



CIVIL RIGHTS GUIDE

Service, support, and assistance animals

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ARIZONA CIVIL RIGHTS ADVISORY BOARD
ARIZONA ATTORNEY GENERAL KRIS MAYES

Civil Rights Guide:

Service, Support, and Assistance Animals

Unlike the family pet, service animals are permitted by law to accompany their handler, a person with a disability, in Places of Public Accommodation¹. Assistance animals, including service animals and support animals are permitted by law to accompany their handler, a person with a disability, in housing². As explained in this document³, the laws that apply depend on whether the person with a disability is seeking goods or services from a public place or is asking for a reasonable accommodation in housing.

RELEVANT LAWS

LAWS RELATED TO SERVICE ANIMALS

The Americans with Disabilities Act (ADA) and Arizonans with Disabilities Act (AzDA) explain the requirements for service animals in places of public accommodation. Places of public accommodation must allow for a handler to be accompanied by his or her service animal, with limited exceptions. Places of public accommodation are not required to allow support animals.

LAWS RELATED TO ASSISTANCE ANIMALS

The federal Fair Housing Act (FHA) and the Arizona Fair Housing Act (AFHA) explain the requirements for assistance animals in housing, including common-use areas and temporary housing such as hotels or short-term rentals. Persons with disabilities may request a reasonable accommodation under the FHA and AFHA to have an assistance animal (service animal or support animal) with them in their housing.



DEFINITIONS



SERVICE ANIMAL

A service animal is a dog or miniature horse⁴ that is specially trained to do work or tasks to assist individuals with disabilities, as defined by the Americans with Disabilities Act (the “ADA”) and the Arizonans with Disabilities Act (“AzDA”). Service animals are specially trained to assist individuals with visible or invisible disabilities and may be any breed and any size of dog.

SUPPORT ANIMAL

A support animal is an animal, trained or untrained, that does work, performs tasks, provides assistance, and/or provides therapeutic emotional support for individuals with disabilities. While the type of animal that qualifies as a service animal is limited to dogs or miniature horses, support animals can be any other animals commonly kept in households, including dogs, cats, birds, rodents, lizards, snakes, etc.

ASSISTANCE ANIMAL

When the term “assistance animal” is used, it includes both service animals and support animals. The term “assistance animal” only applies in housing.

SERVICE ANIMAL

TYPE: Dog or miniature horse

PURPOSE: Specifically trained to do work or tasks to assist individuals with disabilities

SUPPORT ANIMAL

TYPE: Trained or untrained animal commonly kept in households

PURPOSE: Provides therapeutic, emotional support for individuals with disabilities

ASSISTANCE ANIMAL

TYPE: Dog, miniature horse, trained or untrained common household animals

PURPOSE: Includes both definitions of service and support animals, specific to housing

SERVICE ANIMALS IN PLACES OF PUBLIC ACCOMMODATION

IN WHICH PUBLIC PLACES MAY A SERVICE ANIMAL GO?

Service animals are permitted in public accommodations, except in limited circumstances. Some examples of public accommodations include hotels, bars, restaurants, retail stores, theaters, parks, doctor's offices, places of worship, government services offices, and other similar places. The Arizona statutes identify public accommodations for purposes of the Arizonans with Disabilities Act in A.R.S. § 41-1492(11).

Places of Accommodation Examples

RESTAURANTS	HOTELS
RETAIL STORES	BARS
DOCTOR'S OFFICES	PARKS
PLACES OF WORSHIP	THEATERS
GOVERNMENT OFFICES	

WHAT CAN A PLACE OF PUBLIC ACCOMMODATION ASK ABOUT A SERVICE ANIMAL?

If a disability-related need for a service animal is not obvious, a place of public accommodation may ask two questions: (1) whether the animal is a service animal, and (2) what work or tasks it is trained to perform. If the individual's disability-related need for the service animal is obvious, the place of public accommodation may not ask questions (i.e., the service animal is a seeing eye dog or the service animal is pulling a wheelchair).





WHAT QUESTIONS ARE PLACES OF PUBLIC ACCOMMODATION NOT PERMITTED TO ASK?

