Understanding the Law – Individuals with Disabilities and Service Animals

We've all heard the terms – guide dog, service dog, companion animal, emotional support animal (ESA), and even service horse. In some cases, the limits have been stretched with attempts to even include birds, reptiles, etc. as service animals or emotionally necessary to support their owners and/or handlers with disabilities. In one 2018 situation, United Airlines had to deny access to a passenger in New Jersey who attempted to board a commercial flight with a peacock the owner identified as an emotional support animal. But, really, what are the legalities that regulate the appropriate use of support animals with respect to individuals with disabilities? What do the rules say?

At the federal level, the laws that address use of support animals are the Fair Housing Act (FHA), the Americans with Disabilities Act (ADA), and the Air Carrier Access Act (ACAA). The FHA comes from Title VIII of the 1968 Civil Rights Act and prohibits discrimination concerning the sale, rental, and financing of housing based on seven protected classes, including disability. That law provides protections for animals other than service dogs and also includes companion animals and emotional support animals regarding housing. The FHA Considers those animals reasonable accommodations provided by landlords and HOAs even if standard policies prohibit animals or charge extra fees for them. The 1990 ADA covers only service dogs and miniature horses that are "...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." The ADA allows an individual with a disability to take a service dog or miniature horse in all places covered by the ADA where members of the public are allowed to go. The ACAA addresses individuals with disabilities who need their support animals with them on passenger airlines, and there is some flexibility regarding the type of animal permitted and documentation required. Carriers are not required to allow all types of animals in the cabin or cargo hold and they may adopt policies regarding how the animal may be transported.

The ADA is the most commonly referenced law because it applies to more environments than the other laws. For the purpose of this article, we examine the ADA and its rules regarding service animals that meet the above stated definition and how they apply. As stated, the animal must be a dog or miniature horse AND the animal must be individually trained to do work or perform tasks for the benefit of an individual with a disability. The tasks performed must be related to the person's disability or disabilities. If a dog or miniature horse is not trained but just naturally starts performing a task that helps an individual with a disability, it is not considered to be a service animal under definition of the ADA. The tasks a service animal performs can vary, including but

Continued on Page 2...
Understanding the Law - Service Animals
continued from page 1

not limited to: guiding someone who is blind/low vision, providing stability, picking up dropped items, pressing door buttons or opening doors, signaling sounds for a deaf person, or indicating high blood sugar, pending seizures, or anxiety attacks.

Businesses cannot charge extra fees to customers with service animals and cannot disallow a service animal based on other customers’ allergies or fear of dogs. A business or other public entity may only ask two questions of an animal’s owner or handler: 1) Is it a service animal required because of a disability? and 2) What task(s) is the animal trained to perform? They cannot ask about the person’s disability nor ask for demonstration, certification or documentation. A vest or other ID is not required beyond standard community dog registration tag rules.

With the rights of service animal owners also come several responsibilities. If the animal is disruptive, threatening, or not housebroken, the owner can legally be asked to remove it from a public place but the person must be welcome back without the animal. If the animal causes damage, and the business typically charges all customers for damage they cause, the business may charge for damage caused by a service animal. A business or other entity is not required to provide food or care for a service animal because that’s the owner’s or handler’s responsibility. Wild or domestic animals other than dogs and miniature horses, whether trained or untrained, are not considered service animals under the ADA. The service animal must be under the handler’s control at all times and must have a harness, leash, or other tether unless the handler is unable to use it or its use would prevent the animal from performing its tasks. In that case, the person must use voice, signal, or other effective means to maintain control of the animal. The ADA does not protect service animals in training, but most states have laws providing animals in training the same allowances as fully trained animals.

It’s important to note that all citizens have responsibilities regarding service animals and animals in general. For example, almost all states have laws that protect service animals from interference, theft, and assault. Depending on the state, violators can be charged with a misdemeanor at minimum to as significant as one year imprisonment and a $10,000 fine for intentionally injuring a service animal in California. In states with such laws, restitution is required for having caused injury to service animals. The 2019 Montana Legislature passed HB 439 making misrepresentation of any dog as a service animal when it is in fact not a service animal a misdemeanor. According to the introductory statement of the bill, HB 439 was passed partially due to the increased occurrence of people bringing pets, therapy animals, or ESAs where they are otherwise not allowed and partially based on the public mistrust of service animals due to frequent misuse of the accommodation by those who don’t need them. This new law may prove somewhat problematic to enforce as the reporting of non-service animals represented as service animals is based solely on the opinion of a businessperson and whether or not they believe a particular animal is legitimate. There is also no way to verify a trained service animal since there is no certification process.

