



From WAGS' Team Training Client Manual:

Chapter Seven: *Public Access*

ACCESS RIGHTS

Federal and state laws provide access rights for service animals. Three Federal laws cover access for the following locations:

Airlines – Air Carrier Access Act of 1986 (ACAA)

The first Federal legislation to directly address public access rights of people with disabilities who have service animals was the Air Carrier Access Act of 1986. The act amended the Federal Aviation Act of 1958 to provide that prohibitions of discrimination against handicapped people apply to air carriers. Regulations clarify that air carriers must permit "dogs and other service animals used by handicapped people to accompany the people on a flight". As a result of these 1986 stipulations regarding air transport, the 1990 Americans with Disabilities Act does not reference air carriers in its Title II and III transportation requirements.

The following is printed from www.tsa.gov/travelers/airtravel/specialneeds/editorial_1056.shtm. WAGS recommends that you print the page directly from the TSA website and carry with you when traveling by air.

- If you have a service animal, you are encouraged to inform the Security Officer that the animal accompanying you is a service animal and not a pet. This will provide you with an opportunity to move to the front of the screening line since the Security Officer may need to spend more time with you.
- It is recommended that persons using an animal for assistance carry appropriate identification. Identification may include: cards or documentation, presence of a harness or markings on the harness, or other credible assurance of the passenger using the animal for their disability.
- At no time during the screening process will you be required to be separated from your service animal.
- Security Officers have been trained not to communicate, distract, interact, play, feed, or pet service animals.
- The Security Officer should ask permission before touching your service animal or its belongings.

- You must assist with the inspection process by controlling the service animal while the Security Officer conducts the inspection. You are required to maintain control of the animal in a manner that ensures the animal cannot harm the Security Officer.
- If you need to leave the secure boarding area to relieve your animal, you must undergo the full screening process again. Inform the Security Officer upon your return to the security checkpoint and she/him will move you to the front of the screening line to expedite the screening process.

Service Dogs

- Advise the Security Officer how you and your dog can best achieve screening when going through the metal detector as a team (i.e., whether walking together or with the service dog walking in front of or behind you).
- If the walk through metal detector alarms in the situation where you and your service dog have walked together, both you and the dog must undergo additional screening.
- If the walk through metal detector alarms on either you or your service dog individually (because you walked through separately), additional screening must be conducted on whoever alarmed the walk through metal detector.
- If your service dog alarms the walk through metal detector, the Security Officer will ask your permission and assistance before they touch your service dog and its belongings. The Security Officer will then perform a physical inspection of your dog and its belongings (collar, harness, leash, backpack, vest, etc.) The belongings will not be removed from your dog at any time.

PUBLIC PLACES Federal and Wisconsin State Laws

Federal Law - The Americans with Disabilities Act (1990)

Section 36.302(c) of the Americans with Disabilities Act requires public accommodations generally to modify policies, practices, and procedures to accommodate the use of service animals in places of public accommodation.

Service animal means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of 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.

NOTE: Nothing in this Section requires a public accommodation to supervise or care for a service animal.

Place of public accommodation means a facility, operated by a private entity, whose operations affect commerce and fall within at least one of the following categories:

- Places of lodging
- Establishments serving food or drink
- Places of exhibition or entertainment
- Places of public gathering
- Sales or rental establishments
- Service establishments
- Stations used for specified public transportation
- Places of public display or collection
- Places of recreation
- Places of education
- Social service center establishments
- Places of exercise or recreation

Places that are NOT covered under the ADA and to whom you would need to discuss bringing your Service Dog:

- ✓ **Religious entity:** Section 36.102(e) of the rule states that the rule does not apply to any religious entity. The ADA's exemption of religious organizations and religious entities controlled by religious organizations is very broad, encompassing a wide variety of situations. Religious organizations and entities controlled by religious organizations have no obligations under the ADA. Even when a religious organization carries out activities that would otherwise make it a public accommodation, the religious organization is exempt from ADA coverage. Thus, if a church itself operates a day care center, a nursing home, a private school, or a diocesan school system, the operations of the center, home, school, or schools would not be subject to the requirements of the ADA or this part. The religious entity would not lose its exemption merely because the services provided were open to the general public. The test is whether the church or other religious organization operates the public accommodation, not which individuals receive the public accommodation's services.

Religious entities that are controlled by religious organizations are also exempt from the ADA's requirements. Many religious organizations in the United States use lay boards and other secular or corporate mechanisms to operate schools and an array of social services. The use of a lay board or other mechanism does not itself remove the ADA's religious exemption. Thus, a parochial school, having religious doctrine in its curriculum and sponsored by a religious order, could be exempt either as a religious organization or as an entity controlled by a religious organization, even if it has a lay board. The test remains a factual one -- whether the church or other religious organization controls the operations of the school or of the service or whether the school or service is itself a religious organization.

