

**Service Animals and Emotional Support Animals:
A Distinction That Privileges Physical Disabilities Over Mental and Emotional Disabilities**

**By
Yusuf Abdulkareem**

**A practicum submitted to the Faculty of Graduate Studies of
The University of Manitoba
In partial fulfilment of the requirements of the degree of**

Master of Human Rights

**Faculty of Law
University of Manitoba
Winnipeg**

Copyright © 2021 Yusuf Abdulkareem

Abstract

The use of animals for physical and emotional support has become commonplace over the past few years. Animals are now regularly admitted into spaces that were exclusively reserved for humans. In response, many countries have passed laws to regulate the presence of animals in public spaces: these laws regulate issues such as what species of animals are allowed, what purpose they serve, and in what areas of public life the animals are granted access to. However, these laws have resulted in discrimination against people who use animals for mental and emotional support, rather than for physical assistance. Using available research, media coverage, and legislation in the United States and Canada, this paper argues that handlers of emotional support animals (ESAs) are discriminated against because they are not afforded the same levels of protection as handlers of service animals. The current laws and attitudes towards ESAs indicate a privileging of physical disabilities over emotional and mental disabilities.

Table of Contents

Introduction.....	1
Laws regulating the use of service animals and ESAs.....	4
United States of America.....	5
Americans With Disabilities Act	5
Air Carriers Access Act	6
Fair Housing Act.....	7
Canada	7
Air Transportation Regulations.....	7
Accessible Transportation for Persons with Disabilities Regulations	8
Manitoba Human Rights Code.....	8
Analysis and effects of the distinction between service animals and emotional support animals	9
The Relationship between mental health and animal ownership.....	9
Media coverage and public perception of service animals and ESAs	12
The DOJ, Service animals and ESAs.....	18
The DOT, service animals and ESAs	20
Conclusion and recommendations.....	25
Bibliography	28

Introduction

Most definitions of disability include two common features: (i) a physical or mental characteristic labeled or perceived as an impairment or dysfunction and (ii) some personal or social limitation associated with that impairment.¹ For the purposes of this paper, disabilities will be broadly divided into two main categories: physical (visible) disabilities and mental, emotional, or psychological (invisible or hidden) disabilities. In North America, service animals, which most often help individuals with physical disabilities, enjoy broader legal protections than emotional support animals (ESAs), which are often used by people with mental, emotional, or psychological challenges. The broader protections afforded to service animals over ESAs illustrates the privileging of physical disabilities over mental and emotional disabilities, which results in discrimination against handlers of ESAs.

The differential treatment between service animals and ESAs can be traced to the opposing models or approaches to disability: the medical model and social model. The medical model views disability as a problem that exists in an individual's body and can be fixed by treatment or care.² In essence the disadvantages suffered by a person living with a disability is directly linked to their disability. In contrast, the social model links the disadvantages faced by people living with a disability to structural and environmental factors, as well as attitudinal barriers faced by the people with non-standard bodies (in this case, people with invisible disabilities).³ The common lay person's approach to disability is the medical model, which emphasizes a physical or readily visible disability, and the existence of a medical treatment or cure. This approach is apparent in many of the laws and policies related to service animals and ESAs.

There have been many laws and policies over the past few years that regulate the presence of animals in both private and public spaces. As a result, it is now common to see animals in places and establishments that did not allow their presence in the past.⁴ Disability and

¹ David Wasserman et.al, "Disability: Definitions, Models, Experience," *The Stanford Encyclopedia of Philosophy* (Summer 2016 Edition), Edward N. Zalta (ed.), <https://plato.stanford.edu/entries/disability/>

² Sara Goering, "Rethinking Disability: The Social Model of Disability and Chronic Disease," *Current Reviews Musculoskeletal Medicine*, 8, no. 2(2015): 134

³ Sara Goering, "Rethinking Disability," 135

⁴ Angela M Dial, "The Working Public's Perceptions of Service Dogs: A Phenomenological Investigation of Gatekeepers' Experiences" (PhD Diss., West Virginia University, 2019), 1-388,

<https://researchrepository.wvu.edu/etd/3875>; Patricia Marx, "Pets Allowed: Why Are So Many Animals in Places

accessibility rights are increasingly recognized and provide for the accommodation of people in our society who benefit from the use of animals for their disability needs, without distinction between physical disabilities and mental or emotional disabilities. However, the laws in the United States and Canada that regulate the presence of animals in public spaces still privilege physical disability over mental and emotional disabilities. This is especially relevant in the laws that apply to service animals and ESAs that create a hierarchy that favours handlers of service animals and discriminates against handlers of ESAs.

The Americans with Disabilities Act defines a service animal as “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.”⁵ Service animals are specially trained to perform a task; they may be trained to signal deaf handlers when fire alarms go off, interrupt the obsessive behaviours of handlers with obsessive-compulsive disorder, or to open doors for handlers with mobility challenges.

ESAs are animals “whose sole function is to provide emotional support, comfort, therapy, companionship, therapeutic benefits, or to promote emotional well-being.”⁶ ESAs differ from pets because ESAs are prescribed by licensed mental health professionals and are essential to their handlers' ability to function daily and participate equally in society. ESAs do not have to receive any formal training and are not required to perform any specific tasks. Service animals receive more protections under the law than ESAs; service animals can accompany their handlers virtually everywhere, but ESAs are still generally treated as mere pets, and this severely limits the protections afforded to them. These differences have created a hierarchy that places service animals over ESAs.

The time and cost of applying for and training a service animal can be lengthy and expensive, and most people apply through a registered charity or non-profit organization. For example, Little Angels Service Dog is a non-profit organization that trains and places service dogs with qualified individuals in the United States. It costs the organization an average of

Where They Shouldn't Be? *The New Yorker*, October 13, 2014, <https://www.newyorker.com/magazine/2014/10/20/pets-allowed>

⁵ U.S. Department of Justice (DOJ), “Americans with Disabilities Act Title III Regulations: Non-discrimination on the Basis of Disabilities by Public Accommodations and in Commercial Facilities; Final Rule,” *Federal Register* 75, no. 178 (September 15, 2010): 56250. This is the common definition of a service animal in Canada and other countries as well.

⁶ DOJ, “Title III Regulations,” 56269.

\$38,000 to train and place a service dog.⁷ Applicants are responsible for a minimum of \$9,500, in addition to a non-refundable fee of \$500 and all related travel expenses.⁸ There is also a waitlist with an average of 1.5-2 years.⁹ It is, therefore, easier to get an ESA; all that is required is a signed letter from a licensed mental professional stating that an individual has a mental health condition, and their animal helps them to manage the condition. Unfortunately, that comes at the cost of very little legal protection.

Some service providers are understandably wary about letting untrained animals into their establishments. They may be concerned about potential noise, animal waste, allergic reactions, and the cost of cleaning up after the animals. However, the assumption that an animal will behave badly, be a nuisance, or cause an allergic reaction—without any evidence—should not supersede the human right of its handler to accommodation. Rather than excluding ESAs altogether, the solution lies in better laws, policies, and regulations that address these concerns and also acknowledge the importance and benefits of ESAs. The fact that it is inconceivable to deny a blind handler their service animal, but justifiable to deny access to someone who is mentally and emotionally dependent on their support animal, clearly illustrates the privileging of physical disability over mental and emotional disability.¹⁰

Using the limited research available, media coverage, and selected laws from the United States and Canada, this paper argues that handlers of ESAs are discriminated against because they are not afforded the same levels of protection as handlers of service animals. This is an important topic because more people with non-visible (mental) disabilities are turning to animals for support to enable them to participate as equal members in the society, but the therapeutic benefits provided by these animals are not recognized in most laws. It is encouraging that there has been a gradual recognition that mental health is just as important as physical health.

