

## LAW IN BRIEF

### WHAT ARE MY RIGHTS TO USE A SERVICE ANIMAL OR EMOTIONAL SUPPORT ANIMAL FOR MY DISABILITY UNDER AIR CARRIER ACCESS ACT?

#### Introduction to the Air Carrier Access Act

**Overview:** Disability advocates have long recognized how animals can be beneficial to assisting people with disabilities. Lawmakers, also recognizing these benefits, ensured that individuals who use assistive animals are not discriminated against in housing, governmental spaces, or private businesses because of their animals.

One such law is the Air Carrier Access Act (“ACAA”). This law prohibits discrimination in air transportation by domestic and foreign air carriers against qualified individuals with physical or mental impairments. It applies only to air carriers that provide regularly scheduled services for hire to the public.

**Definition:** The ACAA defines a service animal as “any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.” In 2003, the definition was extended to include emotional support animals. Therapy dogs are not included in the definition.

Technically, emotional support animals are included in the definition of service animals under the ACAA; however, generally the terms are used separately because service animals may have different requirements. In this brief, the term “assistive animal” is used when referring to both service animals and emotional support animals.

Although permissible types of animals are not specified in the ACAA, an airline is not required to allow unusual pets such as snakes, other reptiles, ferrets, rodents, and spiders onboard as an assistive animal. Many airlines have released a list of animals they do not allow onboard as an assistive animal. Additionally, airlines are allowed to exclude animals that are too large or heavy to be accommodated in the cabin.

**Airport:** Under the ACAA, Transportation Security Administration (TSA) agents are not allowed to separate a handler from his or her assistive animal. Additionally, they cannot ask the handler to remove the assistive animal's equipment. TSA agents may search the animal by sight and touch only.

Additionally, an airline must allow a passenger with an assistive animal to pre-board if the passenger self-identifies at the gate as needing additional time or assistance to board or be seated.

Under the ACAA, all airports must have assistive animal relief areas. Usually these are outside.

**Seating:** The ACAA permits assistive animals to ride with the passenger in/under seat. If the animal does not fit under the seat or with the passenger, the airline is not required to allow the animal on the air carrier. Additionally, the airline must permit the assistive animal to accompany the passenger with a disability at any seat in which the passenger sits, unless the animal obstructs an aisle or other area that must remain unobstructed to facilitate an emergency evacuation. In such a case, the airline must permit the passenger the opportunity to move with the animal to another seat where the animal can be accommodated, if possible.

Generally, the animal must stay leashed or in its kennel. However, if the animal requires unusual access to do its job, then where the animal must be kept is determined on a case-by-case basis and based on health and safety risks.

**Fees:** Airlines cannot charge extra money for assistive animals.

**Restrictions:** Airlines have a right to refuse an animal if it is not behaving properly. An animal that engages in disruptive behavior (e.g. barking or snarling, running around, urinating in the gate or cabin, and/or jumping onto other passengers, etc. without being provoked) will not be accepted as an assistive animal.

Airlines are also not required to allow animals that are prohibited from entering a foreign country on an international flight. Also, an animal can be excluded if it poses a direct threat to the health or safety of others.

### Identification and Inquiry of Assistive Animals

Under the ACAA, the airline may require verification for the need of the assistive animal if it is not obvious.

Air carriers must permit dog guides or other service animals with appropriate identification, or credible verbal assurances, to accompany an individual with a disability on a flight. However, it may request specific diagnostic documentation related to psychiatric service animals or

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emotional support animals 48 hours in advance. This documentation should be current, on letterhead from licensed mental health professional, and state that the traveler has a mental or emotional disability (diagnosis not needed).

As each airline might have specific requirements it is best to check with the airline before a flight.

**Chart – Air Carrier Access Act Summary**

	<b>Service Animal</b>	<b>Emotional Support Animal</b>
<b>Protected on airlines</b>	Yes	Yes
<b>Definition</b>	Any animal that is individually trained or able to provide assistance to a person with a disability; or any animal that assists persons with disabilities by providing emotional support	Undefined  Note: Animals that provide emotional support are included in the definition of a service animal under this Act.
<b>Type of Animal Permitted</b>  Note: Airlines do not have to allow unusual animals and many airlines have lists of banned animals.	Unspecified	Unspecified
<b>Must submit documentation</b>	Yes, if not obvious or readily apparent or if for a psychiatric service animal	Yes
<b>Must Wear Identifying Tags or Vests</b>	No	No

### **Handler's Responsibilities**

Under the ACAA, the handler of an assistive animal is responsible for the care and supervision of his or her animal. These responsibilities include:

- Having control of the animal.
- Housebreaking the animal and cleaning up after the animal.
- Feeding, grooming and providing veterinary care.

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- Following local leash laws unless it interferes with the task the animal is trained to do.
- Following state and local vaccination laws.
- Following state and local muzzle laws unless it interferes with the task the animal is trained to do.

Also, the assistive animal handler is responsible for property damage to the same extent that other individuals would be held responsible.

## Resources

Individuals who believe that they have been illegally denied access or service because they use an assistive animal may file a complaint with the Department of Transportation's Aviation Consumer Protection Division. Individuals also have the right to file a private lawsuit in Federal court charging the entity with discrimination under the ACAA. Further, the airline's Complaint Resolution Official is required to provide you with a written explanation of why they will not allow you to travel with your assistive animal within ten days of the incident.

The toll-free numbers for the aviation consumer disability hotline are 1-800-778-4838 (voice) or 1-800-455-9880 (TTY).

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**Sample Letter****Letter to Airline from Provider for an Emotional Support Animal:**

DATE

To Whom It May Concern:

[PATIENT'S FULL NAME is my patient, and has been under my care since DATE. I am intimately familiar with his/her history and with the functional limitations imposed by his/her emotional/mental related illness.

Due to this emotional/mental disability, PATIENT'S FIRST NAME has certain limitations related to [social interaction/coping with stress/anxiety, etc.]. In order to help alleviate these difficulties, and to enhance his/her ability to function independently, I have prescribed PATIENT'S FIRST NAME to obtain an emotional support animal. The presence of this animal is necessary for the emotional/mental health of PATIENT'S FIRST NAME because its presence will mitigate the symptoms he/she is currently experiencing.

Please allow PATIENT'S FULL NAME to be accompanied by his/her emotional support animal in the cabin of the aircraft, in accordance with the Air Carrier Access Act (49 U.S.C. 41705 and 14 C.F.R. 382).

I am licensed by the state of STATE to practice (medicine/psychiatry/therapy—choose applicable). My license number is LICENSE NUMBER.

Sincerely,

PROFESSIONAL'S NAME AND SIGNATURE