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## Modern Uses of Assistance Animals in the USA: Definitions, Access, and the Laws that Protect Them

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MODERN USES OF ASSISTANCE ANIMALS IN THE USA: DEFINITIONS,  
ACCESS, AND THE LAWS THAT PROTECT THEM

by

Tina Reisner

A thesis submitted in partial fulfillment  
of the requirements for the degree

of

MASTER OF SCIENCE

in

English

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2019

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## ABSTRACT

### Modern Uses of Assistance Animals in the USA: Definitions, Access, and the Laws That Protect Them

by

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Utah State University, 2019

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One of the most arguable issues in our society, and within the field of modern disability policy and law is the epidemic surrounding the use of service animals. With several cases for and against the use of service animals in public entities, there is constant discussion of what is a legitimate service animal and who is able to utilize them. In this thesis, I establish the definition of disability and discuss the laws and policies that legitimized the use of service animals within the public sphere. Specifically, this work will draw upon genres such as policies and laws of disability, and academic research, relating to disability and service animal rights. Drawing upon these different sources, I attempt to discover what defines a legitimate service animal, emotional support animals (ESAs), and therapy animals. I also explore why ESAs and fraudulent service animals are used. By understanding the definition of service animals, ESAs, therapy animals in

contrast to those that seek to pass off common pets as service animals, we can better understand the policies that protect the rights and privileges of these animals. This thesis will close with situations wherein the circumstances are not clear and provide suggestions on what to do in those circumstances.

(39 Pages)

## INTRODUCTION

One of the most arguable issues in our society, and within the field of modern disability policy and law is the epidemic surrounding the use of service animals. With several cases for and against the use of service animals in public entities, there is constant discussion of what is a legitimate service animal and who is able to utilize them. In this thesis, I will not attempt to take sides within this argument; however, I will establish the definition of disability and discuss the laws and policies that legitimized the use of service animals within the public sphere. Specifically, this work will draw upon genres such as policies and laws of disability, and academic research, relating to disability and service animal rights. Drawing upon these different sources, I seek to discover what defines a legitimate service animal, emotional support animals (ESAs), and therapy animals, in contrast to those who seek to pass off common pets as service animals, I explore why ESAs and fraudulent service animals are used. By understanding the definition of service animals, ESAs, therapy animals in contrast to those that seek to pass off common pets as service animals, we can better understand the policies that protect the rights and privileges of these animals.

Within the last several decades, many questionable service animals have been highlighted in the news and other forms of media. In my own personal experience, many have questioned my service animal as well as my disability. This has affected my life in a negative way. Since I was eighteen years old, I have worked with a service animal and have benefited greatly from it. My former guide dog, Butch, helped with my self-esteem, confidence, and independence, which was not attainable for me by only using a white cane to navigate my world as a blind person.

Today, it is estimated that 19.4 percent of people in the U.S have a disability and 0.9 percent of people with disabilities use service animals (Back). Persons with disabilities use service animals for many different reasons. Service animals have been used for decades in the U.S. and have given Americans with disabilities independence, dignity, and confidence needed to succeed in their daily activities.

Therefore, while use could be greater, experience with a service animal is not unique to me, and this practice is common to others. The ADA (Americans with Disabilities Act) has given persons with disabilities rights and privileges to thrive in social, environmental, and professional spheres. One example of this is the right to have the service animal accompany people with disabilities wherever the general public goes with no penalty or special allowances. The ADA has increased opportunities for many with disabilities; however, it is not without its challenges. Many able-bodied individuals with disabilities, mental and physical, seek to pass off their household pet, who has no training or certification as a service animal or ESA, which makes them fraudulent. A fraudulent service animal or ESA is one that does not possess the necessary training, behavioral, and problem-solving maturity to assist their disabled handler. People are confused now more than ever about which animals are legitimate and which are not. For example, vests that say “service animal” or “ESA” are easily available on the internet. Also, identification cards and documentation are easily fabricated. With the readily available attire it makes identifying a legitimate service animal or ESA difficult for all. Fraudulent attire can be obtained easily, and anybody can deem their animal legitimate, so this makes policy and law necessary because of how complex the issue of legitimacy is.

## SERVICE ANIMALS

In order to understand the difference between legitimate service animals and questionable ones, we must first understand what specific criteria defines a service animal. “The role of the service animal, as defined by the ADA, is to perform some of the functions and tasks that the individual cannot perform as a result of their disability. While the use of a service animal may provide some psychological benefits to its handler (e.g. decreased feelings of loneliness and isolation, or increased socialization, these “service animals are typically viewed as tools rather than treatments and do not constitute an animal-assisted intervention” (Kruger; Suprell). Notice that the term “animal” has no specific guidelines nor the specific type of animal that should or should not be used. Therefore, many people with disabilities have utilized various species as their service animals such as cats, snakes, arachnids and many other species. While these specific animals and species may bring relief or service to the individual using them, they can be dangerous to individuals around them.