⁷ Little Angels Service Dogs, “Applying for a Service Dog,” accessed December 25, 2020, <https://www.littleangelsservicedogs.org/apply-2/>

⁸ Little Angels, “Applying for a Service Dog.”

⁹ Little Angels, “Applying for a Service Dog.” See also Gina Ragusa, “How Much Does It Cost to Train a Service Dog?” *Showbiz Cheatsheet*, December 4, 2018, <https://www.cheatsheet.com/entertainment/how-much-does-it-cost-to-train-a-service-dog.html/> last

¹⁰ Leslie G. Roman, “Go Figure! Public Pedagogies, Invisible Impairments and the Performative Paradoxes of Visibility as vVracity,” *International Journal of Inclusive Education*, 13, no. 7 (2009): 677-698 DOI: [10.1080/13603110903041920](https://doi.org/10.1080/13603110903041920); Sharon Dale Stone, “Reactions to Invisible Disability: The Experiences of Young Women Survivors of Hemorrhagic Stroke,” *Disability and Rehabilitation*, 27, no. 6 (2005) 293-304, DOI: [10.1080/09638280400008990](https://doi.org/10.1080/09638280400008990); Invisible Disabilities Association, “Looks Can be Deceiving: Understanding What’s on the Inside, Despite What You See on the Outside,” accessed March 30, 2021, <https://invisibledisabilities.org/publications/invisibleawareness/lookscanbedeceiving/>

However, for this recognition to be fully realized, it is important that handlers of ESAs and ESAs themselves are respected, recognized, and have clear protections under the law, and that physical disability is not privileged over mental and emotional disability.

The first part of this paper will briefly examine applicable laws in the United States and Canada, illustrating the distinctions between service animals and ESAs under those laws. The second part is an analysis of the consequences of the distinction between service animals and ESAs, and the resulting discrimination against handlers of ESAs. Service animals have received more positive media coverage and they enjoy greater approval by members of the public than ESAs. While the beneficial effects of animals on mental health is still disputed, this should be resolved in favour of individuals who rely on animals for their mental well-being. The application of a medical approach to disability over a social approach is linked to the reluctance of accepting ESAs as equal to service animals. The last part is the conclusion and recommendations for legal changes, as well as the response of major airlines to the new rules by the United States Department of Transportation.

Laws regulating the use of service animals and ESAs

The scope of this paper will be limited to the United States of America and Canada because they are two of the few western countries with no national service dog certification programme nor a central and mandatory service dog registry. With the emergence and popularity of ESAs, the presence of animals in public spaces has become even more contentious due to the lack of a formalized system of training and identification. Only federal laws are considered because the most contentious issue about service animals and ESAs has been air travel, which is regulated by the federal government. Furthermore, many states and provinces have modelled their laws on the provisions of federal laws. The exception is the inclusion of the Manitoba Human Rights Code. This code is included because my practicum site was the Manitoba Human Rights Commission, and the code is therefore directly relevant to my practicum. During the course of my placement, I worked on a complaint that involved the presence of an ESA in an apartment building with a no-pet policy. It was ongoing as at the time my practicum ended.

United States of America.

The main laws related to the use and ownership of service animals and ESAs in the U.S. are the Americans with Disabilities Act (ADA) and Amendments,¹¹ Air Carrier Access Act (ACAA),¹² and the Fair Housing Act (FHAAct).¹³

1. Americans With Disabilities Act

The Act noted that physical or mental disabilities should not affect or diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been prevented from participating equally in society due to discrimination.¹⁴ One of the main purposes of the Act is to provide “a clear and comprehensive national mandate for the elimination of discrimination” and “clear, strong, consistent, enforceable standards addressing discrimination.”¹⁵ The ADA is divided into five titles that cover various aspects of public life. Title I deals with employment, Title II covers public services, Title III deals with public accommodations and services operated by private entities, Title IV covers communications, and Title V is for miscellaneous provisions.

In 2010, the U.S Department of Justice (DOJ) published revised regulations implementing titles II¹⁶ and III¹⁷ of the ADA. In the revised regulations, only dogs are recognized as service animals and a service animal is a dog that has been individually trained to do work or perform tasks for a person with a disability.¹⁸ Service animals are also entitled to accompany their owners anywhere members of the public can go. The wide protections under these regulations expressly

¹¹ Americans With Disabilities Act of 1990. Public Law 101-336. 108th Congress. (July 26, 1990); ADA Amendments Act of 2008. Public Law 101-325. 110th Congress. (September 25, 2008).

¹² Air Carrier Access Act of 1986 Public Law 99-435. 99th Congress (October 2, 1986).

¹³ Civil Rights Act of 1968, Title VIII- Fair Housing. Public Law 90-284. 90th Congress (April 11, 1968).

¹⁴ ADA, Sec. 12101 (a) (1).

¹⁵ ADA, Sec. 12101 note (b) (1).

¹⁶ U.S. Department of Justice, “Americans With Disabilities Act Title 11 Regulations: Non-discrimination on the Basis of Disability in State and Local Government Services; Final Rule,” *Federal Register* 75, no. 178 (September 15, 2010): 56164-56236.

¹⁷ DOJ, “Title III Regulations,” 56236-56358.

¹⁸ DOJ, “Title II Regulations,” 56177; DOJ, “Title III Regulations,” 56250.

exclude animals that have not been trained to perform a specific task and only provide emotional support.¹⁹ ESAs are excluded from the ADA.

2. Air Carriers Access Act

The Act prohibits discrimination based on disability in air transportation. The Department of Transportation (DOT) was mandated to promulgate rules and regulations to implement the Act. The DOT has passed various rules and regulations since then implementing the Act. Under the DOT rules, ESAs were originally included in the definition of service animals, enjoyed some protections, and were exempt from pet fees and other restrictions.²⁰ Generally, U.S. and foreign carriers are prohibited from discriminating against passengers based on disability; required to make aircraft, other facilities, and services accessible; and required to take steps to accommodate passengers with a disability.²¹ Airline carriers must allow passengers with service animals on their aircraft, and the presence of harness, tags, or verbal evidence is sufficient as proof that the animal is a service animal.²² Where the airline carrier refuses to accept an animal as a service animal, it must provide a reason in writing.²³ Airline carriers were permitted to insist on documentation from a licensed mental health professional as well as 48 hours prior notice before transporting ESAs.²⁴ This policy has not been very effective in tackling the issue of misrepresentation because of the ease of obtaining documentation from mental health professionals that enables customers to pass their pets off as ESAs.²⁵ On December 10, 2020, the DOT amended its rules in response to the rising complaints and confusion about service animals and ESAs under the ACAA. Under the new rules, airlines are not required to recognize ESAs. ESAs are now regarded as mere pets and are therefore subject to all the usual restrictions that apply to pets.²⁶ The new changes are explained later in the paper.

¹⁹ DOJ, “Title II Regulations,” 56195; DOJ, “Title III Regulations,” 56269.

²⁰ U.S. Department of Transportation (DOT), “Nondiscrimination on the Basis Disability in Air Travel; Final Rule,” *Federal Register* 73, no. 93 (May 13, 2008): 27658

²¹ DOT, “Nondiscrimination,” 27614-27687

²² DOT, “Nondiscrimination,” 27658.

²³ DOT, “Nondiscrimination,” 27636

²⁴ DOT, “Nondiscrimination,” 27636

²⁵ Patricia Marx, “Pets Allowed.”

²⁶ U.S. Department of Transportation, “Traveling by Air With Service Animals; Final Rule,” *Federal Register* 85, no. 238 (December 10, 2020): 79747-79748. These changes will be discussed further later in this paper.

