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Service, Therapy, and Emotional Support Animals by Gabriela Sandoval

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About the Author

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There are important differences in the particular functions and, consequently, the laws that relate to the animals generally referred to as "assistance animals." This article provides a brief overview of select laws and the legal distinctions among service, therapy, and emotional support animals, and the rights and obligations attached to the different classifications.

People reap a variety of benefits from the human/animal connection and bond over a wide range of contexts. As opposed to being ordinary animal companions,¹ assistance animals actively and effectively help people, most often in a professional work environment or by mitigating a disability. Individuals who have a physical disability or medical illness may wish to have an animal for assistance. People have done so effectively for over a century.² Today, assistance animals are increasingly used to help people with invisible disabilities, such as a disorder or syndrome, hearing impairment, mental illness, or emotional condition where the animal is therapeutic for the individual. In many instances, confusion can arise as to the legal status of those animals, especially with respect to where their owners can take them.

Types of Assistance Animals

For purposes of clarifying the many types of animals discussed in this article, it is important to start with a few definitions:

- 1) "assistance animal" refers to any type of service or support animal;
- 2) "service animal" refers to an animal as defined by the Americans With Disabilities Act;
- 3) "therapy animal" refers to an animal that provides comfort to third parties; and
- 4) "emotional support animal" refers to an animal that is prescribed to an individual diagnosed with a mental illness or emotional condition and that may be considered to be a reasonable accommodation.

The continued development in the specializations of assistance animals, especially dogs, is impressive. For example, a seizure alert dog assists a person diagnosed with a seizure condition during, after, or even shortly before an oncoming seizure actually occurs.³ A diabetes alert dog assists a person with

diabetes by identifying the chemical body changes that occur as insulin levels increase or drop.⁴ The diabetic individual can then take appropriate immediate action to remedy the situation. A mobility assistance dog helps an individual by performing physical tasks, such as carrying necessary items, pushing elevator buttons, and opening and closing doors.⁵ A sensory signal or social signal dog (SSIG) is trained to assist a person diagnosed with autism spectrum disorder.⁶ A psychiatric service dog assists someone with psychiatric illness and can help an individual who engages in dangerous self-harming behaviors by identifying the behavior and preventing or interrupting the behavior and then redirecting the individual or even calling 911.⁷

Some animals are trained to provide comfort and affection but are not specifically trained to perform work or a task for an individual who suffers from emotional disabilities. These animals are trained to provide relief and consolation to people who are in hospice, long-term care, a hospital, mental health treatment facility, or retirement home. Therapists may use animals by providing their clients an alternative to traditional talk therapy, referred to as animal-assisted therapy or psychotherapy.⁸

Court facility dogs assist the legal process and testifying witnesses who demonstrate a compelling need for emotional support. For example, a court facility dog may be present during a forensic interview in a child abuse or sex assault case or when a fragile witness (usually a child) is present or testifying in court. The dog's main function is to provide comfort and mitigate fear and anxiety during questioning by law enforcement, a forensic interviewer, or an attorney.⁹

Animals also perform work for people not because of any disability but as important members of a team and to assist in accomplishing a goal or mission. The most common examples are police dogs. Police dogs include but are not limited to: human scent dogs, contraband substance detector dogs, and explosive detection dogs. Human scent dogs assist in tracking, trailing, and search and rescue. Contraband substance detector dogs assist in identifying explosives and narcotics.

There are also arson dogs and military service animals. Arson dogs assist firefighters by sniffing out accelerants that may have caused a fire. Arson dogs have also saved people who were trapped in a fire. Long ago, these dogs were used to help firefighters with horses that pulled the firefighter stagecoaches. Arson dogs, typically Dalmatians, historically had a rapport with the horses and kept them calm and together during emergencies and while the firefighters worked to put out fires.