The ADA’s service animal policy pre-2015 definition of service animals stated that an animal (any specific species could be used, which was ineffective, and led to abuse of the privilege). “As a result, in 2010 the Department of Justice (DOJ) published revised final regulations implementing the Americans with Disabilities Act (ADA) for Title II (state and local government services) and Title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past twenty years and contain new and updated requirements, including the 2010 Standards for Accessible



Design” (2010 Standards). This publication provides guidance on the term “service animal” and the service animal provisions in the Department’s new regulations:

- Beginning on March 15, 2011, only dogs and miniature horses are recognized as service animals under Titles II and III of the ADA.
- A service animal is a dog or miniature horse that is individually trained to do work or perform tasks for a person with a disability.
- Generally, Title II and Title III entities must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.”(US DJ)

Since these changes have taken place, the term “service animal” is defined by the Department of Justice as “dogs and miniature horses that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf to sounds and people around them, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other related duties. The DOJ’s strict regulations specify that service animals are working animals, not pets. The work or task a dog or miniature horse has been trained to provide must be directly related to the person’s disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.”(APA) According to the Department of Justice’s new guidelines, any organization, local, state, or government business that services the public, must permit service animals to aid their disabled handler wherever they go within these areas. “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" (US DJ). Although the ADA's and the Department of Justice's definitions of service animals were similar, the regulations and revisions found in the Department of Justice are the most modern, specific guidelines followed today. Therefore, the ADA has adopted and accepted these new regulations as policy for the definition of a service animal.

## EMOTIONAL SUPPORT ANIMALS

In addition to making amendments for service animals' definition and usage, the Department of Justice redefined and set regulations for emotional support animals as well. -According to the Department of Justice's new guidelines, emotional support animals are animals that bring emotional aid and stability, reduces stress and anxiety, and help with loneliness. The animals do not have a specific task that they perform; their purpose is to exist and bring comfort in stressful overwhelming environments for any individual at any age. In most cases ESAs start out as common house pets, bringing joy, companionship, and love to every member of the family. The evolution of these pets' roles start to shift when children start to see their pets as part of the family, or friends, as well as opening up the social barrier of communication with other people. These animals make it so that confidence takes the place of anxiety and awkwardness within the individual. The animal also provides safety, positive interaction, and elevated self-esteem where the individual was lacking. Pets and humans share a nonverbal and verbal connection of love, acceptance, and non-judgmental perception of each other. The need to have them as companions in their environment is desirable (Lookabaugh; Triebenbacher).

To illustrate the importance of the evolution of emotional support animals as compared to pets, a study was performed at The University of Pennsylvania in 1993: "A study was done regarding children's usage of pets as transitional objects and the contributions of pets to children's emotional well-being were examined. The sample included ninety-four boys and eighty girls in preschool through grade-five; 70% were current pet owners, and 30% were not pet owners. Each participant was individually

interviewed using a structured interview format of twenty questions for current pet owners and three questions for non-pet owners to assess perceptions about the role of friendships between animals and humans, shared activities between children and pets, ways animals and humans communicate love for one another, types of verbal and nonverbal communication and interactions between animals and humans, and ways animals provide love, security, and emotional support to humans. Findings showed that children perceive their pets as special friends, important family members, and providers of social interactions, affection, and emotional support” (Kruger; Serpell). This study qualifies the importance of companionship of animals and why ESAs are used to help individuals such as children with their emotional needs.

I will discuss the two laws that protect Emotional Support Animals: the Air Carrier Access Act and the Fair Housing Act. The AAC was established in 1986 under the U.S Department of Transportation, this allows emotional support animals access to board the plane with their handler. Set regulations for this access requires certain provisions. “Airlines may require documentation that is not older than one year from the date of your scheduled initial flight that states if:

- You have a mental or emotional disability that is recognized in the Diagnostic and Statistical Manual of Mental Disorders (DSM).
- You need your emotional support or psychiatric support animal as an accommodation for air travel and/or for activity at your destination.
- The individual providing the assessment is a licensed mental health professional and the passenger is under his/her professional care; and

- The licensed health care professional's: date and type of professional license and jurisdiction or state in which their license was issued.

If the required provisions are not provided for the emotional support animal, the airline has a right to deny the ESA access to board the aircraft" (Transportation).

The other law that protects the access of ESA's is the Fair Housing Act.