3. Fair Housing Act

The Fair Housing Act (FHAct) prohibits discrimination in the sale or rental of housing.²⁷ It is unlawful to discriminate in the sale or rental of housing on the basis of race, colour, religion, sex, familial status, national origin, or disability.²⁸ According to the U.S. Department of Housing and Urban Development (HUD),²⁹ the FHA does not distinguish between service animals and ESAs, and instead uses an all-encompassing term of assistance animals. However, this does not interfere with the obligations housing providers have under the ADA.

The non-distinction between service animals and ESAs is illustrated by the definition of an assistance animal by HUD as “an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or that provides emotional support that alleviates one or more identified effects of a person’s disability.”³⁰ An assistance animal is not a pet, and housing providers are expected to make an exception if they have a “no pets policy,” and provide reasonable accommodation.³¹ Assistance animals do not have to be individually trained to perform a function, and assistance animals are not limited to dogs alone.³² ESAs are therefore included under the FHAct.

Canada

The Canadian laws that will be examined are the Air Transportation Regulations,³³ the Accessible Transportation for Persons with Disabilities Regulations (ATPDR),³⁴ and the Manitoba Human Rights Code.³⁵

1. Air Transportation Regulations

²⁷ FHA, Sec. 803.

²⁸ FHA, Sec. 804.

²⁹ The agency charged with administering and enforcing the FHA.

³⁰ U.S. Department of Housing and Urban Development (HUD), “FHEO Notice: FHEO-2013-01,” (April 25, 2013) Sec. 1.

³¹ HUD, “FHEO-2013-01,” Sec. 1.

³² HUD, “FHEO-2013-01,” Sec. 1.

³³ Air Transportation Regulations, SOR/88-58.

³⁴ Accessible Transportation for Persons with Disabilities Regulations, SOR/2019-244.

³⁵ Manitoba Human Rights Code, C.C.S.M. c. H175.

The Air Transportation Regulations (ATR) states that air carriers must accept service animals for transportation at no charge if the animal is “required by a person for assistance,” and “certified, in writing, as having been trained to assist a person by a professional service animal institution.”³⁶ The Regulations do not define a service animal and do not mention ESAs.

2. Accessible Transportation for Persons with Disabilities Regulations

The Accessible Transportation for Persons with Disabilities Regulations (ATPDR) only recognizes service dogs. It states that a service dog “...is a dog that has been individually trained by an organization or person specializing in service dog training to perform a task to assist a person with a disability with a need related to their disability.”³⁷

3. Manitoba human rights Code

The Manitoba Human Rights Code prohibits discrimination based on various grounds, including “physical or mental disability or related characteristics or circumstances, including reliance on a service animal...”³⁸ The Code defines a service animal as an “animal that has been trained to provide assistance to a person with a disability that relates to that person's disability.”³⁹ Read in conjunction with Sec. 9(2)(I) of the Code, a person’s disability encompasses both mental and physical disability. The Board of Commissioners policy I-9 of the Manitoba Human Rights Commission further states that a “dog or other animal that is not trained to provide assistance that relates to a person’s disability is not considered a “service animal.”⁴⁰

Some provinces in Canada have specific laws on the use of service animals, and they offer similar protections as the laws in the United States.⁴¹ However, unlike the United States, laws in Canada only recognize service animals; in fact, ESAs are not mentioned in federal or provincial

³⁶ ATR, Sec. 149(1)(a)(b).

³⁷ ATPDR, Sec. 1(1)

³⁸ Manitoba Human Rights Code, Sec. 9(2)(1)

³⁹ Manitoba Human Rights Code, Sec. 1

⁴⁰ Manitoba Human Rights Commission Board of Commissioners Policy, “Service Animals,” Policy # I-9 (February 13, 2015).

⁴¹ For example, The Guide Dog and Service Dog Act of British Columbia, SBC 2015 and Service Dogs Act of Alberta, 2007

laws in Canada. ESAs do not have any direct protection under the laws of Canada, and protections for ESAs are usually inferred from various Human Rights Codes.

Analysis and effects of the distinction between service animals and emotional support animals

The laws examined above illustrate the bias towards service animals over ESAs, and the privileging of service animals over ESAs. This analysis section will begin by briefly examining the relationship between mental health and animal ownership, and how ESAs can be beneficial to their handlers. The interplay between laws and public opinion and the role of the media in shaping public opinion in relation to ESAs is also considered. Finally, the justifications by the DOJ and DOT for the exclusion of ESAs from the ADA and ACAA respectively are examined and analyzed.

A. The Relationship between mental health and animal ownership

Depression and anxiety disorders have been estimated to cost the global economy US\$1 trillion per year and 800,000 deaths each year from suicide, which is a leading cause of death in young people.⁴² People living with mental health conditions often experience severe human rights violations, discrimination, and stigma.⁴³ Mental health conditions account for 1 in 5 years lived with disability.⁴⁴ More than 80% of people experiencing mental health conditions, neurological and substance use (MNS) disorders, don't have access to any form of quality, affordable mental health care.⁴⁵ It is clear that addressing mental health should be a global priority, and yet, it has only barely begun to receive any attention. The continued distinction between service animals and ESAs undermines the efforts to tackle the mental health crises.

⁴² Tedros Adhanom Ghebreyesus, *The WHO Special Initiative for Mental Health (2019-2023): Universal Health Coverage for Mental Health*, World Health Organization (2019), 1.

⁴³ Ghebreyesus, *The WHO Special Initiative*, 1.

⁴⁴ Ghebreyesus, *The WHO Special Initiative*, 1.

⁴⁵ Ghebreyesus, *The WHO Special Initiative*, 1.

While there is abundant evidence that the global mental health situation deserves immediate attention, there is currently no conclusive scientific evidence on the benefits of animals for people with mental or emotional disabilities. Only a small number of studies have considered the benefits of ESAs; there is almost no data from clinical tests of the risks and benefits of ESAs.⁴⁶ However, some studies suggest that animals have therapeutic benefits for a variety of physical and psychological challenges and disorders.⁴⁷ Rossetti and King's review concluded that animal-assisted interventions (AAIs) have positive effects on a wide range of psychological and social outcomes, including reductions in anger, anxiety, depression, and general distress, and beneficial effects on socialization.⁴⁸ Other authors came to the same conclusion, stating that AAIs have the potential to reduce stress, anxiety, and boredom, as well as improve mood and physiological markers of well-being such as reduced heart rate and blood pressure.⁴⁹

A hospital in the United Kingdom that provides care to patients with mental disorders released a publication describing the usefulness and benefits of animals as therapy in mental health.⁵⁰ The hospital uses various animals such as pigs, goats, hens, geese, and ducks in mental health therapy. Staff at the hospital noted that the presence of the animals helped their patients; the presence of animals helped patients suffering from obsessive-compulsive disorder⁵¹ and also helped some patients manage their aggressive behaviours.⁵²

Pet owners—especially the younger generation—generally feel that their pets help provide many mental health benefits. For example, a 2019-2020 APPA National Pet Owners Survey showed that Americans aged 11-17 identify stress relief (66 percent) and reduced levels of

⁴⁶ Joshua D. Carroll et al., “Laws and Ethics Related to Emotional Support Animals,” *The Journal of the American Academy of Psychiatry and the Law* 48, no. 4 (September 16, 2020):1-10, <https://doi.org/10.29158/JAAPL.200047-20>

⁴⁷ Annick Maujean, Christopher A. Pepping, and Elizabeth Kendall, “A Systematic Review of Randomized Controlled Trials of Animal-Assisted Therapy on Psychosocial Outcomes.” *Anthrozoös* 28, no. 1 (April 28, 2015): 23–36, doi:10.2752/089279315X14129350721812

⁴⁸ Jeanette Rossetti and Camille King, “Use of Animal-assisted Therapy with Psychiatric Patients.” *Journal of Psychosocial Nursing & Mental Health Services* 48, no. 11 (2010) 44–48, doi:10.3928/02793695-20100831-05

⁴⁹ Mary DeCoursey, Anne C. Russel, and Kathy J. Keister, “Animal-Assisted Therapy: Evaluation and Implementation of a Complementary Therapy to Improve the Psychological and Physiological Health of Critically Ill Patients.” *Dimensions of critical care nursing* 29, no. 5 (September 2010): 211–214, doi:10.1097/DCC.0b013e3181e6c71a

⁵⁰The State Hospital, “Animals As Therapy in Mental Health,” (August 2007): 1-28, <https://www.tsh.scot.nhs.uk/Person%20Centred/Docs/Animals%20as%20Therapy%20booklet%20-%20Aug%2007.pdf>

⁵¹ The State Hospital, “Animals as Therapy,” 14.

