

ADVOCACY

Systems Advocacy: Involves efforts attempting to ensure that the law and regulations for programs and services are protecting the civil and human rights of ALL individuals.

Advocates for people who are blind or have low vision have been active in Europe since the early 20th Century and in America since the days of Thomas Jefferson.

Individual Advocacy: Assistance and/or representation in obtaining access to benefits, services, and programs to which a consumer may be entitled. Pertains to an individual; a process of empowering consumers to take control of their lives. This does not include systems advocacy.

Examples:

- Assisting an individual with voter registration
- Assisting an individual with ADA issues related to reasonable accommodation
- Assisting an individual at a Social Security hearing/appeal
- Assisting an individual at an IEP meeting in order to obtain access to services or programs to which he/she may be entitled.
- Assisting an individual with issues/communication with SRS to reduce client obligation

There are three well known national advocacy organizations and numerous state organizations listed below:

National

- American Council of the Blind
- American Foundation for the Blind
- National Federation of the Blind

State

- Kansas Association for the Blind
- Envision
- Alphapointe
- Centers for Independent Living

During the iKan focus group discussions, there were advocacy questions that we will answer here with the corresponding law cited.

Shopping Accommodations

Question: Are stores required to provide a shopping assistant?

Answer: Yes, as a reasonable modification. The only exception is if due to low staff numbers it would cause undue burden.

The Law: This excerpt was taken from the **ADA UPDATE: A Primer for Small Business**

1. Public accommodations must:

Provide goods and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity. Eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy the goods and services of a place of public accommodation. Make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless doing so would cause a fundamental alteration in the nature of the goods and services provided.

Furnish auxiliary aids, when necessary, to ensure effective communication, unless doing so would cause an undue burden to the business or fundamental alteration in the nature of goods and services. A public accommodation may not discriminate against an individual or entity because of association with a person with a disability.

Are there limitations on what businesses must provide for customers with disabilities?

2. GENERAL NONDISCRIMINATION REQUIREMENTS

Policies and Procedures

Your business, like all others, has formal and informal policies, practices, and procedures that keep it running smoothly. However, sometimes your policies or



procedures can inadvertently make it difficult or impossible for a customer with a disability to access your goods and services. That is why the ADA requires businesses to make "reasonable modifications" to their usual ways of doing things when serving people with disabilities. Most modifications involve only minor adjustments in policies. For example, a day care center that has two scheduled snack times must modify this policy to allow a child with diabetes to bring food for an extra snack if necessary. A clothing store must modify a policy of permitting only one person at a time in a dressing room for a person with a disability who is shopping with a companion and needs the companion's assistance to try on clothes. Anything that would result in a fundamental alteration – a change in the essential nature of your business – is not required.

For example, a clothing store is not required to provide dressing assistance for a customer with a disability if this is not a service provided to other customers.

- Customers with disabilities may need different types of assistance to access your goods and services. For example, a grocery store clerk is expected to assist a customer using a mobility device by retrieving merchandise from high shelves. **A person who is blind may need assistance maneuvering through a store's aisles.**

Accessible Formats

Question: I never get the accessible formats I request, when is it required?

Answer: If an entity cannot provide the large print, Braille or tape-recorded format the consumer requests, they must be able to deliver the information another way,



such as verbally. (For example: A handout at a meeting would need to be read out loud if alternative formats were not available.)

The Law: This excerpt was taken from the Job Accommodation Network ADA Handbook.

VI. Auxiliary Aids

- A public accommodation must provide auxiliary aids and services when they are necessary to ensure effective communication with individuals with hearing, vision, or speech impairments.
- "Auxiliary aids" include such services or devices as qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices for deaf persons (TDD's), videotext displays, readers, taped texts, brailled materials, and large print materials.
- The auxiliary aid requirement is flexible. For example, a brailled menu is not required, if waiters are instructed to read the menu to blind customers.
- Auxiliary aids that would result in an undue burden, (i.e., "significant difficulty or expense") or in a fundamental alteration in the nature of the goods or services are not required by the ADA. However, a public accommodation must still furnish another type of auxiliary aid, if available, that does not result in a fundamental alteration or an undue burden

Alternative format translation services can be obtained at:

Kansas Braille Transcription Institute, Inc.
P.O. Box 48091
Wichita, Kansas 67201-8091

PILR
17 South Main Street
Hutchinson, KS 67501
Voice: (620) 663-3989
TTY: (620) 663-9920
Fax: (620) 663-4711
Toll Free: (888) 715-6818

RCIL
519 SW 37th St.
Topeka, KS 66611
785-267-1717
Fax: 785-267-1711
Toll Free 1-877-719-1717

Service Animals

Question: Can an apartment house refuse to allow someone to have a guide dog?