Military service animals have assisted military personnel in a variety of ways. For example, in war-torn regions, rats have been used to sniff out land mines.¹⁰ They are less expensive than service dogs, are small, are resistant to most tropical diseases, and have a highly developed sense of smell.¹¹ Rats do not trigger the mines due to their light weight and their training related to the mines' unique odor.¹² Just as rats have been used to help military personnel on land, dolphins and sea lions have been used by the Navy to detect mines in the ocean.¹³

Legal Definitions of Assistance Animals

There are many factors that will determine if, and to what extent, the individual person and/or the animal is protected under the law (and under which law, or whether more than one law is applicable). Service animals are specifically defined in the ADA as limited to dogs (and in some cases miniature horses¹⁴) that are trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.¹⁵

It is the disability of the individual, not the character of the animal, that triggers protection under the ADA. The requisite training and work or tasks performed by the service animal must be directly related to the handler's disability.¹⁶ Under the ADA, the mere provision of emotional support, well-being, comfort, or companionship does not constitute work or tasks for purposes of the definition of service animal.¹⁷ State or local ordinances may define an assistance animal more broadly than the ADA does. Consequently, it is important to be aware of any additional rights granted under these laws. The ADA's definition does not affect or limit the broader definition of "assistance animal" under the federal Fair Housing Act (FHA), Section 504 of the Rehabilitation Act,¹⁸ or the broader legal protections granted to aircraft passengers by the Air Carrier Access Act.¹⁹

Therapy animals are trained to provide comfort and affection to people who may or may not have a form of disability. They are commonly owned by the handler, who considers the animal to be a personal pet.²⁰ Therapy animals often work alongside their handler to assist others in settings such as hospitals, assisted living environments, mental health facilities, and schools, or with clients during therapy sessions.

A therapy animal has no special rights of access, except in those facilities where they are welcomed.²¹ They may not enter businesses with no pets policies or accompany their handler in the cabin of airplanes, regardless of their therapy animal designation.²² They are not legally defined by federal law

or by Colorado statute.

Emotional support animals provide a therapeutic benefit to their owners/guardians through companionship. An emotional support animal is not limited to any particular type of animal. The animal is a companion animal that provides therapeutic benefit to an individual with a mental or psychiatric disability.²³ Unlike a service animal, an emotional support animal is not specifically trained to perform tasks and is not protected under the ADA. However, under the FHA, an emotional support animal may be viewed as a "reasonable accommodation" in a housing unit that has a no pets rule for its residents.²⁴

Select Statutes Applicable to Assistance Animals

Legal distinctions related to service animals are found in various Colorado statutes. The most relevant distinctions are found in Colorado's Civil Rights Law, Criminal Code, and local breed-specific legislation.

Civil Rights Law

In addition to the legal protections and limitations referenced above, there are other laws to be aware of, some of which may apply to a potential litigant. Colorado's definitions, protections, and remedies vary depending on the legal issue and applicable statute.

Federal law will prevail over state law unless state law provides greater or equal protection.²⁵ With regard to rights of people with disabilities, Colorado's definition of disability has the same meaning as set forth in the implementing regulations of the ADA.²⁶ As such, an individual with a qualifying disability²⁷ in Colorado who uses the assistance of a service animal has the legal right to be accompanied by the service animal in all areas where members of the public are allowed to go. The law applies to state and local governments, businesses, and nonprofit organizations that serve the public.²⁸

There are exceptions to the general rule. Under the ADA, service animals must be and remain under the handler's control; otherwise, the individual and service animal may be denied access. The ADA specifically requires a canine to be harnessed, leashed, or tethered, unless these devices interfere with the animal's work or the individual's disability prevents using these devices.²⁹ In either case, the individual must maintain control of the animal through voice, signal, or other effective controls.³⁰

In the case of a miniature horse as a service animal, the ADA sets out four assessment factors to assist entities in determining whether the miniature horse can be accommodated in their facility. They are whether (1) the miniature horse is housebroken; (2) the miniature horse is under the owner's control; (3) the facility can accommodate the miniature horse's type, size, and weight; and (4) the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.³¹

As related to unfair employment practices, Colorado law requires employers to provide a reasonable accommodation to an employee with a qualifying disability.³² The reasonable accommodation may be that a service animal accompanies the employee at work.³³

Criminal Code

In Colorado, it is a criminal offense for a person to knowingly deny an individual with a disability of any right or privilege protection outlined in civil statutes.³⁴ It is also a crime to falsely impersonate an individual with a disability.³⁵

