



# DISABILITY RIGHTS

SOUTH CAROLINA



## Assistance Animals In South Carolina

Service Animals and Emotional Support Animals

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# INTRODUCTION

People with disabilities have legal rights to have animals help them in their daily lives. The Americans with Disabilities Act (ADA), US Fair Housing Act, and several other federal and South Carolina laws protect these rights.<sup>1</sup>

However, these legal rights depend on several facts:

- 1** Where the person is. At a store or government office? At home? At work? On public transportation? On an airplane?
- 2** Whether the animal has been specially trained to do a task that helps the person with a disability. A specially trained animal is a “Service Animal.” An example is a guide dog for a person who is blind.
- 3** Whether the animal provides emotional support to a person with a mental or emotional disability. This is an “Emotional Support Animal.” It does not need to have special training.
- 4** What kind of animal is it? Under the ADA, only a dog (or a miniature horse) is allowed as a Service Animal in public accommodations like stores, businesses and in state/local government buildings.<sup>2</sup> Airlines are required to let service dogs fly with their owners without cost, but they do not need to allow any other animals.

In other places, other animals besides dogs are allowed: In housing: the Fair Housing Act (FHA) allows a wide variety of animals besides dogs.

Employers need to allow various kinds of animals as either Service Animals or Emotional Support Animals in the workplace.

On public transportation like buses, trained Service Animals besides dogs may accompany a person with a disability.



<sup>1</sup> Americans with Disabilities Act, <https://www.dol.gov/general/topic/disability/laws>; US Fair Housing Act, <https://www.justice.gov/crt/fair-housing-act-2>; SC Code of Laws 43-33-10 and following (Rights of Physically Disabled Persons); SC Code of Laws 43-33-510 and following (Bill of Rights for Handicapped Persons); SC Code §§ 47-3-910 through -990 (Layla’s Law – Protection of Guide Dogs); SC Code of Laws 31-21-10 and following (SC Fair Housing Act); SC Code of Laws 1-13-10 through -110 (SC Human Affairs Law).

<sup>2</sup> 28 CFR § 36.104 (definitions for ADA TITLE III) and 28 CFR 35.104 (for ADA TITLE II). In ground transportation like busses, federal transit regulations allow additional animals, see:

<https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/part-37-transportation-services-individuals-disabilities#sec.37.3> (Definitions: “Service Animal”).

See also:

<https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/part-37-transportation-services-individuals-disabilities#AppendixD>  
[https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Final\\_FTA\\_ADA\\_Circular\\_C\\_4710.1.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Final_FTA_ADA_Circular_C_4710.1.pdf) at 2.6. In employment, there are no regulations about the type of animal that can be a service animal or emotional support animal, though general requirements about reasonable accommodations apply; the animal must not be a direct threat or create an undue burden on the employer.

## PUBLIC ACCOMMODATIONS

### STORES, RESTAURANTS, HEALTH CARE SERVICES, HOTELS, RECREATION FACILITIES AND SIMILAR PLACES



The Americans with Disabilities Act has several sections. One section, Title III, covers what are called “public accommodations.” These are private businesses or non-profit organizations that are open to the public. They include stores, restaurants/bars, recreational places like theaters and gyms, services like barbershops, medical facilities, hotels and private educational facilities (for a full listing see Footnote 3 below).<sup>3</sup>

Regulations from the US Department of Justice require that public accommodations allow someone with a disability to use a “service dog.”<sup>4</sup> A service dog is a dog which has been specially trained to help the person in some way related to the person’s disability. A miniature horse may also be used, but no other animals.

There is no requirement that the training has been done by a professional service-dog trainer. Individuals with disabilities can train their own Service Animals. In South Carolina, state law allows a service dog in-training the same rights to enter a place of public accommodation.<sup>5</sup> Normally a service dog’s training involves training about behavior as well as the disability task or tasks it does for its owner.

There is no state or federal licensing system or any specific card to show that a dog is a “service dog.” Some trainers will issue cards. There is no requirement that the dog wear any kind of identification or jacket, though some owners of service dogs use them.

<sup>3</sup> 28 CFR 36.104, ADA Title III definitions include a full list of 12 broad categories of public accommodations: (1) places of lodging; (2) restaurant or bar; (3) motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment; (4) auditorium, convention center, lecture hall, or other place of public gathering; (5) bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment; (6) 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; (7) a terminal, depot, or other station used for specified public transportation; (8) museum, library, gallery, or other place of public display or collection; (9) a park, zoo, amusement park, or other place of recreation; (10) nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education; (11) day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and (12) gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

<sup>4</sup> Instead of a dog, a miniature horse is allowed in places of public accommodations and in state and local government facilities. 28 CFR § 36 (definitions for ADA TITLE III and 28 CFR 35.104 for ADA TITLE II). No other kinds of animals are included.