When a church rents meeting space, which is not a place of worship, to a local community group or to a private, independent day care center, the ADA applies to the activities of the local community group and day care center if a lease exists and consideration is paid.

- ✓ **Private Club:** Private clubs are exempt from the ADA. However, consistent with title II of the Civil Rights Act (42 U.S.C. 2000a(e)), a private club is considered a public accommodation to the extent that "the facilities of such establishment are made available to the customers or patrons" of a place of public accommodation. Thus, if a private club runs a day care center that is open exclusively to its own members, the club, like the church in the example above, would have no responsibility for compliance with the ADA. Nor would the day care center have any responsibilities because it is part of the private club exempt from the ADA.

On the other hand, if the private club rents to a day care center that is open to the public, then the private club would have the same obligations as any other public accommodation that functions as a landlord with respect to compliance with title III within the day care center. In such a situation, both the private club that "leases to" a public accommodation and the public accommodation lessee (the day care center) would be subject to the ADA. This same principle would apply if the private club were to rent to, for example, a bar association, which is not generally a public accommodation but which, as explained above, becomes a public accommodation when it leases space for a conference.

Wisconsin State Laws:

Wisconsin State Statute 174.055 Exemptions of dogs for blind, deaf, and mobility impaired: Every dog specially trained to lead blind or deaf persons or to provide support for mobility-impaired persons is **exempt from the dog license tax** and every person owning such a dog shall receive annually a free dog license from the local collecting officer upon application.

Wisconsin Act 353 Any person who recklessly or intentionally

- interferes with the use a service dog by obstructing or intimidating it,
- allows his or her dog to interfere with a service dog,
- injures a service dog or causes the death of a service dog,

is guilty of a Class A or B misdemeanor OR of a Class I felony – depending on which item he or she has violated.

Wisconsin Act 354

- Allows a person to be asked whether the animal is a service dog that is required because of a disability,
- **prohibits a person with a disability from being required to produce documentation of his or her disability or a certification or other credential that the dog is trained to be a service dog,**
- may not charge a person with a disability accompanied by a service dog a higher price than the regular rate, including a deposit or surcharge.

Housing - Federal Fair Housing Amendments Act

The Federal Fair Housing Amendments Act is the law that most often helps to provide the guidance necessary to answer the questions that arise about service animals in housing. Advice

about individual circumstances and about the legal interpretation of the Fair Housing Act can be obtained from the local Housing and Urban Development (HUD) office.

The Delta Society's website is an excellent reference. Go to www.deltasociety.org and click on the LEARN tab at the top and then Service Animals for access information about Housing and Travel. The Delta Society also provides a list of Consultants and Educators who may be of help.

While WAGS works for the rights of individuals with disabilities, we do not investigate or represent our WAGS clients in legal matters. Naturally, if you believe you have been discriminated against, please call WAGS in case we can assist you to prevent legal action. Often, the discrimination is a matter of education. However, if you live in the Madison area and should need a matter investigated, you would contact The City of Madison Department of Civil Rights, Equal Opportunities Division, 210 Martin Luther King, Jr Blvd., Room 523, Madison, WI 53703. It is recommended that you call for an appointment (608-266-4910) or you may call to have a complaint form mailed to you. If you live outside of Madison, contact your local state government for the Civil Rights, Equal Opportunities Division information.

Other resources of information about Service Animals and public access are:

- ✓ **Madison Department of Civil Rights**, Equal Opportunities Division, 210 Martin Luther King Jr. Blvd, Room 523, Madison, WI 53703, (608) 266-4610, (866) 704-2144 TTY Text Net
- ✓ <http://home.comcast.net/~mitadj/myportals/adalnksprtl.htm> - [Part 36 of ADA: Non-discrimination on the basis of disability by public accommodations and in commercial facilities](#)
- ✓ <http://www.usdoj.gov/crt/ada/qasrvc.htm> for commonly asked questions about service animals in places of business.
- ✓ www.adionline.org (Assistance Dogs International, Inc) for a coalition of not for profit organizations that train and place Assistance Dogs. You will also find training standards and ethics for dogs, clients, assistance dogs in public, service dogs, hearing dogs, guide dogs and dog partners.
- ✓ <http://www.iaadp.org/> (International Association of Assistance Dog Partners) - A non-profit, cross-disability organization representing people partnered with guide, hearing and service dogs.