Places of public accommodation cannot ask any specific questions about a person's disability and they cannot require that a person with a disability provide any documentation to prove that the animal is a service animal. Nor can public places ask that a service animal demonstrate the task that the animal has been trained to perform. An individual with a disability is not required to have "service animal certification" for the service animal, nor is the service animal required to wear any special vest or other identifying items. Some individuals with disabilities nonetheless opt independently to obtain service animal certification and a special identifying harness for the service animal – doing such things neither legitimizes nor delegitimizes a service animal. A service animal need only be specially trained to assist an individual with a disability.

CAN A PLACE OF PUBLIC ACCOMMODATION EXCLUDE A SERVICE ANIMAL?

A place of public accommodation may exclude a service animal that:

1. behaves in a way that poses a direct threat to the health or safety of others that cannot be mitigated;
2. has a history of behavior that poses a direct threat to the health or safety of others, if that history is known to the place of public accommodation;
3. is not under its handler's control; or
4. is not housebroken.

WHAT ARE SOME EXAMPLES OF SERVICE ANIMALS?

While specific dog breeds may be commonly thought of as "Seeing Eye dogs," service animals help with a variety of skills and can be large breed dogs, small breed dogs, and mixed breed dogs. Some service animals are specially trained to assist with non-obvious disabilities, such as diabetes, epilepsy, or post-traumatic stress disorder. Simply because a person does not have an obvious disability or an accessible parking placard does not mean the person is without a disability.

SUPPORT ANIMALS IN PLACES OF PUBLIC ACCOMMODATION

CAN AN INDIVIDUAL WITH A DISABILITY BRING A SUPPORT ANIMAL TO A PLACE OF PUBLIC ACCOMMODATION?

No. Places of public accommodation may refuse to allow all animals at their facilities, except service animals that meet the requirements under the ADA and AzDA.

WHAT ARE THE RULES FOR HOUSING PROVIDERS REGARDING ASSISTANCE ANIMALS?

Persons with disabilities may request a reasonable accommodation for assistance animals (service animals or support animals) under federal and state fair housing laws. Housing providers cannot refuse to make a reasonable accommodation to, or modification of, their rules, policies, practices, or services when the accommodation may be necessary to give a person with a disability the equal opportunity to use and enjoy their housing.

Examples of a reasonable accommodation request for an assistance animal may include a request for a(n):

- Individual with a disability to live with their assistance animal in a rental that has a no-pet policy;
- Housing provider to waive a pet deposit or pet fee for an individual with a disability who requires an assistance animal; or
- Individual with a disability to live with their assistance animal even though it exceeds a community pet weight restriction.

CAN A REQUEST FOR REASONABLE ACCOMMODATION INVOLVE MORE THAN ONE ASSISTANCE ANIMAL?

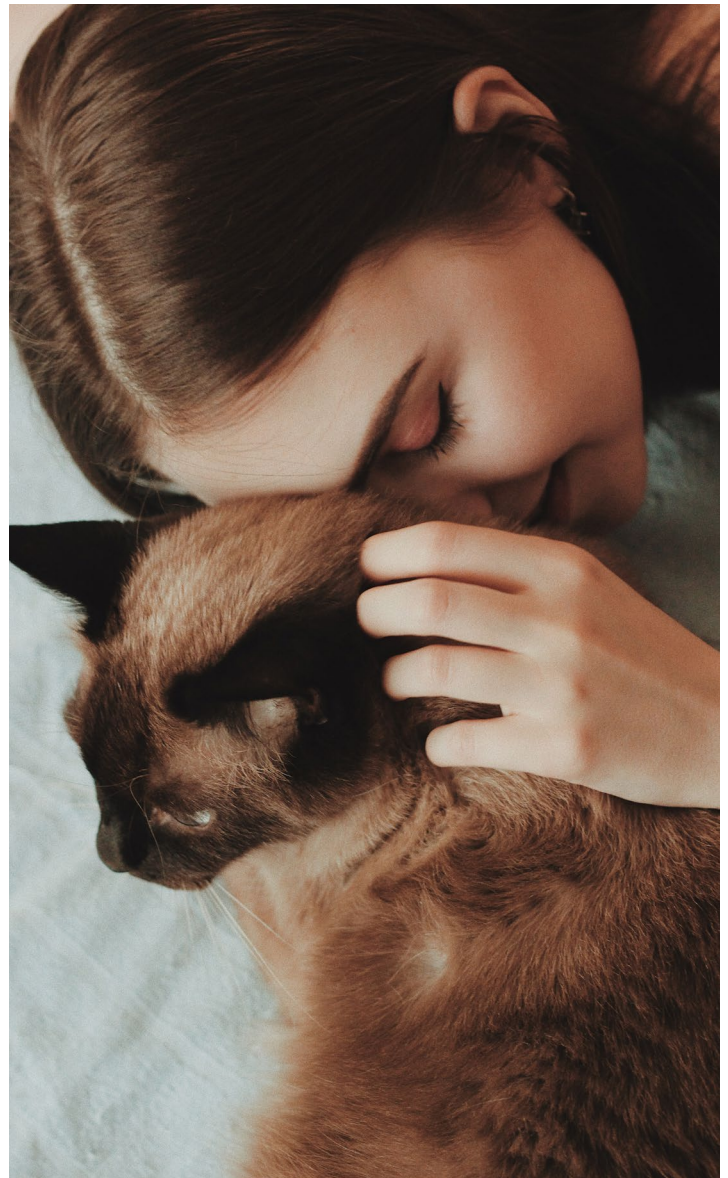
Yes. For example, an individual with multiple disabilities may have a disability-related need for more than one assistance animal. Additionally, two people residing together may each have a disability-related need to have a separate assistance animal.