<sup>5</sup> SC Code of Laws 43-33-20(d).

## PUBLIC ACCOMMODATIONS

To protect the privacy of the person with the disability, a place of public accommodation can ask only two questions if the person with a disability comes in with a service dog:

1. Is this a service dog?
2. What has it been trained to do?

Disability Rights South Carolina (DRSC) has prepared a card with this information that service dog users may carry with them.<sup>6</sup> Print it yourself or contact DRSC for a copy.

If the dog is obviously a service dog (such as a guide dog for someone who is blind), there should be no questions.

A store, restaurant, or other place of public accommodation cannot ask for a demonstration of the task(s) the dog has been trained to do and cannot ask the person for information about their disability.

In South Carolina, it is a crime to interfere with the right of a person with a disability to use a service dog.<sup>7</sup> The law applies to businesses that refuse service to someone who has a service dog.

Places of public accommodation are not required to allow any animals other than a “service dog” (or miniature horse). The animal must have been specially trained to perform a task related to the person’s disability.

Public accommodations do not have to allow an “Emotional Support Animal” even if the owner may have a legal right to use it in other places such as in housing or in the workplace.<sup>8</sup> There is no legal right to take an Emotional Support Animal into any public accommodation.



<sup>6</sup> <https://www.disabilityrightssc.org/service-dogs-legal-rights/>

<sup>7</sup> SC Code §§ 47-3-910 through -990 (Layla’s Law – Protection of Guide Dogs);

<sup>8</sup> See Housing Section and Employment Section below.

## 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.<sup>9</sup> 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 not need to 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.<sup>10</sup> The SC Department of Health and Environmental Control regulations specifically allow for service dogs in restaurants.<sup>11</sup> 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.

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<sup>9</sup> SC Code 47-3-980 (2019)

<sup>10</sup> [https://www.ada.gov/regs2010/service\\_animal\\_qa.html](https://www.ada.gov/regs2010/service_animal_qa.html)

<sup>11</sup> [https://scdhec.gov/sites/default/files/media/document/Food%20-Safety%20-%20Service%20Animals%20and%20Retail%20Food%20Establishments%20FAQ\\_0.pdf](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.<sup>12</sup> 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.<sup>13</sup> If dog licensing requirements apply to all dogs, then a service dog also needs to have a license.

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<sup>12</sup> Title III ADA Regulations: 28 CFR § 36.104 (Definitions); [https://www.ada.gov/regs2010/titleIII\\_2010/titleIII\\_2010\\_regulations.htm#a104](https://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm#a104).

<sup>13</sup> [https://www.ada.gov/regs2010/service\\_animal\\_qa.html](https://www.ada.gov/regs2010/service_animal_qa.html)

## STATE AND LOCAL GOVERNMENTS

Title II of the Americans with Disabilities Act covers state and local governments. It prohibits these government agencies from discriminating against a person with a disability and requires that programs be made available to individuals with disabilities. As part of their duties, government agencies are required to allow trained service dogs (or a trained miniature horse) in their facilities/programs. Generally, requirements about service dogs in public accommodations also apply to state and local governments. Governmental agencies are not required to allow emotional support animals.

Government programs include government office buildings where the public transacts business like paying bills or applying for benefits, parks and recreation programs, and voting. Title II also covers educational facilities operated by state and local governments, including public schools and colleges.

### SERVICE DOGS AT BEACHES

Many beach communities and parks in South Carolina ban dogs on beaches during certain daytime hours. This is particularly true during the summer season. However, individuals with disabilities are allowed to use a service dog on a public beach at any time it is open to the public. They must follow the ADA rule that a service dog be under control on a harness, leash, or other tether at all times unless the handler's disability prevents that.<sup>14</sup> Otherwise, the beachgoer could be required to remove the dog or be issued a ticket for violating town/county law. A number of local government websites state when dogs are not allowed on the beach but fail to note that these rules do not apply to service dogs.



<sup>14</sup> See 28 CFR 35.136d: Animal under handler's control. A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g. voice control, signals, or other effective means).



## 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.<sup>15</sup> 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)<sup>16</sup> and Section 504 of the Rehabilitation Act of 1973.<sup>17</sup> 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.<sup>18</sup> 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.<sup>19</sup> 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.<sup>20</sup> 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.

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<sup>15</sup> Wherever “dog” is used in this section, include miniature horse.

<sup>16</sup> 20 U.S.C. §§ 1400 and following and 34 CFR §§ 300.1 and following.

<sup>17</sup> 29 US Code § 794 and 34 CFR §§ 104 and following.