Animals assisting in law enforcement, emergency response, or fire protection and their handlers have a heightened level of protection under Colorado's animal cruelty statutes. If a person is convicted of cruelty to any animal assisting in law enforcement, emergency response, or fire protection, he or she shall be ordered to make restitution to the agency or individual owning the animal for any veterinary bills and replacement costs of the animal if it is disabled or killed as a result of the cruelty.³⁶

Breed-Specific Legislation

Also known as "breed bans," these laws prohibit specific breeds of dogs in particular geographic localities. Such prohibitions have presented significant confusion related to policy and law enforcement and for the individuals who own or use a service animal³⁷ and travel or live in an area where there is a breed ban. The following localities in Colorado have breed bans currently in place: Aurora, Castle Rock, Commerce City, Denver, Ft. Lupton, Lone Tree, and Louisville. Despite a ban and no specific exceptions noted for a service animal in the prohibitive language, at least one locality has acknowledged that the ban will not be exercised if the dog is a service animal. The U.S. Department of Justice has published a position related to this issue in applicable updated rules:

The Department does not believe that it is either appropriate or consistent with the ADA to defer to local laws that prohibit certain breeds of dogs based on local concerns that these breeds may have a history of unprovoked aggression or attacks. Such deference would have the effect of limiting the rights of persons with disabilities under the ADA who use certain service animals based on where they live rather than on whether the use of a particular animal poses a direct threat to the health and safety of others. Breed restrictions differ significantly from jurisdiction to jurisdiction. Some jurisdictions have no breed restrictions. Others have restrictions that, while well-meaning, have the unintended effect of screening out the very breeds of dogs that have successfully served as service animals for decades without a history of the type of unprovoked aggression or attacks that would pose a direct threat. . . . Other jurisdictions prohibit animals over a certain weight, thereby restricting breeds without invoking an express breed ban. In addition, deference to breed restrictions contained in local laws would have the unacceptable consequence of restricting travel by an individual with a disability who uses a breed that is acceptable and poses no safety hazards in the individual's home jurisdiction but is nonetheless banned by other jurisdictions. State and local government entities have the ability to determine, on a case-by-case basis, whether a particular service animal can be excluded based on that particular animal's actual behavior or history—not based on fears or generalizations about how an animal or breed might behave. This ability to exclude an animal whose behavior or history evidences a direct threat is sufficient to protect health and safety.³⁹

Law Enforcement

The Federal Law Enforcement Animal Protection Act protects police animals (which are the same as service animals as defined by the ADA)⁴⁰ and punishes any person who willfully and maliciously harms any police animal or attempts or conspires to do so.⁴¹

The Colorado Criminal Code specifically defines "service animal" in this context as:

any animal, the services of which are used to aid the performance of official duties by a peace officer, law enforcement agency, fire department, fire protection district or governmental search and rescue agency.⁴²

As stated above, there may be heightened penalties under Colorado law for cruelty to these animals.

Sample Applications of Law

The legal distinctions related to assistance animals are most relevant in cases where an individual identifies as having a disability or in cases where law enforcement officers have used a service animal in carrying out their official duties. Once the type of assistance animal has been identified, an analysis of the facts of each case will determine how the law is applied as related to the legal rights of the parties.

Disabilities

In a potential assistance animal case, a variety of legal questions may arise. One or more state and/or federal statutes may be implicated. Where an individual identifies as having a disability, questions may relate to whether the individual has a qualifying disability protected by law and, if so, whether the animal fits within the definition of service animal.

Other questions may relate to whether there was a failure to allow access to a person and/or his or her service animal, and if such denial was justified under an exception. For example, in a hospital it would be inappropriate to exclude a service animal from areas such as patient rooms, clinics, cafeterias, or examination rooms. However, it may be appropriate to exclude a service animal from operating rooms or burn units where the animal's presence may compromise a sterile environment.⁴³

Establishments that sell or prepare food must allow service animals in public areas, even if state or local health codes prohibit animals on the premises.⁴⁴ People with disabilities who use service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals.⁴⁵ In addition, if a business requires a deposit or fee to be paid by patrons with pets, it must waive the charge for service animals.⁴⁶

Allergies and fear of dogs in coworkers or other patrons are not valid reasons for denying access or refusing service to people using service animals.⁴⁷ When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.⁴⁸