WHAT MAY A HOUSING PROVIDER ASK WHEN CONSIDERING A REQUEST FOR A REASONABLE ACCOMMODATION FOR AN ASSISTANCE ANIMAL?

When it is readily apparent that the animal is trained to do work or perform tasks for the individual with a disability, such as a dog guiding an individual who is blind or pulling a wheelchair for an individual, additional questions about the animal or individual's disability are not permitted.

When it is not readily apparent, it is advisable for the housing provider to limit its initial inquiry to the following questions:

1. Is the animal required because of a disability?
2. What work or task has the animal been trained to perform?





A housing provider may request information necessary to evaluate whether a requested reasonable accommodation may be necessary because of a disability. Such information may include reliable disability-related information that is necessary to verify that the individual meets the definition of “disability” in the AFHA, to describe the needed accommodation, or to show the relationship between the person’s disability and need for the requested accommodation. In many circumstances, a housing provider may already have information establishing that the individual is a person with a disability, such as “*proof that an individual under 65 years of age receives Supplemental Security Income or Social Security Disability Insurance benefits or a credible statement from the individual.*”⁵ In many circumstances, a letter or prescription from a treating medical provider that identifies that the person has a disability-related need for the animal is sufficient.

A housing provider may not deny an assistance animal because of stereotypes about breeds.

WHEN CAN A HOUSING PROVIDER DENY A REASONABLE ACCOMMODATION REQUEST FOR AN ASSISTANCE ANIMAL?

A housing provider may deny a request to keep an assistance animal if the housing provider can demonstrate that:

1. granting the request would impose an undue financial and administrative burden on the housing provider,
2. the request would fundamentally alter the essential nature of the housing provider’s operations,
3. the specific assistance animal in question would pose a direct threat to the health or safety of others and a reasonable accommodation would not eliminate or reduce the threat, or
4. the assistance animal would result in significant physical damage to the property of others and reasonable accommodations would not eliminate or reduce the physical damage⁶.

A housing provider may not deny an assistance animal because of stereotypes about breeds. Pit bulls may be assistance animals, so may snakes, lizards, birds, cats, guinea pigs, or hamsters.

ARE RENTAL PROPERTIES ALLOWED TO RESTRICT WHERE AN INDIVIDUAL CAN LIVE WITH AN ASSISTANCE ANIMAL?

No. The federal and state fair housing laws make it unlawful for a housing provider to refuse to make a reasonable accommodation that a person with a disability may need in order to have equal opportunity to enjoy and use a dwelling, except under very limited exceptions.

Assistance animals are not pets. They are animals that do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities. An animal that does not qualify as a service animal or other type of assistance animal is a pet for purposes of the FHA and may be treated as a pet for purposes of the lease and the housing provider’s rules and policies.