Answer: No, as long as the guide dog is housebroken and under the control of the owner.

The Law: The following information is excerpted from: http://www.ada.gov/regs2010/titleII_2010/titleII_2010_integrated.htm

28 CFR part 35.104 & 28 CFR Part 36.104

Service animal means any dog that is individually 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. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

28 CFR § 35.136 Service animals

(a) General. Generally, a public entity shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

(b) Exceptions. A public entity may ask an individual with a disability to remove a service animal from the premises if—

(1) The animal is out of control and the animal's handler does not take effective action to control it; or

(2) The animal is not housebroken.

(c) If an animal is properly excluded. If a public entity properly excludes a service animal under § 35.136(b), it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises.

(d) 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).

(e) Care or supervision. A public entity is not responsible for the care or supervision of a service animal.

(f) Inquiries. A public entity shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A public entity may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. A public entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. Generally, a public entity may not make these inquiries

about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

(g) Access to areas of a public entity. Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a public entity's facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go.

(h) Surcharges. A public entity shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If a public entity normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

(i) Miniature horses.

(1) Reasonable modifications. A public entity shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.

(2) Assessment factors. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, a public entity shall consider—

(i) The type, size, and weight of the miniature horse and whether the facility can accommodate these features;

(ii) Whether the handler has sufficient control of the miniature horse;

(iii) Whether the miniature horse is housebroken; and

(iv) Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

(C) Other requirements. Paragraphs 35.136 (c) through (h) of this section, which apply to service animals, shall also apply to miniature horses.

28 CFR § 36.302 Modifications in policies, practices, or procedures.

(c) Service animals.

(1) General. Generally, a public accommodation shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

(c)(2) Exceptions. A public accommodation may ask an individual with a disability to remove a service animal from the premises if:

(i) The animal is out of control and the animal's handler does not take effective action to control it; or

(ii) The animal is not housebroken.

(3) If an animal is properly excluded. If a public accommodation properly excludes a service animal under § 36.302(c)(2), it shall give the individual with a disability the opportunity to obtain goods, services, and accommodations without having the service animal on the premises.

(4) 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).

(5) Care or supervision. A public accommodation is not responsible for the care or supervision of a service animal.

(6) Inquiries. A public accommodation shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A public accommodation may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. A public accommodation shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. Generally, a public accommodation may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

(7) Access to areas of a public accommodation. Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a place of public accommodation where members of the public, program participants, clients, customers, patrons, or invitees, as relevant, are allowed to go.

(8) Surcharges. A public accommodation shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If a public accommodation normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

(9) Miniature horses.

(i) A public accommodation shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.

(ii) Assessment factors. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, a public accommodation shall consider –

(A) The type, size, and weight of the miniature horse and whether the facility can accommodate these features;

(B) Whether the handler has sufficient control of the miniature horse;

(C) Whether the miniature horse is housebroken; and

(D) Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.



National Association of Guide Dog Users (NAGDU) Education & Advocacy Hotline

Tampa, Florida (March 15, 2011): In conjunction with new federal regulations that take effect today concerning service animals, the National Association of Guide Dog Users (NAGDU), the leader in service animal advocacy, is launching an innovative new service. The NAGDU Education & Advocacy Hotline not only offers information about the legal rights of individuals who choose to use a service animal to mitigate their disability, it offers the option to speak with an advocate who is trained to resolve access denials. According to the new federal guidelines, a service animal is “any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability”. (28 CFR part 35.104 & 28 CFR Part 36.104). The new regulations specifically state, “Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.” In an effort to further clarify its intent, the Department of Justice specifically states: “The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.” (The new regulations concerning service animals follow this release.)

“We find that most access problems are the result of a lack of information,” says Michael Hingson, the Association’s vice president who serves as project manager for the hotline. “This hotline is an excellent resource for accurate information.”