As related to assistance animals and housing law, housing providers are to evaluate a request for a reasonable accommodation to possess an assistance animal in a dwelling using the general principles

applicable to all reasonable accommodation requests.⁴⁹ The animal need not be individually trained or certified.⁵⁰ After receiving a request, the housing provider must consider whether: (1) the individual has a qualifying disability and (2) the animal works, provides assistance, performs tasks or services for the benefit of a person with a disability, or provides emotional support that alleviates one or more of the identified symptoms or effects of the individual's existing disability?⁵¹ Where the answers are yes to both questions, the housing provider must modify or provide an exception to a no pets rule or policy unless doing so would impose an undue financial and administrative burden or would fundamentally alter the nature of the housing provider's services.⁵²

The request may be denied if the specific assistance animal poses a direct threat to the health and safety of others that cannot be reduced or eliminated by another reasonable accommodation, or if the specific assistance animal would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.⁵³

Although there is no specified manner of requesting a reasonable accommodation outlined in the FHA, if a person needs an emotional support animal (or more than one) to help alleviate the symptoms of a disability, the individual should first make a written request to the landlord.⁵⁴ The request should explain how the reasonable accommodation helps or mitigates symptoms of the disability, and should provide documentation (or a prescription) from a doctor or mental health provider.⁵⁵

A housing provider may not deny a reasonable accommodation request because he or she is uncertain whether the person seeking the accommodation has a disability or disability-related need for an assistance animal. In this context, an assistance animal is not a pet.

It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including but not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. For purposes of reasonable accommodation requests, neither the FH Act nor Section 504 requires an assistance animal to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals.⁵⁶

Housing providers may ask individuals who have disabilities that are not readily apparent or known to the provider to submit reliable documentation of a disability and their disability-related need for an assistance animal.⁵⁷ If the disability is readily apparent or known but the disability-related need for an assistance animal is not, the housing provider may ask the individual to provide documentation of the disability-related need for an assistance animal.⁵⁸

A housing provider may not ask a tenant or applicant to provide documentation showing the disability or disability-related need for an assistance animal if the disability or disability-related need is readily apparent or already known to the provider.⁵⁹ For example, individuals who are blind or have low vision may not be asked to provide documentation of their disability or disability-related need for a guide dog.⁶⁰ A housing provider may not ask an applicant or tenant to provide access to medical records or medical providers or to provide detailed or extensive information or documentation of a person's physical or mental impairments.⁶¹ Like all reasonable accommodation requests, the determination of whether a person has a disability-related need for an assistance animal involves an individualized assessment.⁶²

Disabilities: Inquiries, Exclusions, and Other Rules

When it is not obvious what service an animal provides, only limited inquiries are allowed under the ADA. Businesses and agencies required to comply with the law related to public access may ask only two questions or they may be held liable for violation of the law: (1) is the dog a service animal required because of a disability, and (2) what work or task has the dog been trained to perform.⁶³ Staff cannot ask about the person's disability, require medical documentation, require a special identification card or training documentation for the dog, or ask that the dog demonstrate its ability to perform the work or task.⁶⁴ A public accommodation may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.⁶⁵

In the workplace, employers must consider allowing an employee with a disability to use a service animal at work unless doing so would result in an undue hardship.⁶⁶ In addition, the ADA allows employers to choose among effective accommodations.⁶⁷ The goal of an employer is to understand why the service animal is needed and what it does for the person, so the training is important.⁶⁸ An employer has the right to request documentation or demonstration of the need for the service animal,

that the service animal is trained, and that the service animal will not disrupt the workplace.⁶⁹

Law Enforcement

When law enforcement is using a police animal in carrying out duties, a third party could be injured by the animal. In those cases, constitutional issues are raised, including whether there is a violation of the person's right to be free from unreasonable seizure, qualified immunity applies to the handler (in most cases, a police officer), and the agency and/or official can be held personally liable for the injury.

In these cases, there are three main inquiries that will determine whether liability exists.⁷⁰ The first inquiry relates to whether the injury was accidental. The second relates to whether the animal was deployed by an officer as a use of force. The third inquiry relates to whether the officer was negligent.