CAN AN INDIVIDUAL WITH A DISABILITY BE EVICTED BECAUSE OF THE BEHAVIOR OF AN ASSISTANCE ANIMAL?

An assistance animal must remain under its handler's control and a housing provider may refuse a reasonable accommodation for an assistance animal if the specific 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.

Prior to eviction, if a housing provider refuses a requested accommodation because it is not reasonable or because the specific animal poses a direct threat, the provider should discuss with the requester whether there is an alternative accommodation that would effectively address the requester's disability-related needs without a fundamental alteration to the provider's operations, without imposing an undue financial and administrative burden, and that would mitigate the threat. If an alternative accommodation would effectively meet the requester's disability-related needs and is reasonable, the provider must grant it.

WHAT IF THE ANIMAL DOES NOT MEET THE DEFINITION OF ASSISTANCE ANIMAL?

An animal that does not qualify as an assistance animal may be treated as a pet for purposes of the lease and the housing provider's rules and policies. A housing provider may exclude or charge a fee or deposit for pets in its discretion (and subject to local law), but not for assistance animals.

ACTIONS TO TAKE IF SOMEONE IS DISCRIMINATING AGAINST YOU BECAUSE OF YOUR SERVICE OR SUPPORT ANIMAL

If you believe someone is subjecting you or has subjected you to disability-based discrimination based on your service animal or support animal, you may file an intake questionnaire with the Arizona Civil Rights Division through our website: <https://www.azag.gov/complaints/civil-rights>.

The Arizona Civil Rights Division's duties include enforcing AzDA and the AFHA by investigating and litigating complaints that a place of public accommodation or housing provider has violated those laws. In addition, the Division provides conflict resolution services to address complaints of AzDA and AFHA violations.

The Division has both administrative and enforcement functions. Its staff is comprised of lawyers, investigators, support personnel, and conflict resolution personnel. To initiate a complaint of unlawful discrimination related to your service or emotional animal, you may file an intake questionnaire on our website: <https://www.azag.gov/complaints/civil-rights>.

The Arizona Attorney General's Office enforces civil rights laws, increases public awareness of civil rights, provides dispute resolution services, and offers community services throughout the state.



¹ Pursuant to A.R.S. § 41-1492(11), the term “public accommodation” includes any (a) Inn, hotel, motel or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as the residence of the proprietor; (b) Restaurant, bar or other establishment serving food or drink; (c) Motion picture house, theater, concert hall, stadium or other place of exhibition or entertainment; (d) Auditorium, convention center, lecture hall or other place of public gathering; (e) Bakery, grocery store, clothing store, hardware store, shopping center or other sales or retail establishment; (f) Laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital or other service establishment; (g) Terminal, depot or other station used for specified public transportation; (h) Museum, library, gallery or other place of public display or collection; (i) Park, zoo, amusement park or other place of recreation; (j) Nursery, elementary, secondary, undergraduate or postgraduate private school or other place of education; (k) Day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service center establishment; and (l) Gymnasium, health spa, bowling alley, golf course or other place of exercise or recreation.

² The Arizona Fair Housing Act covers most housing and common-use areas, but for limited exemptions. See A.R.S. § 41-1491(7) defining “dwelling” and ARIZ. ADMIN. CODE R10-2-101(B) (10) defining “Common-use areas.” Some other examples of dwellings are hotels, long- and short-term rentals, group homes or shelters.

³ This document is provided for informational purposes only and is not legal advice. This document neither expands nor alters housing providers’ obligations under the federal Fair Housing Act and the Arizona Fair Housing Act, or their implementing regulations, or places of public accommodations obligations under the AzDA and the ADA, or their implementing regulations.

⁴ Miniature horses are identified as one type of service animal in regulations for the ADA. 28 C.F.R. § 36.302(c)(9) and are incorporated by reference into the AzDA through ARIZ. ADMIN. CODE R10-3-404.

⁵ Joint Statement of the Department of Housing and Urban Development and the Department of Justice: Reasonable Accommodations Under the Fair Housing Act, May 17, 2004 at FAQ 18. (https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf).

⁶ Joint Statement at FAQ 7.



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