There is no doubt that service animals increase the independence and ability of their owners or handlers with disabilities. Many others who encounter these animals also enjoy having them around and seeing them perform tasks for which they were trained. With a better and clearer understanding of service animals, and laws related to them, we can all enjoy the benefits they bring and hopefully avoid conflicts.

Information in this article comes from the Rocky Mountain ADA Center, Michigan State University College of Law Animal Legal & Historical Center website, & Montana Legislative website.
History is made at Summit, Kalispell

This past summer, Montana Vocational Rehabilitation and Blind/Low Vision Services referred to Summit’s Kalispell office two youth eligible for Pre-Employment Transition Services (Pre-ETS). Through working with Summit, both successfully completed their goals in the last month! These are the very first Pre-ETS consumers in the Kalispell area, but we are excited to have a great start and are excited about the possibility of future additional referrals. It is an honor and a privilege to help prepare youth with disabilities in their transition from secondary school and adolescence to employment and adulthood.

–Peter Pelchen, ILS

October is Disability Employment Awareness Month

It’s here! National Disability Employment Awareness Month (NDEAM) kicked off on October 1. How are you celebrating? The 2019 NDEAM theme is “The Right Talent, Right Now.”

The history of National Disability Employment Awareness Month traces back to 1945 when Congress enacted a law declaring the first week in October each year “National Employ the Physically Handicapped Week.” In 1962, the word “physically” was removed to acknowledge the employment needs and contributions of individuals with all types of disabilities. In 1988, Congress expanded the week to a month and changed the name to National Disability Employment Awareness Month.

Summit is proud to support National Disability Employment Awareness Month (NDEAM). Held each October, NDEAM aims to educate about disability employment issues and celebrate the many and varied contributions of America’s workers with disabilities.

NDEAM is led by the U.S. Department of Labor’s Office of Disability Employment Policy (ODEP), but its true spirit lies in the many observances held at the grassroots level across the nation every year. The Campaign for Disability Employment encourages organizations of all sizes and in all industries to participate in NDEAM.

Employers and employees in all industries can learn more about how to participate in National Disability Employment Awareness Month and ways they can promote its messages — during October and throughout the year — by visiting www.dol.gov/NDEAM.

Looking for Summit Events or Classes?

To make it easier to find Summit events that are being held throughout Western Montana, we are now listing all of our events on our website. To find a Summit event or class happening near you please go to: www.summitilc.org/calendar
New Summit Staff

Bre Lopuch, Program Manager, Missoula

Bre Lopuch holds a Master’s Degree in Social Work and has worked in a variety of social service settings for the past 8 years. She started her social work career as a resident advocate at a domestic violence shelter, then worked with children with emotional disturbances in rural Idaho. After that, she worked her way up from case manager to Program Administrator at a local mental health center.

Bre is a fourth generation Montanan and loves the outdoors – she gets out into the backcountry as often as she can and is an avid skier, hiker, and angler. Her best friend is her dog, and her next best friend is her spouse because frankly, the dog is just a better listener. She is looking forward to learning more about the disability community and helping out with Summit’s mission of advancing independence and civil rights.

Becky Fleming-Siebenaler, Coordinator, Hamilton

Becky Fleming-Siebenaler is the new County Coordinator for Summit’s Hamilton Office. Becky comes to Summit after 30 years of working with the Montana Department of Public Health and Human Services. During these years, Becky was responsible for policy development, writing regulations for a variety of human care settings, managing and supervising many employees and developing and implementing new regulatory processes. Becky completed her career with DPHHS as the Bureau Chief of the Quality Assurance Division’s Licensing Bureau, where she oversaw facility licensing and monitoring as it pertained to health care settings, child day care settings, youth residential settings and the various mental health settings.

Becky also worked with Disability Rights Montana where she was responsible for advocating for the rights of individuals who were placed at the Montana State Hospital, the Montana Developmental Center in Boulder, and the Mental Health Nursing Home in Lewistown.