Established "in 1968, the act expanded on previous acts and prohibited discrimination concerning the sale, rental, and financing of housing based on race, religion, national origin, sex, (and as amended) handicap "(disability), and family status.(The Fair Housing Act) The Fair Housing act advocates for a ESA's legal presence to accompany their owner, meaning the animal is viewed as a "reasonable accommodation" under the Fair Housing Amendments Act of 1988 (FHA or FHAct) to those housing communities that have a "no pets" rule. Most times, an emotional support animal will be seen as a reasonable accommodation for a person who desires the support of an ESA. Under the FHA, a disability is defined as a physical or mental impairment which significantly limits a person's major life activities. Even if a lease says "no pets" or restricts pets, landlords are required to make what is called a "reasonable accommodation" to allow pets who serve as assistance animals, which includes animals who provide emotional support (Sechser).

## PTSD SERVICE DOGS

A PTSD (Post-Traumatic Stress Disorder) service dog performs much more than physical help to their handler; they give psychological security and comfort to those struggling with the aftermath of a traumatic event such as wars, abuse, and hostile situations. PTSD dogs occupy the definition of both a service dog and emotional support animal. They occupy emotional support animals' definition because they provide comfort through emotional distress. For example, a war veteran with PTSD may struggle with post war stress, anxiety, and triggers from past experiences during his or her time of combat. Veterans with Post-Traumatic Stress Disorder (PTSD) are more likely to have depression, feel isolated, and commit suicide. They occupy the definition of service animal because they are specially trained to perform a specific task to guard and protect their handler against situations that would put their handler in emotional, traumatic, or even physical distress. The U.S. Veterans Association has shown that individuals dealing with PTSD who utilize a dog for psychological comfort purposes can handle their symptoms better and think more clearly. People with PTSD continue to struggle with psychological health. Veterans who have PTSD are most affected along with the doctors and counselors that aid them. However, with the help of PTSD dogs and the services they provide, veterans will better be able to cope with their emotional and physical challenges.

## ASSISTANCE THERAPY DOGS

“Assistance therapy animals assist therapists in helping clients with a multitude of goals such as improving self-esteem and developing social skills, as well as providing help for anxiety and post-traumatic stress disorder” (PTSD). They also work in a wide variety of clinical settings from psychiatric hospitals to nursing homes. There are many forms of assistance animals. One major type is a therapy animal used for pet therapy. “Pet therapy is a broad term that includes animal-assisted therapy and animal-assisted activities. Animal-assisted therapy is a growing field that uses dogs or other animals to help people recover from or better cope with health problems, such as heart disease, children having dental procedures, people receiving cancer treatment, people in long-term care facilities, people with cardiovascular diseases, people with dementia, veterans with post-traumatic stress disorder, and people with anxiety” (Mayo Clinic). Studies have also shown that those visiting the facility where animal therapy visits are taking place say they also leave feeling happier (Mayo).

Assistance therapy animals help in providing companionship for nursing home residents, visiting disabled children and vets in rehab hospitals, and so much more. “Animal-Assisted Therapy (AAT) is a goal-directed intervention in which an animal that meets specific criteria is an integral part of the treatment process. AAT is directed and delivered by a health and human service professional with specialized expertise, and within the practice of his or her profession.”(Kruger) These animals are used in a case by case basis for individuals in hospice or for a treatment process that would benefit from a therapy animal presence and interaction. “The Oxford English Dictionary defines *therapy* as “the medical treatment of disease; curative medical or psychiatric treatment” (ADA).

Pet Therapy works in this manner: A patient is in a hospital, the doctor explains the hospital's animal-assisted therapy, then makes sure the patient is interested. If the patient agrees, the doctor then arranges for a representative to tell the patient more about the program. After the instruction, an assistance therapy animal and its handler visit the hospital room. They stay for ten to fifteen minutes. The patient is allowed to pet the animal and ask the handler questions. After the visit, patients feel a little less tired and a bit more optimistic about treatment. When trained correctly, and with the right temperament, these animals can have significant influence on an individual's healing treatment. Though no classification of species is determined for this job, medical professionals and treatment facilities have seen great benefits and an increase in happiness and satisfaction in their patients (APA).

Many persons with disabilities have utilized various species as their therapy assistance animal. While these specific animals and species may bring relief or service to the individual using them, they can be dangerous to individuals around them. If no specific definition is given, and strict policies are not put into place concerning what constitutes a legitimate service animal, ESA, or therapy animal the privilege given to the handler and the animal will become abused. Clear boundaries must be put in place for all three categories of animals. This is crucial to my research and for the benefit of those who utilize these specific types of animals.