⁵² The State Hospital, “Animals as Therapy,” 17.

anxiety and depression (61 percent) as specific health benefits of pet ownership, more than any other generation.⁵³ This is particularly relevant in light of the high rates of suicide among young people worldwide. Furthermore, pet owners have reported the benefits of non-human contact since the start of the COVID-19 pandemic and social distancing.⁵⁴

Some studies have focused on the benefits of ESAs in particular. For example, emotional support dogs help persons with psychotic, mood, or anxiety disorders reduce stress,⁵⁵ and another found that Individuals who suffer from Alzheimer's or dementia also benefit from emotional support dogs.⁵⁶ Another study found that patients in nursing homes decreased their dependence on psychotropic drugs by using emotional support dogs.⁵⁷

On the other hand, another author has argued that people believe in the mitigating effect of ESAs on mental health problems because studies on pet ownership that have found no impact or even negative impacts on human physical and mental health rarely make headlines.⁵⁸ While some believe that ESAs may be beneficial to their handlers,⁵⁹ the empirical research data that currently exists is sparse, inconsistent, and inconclusive, and does not fully support the conclusion that ESAs are effective in mitigating psychological disorders and related problems.⁶⁰

Despite the inconclusive evidence, some experts believe that an ESA may be recommended if "the presence of the ESA assisted a patient in making progress with an identified psychological problem (i.e., is part of the treatment plan) or if the presence of the animal is more palliative in

⁵³ American Pet Products Association, "Can Pets Help Today's Teens Cope With Mental Health Issues?" *PR Newswire*, September 26, 2019, <https://www.prnewswire.com/news-releases/can-pets-help-todays-teens-cope-with-mental-health-issues-300925514.html>

⁵⁴ Janette Young et. al, "Pets, Touch, and COVID-19: Health Benefits from Non-Human Touch Through Times of Stress," *Journal of Behavioural Economics for Policy* 4, no. 2 (2020):25-33, <https://sabeconomics.org/wordpress/wp-content/uploads/JBEP-4-S2-3.pdf>

⁵⁵ Sandra B. Barker and Kathryn S Dawson, "The Effects of Animal-Assisted Therapy on Anxiety Ratings of Hospitalized Psychiatric Patients." *Psychiatric services (Washington, D.C.)* 49, no. 6 (1998): 800

⁵⁶ Mara M, Baun and Barbara W McCabe, "Companion Animals and Persons with Dementia of the Alzheimer's Type: Therapeutic Possibilities." *The American behavioral scientist (Beverly Hills)* 47, no. 1 (2003): 43.

⁵⁷ Kristin M. Bourland, "Advocating Change Within the ADA: The Struggle to Recognize Emotional-Support Animals as Service Animals." *University of Louisville law review* 48, no. 1 (2009): 197-220

⁵⁸ Harold Herzog, "The Impact of Pets on Human Health and Psychological Well-Being: Fact, Fiction, or Hypothesis?" *Current Directions in Psychological Science: A Journal of the American Psychological Society* 20, no. 4 (August 1, 2011): 236–239, <http://dx.doi.org/10.1177/0963721411415220>.

⁵⁹ Marieanna Le Roux and Rene Kemp, "Effect of a Companion Dog on Depression and Anxiety Levels of Elderly Residents in a Long-term Care Facility," *Psychogeriatrics* 9, no. 1 (March 2009): 23–26, <http://dx.doi.org/10.1111/j.1479-8301.2009.00268.x>

⁶⁰Thomas Esminger and Lawrence J. Thomas, "Writing Letters to Help Patients with Service and Support Animals," *Journal of forensic psychology practice* 13, no. 2 (March 1, 2013): 92–115. <http://dx.doi.org/10.1080/15228932.2013.765734>.

nature."⁶¹ Doubts about the effectiveness of ESAs do not justify the discriminatory laws and policies that give them fewer protections. Pending the availability of empirical data that conclusively proves that ESAs do not have a beneficial effect for their handlers, laws, and policies should be in favour of ESAs and they should have better protections.

On the balance of probabilities, protection of human rights standards and equal access should trump the doubts about the efficacy of ESAs. The balance of probabilities is the appropriate standard because this is an issue that can potentially affect the human rights of many people and their ability to equally participate in society. This is consistent with the standard of proof in civil claims that involve private or civil rights. On the balance of probabilities, the harm caused by denying protections to ESAs is greater than the problems associated with their use, which can be solved by appropriate legislation and policies. In addition, it should be up to governments and policy makers to bear the burden of proving conclusively that ESAs in fact do not serve any beneficial purpose. This position is similar to that under the Human Rights Act (HRA) of the UK for example,⁶² where courts have held that the State has the burden of proving that the limitation of rights passes the four-stage proportionality test.⁶³ The burden of proof in human rights cases should be determined by reasons of principle—"societal judgments over the proper relationship between the parties and who should bear the risk of uncertainty in a case"; and secondarily by practical concerns.⁶⁴

B. Media coverage and public perception of service animals and ESAs

The inconclusive evidence of the beneficial effects of ESAs explained above has undoubtedly fuelled the negative media coverage and public perception of ESAs. The interplay between media coverage and public perception is particularly relevant, especially because media coverage can shape public perception and opinion. Stories are sometimes manuals of world-

⁶¹ Jeffrey Younggren, et. al, "Examining Emotional Support Animals and Role Conflicts in Professional Psychology," *Professional Psychology, Research and Practice* 47, no. 4 (August 2016): 7

⁶² Cora Chan, "The Burden of Proof Under the Human Rights Act," *Judicial review* 19, no. 1 (2014): 46–51.

⁶³ The limitation must be in pursuit of a legitimate aim; rationally connected to the aim; no more than necessary for achieving the aim; and overall balanced. See *Regina (F (A Child)) v Secretary of State for the Home Department* [2010] UKSC 17 [2011] 1 AC 331 at [17]; *Bibi v Same* [2011] UKSC 45 [2012] 1 AC 621 at [44].