Becky has a degree in Social Work from Carroll College. She enjoys time spent in the outdoors with her 2 daughters, husband, and her five dogs.
Summit Fall Crossword

ACROSS
3 Keeps Birds Out Of Garden or Field
4 Large gourd
8 utmost reach
9 Gathering of crops
11 Evening before All Saints Day
12 Autumn in America
13 Autumn Droppings

DOWN
1 Feast held In 1621
2 Icy Precipitation
5 Popular Sport
6 People Descended from a Common Ancestor
7 Pursuit of Food and Sport
10 Bird with a Fan Shaped Tail
Showcase
October 11 from 6:30 p.m. - 8 p.m.
725 West Alder St. Suite #4

Stand up comedy, improv, sketch, poetry, song and dance!!

Wrestling & Halloween Themed

Information:
Please contact Summit at 728-1630 ext. 161
BASE stands for home base, like in hide and go seek. In life, you have to establish a BASE first, that’s where we come in.

Game Night (GN)
- Thursdays weekly, 2 p.m.- 6 p.m.

Youth Opening Doors through Advocacy (YODA)
- 2nd & 4th Tues. monthly, 4p.m. – 6 p.m.

Base Art Group (BAG)
- Fridays weekly, 1p.m. – 5 p.m.

For schedule updates and additional events go to www.summitilc.org/calendar

To donate to BASE go to: www.basemissoula.org
phone: 406-215-1080

To get involved or to share ideas of new BASE programs, contact BASE jhoward@summitilc.org or by visiting www.basemissoula.org

CLASSIFIED ADS

2001 Ford Econoline Wheelchair Accessible Van
Great condition, raised roof and lowered floor, Miles: 62,000
Call Tyler: (406) 925-9846

1997 Ford Econoline Wheelchair Accessible Van
Miles: 213,737
Call Twyla 231-818-0065

Victory 10 LX scooter
New! $2500, Call or text Nina 880-2855

Smart Talker text scanner
Slightly used, $700. Contact Larry at 406-633-4036 or ketch1969@gmail.com

Nova Walker, Quontum 600 power wheelchair, Commode, 2 Transfer Benches, Beezy Manual Wheelchair. Call Gary (406) 224-5527 or garylee032051@gmail.com

Symmetry Stander
Call Madison (406) 670-9388

Braun Vangater Wheelchair Lift
Almost new wheelchair lift with 600 LB capacity. $2000 OBO. Call or text Tyler 406-925-9846

Garaventa Super-Trac Portable Wheelchair Lift for stairs. Purchased new for $12,000 and used only a few times. Will sell for $2,500 OBO. Contact Jacob Francom, Troy Public Schools, jfrancom@troyk12.org, (406) 295-4520.

Acorn Stair lift
For going up to 6 stairs while seated. $500 OBO. Call John at 546-7003.

To get listed contact Tyler Stosich at (406) 728-1630 or email tstosich@summitilc.org.

Or, list and find items on the MonTECH exchange: http://montech.ruralinstitute.umt.edu/mtdb/
THE SUMMIT INDEPENDENT
October 2019

This publication is available in alternative format on request. Please call 1 (800) 398-9002.

BECOME AN ADVOCATE

Subscribe to the Montana Centers for Independent Living Action Alert Listserv to get disability related updates and advocacy opportunities in your email inbox.

Visit www.summitilc.org and click the “Become an Advocate” button midway down the homepage or go to www.mtcil.org to subscribe.

REGISTERED TO VOTE?

With several important elections coming up, now is a good time to check to make sure your voter registration status is up to date and, if you are not registered to vote, to get registered!

Regular voter registration closes at 5 p.m. thirty days before election day for most elections. Individuals can late-register at their county election office beginning the next day and through close of polls on election day.

To check your voter registration status, go to: https://app.mt.gov/voterinfo/

For more information on registering to vote, reactivating a registration, downloading voter registration forms, or for information on alternative methods of voting for voters with disabilities please visit the Montana Secretary of State's website at: https://sosmt.gov/elections/vote/#how-to-register-to-vote

You can always sign up to get this newsletter by email by visiting www.summitilc.org and signing up.