The following is an example of an accident where, generally, no liability exists: A police officer goes into a house to arrest a fugitive. The fugitive's mother does not move out of the officer's path, resulting in her being pushed into the dog's defensive perimeter and getting bitten by the dog. Because the fugitive's mother did not move out of the officer's way (and purposely obstructed the officer's path) when he was attempting to make a valid arrest, no liability exists.⁷¹

In another case, the police dog was left in the officer's patrol vehicle during a high-risk stop.⁷² While the handler was trying to subdue the driver, the canine left the patrol car unbeknownst to the officer and without receiving any commands from the officer to do so.⁷³ The dog proceeded to bite the heads of two minor females who had been passengers in the car.⁷⁴ The court ruled that the handler did not intend to seize the suspects with his dog.⁷⁵

In a case where a police dog and police officer handler were conducting a residential building search for a suspect, an occupant of the building was sleeping in her home when bitten by the dog during the search.⁷⁶ The court found the plaintiff was seized when the dog, on command from the police handler, found and bit plaintiff during the search.⁷⁷ The court held that the occupants of the building had a right to be free from excessive force when a seizure that is brought about by a canine that was deployed without a verbal warning, and that failure to give a warning before releasing a dog to bite is unreasonable.⁷⁸

In most cases where the conduct is negligent, whether the officer may be held personally liable generally turns on objective legal reasonableness of the action and the totality of the circumstances.⁷⁹

Another issue in law enforcement cases is whether a valid search has been executed. In general, police dogs must be trained, certified, and reliable. In one Tenth Circuit case, there was a warrantless pat-down search of an individual after a drug-sniffing canine alerted the officer to the presence of drugs in a vehicle.⁸⁰ A police dog's positive alert to the vehicle provided the probable cause for the arrest, and because no contraband was located in the vehicle, this increased the chances that the contraband was on the driver's body.⁸¹ In another case, an alert from a canine with a sufficient accuracy record in detecting drugs was sufficient to establish probable cause for arrest.⁸² In that case, the canine alerted to a suitcase containing ephedrine, a federally controlled chemical substance used in the production of methamphetamine.⁸³

The U.S. Supreme Court touched on the issue of using contraband detector dogs in *Illinois v. Caballes*.⁸⁴ The Court held that well-trained narcotics detection dogs that do not expose non-contraband items during a lawful traffic stop do not violate the Fourth Amendment.⁸⁵

Exploitation and Liability

The number of people using assistance animals continues to grow. Unfortunately, there are people who take advantage of the widespread confusion that applies to assistance animals and who demand protection under the law when in fact they have no legitimate grounds for legal protection.⁸⁶

There is no government agency that keeps a tally on the numbers of animals registered as assistance animals; however, the National Service Animal Registry (NSAR), a commercial enterprise that sells certificates, vests, badges, and identification cards for assistance animals, signed up 2,400 emotional support animals in 2011. In 2013, the NSAR registered 11,000.⁸⁷ As of March 4, 2015, there were a total of 64,949 assistance animals registered.⁸⁸ The only thing a consumer must do before purchasing an NSAR service dog registration online is confirm two statements by simply placing a checkmark into two boxes: the first box is a confirmation stating that the consumer has a qualifying disability, and the second states that the dog is trained or otherwise able to perform an essential function for the consumer because of a disability.⁸⁹ In summary, dogs registered specifically as service dogs with NSAR or any other organization may or may not actually be a service dog under the ADA, regardless of the purchased registration, which includes two identifying animal patches, laminated identification

cards, leash clips for photo identifications, an official NSAR service animal certificate, and permanent inclusion of the dog in the NSAR database.

Exploitation of the law has created some skepticism of individuals with qualifying disabilities, making it difficult for them to enjoy the freedom and support their assistance animals provide. The result may be a covered entity asking inappropriate (illegal) questions, consequently violating the law and exposing themselves to money damages, including punitive damages and attorney fees.⁹⁰

Entities covered by the applicable laws would be wise to ensure that they understand their obligations and possible liability exposure. Although it is a crime in Colorado to impersonate an individual with a disability,⁹¹ the law may not be easily enforced, especially considering the limitations on inquiries where public accommodations are concerned.