⁶⁴ Cora Chan, "The Burden of Proof," 47

making, "they provide readers with guidelines for making sense of the world that surrounds them."⁶⁵

Media accounts and portrayal of service animals and ESAs have led to a distinction that categorizes service animals as legitimate and ESAs as illegitimate.⁶⁶ The continuing separation of service animals and ESAs "fosters a politics of suspicion, which can easily slip into suspicion directed at the human handlers of the animals."⁶⁷ Media coverage of service animals typically elicits a positive response among the general public, while ESAs are generally treated with suspicion, impatience, and disdain.⁶⁸ ESAs are rarely used in a positive context, and media coverage of ESAs have been largely critical and derisive, with most of them highlighting the ridiculousness of animals in airplanes.⁶⁹

The narratives about animals on planes generally produce two different reactions: the most common one (that applies almost exclusively to ESAs) is scorn, outrage with, and contempt for the animal handler—one article stated that stories about peacocks and ducks in booties on planes are increasingly leading ESAs (and their handlers) to be treated as a punchline.⁷⁰ Another example of this negative narrative around ESAs occurred in 2014 when a story about an emotional support pig was published from the point of view of an eyewitnesses follows: "I am burying my face in my sweater to hide from the stench... Now I, who dreads a dog coming too close, am contemplating an hour next to a big pig on the lap of my fellow (passenger)".⁷¹ The ESA's handler's point of view or version of event is missing from the article. The handler picked up her pig and disembarked with little fuss when she was asked to do so. However, the impressions formed in the mind of the reader is mainly that a human space has been violated by a

⁶⁵ Justyna Włodarczyk, "When Pigs Fly: Emotional Support Animals, Service Dogs and the Politics of Legitimacy Across Species Boundaries," *Medical humanities* 45, no. 1 (March 2019): 84

⁶⁶ Włodarczyk, "When Pigs Fly," 82.

⁶⁷ Włodarczyk, "When Pigs Fly," 82. Handlers of service animals have also expressed frustration because they have also been subjected to increased suspicion, which they blame on the proliferation of ESAs. See Beth Teitell, "Service Dogs Barred, Doubted, and Deeply Treasured," *The Boston Globe*, September 18, 2013, https://www.bostonglobe.com/lifestyle/2013/09/18/the-growing-number-dogs-assisting-people-with-invisible-conditions-causing-conflict-and-some-cases-confrontation/igPnUBYHa97K07ccBGJJVJ/story.html?p1=Article_Related_Box_Article

⁶⁸ Włodarczyk, "When Pigs Fly," 82.

⁶⁹ Włodarczyk, "When Pigs Fly," 82.

⁷⁰ Brian Resnick, "The Surprisingly Weak Scientific Case for Emotional Support Animals," *Vox*, November 18, 2018, <https://www.vox.com/science-and-health/2018/2/23/17012116/emotional-support-animal-airplane-psychology-research-dogs>, last

⁷¹ David Owens, "Pooping Pig and Its Owner Booted from Bradley Flight," *Hartford Courant*, November 19, 2014, <https://www.courant.com/breaking-news/hc-pig-on-plane-at-bradley-1130-20141129-story.html>

barnyard animal, as well as suspicions of the handler's need for an ESA given her able-bodied appearance.⁷² The second reaction (which typically only applies to service animals) is empathy for an individual who has been unfairly deprived of an essential medical aid and whose human rights have been violated.⁷³

News outlets from all sides of the political spectrum have been fueling the controversy surrounding the presence of assistance animals in public spaces in the United States because of the way they report the stories.⁷⁴ An article that examined media coverage by national and international opinion-forming journals and magazines of ESAs and service animals between 2000 and 2018⁷⁵ found that the voice and narrative of the owners of the ESA's are usually omitted from the narrative of the stories. Most of these stories only described the able-bodied appearance of the owner of the ESA, without mentioning any emotional or mental disability, which further calls into question the legitimacy of the ESA.⁷⁶

Most of these stories also focused exclusively on the same set of animals: two turkeys, one duck, two pigs, one parakeet, one hamster, and one squirrel. By choosing to cover just those kinds of animals and specific incidents, the sensationalist headlines of these stories convey outrage at the ridiculousness of the incidents, promoting the idea that barnyard animals have proliferated airplanes, resulting in feelings of disgust evoked by potential contamination of human-populated spaces with animal faeces and odours.⁷⁷ The stories usually involve handlers suffering from mental conditions like depression and generalized anxiety: "diseases that for many remain somewhat questionable as grounds for disability."⁷⁸ One writer went so far as to say that, "In this highly litigious and maddeningly PC era it seems to take courage to do the obvious right thing," which in this case is telling "someone claiming emotional fragility that he or she can't travel with their pooping pet pig or wetting water fowl."⁷⁹ The choice of words and tone of the article suggests a derisory attitude towards handlers of ESAs.

⁷² Wlodarczyk, "When Pigs Fly," 84

⁷³ Wlodarczyk, "When Pigs Fly," 84.

⁷⁴ Wlodarczyk, "When Pigs Fly," 83.

⁷⁵ Wlodarczyk, "When Pigs Fly," 83.

⁷⁶ Wlodarczyk, "When Pigs Fly," 84.

⁷⁷ Wlodarczyk, "When Pigs Fly," 85.

⁷⁸ Wlodarczyk, "When Pigs Fly," 85.

⁷⁹ Dan Reed, "Delta Yanks Hard on the Leash of Those who've Abused Service Animal Travel Policies," *Forbes*, January 22, 2018, <https://www.forbes.com/sites/danielreed/2018/01/22/delta-yanks-hard-on-the-leash-of-those-who-ve-abused-its-service-support-animal-travel-policies/?sh=767c3c493eed>

News media outlets do not pay a lot of attention to ESAs unless they are an “unusual” choice of support animal. One handler and her emotional support duck proved that the headlines about these animals do not need to be negative; Daniel the emotional support duck traveled without any incident on two flights in 2016. The crew even posed for pictures with Daniel and presented him with a “Certificate of First Flight.”⁸⁰

An article in the New York Times described the presence of animals on planes as a problem resulting from “a modern culture that too often fetishizes individual preference over communal well-being.”⁸¹ The Chicago Tribune published an article where ESAs were described as ‘nothing more than an extension of our self-indulgent culture’. The author advocated “a culture shift (...) away from the presumption that pets are welcome guests at non-pet designated outlets.”⁸² The headline of an article posted on a popular travel blog read, “My first-class seat was taken by an emotional support animal,” was intentionally misleading.⁸³ The article revealed that the passenger sitting next to the author had put their dog in the author’s seat because the author boarded the flight late, and the dog was removed immediately so that the author could get in their seat. The headline seemed to suggest the author was denied their first-class seat for the entirety of the flight in favour of the dog. Most of the media coverage, and all of the stories that do not give any visibility to the handler’s perspective, are written to evoke scorn and laughter, not empathy for the handler.⁸⁴ There have been numerous journalistic hoax stories where staff members of news outlets have faked a mental disability and traveled with various species of animals.⁸⁵ These stories have strengthened the public perception of ESAs as illegitimate: “if the journalists lied and got away with it, it is likely that many ESA owners are also faking their medical conditions.”⁸⁶

⁸⁰ Amy B. Wang, “Daniel the Emotional Support Duck Takes His First Plane Ride, Soars in Popularity,” *The Washington Post*, October 20, 2016, <https://www.washingtonpost.com/news/animalia/wp/2016/10/20/daniel-the-emotional-support-duck-takes-his-first-plane-ride-soars-in-popularity/>

⁸¹ David Leonhardt, “It’s Time to End The Scam of Flying Pets,” *The New York Times*, February 4, 2018, <https://www.nytimes.com/2018/02/04/opinion/flying-pets-scam-peacock.html>

⁸² Kristen McQuery. “Pets on Planes and Our Indulgent Culture,” *Chicago Tribune*, May 14, 2018, <https://www.chicagotribune.com/opinion/commentary/ct-perspec-mcqueary-column-pets-airlines-20180515-story.html>

⁸³ Katie Genter, “My First Class Seat was Taken by an Emotional Support Animal,” *The Points Guy*, August 13, 2019, <https://thepointsguy.com/news/first-class-seat-emotional-support-animal/>

⁸⁴ Włodarczyk, “When Pigs Fly,” 85.

⁸⁵ Patricia Marx, “Pets Allowed”; CBS News, “How Easily can Pigs Fly for Free?” July 3, 2015, <https://www.cbsnews.com/news/how-airline-passengers-game-emotional-support-animal-system/>

⁸⁶ Włodarczyk, “When Pigs Fly,” 85.