## COMPARISON OF THE FOUR TYPES: SERVICE ANIMALS, PTSD SERVICE ANIMALS, EMOTIONAL SUPPORT ANIMALS, AND ASSISTANT THERAPY ANIMALS

In this section I will be talking about the three major comparisons between service animals, PTSD dogs, emotional support animals, and assistance therapy animals. I will be comparing these four types of assistance animals to alleviate any confusion between them. By comparing these four types of animals, I hope to emphasize and clearly define the distinctive characteristics between them. The three comparisons I will be making focus on access, types of laws, and differences in training for the specific animal. I am also using these comparisons to show how easy it is for organizations and people to confuse these different categories because all four types of assistance animals have similar tasks that they perform for psychological and mental disabilities.

The definition of service animals or emotional support animals overlap in accessibility to some public entities (Department of Justice). “In public access, a service animal can go anywhere its owner goes, while owners of emotional support animals may get away with bringing them into places where pets aren't allowed, the only places legally required to welcome them are aircrafts”(Sechser)— this law is known as the ACAA, Air Carriers Access Act. According to the ACAA, emotional support animals do not have to wear a vest or special ID tags to be granted access; they are only required to have written documentation. Service animals, specifically in the ADA Disability Rights section, states service animals do not have to wear a vest, ID, or special tags to be granted access into public entities. Also, no documentation needs to be shown. This can be especially tricky for employers or law enforcement to regulate who is a service animal and who is not. It is hard to clearly identify who needs service animals that are used for people with visible

and invisible disabilities, so it can be hard to clearly identify who is using a legitimate one and who is not. Since service animals do not have to wear I.D tags or proof of documentation to gain access into public entities, anyone can claim their common dog is a service animal on the base that there is no law requiring any sort of identification. This is a problem because those with legitimate service animals' access will be questioned due to the misbehavior of a questionable common pet who was passed off as a service animal, but behaved extremely poorly.

Another source of confusion for regulating service, emotional support, and assistance therapy animals concerns the different laws that apply to these animals. There are significant differences between them still. The differences that drastically separate service animals from ESA's are the legal protections, and public access laws. "Regarding legal protections, while the Americans with Disabilities Act protects service animals, it does not cover emotional support animals. Emotional support animals are covered only under the Air Carrier Access Act and Fair Housing Act" (Wisch). Assistance Therapy Animals have no laws protecting them. A confusion that is often presented with emotional support animals and service animals happens in airports when handlers try to have the ADA protect their ESA's in airports to try to have the same access benefits as service animal teams. Some of the service animal ADA benefits include; no documentation provisions at gate, no advance notice for flying, and no crates or kennels required. This is a problem because ESAs are not specially trained, nor do they have the social stamina to behave on a flight appropriately as a service animal does. They can cause accidents and casualties on the aircraft that could have been avoided if provisions were followed for the different types of assistance animals.

The different levels of training that define service animals, ESAs, and therapy assistance animals, are a third source of confusion that makes them difficult to regulate. Service animals protected under the ADA require years of training from birth as well as special training from an accredited organization. ESAs and therapy animals require no training nor need to be from an accredited organization. PTSD dogs covered under the ADA require training from an accredited organization: however this training does not have to be from birth and can be done by the owner or a hired individual as well. A confusion that can arise with training is when an ESA team tries to gain the same privileges as a trained service animal team. A problematic result of their actions can cause businesses to see this lack of training in an animal, and request that no animals come into their establishment. As a result, legitimate certified service animals have their access rights questioned. They then have to defend themselves against the establishment using ADA law to assist them.

The duties of service, therapy, and emotional support animals have overlapping jobs and services that they perform, so the boundaries that are made to separate each type is not clear. Therapy animals give someone who is emotionally and psychologically struggling comfort, but so do emotional support animals. In juxtaposition, so do service animals for people struggling with PTSD. Both types of assistance animals' access particular buildings and facilities, and both types of assistance animals do not have a clear guideline for the type of species they have to be to perform their duty. Although these animals have a specific duty many people try to abuse their specific guidelines. The trouble comes when those who benefit from either type of the assistance animals (ESA or therapy animal) try to pass them off as service animals and push for the same rights and

privileges as someone with a physical disability, whose quality of life depends on the help a service animal can provide. The table below elaborates more and gives a visual comparison mapping out the differences and similarities between the four types of animal's individuals with physical and mental disabilities utilize on a daily basis (see table 1).

Table 1.

	Service Animals Protected under the (ADA)	Emotional Support Animals (ESAs)	Therapy Assistance Animals (Pet Therapy)	PTSD Animals Protected under the ADA
Recognized Assistance Animals	Only dogs and miniature horses.	Can be any animal	Dogs or other animals	Dogs and miniature horses
What places the animal can access	All areas where members of the public are allowed to go.	Can publicly access two places: Planes (ACAA), and Public Housing Units (FHA).	Hospitals and retirement homes.	All areas where members of the public are allowed to go.