Employers who are found to have violated the ADA may be liable for attorney fees and compensatory and punitive damages.⁹² In a civil action related to a discriminatory housing practice, the court may award, among other relief, actual and punitive damages, as well as attorney fees.⁹³

Public accommodations, employers, housing authorities, and others who are subject to compliance under federal and state laws that relate to service and emotional support animals must be diligent in protecting themselves from liability by critically evaluating their policies and procedures and putting them in writing. It is equally important to perform comprehensive and ongoing staff training. It is a best practice to have a written ADA compliance assessment on file and up to date.

Conclusion

Assistance animals provide a wide range of benefits for the people who need them. These animals become an extension of their handlers in a variety of ways. To many disabled individuals, assistance animals grant the personal freedom to live more fulfilling and independent lives with the benefit of a loving and supportive companion by their side.

As illustrated above, several state and federal laws grant protection for these individuals and animals. As these laws and implementing regulations continue to be interpreted and updated, it remains essential to understand how assistance animals implicate many areas of Colorado and federal law. This awareness will assist lawyers in advising potential clients and will help others to ensure compliance with the law and assist in decreasing their exposure to liability.

Notes

1. The word "ordinary" is used loosely in this context. Anyone who has ever lived with a pet animal will likely agree that each animal is unique.
2. The oldest school dedicated to guide dogs is The Seeing Eye, which was founded in 1929 and is still in operation. See www.seeingeye.org/aboutUs/default.aspx?M_ID=88.
3. Rudy, "Service Dogs for People with Seizure Disorders," originally published in 6 *Alert, National Service Dog Center*[®] *Newsletter* (1995) and edited for the Web and updates, www.petpartners.org/Document.Doc?id=227.
4. See DiabeticAlertDog.com, www.diabeticalertdog.com.
5. See 4 Paws For Ability, 4pawsforability.org/mobility-assistance-dog.
6. Center for Autism and Related Disorders, www.inspire.com/groups/center-for-autism-and-related-disorders/discussion/what-is-a-ssig-autism-service-dog-by-jim-sinclair.
7. Invisible Disabilities Association, invisibledisabilities.org/educate/serviceanimals/morethanjustapet. See *also* phone for personal assistant dog use, www.ablephone.com/model3000.php.
8. See Denver Pet Partners, www.denverpetpartners.org/about-dpp.html?gclid=CKaWu4aio8QCFQtaQodZgwABQ. See *also* Animal Assisted Therapy Programs of Colorado, www.animalassistedtherapyprograms.org; Professional Therapy Dogs of Colorado, protherapydogscolorado.vpweb.com/default.html.
9. Facility Dogs require specialized training. See Assistance Dogs International, "Facility Dogs: Training Standards," www.assisteddogsinternational.org/standards/assistance-dogs/standards-for-dogs/training-standards-for-facility-dogs. See *also* Sandoval, "Court Facility Dogs—Easing the Apprehensive Witness," 39 *The Colorado Lawyer* 17 (April 2010).
10. Momjian, "Service Animals: Military, Wartime, and Law Enforcement," in *Fourth Annual Animal Law Conference* 340 (Pennsylvania Bar Institute, 2007).
11. *Id.*

