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Attorney General



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL  
THE CAPITOL  
ALBANY, NY 12224

Dear New Yorker:

As the Attorney General, one of my most important responsibilities is to safeguard the civil rights of all New Yorkers and to enforce the state's anti-discrimination laws. One way I seek to achieve this goal is through my Civil Rights Bureau, which enforces laws prohibiting discrimination on the basis of race, color, national origin, sex, religion, age, marital status, sexual orientation and disability. Using federal, state and local civil rights laws, this bureau investigates and litigates complaints alleging a pattern, practice or policy of unlawful discrimination in employment, housing, credit, education and places of public accommodation.

I am aware, however, that discrimination can result from indifference, carelessness or ignorance, rather than simple bigotry. Of course whatever the reason, the outcome is the same -- intolerance, exclusion, and the denial of equal treatment. Therefore, another major way that I am seeking to combat discrimination as Attorney General is through education and information.

The Attorney General's office developed this brochure, in cooperation with the U.S. Department of Justice, to make businesses aware of the ADA (Americans with Disabilities Act) and state regulations regarding service animals. It is my hope that this information will help businesses avoid discriminating against individuals who utilize service animals by informing you of your rights and responsibilities. If you have any questions or concerns that are not answered by this brochure, please do not hesitate to contact my Civil Rights Bureau at (212) 416-8250 (voice) or (800) 788-9898 (TDD). Together we can strive to eliminate discrimination based on ignorance.

Sincerely,

Who should you contact for help?

If you have further questions about service animals or other requirements of the ADA, you may contact:

Office of Attorney General  
Eric T. Schneiderman  
Civil Rights Bureau  
120 Broadway, 23rd Floor  
New York, New York 10271  
(212) 416-8250 (voice)  
or  
(800) 788-9898 (TDD/TTY)

Visit the Attorney General's Website  
<http://www.ag.ny.gov>

In addition, you may call the:

U.S. Department of Justice  
ADA Information Line  
  
*toll-free*  
800-514-0301 (voice)  
or  
800-514-0383 (TDD)

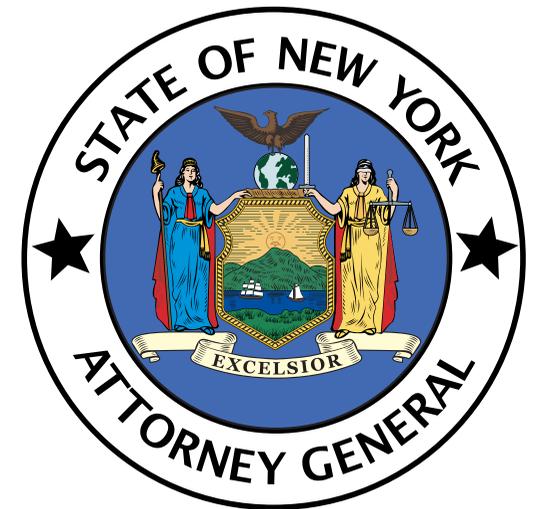
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# Service Animals:

## *Frequently Asked Questions*



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# Service Animals - *Frequently Asked Questions*

## **What is a service animal?**

A service animal is not a pet. The Americans with Disabilities Act (ADA) defines a service animal as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. If they meet this definition, animals are considered service animals under the ADA regardless of whether they have been licensed or certified by a state or local government.

Service animals perform some of the functions and tasks that the individual with a disability cannot perform for him or herself. "Seeing eye dogs" are one type of service animal, used by some individuals who are blind. But there are service animals that assist persons with other kinds of disabilities in their day-to-day activities. Some examples include: Alerting persons with hearing impairments to sounds; pulling wheelchairs or carrying and picking up things for persons with mobility impairments; assisting persons with mobility impairments with balance.

## **What are the laws that apply to businesses?**

Under the ADA, privately owned businesses that serve the public, such as restaurants, hotels, retail stores, taxicabs, theaters, concert halls, and sports facilities, are prohibited from discriminating against individuals with disabilities. The ADA requires these businesses to allow people with disabilities to bring their service animals onto business premises in whatever areas customers are generally allowed. Under New York law, no person shall be denied admittance to and/or the equal use of and enjoyment of any public facility solely because he or she has a disability and is accompanied by a guide dog, hearing dog or service dog.

Public facilities include, but are not limited to, all modes of public and private transportation, all

forms of public and private housing accommodations, buildings to which the public is invited or permitted, and all other places of public accommodations, convenience, resort, entertainment or business to which the general public is normally or customarily invited or permitted. No direct or indirect additional charge is permitted for a service animal accompanying a person with a disability.

Any person violating these laws can be assessed damages and penalties by the state Division of Human Rights or a court of competent jurisdiction. See N.Y. Civil Rights Law §§ 40-c, 47 and 47-b and N.Y. Executive Law §§ 296(2) and 296(14).

## **How can I tell if an animal is really a service animal and not just a pet?**

Some service animals wear special collars and harnesses. Some are licensed or certified and have identification papers. If you are not certain that an animal is a service animal, you may ask the person. Although a number of states have programs to certify service animals, you may not insist on proof of state certification before permitting the service animal to accompany the person with a disability.

## **What must I do when an individual with a service animal comes to my business?**

The service animal must be permitted to accompany the individual with a disability to all areas of the facility where customers are normally allowed to go.

## **I have a clearly posted "no pets" policy at my establishment. Do I still have to allow service animals in?**

Yes. A service animal is not a pet. The ADA requires you to modify your "no pets" policy to allow the use of a service animal by a person with a

disability. This does not mean you must abandon your "no pets" policy, but simply that you must make an exception to your general rule for service animals.

## **My county health department has told me that only a seeing eye or guide dog has to be admitted. If I follow those regulations, am I violating the ADA?**

Yes, if you refuse to admit any other type of service animal on the basis of local health department regulations or other state or local laws. The ADA provides greater protection for individuals with disabilities and so it takes priority over the local or state laws or regulations.

## **Can I charge a maintenance fee for customers who bring service animals into my business?**

No. Neither a deposit nor a surcharge may be imposed. However, you may charge a maintenance fee if a service animal causes damage so long as it is the regular practice of the entity to charge non-disabled customers for the same types of damages.

## **I operate a private taxicab and I don't want animals in my taxi. Am I violating the ADA if I refuse to pick up someone with a service animal?**

Yes. Taxicab companies may not refuse to provide services to individuals with disabilities. Private taxicab companies are also prohibited from charging higher fares or fees for transporting individuals with disabilities and their service animals than they charge to other persons for the same or equivalent service.

## **Am I responsible for the animal while the person with a disability is in my business?**

No. The care or supervision of a service animal is solely the responsibility of his or her owner. You

are not required to provide care or food or a special location for the animal.

## **What if a service animal barks or growls at other people, or otherwise acts out of control?**

You may exclude any animal, including a service animal, from your facility when that animal's behavior poses a direct threat to the health or safety of others. You may not make assumptions, however, about how a particular animal is likely to behave. Although you may exclude any service animal that is out of control, you should give the individual with disability who uses the service animal the option of continuing to enjoy its goods and services without having the service animal on the premises.

## **Can I exclude an animal that doesn't really seem dangerous but is disruptive to my business?**

There may be a few circumstances when you are not required to accommodate a service animal -- that is, when doing so would result in a fundamental alteration to the nature of the business. Generally, this is not likely to occur in restaurants, hotels, retail stores, theaters, concert halls and sports facilities. But when it does, for example, when a dog barks repeatedly during a movie and the owner is unable to control the dog, or the dog's barking does not serve to communicate something of benefit to the owner, the animal can be excluded.