Laws and Policies regarding the animal	ADA: Can only be asked two questions regarding access and legitimacy.	FHA and ACAA: Letter is needed from a medical professional.	None.	ADA: Can only be asked two questions regarding access and legitimacy.
Training needed	Years of training from birth, as well as special training from an accredited business.	No task or specific training is required.	No training is required.	Training is required for public access and for PTSD fits.  However, this training can be done by the handler or a business.
What the animal's purpose is	Individually trained to do work or perform specific tasks.	Assists through its presence alone.	Help people recover from or better cope with health problems.	Help prevent significant psychological and health challenges to veterans.

Table 1

Delta Airlines policies and their efforts to regulate the types of emotional support animals are instructive, and the next section discusses what have they tried to do to regulate the type of animal that comes on board, and what are they doing now to their policy to protect the employees working on the aircraft and the passengers. I will use the example of Delta Airlines because they are the most popular, most discussed in the media, as well as the most represented regarding policy changes for ESA's and protection of service animals.

## DELTA'S POLICY CHANGES

The ADA is not the only enforcement that has worked to establish access rights as well as restrictions with service animals, ESAs, and assistance animals. Many businesses have attempted to enforce strict policies to protect the rights of the business, individuals using their services, and their employers against questionable service animal and ESA teams. One major business that has attempted changes in their policy is Delta Airlines.

Delta Airlines, in compliance with the ADA and Air Carrier Access Act (ACAA) welcomes all service animal and ESA teams on board their aircrafts. Prior to their stricter policy that started changing in 2017 with ESAs on board, their access policy was quite lax. Between the years of 2016 and 2017 animals such as ferrets, birds, amphibians, and cats were allowed on the aircraft to sit with their owner in the cabin with no documentation or prior authorization from the airlines. According to Delta there was an 84% increase of reported accidents involving both ESAs and service animals, “including an accident where an emotional support dog attacked a fellow passenger on the plane” (People). The increase in related service and ESA accidents has caused Delta Airlines to amend and tailor their policies to the response of accidents from service animal and ESAs. Additional accidents include:

- “Pig: In November 2014, a pig was removed from a US Airways flight after it became “disruptive.” A passenger on the plane told ABC News, the pig was tethered to an arm rest, walking back and forth. Eventually, both pig and human owner were asked to leave the flight.
- Duck: Carla Fitzgerald was flying between Charlotte and Asheville in North Carolina when she was papped with her feathery friend, a duck named Daniel

Turducken Stinkerbutt. She was a PTSD sufferer who had been hit by a taxi driver in 2013, and later received certification to take Mr. Stinkerbutt with her on board flights as an emotional support pet.

- Dalmatian: They may be lovable in animated form, but a passenger flying from Tucson to Chicago for a funeral was made uncomfortable by the presence of a large Dalmatian. As the Huffington Post reported in 2016, Maureen Van Dorn found herself seated beside a large Dalmatian brought on board as a support animal. “I was shocked by the size of this dog,” she said. “When the traveler in seat 3A stood up, the dog was able to put his paws on the man’s shoulders.”
- Cat: Donna Wiegel was on a flight between Baltimore and Chicago when she saw a passenger at the gate with a cat. The asthmatic alerted officials to her respiratory problems and allergy to cats but soon found herself sitting on board, just a few rows away from the feline passenger. The result? Wiegel was removed from the plane to avoid a “medical incident,” rebooked on another United Airlines flight, driven from Baltimore to Washington Dulles and reached Chicago five hours late.
- Monkey: In 2016, Jason Ellis found himself in trouble when he tried to fly with his emotional support marmoset. The trouble wasn’t the miniature monkey, but rather Ellis’s failure to produce the correct paperwork. The “misunderstanding” was resolved when the plane landed in Las Vegas, but unfortunately Ellis was unable to fly back to Ohio after being put on Frontier Airlines’ no-fly list.
- Turkey: In January 2016, a passenger was able to provide Delta Air Lines with papers proving that a turkey was their emotional support animal. The bird even received VIP treatment as it was rolled through the airport in a wheelchair. One



Reddit user, who posted the picture said, “My neighbor is a flight attendant. He just posted this photo of someone’s ‘therapy pet’ on his flight” (O’Shea, Ronan J).

In response to these accidents, Delta made their first amendment to the service and ESA policy at the end of 2016 year. Delta understands the diverse needs that people have. In a statement given by Delta on Deltaairlines.com it clarifies the expected policy that they “do not permit the following as service or emotional support animals, as these animals have in the past and may continue to pose a safety or public health concerns” (CertaPet). These include ferrets, insects, any form of rodents, snakes, “sugar gliders, reptiles, amphibians, goats, non-household birds (farm poultry, waterfowl, game birds, & birds of prey), animals improperly cleaned and/or with a foul odor, animals with tusks, horns or hooves. Delta has assured customers that there will be no additional fee for service animals or emotional support animals. However, Delta would like advanced notice of needed accommodations for the service dog/ESA and their owners” (Delta). But this request is not a requirement.