12. *Id.*
13. *Id.*
14. The updated definition became effective in March 2011.
15. U.S. Department of Justice (DOJ), Civil Rights Division, Disability Rights Section, www.ada.gov/service_animals_2010.htm.
16. *Id.*
17. *Id.*
18. U.S. Department of Housing and Urban Development (HUD), Notice FHEO 2013-01 (April 25, 2013), portal.hud.gov/hudportal/documents/huddoc?id=servanimals_ntcfheo2013-01.pdf.
19. 14 CFR § 382.117, www.ecfr.gov/cgi-bin/text-idx?SID=2732dac866b26ea1fcc132f3a2dd6414&node=se14.4.382_1117&rgn=div8.
20. Taormina-Weiss, "Service and Therapy Dogs—ADA and State Rights," www.disabled-world.com/disability/serviceanimals/dog-rights_printer.php.
21. Pet Partners, www.petpartners.org/TAP-FAQs#PPprogram
22. *Id.*
23. Wisch, "Animal Legal & Historical Center, FAQs on Emotional Support Animals" (2013), www.animallaw.info/article/faqs-emotional-support-animals.
24. *Id.* See also HUD, February 17, 2011 Memo, www.bazelon.org/LinkClick.aspx?fileticket=lhyaA_hRAoE%3d&tabid=268; 3 CCR 708-1, Rule 60.4, cdn.colorado.gov/cs/Satellite?blobcol=urldata&blobheadername1=Content-Disposition&blobheadername2=Content-Type&blobheadervalue1=inline%3B+filename%3D%22Colorado+Civil+Rights+Commission+Rules+and+Regulations—December+2014.pdf%22&blobheadervalue2=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1252051965470&ssbinary=true.
25. ADA Title II Regulations, www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm#a35136 sec. 35.103.
26. CRS § 24-34-803. See also CRS § 24-34-804.
27. CRS § 24-34-301(5.6). See also 42 USC § 12131(2).
28. CRS § 24-34-803; DOJ, *supra* note 15. See also 42 USC § 12131(1).
29. *Id.*
30. *Id.*
31. *Id.*
32. CRS § 24-34-401. See also CRS §§ 24-34-402, -803, and -804.
33. CRS § 24-34-803. See also 3 CCR 708-1, Rule 10.2(B).
34. CRS § 18-13-107.
35. *Id.*
36. CRS §§ 18-9-202 and 18-1.3-602(3.5).
37. As defined in the ADA.
38. 28 CFR § 35, www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=09208ce668844b7c264028e6eb89aed0&ty=HTML&h=L&n=pt28.1.5&r=PART. See also ADA Title II Regulations, Part 35 Nondiscrimination on the Basis of Disability in State and Local Government Services (as amended), www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm#a35136
39. 18 USC § 1368(b).
40. *Id.*
41. CRS § 18-1.3-602(3.5).
42. CRS § 24-34-803; DOJ, *supra* note 15.
43. *Id.* See also DOJ, Civil Rights Division, Disability Rights Section, "ADA Update: A Primer for Small Businesses," www.ada.gov/regs2010/smallbusiness/smallbusprimer2010.htm.

44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.*

48. HUD, *supra* note 18.

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.*

53. Wisch, "Animal Legal & Historical Center, FAQs on Emotional Support Animals" (2013), www.animallaw.info/article/faqs-emotional-support-animals.

54. *Id.*

55. HUD, *supra* note 18.

56. *Id.*

57. *Id.*

58. *Id.*

59. *Id.*

60. *Id.*

61. *Id.*

62. DOJ, *supra* note 15.

63. *Id.*

64. *Id.*

65. Office of Disability Employment Policy, "Service Animals as Workplace Accommodations," askjan.org/media/downloads/ServiceAnimalsintheWorkplace.pdf.

66. *Id.*

67. *Id.*

68. *Id.*

69. Momjian, *supra* note 10 at 360.

70. *Dunigan v. Noble*, 390 F.3d 486, 489 (6th Cir. 2005).

71. *Andrade v. City of Burlingame*, 847 F.Supp. 760, 764 (N.D.Cal. 1994).

72. *Id.*

73. *Id.*

74. *Id.*

75. *Vathekan v. Prince George's County MD*, 154 F. 3d 173, 175 (4th Cir. 1998).

76. *Id.*

77. *Id.*

78. *Graham v. Connor*, 490 U.S. 386, 396 (1989). *See also Kerr v. City of West Palm Beach*, 875 F.2d 1546 (11th Cir. 1989); *Gill v. Thomas*, 83 F. 3d 537 (1st Cir. 1996); *Fikes v. Cleghorn*, 47 F.3d 1011 (9th Cir. 1995).

79. *United States v. Anchondo*, 156 F.3d 1043, 1044-45 (10th Cir. 1998).

80. *Id.*

81. *United States v. Patten*, 183 F.3d 1190 (10th Cir. 1999).

82. *Id.*

83. *Illinois v. Caballes*, 543 U.S. 405 (2005).

84. *Id.*

85. Marx, "Pets Allowed," *The New Yorker* (Oct. 20, 2014), www.newyorker.com/magazine/2014/10/20/pets-allowed.

86. *Id.*

87. National Service Animal Registry, www.nsarco.com/database.html.

88. *Id.* at www.nsarco.com/service-animal-public-access.html.

89. 28 CFR Parts 36.504 and 36.505.

90. CRS § 18-13-107.

91. 42 USC § 1981(a).

92. 42 USC § 3613(c).

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