<sup>18</sup> [https://www.supremecourt.gov/opinions/16pdf/15-497\\_p8k0.pdf](https://www.supremecourt.gov/opinions/16pdf/15-497_p8k0.pdf) Fry v. E. F. Napoleon Community Schools.

<sup>19</sup> 28 CFR 35.136d

<sup>20</sup> 28 CFR 35.136e

## EMPLOYMENT

The ADA also protects employees and applicants for jobs. However, only employers who have at least 15 employees are covered by the ADA.<sup>21</sup> When a person's disability prevents performance of job duties, Title I of the ADA requires that the employer and employee meet to discuss what changes or "reasonable accommodations" are needed so the person can do the essential functions of the job and enjoy the benefits of employment. An employer is not required to make changes that would be an undue burden (excessive cost) or result in unsafe conditions for the employee or others. However, allowing an employee to have a service animal or emotional support animal normally has no significant cost; nor would it be a safety hazard. Arrangements may be needed in regard to health concerns of other workers such as those who may be allergic to dogs.

Title I of the ADA is under the supervision of the federal Equal Employment Opportunity Commission. The ADA requires employers to consider any reasonable accommodation requested by an employee to do the job or enjoy the benefits of the job.

The EEOC has successfully sued employers on behalf of individuals who demonstrated that a service dog or emotional support dog was a necessary accommodation.<sup>22</sup> Commentators have noted that, in the absence of specific guidance, other animals besides a dog could be requested as reasonable accommodations.

Note: Employment claims must normally be filed with an administrative agency within 180 days of the alleged violations. This can be extended to 300 days in states like South Carolina where there is also a state anti-discrimination law. However, to be cautious, a claim should be filed within 180 days of the most recent objectionable action with federal (EEOC) or South Carolina (SCHAC) administrative agencies. See the last section of this Fact Sheet, "How to Enforce Your Legal Rights."

## GROUND TRANSPORTATION

The ADA covers ground transportation including local buses and taxis. Ride sharing services like Uber and Lyft are covered. Service dogs must be allowed. Additionally, long distance buses like Greyhound as well as AMTRAK rail service must comply with disability laws including the right to have a Service Animal. US Department of Transportation regulations provide that Service Animals are not limited to dogs (or miniature horses), as in other parts of the ADA. A Service Animal can be any animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.<sup>23</sup> The animal must still be trained for a specific task; there is no right to have an Emotional Support Animal in ground transportation.

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21 However, individuals with disabilities can still make requests to a small employer to discuss possible accommodations that would allow the person to do the job. A group called ASKJAN (Job Accommodation Network) can make suggestions at no cost. <https://askjan.org/>. The SC Department of Vocational Rehabilitation may also help with training or changes to the workplace. <https://scvrd.net/>.

22 <https://www.eeoc.gov/newsroom/crst-pay-47500-settle-eeoc-disability-discrimination-and-retaliation-lawsuit>.

23 <https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/part-37-transportation-services-individuals-disabilities#sec.37.3>.

## AIR TRAVEL

The Federal Air Carrier Access Act<sup>24</sup> 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.<sup>25</sup> 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.<sup>26</sup> There are federal requirements that airlines work with airports to ensure there are appropriate service dog relief areas (SARA) at most airports.<sup>27</sup>

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.<sup>28</sup>

## 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

Fair housing laws broadly cover many types of housing, including apartments and public housing, single family units subject to homeowner associations, and even city zoning rules that affect individuals with disabilities. Mobile home parks are covered.<sup>29</sup> College residence halls are subject to fair housing laws as well as the ADA. See the Disability Rights South Carolina website for a special fact sheet about accommodations in colleges and universities.<sup>30</sup>

### EXCEPTIONS

- Short-term hotel/motel rentals of less than 30 days (such as for vacation or job assignment) are normally considered temporary lodging covered by the ADA. The Fair Housing Act is meant to cover someone's residence. Note: Renting a hotel/motel/resort unit on a long term basis may qualify as a residence; please consult with an attorney about your specific case.
- Also, the Fair Housing Act does not cover: (1) small apartment buildings with four units or less if the owner lives in one of them, (2) single-family houses sold or rented by the owner without the use of an agent, and (3) housing operated by religious organizations and private clubs that limit occupancy to members.<sup>31</sup> Landlords (including condominium boards of directors) must waive any "No Pet" rule and make other accommodations necessary for a Service Animal or Emotional Support Animal. Landlords may not charge a "pet" deposit. However, tenants are financially responsible for any harm caused by their Service Animals or Emotional Support Animals. Landlords may request an individual get documentation from a medical provider, but may not inquire into the nature of the tenant's disability. The Fair Housing Act also covers actions by homeowner associations or city zoning rules that would prevent someone from having a Service Animal or Emotional Support Animal. In Ohio, a little girl used a small pony to help her balance and develop play skills. It was kept in the backyard of her house. The city said keeping any horse on those premises violated city ordinances. But a federal circuit court said the child had a right to sue the city.<sup>32</sup> The case was later settled, with the child keeping the horse, but with the city having a right to inspect the yard. The US Department of Housing and Urban Development (HUD) has several documents explaining rights to Assistance Animals in housing. The HUD website has general information.<sup>33</sup> HUD's fair housing section has a letter to field offices explaining the law.<sup>34</sup> HUD has additional information about that letter.<sup>35</sup> For housing covered by both the federal Fair Housing Act and the ADA, a detailed information sheet has been issued by HUD and the DOJ.<sup>36</sup> You can review them for detailed information.