Delta requires emotional support animals who will be “traveling in cabin need to be either fit on the floor in front of the passengers, on passenger’s lap, or in a carrier that will fit under the seat in front of one’s legs. Animals will not be permitted to occupy seats reserved for human passengers. Additionally, any and all service animals will have to be extremely well behaved, and not serve as either a disturbance, and distraction, or a danger to any other passengers on the flight” (Delta). Also proof from a reputable source is requested, but is not necessary.

Documented vaccine and medical personal “proof will be required of the emotional need of passengers traveling with emotional support animals in the form of a

doctor's, or mental health professionals, letter on professional letterhead not more than a year old. The passenger's mental health condition, or need, must also be recognized within the fourth edition of the *Diagnostic and Statistical Manual* in the American Psychological Association" (APA). In addition to these access policies, an update was made in 2018 regarding the age appropriate to bring an ESA on board. The policy states that any animal under four months of age will not be permitted on the aircraft because of unverified vaccination. Additionally, ESAs are no longer allowed to fly on flights longer than eight hours long. Both changes were introduced in 2018 and took immediate effect on February 1, 2019, not required before but as of July 10, 2018: each patron is only permitted one emotional support animal. "We are no longer accepting pit bull type dogs as service or support animals." (Carta Pet).

Delta has also restructured and emphasized their policy for service animal access. Minor changes have been made to ensure the safety of everyone involved. One change is that pit bulls who serve as a service animal or ESA are no longer permitted on the aircraft. The amended policies for emotional support animals have increased safety for both passengers and employees of the airline. The updated policies Delta Airline has put in place for service animal users goes as follows: customers are encouraged (not required) to send the animal's training and certification documentation at a minimum of forty-eight hours before a flight. Trained service animals do not have to present documentation to Delta Airlines, only emotional support animals have to. Passengers traveling with service animals may present a copy of vaccination records instead of the Veterinary Health Form: this is only possible if the vaccination dates and veterinary office information are on the records.

These requirements listed are suggestions for the safety of others more than requirements to fly as a team. Since service animals are recognized and protected under both the ACAA and the ADA service animals are allotted more access rights on their aircrafts (Delta). One of the big challenges Delta has faced as they try to increase the safety for those involved in air travel was to enforce time regulation within their policy. In a report by CBS News, Delta received a lot of backlash regarding their attempted time policy. This policy attempted to force persons traveling with an ESA and a service animal to notify the airline forty-eight hours prior to traveling on their aircraft (CBS app).

While some disability organizations “are cheering Delta Air Lines’ new, stricter rules for those traveling with service or emotional support animals, many long-time guide dog users and organizations that advocate for travelers with disabilities say the guidelines, which require added documentation and pre-planning, are overreaching, discriminatory, and illegal”(CBS News). The disability community responded with overwhelming opposition to this policy. One organization that responded to the forty-eight-hour policy was the National Federation of the Blind, the biggest blindness advocacy organization in the country. Says Riccabono, President of the national organization, says it’s illegal and discriminatory.

He continues to state that, “the National Federation of the Blind believe elements of Delta’s policy, which goes into effect March 1, violates the Department of Transportation’s Air Carrier Access Act.” “We are particularly troubled by the attempted requirement that guide dog users submit paperwork to Delta forty-eight hours before flying,” the NFB said in a statement, noting that “travelers without guide dogs are not required to plan their travel forty-eight hours in advance.” The forty-eight-hour “intent-

to-fly” requirement means guide dog users “will no longer be able to fly on Delta for family, medical or other emergencies,” said the NFB. Many organizations like the NFB echo their disagreement as words as well. Guiding Eyes for the Blind, a certified guide dog school that trains dogs for blind people for traveling, running, and independence housed in Yorktown Heights, New York, expressed their disagreement and confirmed the words of Riccabono (Baskas). After repeated complaints from both organizations Delta Airlines removed this statement from the policy allowing service animals and ESAs teams to buy their tickets without having to disclose forty-eight hours ahead of time of their desired departure date with their service or ESA animal.