In contrast, media coverage of service animals is framed more positively. When the media covers service animals, it is done in a way that creates a strong impression of legitimacy in the viewer's or reader's mind, even when the disability is a mental or emotional one like Post Traumatic Stress Disorder (PTSD).⁸⁷ This is especially true if the mental or emotional condition was a result of military service.⁸⁸ In these stories, the handler's disability is legitimized through their history of patriotic military service. Unlike the fakers in the stories about ESAs, these handlers "have a culturally sanctioned reason for suffering from nightmares."⁸⁹ While the focus of this paper is not on the distinction between breeds or types of assistance animals, it is pertinent to point out that there is a broader acceptance of dogs as service animals, and "[t]here seems to be an alarmingly eugenic discourse at work, through which the hardworking, genetically optimal, perfectly behaved service animal is held up as a standard for all disabled people and their animal companions."⁹⁰ For many people, their idea of service animals are specific breeds of dogs, of substantial strength and size, and in relatively good health. Even dogs who otherwise qualify as service animals are regarded with suspicion because they are small.⁹¹ This pursuit to define a "legitimate" or "illegitimate," "real" or "fake" service animal has the ultimate goal of "the determination of the 'truth' of disabled bodies."⁹² This is similar to the medical approach to disability in its rigidity and formalistic approach. However, as the social model of disability argues, these pursuits are usually never about disability in isolation, but are always intertwined with other structural factors such as race, gender, and citizenship.⁹³

When the news coverage begins with a dog and a war veteran, it is usually a story aimed at evoking compassion for the former soldier, who is suffering from PTSD for serving his country, and whose faithful service dog was denied access to an airplane. If the story begins with

⁸⁷ Wlodarczyk, "When Pigs Fly," 86.

⁸⁸ Wlodarczyk, "When Pigs Fly," 86. See also Emily Shapiro, "Veteran Accuses American Airlines of Stopping Him, Service Dog from Boarding Flight," *ABC News*, September 22, 2015, <https://abcnews.go.com/US/veteran-accuses-american-airlines-stopping-service-dog-boarding/story?id=33943749>.

⁸⁹ Wlodarczyk, "When Pigs Fly," 86.

⁹⁰ Margaret Price, "What is a Service Animal? A Careful Rethinking," *Review of Disability Studies: An International Journal* 13, no. 4 (December 1, 2017): 11.

⁹¹ Margaret Price, "What is a Service Animal?" 3

⁹² Ellen Samuels, *Fantasies of Identification: Disability, Gender, Race*. (New York: NYUP, 2014), 123

⁹³ Samuels, *Fantasies of Identification*, 123

a civilian woman and her emotional support turkey, the story is likely written in a way to evoke outrage and ridicule.⁹⁴

The distinction between service animals and ESAs is usually supported by the specialized training that ESAs receive. This specialized training also legitimizes the animal's purpose and presence in public spaces.⁹⁵ However, the handlers of service animals themselves have acknowledged "that it is the animal's low-key and constant physical presence, coupled with what is perceived as emotional support, that is, the most gratifying aspect of the dog–handler relationship."⁹⁶

A recent study published in *Anthrozoos* examined the usage of service dogs by veterans suffering from PTSD. The study found that the most beneficial aspect of owning their animal was the unquantifiable experience of emotional support and not the quantifiable work tasks. The veterans' perception of their relationship with the dogs was summarized as follows:

[T]heir dog during daylight hours would ground them by providing the physical comfort of pressing their body against them, and/or pawing them. Then, at nighttime, when they were beset by flashbacks, their dog would sense the onset of their night terrors, and would relieve their painful memories by nudging them awake and staying with them until the memories receded. The calming effect that their dog's day and night comforting actions had on them was so profound that veterans reported feeling able to open up to the dog as the dog provided a non-judgmental outlet for their pent-up emotions.⁹⁷

The dichotomy between trained and untrained is the basis for the difference between legitimate (service animals) and illegitimate (ESAs) non-human presence in public spaces.⁹⁸ However, the presence of this dichotomy illustrates the ambivalence associated with emotional work, affective labour, or care work. ESAs are perceived as not doing anything because they are

⁹⁴ Włodarczyk, "When Pigs Fly," 87.

⁹⁵ Włodarczyk, "When Pigs Fly," 88.

⁹⁶ Włodarczyk, "When Pigs Fly," 88.

⁹⁷ Myra F. Taylor et al, "Nudging Them Back to Reality: Toward a Growing Public Acceptance of the Role Dogs Fulfil in Ameliorating Contemporary Veterans' PTSD Symptoms," *Anthrozoös* 26, no. 4 (December 1, 2013): 598

⁹⁸ Włodarczyk, "When Pigs Fly," 88.

not performing any quantifiable task, but "it is exactly this non-quantifiable animal care work that is valued the most by their owners."⁹⁹ This idea of non-quantifiable animal care work is at odds with the formalistic approach of the medical model of disability.

Numerous organizations working in the sphere of disability rights believe that the emotional support provided by ESAs should be classified as work and quantifiable task, in the same way as the physical tasks provided by service animals:

The active provision of comfort, stress reduction and/or emotional support to a qualified individual with a disability whose disability results in an inability to self-soothe or de-escalate and control emotions, or whose disability is exacerbated by stress, is “work” that benefits the individual with the disability and should be recognized as such.¹⁰⁰

In a survey about the perceptions of the public about service animals and ESAs, Service dogs had the greatest rate of public acceptance, with 172 participants (60.6 percent) recognizing service dogs' right to ride in airplane cabins, 170 (59.9 percent) agreeing they should be allowed to reside in school dormitories, and 163 (57.4 percent) agreeing that they should be allowed in classroom settings. ESAs received less favourable responses, with less than half of the participants feeling they should be allowed in airplane cabins (40.1 percent), dormitories (46.1 percent), or classroom settings (34.5 percent).¹⁰¹

C. The DOJ, Service animals and ESAs

Advocacy organizations in the United States have voiced concerns about the distinction between ESAs and service animals under the ADA because it deprives handlers of ESAs of the same protections as handlers of service animals.¹⁰² ESA handlers have stated that the presence of their animals allows them to fully participate in society, and limiting protections for them puts

⁹⁹ Wlodarczyk, “When Pigs Fly,” 88.

¹⁰⁰ Annaliese Dolph, *Comment Letter on Proposed Rules on Non-discrimination on the Basis of Disability in State and Local Government Services*, Disability Rights North Carolina, (Aug. 18, 2008), 8, <https://www.regulations.gov/document?D=DOJ-CRT-2008-0016-1494>

¹⁰¹ Regina Schoenfeld-Tacher et al, “Public perceptions of Service Dogs, Emotional Support Dogs, and Therapy Dogs,” *International Journal of environmental research and public health* 14, no. 6 (June 15, 2017): 648.

¹⁰² DOJ, “Title III Regulations,” 56268.

them at a disadvantage which may lead to discrimination against them and excessive questioning of individuals with nonvisible or non-apparent disabilities.¹⁰³ The DOJ, in responding to these concerns, accepted that the *FHAct* has been very beneficial for people with ESAs in private accommodations, but maintain that the presence of ESAs is not necessary in the context of public accommodations, such as restaurants, hospitals, hotels, retail establishments, and assembly areas.¹⁰⁴

The ADA Amendment Act defines disability as “a physical or mental impairment that substantially limits one or more major life activities of such individual.”¹⁰⁵ The Amendment Act also says that “an impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.”¹⁰⁶ The DOJ’s position is unjustifiable because, on the one hand, the DOJ admits that ESAs are beneficial to their handlers but goes on to say that handlers of ESAs will only enjoy those benefits in private accommodations and are not entitled to them in other areas of their lives. In essence, the DOJ is limiting the ability of handlers of ESAs to participate fully in society, thus discriminating against handlers of ESAs.

