 120 days in prison.¹⁴

¹¹ [FHEO Notice: FHEO-2013-01, U.S. Department of Housing and Urban Development, April 25, 2013.](#)

¹² Section 24-34-803, C.R.S.

¹³ Section 18-1.3-503 (1.5), C.R.S.

¹⁴ Sections 18-1.3-501 (1)(a.5), C.R.S.



Additionally, a person who violates the rights of a person accompanied by a service animal, including a service animal trainer, is liable to the person whose rights were affected.¹⁵ The person who committed the violation is subject to civil liability penalties, which include monetary damages, a \$5,000 fine, or damages for noneconomic loss or injury not to exceed \$50,000.¹⁶

Misrepresentation of a Service or Assistance Animal

Colorado law prohibits the intentional misrepresentation of a service animal and intentional misrepresentation of entitlement to an assistance animal. Table 2 provides information about the elements of these crimes, and Table 3 outlines the penalties related to these offenses.

Table 2

Laws Related to the Intentional Misrepresentation of a Service and Assistance Animal

Intentional Misrepresentation of a Service Animal	Intentional Misrepresentation of Entitlement to an Assistance Animal
<ul style="list-style-type: none">• attempting to obtain any of the rights or privileges for persons with service animals guaranteed by Colorado law;• offender was previously given a written or verbal warning that it is illegal to intentionally misrepresent a service animal; and• offender knows that the animal is not a service animal or service animal-in-training.	<ul style="list-style-type: none">• attempting to obtain any of the rights or privileges set forth in state or federal law for an individual with a disability as a reasonable accommodation in housing;• offender was previously given a written or verbal warning regarding the fact that it is illegal to intentionally misrepresent entitlement to an assistance animal; and• offender knows that they do not have a disability or that the animal is not an assistance animal.

Source: Sections 18-13-107.3 (2) and 18-13-107.7, C.R.S.

Table 3

Penalties for the Intentional Misrepresentation of Service and Assistance Animals

Offense	Fine
First Offense	\$25
Second Offense	between \$50 and \$200
Third and Subsequent Offense	between \$100 and \$500

Source: Sections 18-13-107.3 (2) and 18-13-107.7

¹⁵ Section 24-34-804, C.R.S.

¹⁶ Section 24-34-602, C.R.S.