Businesses like Delta Airlines are not the only ones who are struggling to weed out questionable service animals and ESAs teams. Many entities including state and national law enforcement have suggested a registry for service animals and ESAs. This registry would keep tabs on working service animal teams, and emotional support animals. Some benefits to having a mandatory registry could be “providing documentation to support your animal’s special status. The primary benefit of service dog registration is that it can eliminate problems with companies who question your dog’s right to stay with you and fulfill its important function” (Garcia). Another reason to register your animal is to reduce “housing discrimination. Like many commercial businesses, landlords are often unaware of the protection offered to service animals. By providing documentation, you can assure your landlord that your pet is medically necessary and protected under ADA and the Fair Housing Act. Finally, support for veterans – by registering with the USA Service Dog Registry, you are helping to support veterans, as well. We proudly donate to Paws for Veterans, an organization that pairs

shelter dogs with returned military personnel who may suffer from PTSD and other challenges” (Garcia). Though there are many benefits to registering your service and ESA, there are many drawbacks as well. Disclosing that your animal is used for a particular disability is not necessary. All individuals have a right to their privacy and are protected under the ADA.

Everything that Delta has done to tighten their policy on regulating service and ESAs has decreased the number of ill-mannered ESAs or questionable ones have decreased exponentially. Delta’s mandatory policy in response to the casual accidents they have had by animals such as cats, ferrets, pigs, turkeys and such is that only dogs are permitted to travel in the cabin with their handler free of charge. Delta has also enforced the policy that dogs that accompany their handler must remain on the floor in front of them and not to ever occupy the seats. In addition, Delta has made a mandatory policy that all ESA teams must present their documentation to a Delta employee prior to flying, either in person or online by filling out their emotional support animal travel form. This particular policy does not apply to certified service animals, only to ESA teams.

Yet another business is doing the same thing as Delta with policy changes, and like Delta, this business is trying to secure the safety of their employees and customers. Their efforts are improving the access of legitimate service animals slowly

## WALMART POLICY CHANGE

Another major business that has struggled to regulate the animals that come through its doors is Walmart. People have found loopholes to bring their dogs, cats, and even rodents into Walmart, claiming they are they're emotional support animals. But unlike certified service animals, ESAs are not allowed in Walmart (ESA Doctor). As a result, Walmart has tightened and changed their service animal and ESA access policy. Walmart welcomes persons with disabilities who require the assistance of a service animal into their store with open arms. They understand that this is a reasonable accommodation as well as an appropriate modification to their "no animals allowed in their store" as a general rule (Walmart). Walmart has stressed heavily that service animals are more than welcome in their stores on the condition that they are trained and have good behavior. Some examples of ill-behaved animals in Walmart are dogs defecating on the floor or the store, excessive barking and growling at fellow shoppers, or other animals in the store, and biting, jumping, and riding in shopping carts instead being on the floor where they belong (Walmart).

For years, Walmart has struggled to regulate which animals come into their stores, and what services they perform to warrant their presence. Walmart, like so many other businesses have struggled to regulate the animals and have been seeking appropriate access accommodations policies. Delta and other airlines have established strict guidelines to their service animal access policy in response to incidents similar to when United Airlines changed their policy after one passenger attempted to claim a peacock as an emotional support animal. In response to airlines high profile ADA and ACAA policies, Walmart seeks to follow similar policy changes.

Walmart's decision to take “action comes as more companies are finding problems arising when people expand and abuse the definition of comfort and support animals and claim having them at their side is an important health benefit.” (Price). According to *Florida Today News*, “as people become more pet friendly, with many wanting to take a dog or cat almost everywhere that people go, companies are having to handle that issue with others who might have allergies, or with some animals being unruly and even relieving themselves in a store” (Blanck).

Figure 1. Image of a window sign with a dog in a harness on a blue background with the words, “Service animals welcome, no pets” below the harnessed dog there are the ADA rules and regulations of what constitutes a service animal.

An example of a way Walmart has changed their policy was by adorning each entrance of their store with signs around the United States reminding customers that "comfort" and emotional support animals aren't allowed. It doesn't impact service animals as defined by the Americans with Disabilities Act



*Figure 1 (Photo: Wayne T. Price/FLORIDA TODAY).*

By providing this sign right outside each entrance to their store, Walmart is setting a clear standard of which types of animals are acceptable that shoppers must adhere to. The sign is both clear and direct leaving no room for abusing its access guidelines. The sign is placed to remind people of the law. A Walmart spokeswoman told Florida Today the retailer's policy isn't changing, but the new signage was simply to remind people its position on non-service animals in its stores (Price) “We just wanted to make a clarification,” said Tara Aston of Walmart. “Sometimes it’s a little murky what is, and isn’t, allowed when it comes to animals in our stores.” Marc Bekoff, an animal



behaviorist and author of the recent book *Canine Confidential*, said the crackdown by Walmart, airlines and other business are “probably a response to the abuse by people with emotional support pets” (Price).