The interpretation by the DOJ means that even when an individual’s mental or emotional disability qualifies as a disability under the ADA, such an individual is not afforded all the protections provided by the ADA unless they can afford to get a service animal, thus further illuminating the discriminatory effect of the current distinction. Kevin Underhill, a California attorney and advocate for persons with disabilities, has argued that “[c]ourts interpreting other laws requiring reasonable accommodations have recognized that, under the right circumstances, whether an animal is 'specially trained' or has any 'special skills' may be irrelevant to the goal of preventing discrimination against its owner by protecting the ability to use and enjoy the dwelling.”¹⁰⁷ He further argues that ESAs can co-exist with service animals under the current standards, and that while the abuse of the right to reasonable accommodation should not be tolerated, a blanket and categorical exclusion of ESAs is going too far.¹⁰⁸

¹⁰³ DOJ, “Title III Regulations,” 56269.

¹⁰⁴ DOJ, “Title III Regulations,” 56269.

¹⁰⁵ ADA Amendment Act 2008, Sec. 4(1)(a).

¹⁰⁶ ADA Amendment Act 2008 Sec. 4(C).

¹⁰⁷ Kevin Underhill, *Comment Letter on Proposed Change to Service Animal Regulations*, Shook, Hardy & Bacon, LLP (Aug. 18, 2008), <https://www.regulations.gov/comment/DOJ-CRT-2008-0016-1546>

¹⁰⁸ Kevin Underhill, *Comment Letter*.

Rather than imposing a categorical exclusion of ESAs, an individualized inquiry into the particular circumstances is more appropriate so as to reduce the possibility of discriminating against persons who have disabilities that are non-visible.¹⁰⁹

D. The DOT, service animals and ESAs

ESAs had enjoyed some protections under the ACAA, but the DOT recently passed a rule to amend the ACAA. Under the revised rule, airlines can now consider ESAs as pets, thereby stripping ESAs of some of the protections they previously enjoyed under the ACAA. One of the first justifications put forward for the new rules was an economic one. According to the DOT, “treating ESAs as service animals amounts to a price restriction that sets the price of accommodating passengers who travel with ESAs at zero dollars, despite the fact that airlines face non-zero resource costs to accommodate those passengers.”¹¹⁰ The DOT further concludes that their “analysis indicates that the final rule could be expected to generate annual cost savings to airlines between \$15.6 million and \$21.6 million.”¹¹¹

Between 2009 and 2019, the global airline industry has made cumulative profits of more than \$220 billion.¹¹² United States carriers have been the most profitable; in 2018, five of the 10 most profitable airline groups were from North America. For example, Delta airlines alone has made almost \$30 billion in net profits in the past decade.¹¹³ Profitability is not currently a problem for the airline industry. It is unfortunate, but not surprising, that the desire to further increase the profit margins for airlines trumps the need to accommodate people living with mental or emotional disabilities. The new rules do not ban ESAs, but simply gives airlines the ability to treat ESAs as pets, thus permitting the collection of pet fees.

The DOT invited comments from relevant stakeholders before the new rule was passed. Of the approximately 15,000 comments received, more than 10,000 of those comments concerned

¹⁰⁹ Chelsea Hernandez-Silk, “They Say Emotional Support Dog, We Say Service Dog: Why the Americans with Disabilities Act Should Recognize Emotional Support Dogs as Service Animals,” *Richmond Public Interest Law Review*, 21, no. 3 (2018): 328, <https://scholarship.richmond.edu/pilr/vol21/iss3/6>

¹¹⁰ DOT, “Traveling by Air,” 79744.

¹¹¹ DOT, “Traveling by Air,” 79744.

¹¹² Graham Dunn, “How the Airline Industry Grew Profitable Over the Past Decade,” *FlightGlobal*, December 30, 2019, <https://www.flightglobal.com/airlines/how-the-airline-industry-grew-profitable-over-the-decade/135918.article>

¹¹³ Dunn, “How the Airline Industry Grew.”

the transport of emotional support animals. More than 3,000 individuals submitted comments in support of DOT's proposal to exclude ESAs from the ACAA definition of a service animal and to allow airlines to treat ESAs as pets.¹¹⁴ Most of these comments came from airlines and airline organizations, flight attendants, and transportation worker organizations, and concerns revolved around safety, fraudulent representation of animals as service animals, or allergies.¹¹⁵

On the other hand, the DOT received more than 6,000 comments either supporting the Department's continued recognition of ESAs as service animals or supporting the recognition of ESAs as a separate accommodation for individuals with disabilities.¹¹⁶ This was more than double the number of comments received that supported stripping ESAs of protections. However, the DOT placed more weight on the concerns of airlines than the affected individuals. The individual commenters who support the DOT's continued recognition of ESAs as service animals include individuals who suffer from autism, debilitating depression, anxiety, post-traumatic stress disorder, and a range of other mental and emotional disabilities.¹¹⁷ One commenter said that she believed that DOT's proposal is discriminatory toward veterans with disabilities and those with mental health conditions, stating: "ESAs like mine are prescribed by [a] healthcare professional in order to ease stress, anxiety, depression, and PTSD. I have PTSD and anxiety and I will testify to the benefit of my ESA. It is far better than dangerous and harmful drugs that I would otherwise need to take."¹¹⁸

Some of these commenters also pointed out that many individuals suffering from mental and emotional disabilities have low incomes and can barely afford the cost of their ticket for air transportation.¹¹⁹ For example, a joint comment from Paralyzed Veterans for America (PVA) and other advocacy organizations noted that even if a passenger's ESA is able to travel as a pet, these fees can cost upwards of \$175 each way, and that "people with disabilities are disproportionately low income and these fees would likely make it very difficult for emotional support animals users to travel[.]"¹²⁰

¹¹⁴ DOT, "Traveling by Air," 79745.

¹¹⁵ DOT, "Traveling by Air," 79745-79746.

¹¹⁶ DOT, "Traveling by Air," 79746.

¹¹⁷ DOT, "Traveling by Air," 79746.

¹¹⁸ DOT, "Traveling by Air," 79746.

¹¹⁹ DOT, "Traveling by Air," 79746.

¹²⁰ DOT, "Traveling by Air," 79746.

Certain groups and sections of the population are more vulnerable and face significantly higher risks than others of experiencing mental health problems, thus requiring the assistance of an ESA. These groups include members of households living in poverty, people with chronic health conditions, infants and children exposed to maltreatment and neglect, survivors of domestic abuse, minority groups, indigenous populations, older people, people experiencing discrimination and human rights violations, lesbian, gay, bisexual, and transgender persons, prisoners, and people exposed to conflict, natural disasters or other humanitarian emergencies.¹²¹ While these groups can always get a service animal and avoid the restrictions placed on ESAs, the cost of obtaining a service animal is usually beyond their reach, and so they turn to ESAs out of necessity. Thus, denying them the same rights as handlers of service animals is both punishment and discrimination based on their socio-economic status. This echoes the arguments of the social model or approach to disability, which emphasises environmental and structural factors in relation to disability.

The DOT received comments from licensed mental health professionals and other health care workers who believed that the new rule would harm people who suffer from mental and emotional disabilities. These commenters said their patients were prescribed an ESA to help accommodate a serious mental or emotional disability, and the new rule would have a disproportionately negative impact on individuals with mental disabilities, in comparison to those with physical disabilities.¹²²

The DOT states that the new rule will reduce confusion among airlines, passengers, airports, and other stakeholders by bringing the DOT's definition of a service animal closer to that of the DOJ's under the ADA.¹²³ The existence of different laws or definitions does not automatically result in a state of confusion; the distinctions under the old rules were quite clear and it is the responsibility of any concerned/affected stakeholder to investigate applicable laws relevant to them. Besides, any confusion that existed under the old rules was not the laws had different provisions per se, but because of the distinction between service animals and ESAs, which has only been expanded. The best way to simplify the laws is by eliminating the distinctions between

¹²¹ World Health Organization., *Mental Health Action Plan 2013-2020* (WHO Geneva, Switzerland 2013), para 10.