The NAGDU Education & Advocacy hotline currently offers general information about service animals under the Americans with Disabilities Act (ADA), as well as specific guidance concerning restaurants, taxicabs, and health-care facilities. Callers needing immediate assistance can connect directly to a live, trained advocate. Future plans for the hotline include summaries of each of the state laws concerning service animals, more industry-specific information, and guidance in a variety of languages, such as Mandarin and Arabic. The NAGDU Education & Advocacy Hotline is available anytime by calling, toll-free, (866) 972-3647.

The NAGDU Education & Advocacy Hotline was created by a grant from the National Federation of the Blind (NFB) Imagination Fund, as well as with contributions from the California and Florida Associations of Guide Dog Users. The National Association of Guide Dog Users is a strong and proud division of the NFB. NAGDU conducts public awareness campaigns on issues of guide dog use, provides advocacy support for guide dog handlers who face discrimination, supports effective legislation to protect the rights of service animal users, offers educational programs to school and civic organizations, and functions as an integral part of the National Federation of the Blind. For more information about the National Association of Guide Dog Users, visit its Web site at <http://www.nagdu.org> or send an e-mail to info@nagdu.org.



Transportation

Question: Do transportation providers have to verbally announce the stop?

Answer: Yes, if the vehicle is 22 feet or longer and operates in fixed routes.

The Law: Architectural and Transportation Barriers Compliance Board

Published in the *Federal Register* on July 26, 2010.

36 CFR Parts 1192

[Docket No. ATBCB 2010-0004]

RIN 3014-AA38

Automated Stop and Route Announcements

Current Requirements

The 1991 guidelines require buses that are more than 22 feet in length and operate in fixed route systems to provide public address systems for announcing stops. The Department of Transportation regulations requires stops and routes to be announced. These requirements apply to both public transit agencies and private transit operators. Failure to announce stops and routes is a frequent source of complaints to the Department of Transportation and lawsuits against public transit agencies.



Accessible Phones

Question: I am really worried about these new phones with touch screens, how am I going to use them?

Answer: As of October 8, 2010 it is the law that devices be accessible to all; not just the majority of people.

The Law: Twenty-First Century Communications & Video Accessibility Act Becomes Law

On October 8, President Obama signed into law the Twenty-First Century Communications and Video Accessibility Act of 2010. This law contains provisions (and in some areas, specific funding) that will help ensure that deaf and hard-of-hearing and blind or low-vision persons have access to appropriate interfaces for Internet technology, television, traditional telephones and smart phones, emergency alerts/bulletins and other methods of communication.

As technology advances it is imperative to make it adaptable (and accessible) to serve all consumers, not just the majority.

Renting a Car Story


By Roger Frischenmeyer

Because occasionally I have to travel, renting a car has at different times been necessary. For years I used a company that allowed me to rent the car in my name, but since I am blind, I had to add a driver who would actually operate the vehicle. That had never been a problem until recently when I was told that they don't allow additional drivers to be added to a car rental agreement unless it is the person's spouse. I don't have a spouse, and so I explained to them that according to the ADA they have to make their programs and services useable by people with disabilities and as a reasonable accommodation for me they needed to allow me to add an additional driver. At first, they told me "no, they wouldn't do that." But after going up the chain of command they finally decided that they would as long as I provided them a certification of disability. The problem with that however, was that they didn't know where I could get such a certification, or what information it should provide. I finally got the certification, which was a letter from my employer, and was allowed to rent the car. The important thing to remember from this is that knowing what the law says, and being persistent even when they tell you no, is what you have to do sometimes to get your needs met.

Disability Law

This manual is targeting laws and regulations specifically answering questions from individuals who are blind or have low vision. It is not intended to have captured every question, only those from our focus groups. The disability laws listed below apply to all people with disabilities and are the product of tremendous advocacy from the entire disability community.

Air Carrier Access Act of 1986
Americans with Disabilities Act of 1990
Architectural Barriers Act of 1968
Civil Rights of Institutionalized Persons Act
Fair Housing Amendments Act of 1988
Individuals with Disabilities Education Act
National Voter Registration Act of 1993
Pedestrian Safety Enhancement Act of 2010
Section 501 of the Rehabilitation Act of 1973, as amended
Section 503 of the Rehabilitation Act of 1973, as amended
Section 504 of the Rehabilitation Act of 1973, as amended
Section 508 of the Rehabilitation Act of 1973, as amended
Telecommunications Act of 1996



Voting Accessibility for the Elderly and Handicapped Act of 1984