In 2009, the Department of Justice “entered into a settlement agreement with Walmart Stores, Inc. that defines service animals, clarifies management and worker responsibilities, and includes a store policy that Walmart must implement. The DOJ also publishes an informal business brief, a guide for small business, and technical assistance manuals that address service animals. While not precedential, it does provide a plain language description of the issues and what terms one of the largest global retail companies and the U.S. Attorney found acceptable “(ADA Guide) when accepting the types of animals into their store. Walmart has made it clear that only trained service animals defined by the ADA are welcome in their store. Walmart has followed section II of the ADA law, which is a nondiscrimination agreement that businesses have to implement but can also set clear guidelines and provisions stating only service animals are allowed to enter their facility. (ADA).

## RECOMMENDATIONS FOR MOVING FORWARD

Businesses like Delta Airlines, Walmart, and others have laws that protect them just as much as those with service animals and ESAs. Businesses need to understand that though many individuals may abuse the system by attempting to pass their pets off as service animals, or disguise their dogs with questionable service animal paraphernalia, they have the right to tighten their policies, and push back to protect their employees and customers that use their business. If stores followed the example of Walmart and put up signage that outlines what types of dogs are acceptable and welcome in their stores, the questionable service animal regulation would become more tolerable and easily handled.

While writing this thesis I have come to realize that no strategies or recommendations are perfect, but with that in mind I have come up with five solutions that may constitute as helpful considerations. This is not a catch all; simply five solutions businesses should try to implement if they are trying to regulate the types of animals that come into their businesses or establishments.

1. Corporations and business must have a clear understanding of the definitions of all four of the major types of animals that give various kinds of assistance to persons with physical, mental, and psychological disabilities and illnesses.
2. Corporations and employers must know how to train their employees which of the two questions they are allowed to ask a service dog team that comes into their establishment. “Question one: is the dog a service animal required because of a disability? Question two: what work or task has the dog been trained to perform”  
(Department of Justice)

3. Businesses should put up a sign that clearly states their expectation of what types of dogs are permitted into their establishments. For example, following the signage that Walmart has adorned on every entrance and exit.
4. Understand that disability is not a linear characteristic, neither is it always visible. Therefore, employees should always ask the person with the disability directly concerning their service animal.
5. Employers and employees must know that they have rights and what those are to protect their business and their customers. The law is also on their side. The ADA serves both persons with disabilities and those who interact with them.  
(Corporations need to help push for this right). There are materials such as the ADA Small Business Guide. In this guide, a chapter for the protection of businesses and the proper procedure is discussed to interact and work with customers, employees, and associates with disabilities.

## ENDING THOUGHTS

Through research for this thesis I have learned about different policies that have been implemented by businesses who have sought to find regulation and strategies that protect the rights and safety of themselves and their customers. Based on definitions provided by the ADA and Delta Airlines only one breed of animal constitutes as a service animal or ESA. Posted signage on entrances to businesses have provided clear boundaries to help regulate access in these public entities. In contrast, definitions and purposes of an assistance therapy animal can be any species of animal and provide emotional and psychological support. I have learned that regulation for the types of animals that enter in an establishment will not be controlled unless the right kind of security is implemented to protect the businesses, the animal, and the customers involved.

The challenges businesses face trying to create policies and laws for service animal and ESA access is not an easy, black-and-white issue. This is because the definitions and guidelines that have been established are not always followed because individuals abuse these guidelines. However, businesses also are not educated on the definitions and regulations regarding service animal's and ESAs access rights. Businesses and corporations need to know they have rights under the ADA to refuse questionable animals' access. Corporations need to train employees to ask the two defining questions to all questionable animals that access their buildings. Though this could be implemented in corporations, it is difficult to execute because anybody can answer the questions in a manner that suits the requirements for access. Although this could be false information, corporations are still limited to these two questions. Therefore, future research should

focus on how to establish a federal law that allows businesses to clearly identify service animals.

In my thesis, I have clearly identified the definitions and duties of the four major types of assistance animals: service animals, emotional support animals, PTSD dogs, and assistive therapy animals, I've also compared all four. In my research of these types of assistance animals, PTSD dogs do not have clear definitional boundaries since they are both a service animal, which falls under the ADA, and an ESA, which provides comfort for its handler. Delta's policy has set the standard that other businesses and corporations have implemented for service animal access regulation. Delta clearly stated on their website that ESAs are held accountable for limited access on their planes, whereas service animals have less of a limitation. After seeing the high-profile policy changes of Delta, Walmart implemented some policy changes of their own by putting up clear signage as a visual representation of their expectations from customers of what is allowed and what is not in their stores.

Further research should be focused on corporations receiving the proper education on their rights, as well as the rights of those with disabilities who require the assistance of a service animal. If these rights are not understood and corporations feel they have no voice, abuse with ESAs and questionable service animals will continue and be on the rise. In order to ensure safety, justice, and equal rights for all it is important to hold organizations accountable for access, while understanding that it is a complicated situation for businesses because anyone can claim that their dog performs a certain function, and that they are in their rights.

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