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29 <https://schac.sc.gov/housing-discrimination> Mobile home parks noted as being covered by fair housing law.

30 <https://www.disabilityrightssc.org/the-rights-of-college-students-with-disabilities-2/>

31 [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/fair\\_housing\\_act\\_overview](https://www.hud.gov/program_offices/fair_housing_equal_opp/fair_housing_act_overview)

32 Anderson v. City of Blue Ash Aug 14, 2015 (798 F.3d 338)

33 [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/assistance\\_animals](https://www.hud.gov/program_offices/fair_housing_equal_opp/assistance_animals)

34 <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

35 <https://www.hud.gov/sites/dfiles/PA/documents/AsstAnimalsGuidFS1-24-20.pdf>

36 <https://www.hud.gov/sites/documents/JOINTSTATEMENT.PDF>

## HOUSING LAWS: SERVICE ANIMALS & EMOTIONAL SUPPORT ANIMALS

### TIPS

You should look over your lease and see if it has a No Pet policy or charges special deposits for pets. If so, you should make a request to the landlord if you need: a Service Animal (trained to do a task for you that is related to your disability) or an Emotional Support Animal (to comfort you due to an emotional disability).

- **When should you make your request?**

It is best to make your request before you get your animal, but you can wait until you have the animal.

- **Is a special form needed?**

No, there is no special form you need to request an accommodation. It is recommended that your request be in writing. You should keep a copy of your request. Your request should explain that you have a disability, but you do not need to explain the nature or details of your disability as the landlord does not have a right to know any details of your disability. You should explain why you need your assistance animal.

- **What about statements from health care providers?**

For service animals, you should not need a statement from a health care provider. It should be enough if you explain what the service animal has been trained to do. If your disability is not obvious, the landlord can generally ask you to get a statement from a health care provider confirming you have a disability and need an Assistance Animal. If you need to get a statement, there is no special form that your health care provider has to use. A health care provider includes a physician, optometrist, psychiatrist, psychologist, physician's assistant, nurse practitioner, or nurse. The landlord may not require you to use a specific health care provider. HUD has provided guidance for what a health care practitioner should include in a statement about Service Animals.<sup>37</sup>

- **Can you use a health care provider you find on the Internet?**

It is recommended that you use a health care provider who knows you. The US Department of Housing and Urban Development suggests you not use websites that sell certificates, registrations, or licensing documents to anyone who answers certain questions or participates in a short interview and pays a fee. If you later have to file a complaint about your landlord, these are not usually sufficient to reliably establish that you need an assistance animal. However, in some circumstances, documentation may be reliable where provided by legitimate, licensed health care professionals delivering health care services remotely, such as by teleconference or "telehealth" over the internet.<sup>38</sup>

If your landlord denies your request or does not answer, seek legal help or make a complaint (see "How to Enforce your Legal Rights" at the end of this Fact Sheet).

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<sup>37</sup> See page 17 of HUD guidance at <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

<sup>38</sup> See page 4 of the HUD guidance at <https://www.hud.gov/sites/dfiles/PA/documents/AsstAnimalsGuidFS1-24-20.pdf>

## 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.<sup>39</sup>

- **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.<sup>40</sup>

- **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)<sup>41</sup> or the South Carolina Human Affairs Commission (SCHAC)<sup>42</sup> 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](http://www.disabilityrightssouthcarolina.org)); see the Fact Sheet “Reasonable Accommodations and Your Rights as an Employee.”<sup>43</sup> 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.<sup>44</sup> You may also contact the US Department of Housing and Urban Development for housing issues.<sup>45</sup>

## 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.<sup>46</sup> If your problem is with a state or local government, see the ADA Title II fact sheet.<sup>47</sup> 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).<sup>48</sup>

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.<sup>49</sup> 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.<sup>50</sup>

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](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



# DISABILITY RIGHTS

## 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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### Disability Rights South Carolina



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[www.disabilityrightssc.org](http://www.disabilityrightssc.org)



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