

# No Pets Allowed: Accommodating Pets in Housing and Public Places

January 16, 2019

By: Scott A. Marcus



Anyone who has had the honor of sharing their life with a dog can relate to the experience of looking into your fur-baby's eyes and feeling a sense of calm. In fact, research has revealed that petting a dog for a short period of time may actually lower blood pressure.[1] So, does this type of "emotional support" qualify a dog as an Emotional Support Animal? This blog post contains a very brief

discussion of the distinctions between a "service animal" and an "emotional support animal." This is by no means intended to be an exhaustive analysis of Florida and Federal laws relating to animals and disabilities.

In Florida, a "Service Animal" is "an animal that is trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability." [2] The Florida law is not dissimilar to the Federal Law which is contained within the Americans with Disabilities Act (ADA), however the ADA has a more restrictive definition of a service animal defining them as "dogs that are individually trained to do work or perform tasks for people living with disabilities." The key distinction between a service animal and an emotional support animal is that the service animal must be trained to perform a specific task or tasks for an individual with a disability. Examples include: (i) guiding the visually impaired, (ii) reminding a person to take their medication, or (iii) detecting the onset of a seizure. Neither the Florida law nor the Federal law recognize emotional support animals as service animals and although these animals have therapeutic benefits, they are not individually trained to perform specific tasks for their handlers. An individual with a disability has the right to be accompanied by their service animal in a housing unit that has a "no pets" rule as well as all areas of a public accommodation that the public or customers are normally permitted to occupy. [3] These include hotels and other lodging, public transportation, and restaurants, to name a few.

An "Emotional Support Animal" on the other hand is not specifically trained to

perform any tasks and therefore, unlike the service animal, is not granted access to places of public accommodation. The benefits are purely limited to housing accommodations. An emotional support animal is viewed as a “reasonable accommodation” in a housing unit that has a “no pets” policy for its residents under both the Florida and Federal Fair Housing Acts. But for several exceptions, these reasonable accommodations must be made within apartments, condominiums, and single family homes so long as the person requesting the accommodation provides the appropriate supporting documentation from a health care professional indicating that the person has a physical or mental disability, how the disability substantially impairs a major life activity of the person, and how the animal ameliorates the effects of the disability.

Airline travel is a bit unique. The U.S. Department of Transportation has provided an excellent summary on its website.

<https://www.transportation.gov/individuals/aviation-consumer-protection/service-animals-including-emotional-support-animals>. Under the Air Carrier Access Act (ACAA) a service animal is any animal that is individually trained or able to provide assistance to a person with a disability; or any animal that assists persons with disabilities by providing emotional support.

Documentation may be required of passengers needing to travel with an emotional support or psychiatric service animal.

*Scott A. Marcus is a shareholder in the Real Estate Practice Group of the Florida based law firm of Becker and Poliakoff, P.A as well as an animal lover and doggie daddy. For further questions concerning animal accommodations in housing, email Scott at [smarcus@beckerlawyers.com](mailto:smarcus@beckerlawyers.com) or call (954)364-6045.*

[1] <https://www.countryliving.com/uk/wellbeing/a23503266/petting-dog-lowers-blood-pressure/>

[2] F.S. 413.08(1)(d)

[3] F.S. 413.08(3)