¹²² DOT, "Traveling by Air," 79746.

¹²³ DOT, "Traveling by Air," 79745.

them and not by further expanding them. Instead, the laws have only been amended in a way to increase profitability for airlines.

The DOT further states that it created the new rule because it was persuaded by the arguments presented by airlines that ESAs are responsible for a significant percentage of the incidents of animal misbehavior onboard aircrafts.¹²⁴ There has been an increase in reports of animal misbehavior onboard aircrafts. Between 2016 and 2017, Delta Air Lines reported an 84% increase in animal incidents, most of which involved urination, defecation, or aggressive or threatening behaviour by an assistance animal.¹²⁵ There are a few other examples that raise legitimate concerns about the dangers that untrained ESAs may pose in airplanes.¹²⁶ A survey released on September 12th by the Association of Flight Attendants echoes these findings. 61 percent of the attendants surveyed say they have worked on a flight where an emotional support animal caused disruption in the cabin.¹²⁷

While there are certainly relevant concerns about the presence of ESAs on aircrafts, it is important to remember coverage and reports of incidences of ESAs on aircrafts are heavily skewed towards those that misbehave or cause disruption, and the many instances of perfectly well-behaved ESAs are never reported. The argument that ESAs cause most of the disturbances on aircrafts is undermined because, despite this finding, the new rules do not ban ESAs, but instead allows airlines to charge fees to transport them. Most airlines will continue accepting ESAs because it will become a huge source of additional revenue for them.

According to the DOT, the new rule will result in an overall reduction in the number of uncrated animals onboard aircraft, thereby reducing the overall number of animal misbehavior incidents (and the overall number of potential allergic reactions) onboard aircraft.¹²⁸ While the total number of animals aboard aircrafts will likely reduce, this new rule will only benefit

¹²⁴ DOT, "Traveling by Air," 79748.

¹²⁵ Paulina Firozi, "An 'Emotional-Support Dog' Attacked Him On A Flight. He's Suing Delta and the Owner." *The Washington Post*, May 29, 2019, <https://www.washingtonpost.com/transportation/2019/05/29/an-emotional-support-dog-attacked-him-flight-hes-suing-delta-owner/>

¹²⁶ Dawn Gilbertson, "American Airlines Flight Attendant Bitten by Emotional Support Dog, Requires Five Stitches," *USA Today*, July 23, 2019, <https://www.usatoday.com/story/travel/airline-news/2019/07/23/american-flight-attendant-bitten-emotional-support-dog-dallas-north-carolina-stitches/1808632001/>

¹²⁷Frederick Kunkle, "Flight Attendant Survey Says 61 Percent Worked Flights Where Emotional Support Animal Caused a Disturbance," *The Washington Post*, September 13, 2018, <https://www.washingtonpost.com/transportation/2018/09/14/flight-attendant-survey-says-percent-worked-flights-where-companion-animal-caused-disturbance/>.

¹²⁸ DOT, "Traveling by Air," 79748.

travelers who can afford to pay the pet fees to transport their ESAs while discriminating against lower-income people who may not be able to afford the fees. Besides, a consideration of a potential risk of allergic reaction is a presumption that should not override the need of someone who requires an ESA. The new rules will also discourage people with ESAs from traveling because they will not only be without their support animal for the journey itself but also the entire duration of their trip.

The DOT stated its belief that creating a distinct set of requirements and rules to apply to ESAs “would perpetuate tiered systems that give rise to confusion and the continued opportunity for abuse and increased safety risk.”¹²⁹ The distinction between service animals and ESAs and the new rules also perpetuates a tiered system; one in which service animals are given more protections than ESAs, and veterans and rich individuals are given more priority over poorer individuals.

The new DOT rules require handlers to complete a behaviour and training form,¹³⁰ health form,¹³¹ and a Relief Form.¹³² All 3 forms contain notification that it is a federal crime to make “materially false, fictitious, or fraudulent statements, entries, or representations knowingly and willfully on this form to secure disability accommodations...”¹³³ These forms can also be applied to ESAs and will address all the major concerns of airlines about transporting ESAs.

The changes to the ACAA will also affect air travel in Canada. Although ESAs are not recognized under Canadian laws, major Canadian airlines have been treating them as service animals and allowing them on board free of charge,¹³⁴ because the ACAA also applies to flights arriving in the United States, irrespective of the carrier. Now that the ACAA has been amended, it is likely that Canadian carriers will also begin treating ESAs as pets and start to charge to transport them.

¹²⁹ DOT, “Traveling by Air,” 79748.

¹³⁰ Certifies that the animal is appropriately trained, and that handler may be liable for damage caused by the animal, DOT, “Traveling by Air,” 79755-79756.

¹³¹ Provides information on the physical description of the animal and its health, DOT, “Traveling by Air,” 79757-79759.

¹³² Required for flights longer than 8 hours and certifies that the animal will not need to relieve itself or can relieve itself in a way that does not create a health or sanitation risk, DOT, “Traveling by Air,” 79760-79761.

¹³³ DOT, “Traveling by Air,” 79762.

¹³⁴ Air Canada, “Our Accessibility Services,” accessed December 22, 2020, <https://www.aircanada.com/ca/en/aco/home/plan/accessibility.html>; WestJet, “Service Animals,” accessed December 22, 2020, <https://www.westjet.com/en-mx/travel-info/special-needs/service-animals>.

Conclusion and recommendations

While governments may not intentionally set out to discriminate against persons living with mental disorders, the effect of a country's laws may impose barriers and burdens on persons living with mental disorders.¹³⁵ The Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health noted that there is still greater emphasis on physical health over mental health based on national policies and budgets or in medical education and practice.¹³⁶ The global median mental health expenditure per capita is US\$ 2.5.¹³⁷ The global median of domestic general government health expenditure per capita in 2015 was US\$ 141, thus making government mental health expenditure less than 2% of the global median of government health expenditure.¹³⁸ The arbitrary division of physical and mental health and the emphasis on physical health over mental health has resulted in a situation of unmet needs and human rights violations¹³⁹

For example, in the United States, relevant sections of the ADA and ADAAA that apply to physical disabilities have received the most attention,¹⁴⁰ and there has been significant progress for people with physical disabilities in gaining access to public facilities, including restaurants, theaters, stores, museums, offices and plants, web sites, and government services. There has been significantly less progress for individuals who have mental, emotional, or psychiatric disorders, otherwise called “invisible disabilities” because such disabilities are not immediately apparent to others.¹⁴¹

It is readily apparent that the laws above, as well as public perception of ESAs draw from the medical approach to disability. This formalist approach leaves little room for the idea that something not easily quantifiable such as the work done by ESAs is truly beneficial to their

¹³⁵ World Health Organization., *Resource Book on Mental Health, Human Rights, and Legislation*. (WHO Geneva, Switzerland 2005), 4.

¹³⁶ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/HRC/35/21, (June 6-23, 2017), para. 6.

¹³⁷ World Health Organization., *Mental Health Atlas 2017* (WHO Geneva, Switzerland 2018), 26.

¹³⁸ World Health Org., *Mental Health Atlas 2017*, 26.

¹³⁹ UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights, Mental health and Human Rights*, A/HRC/34/32 (February 27-March 24, 2017), paras 11-21.

¹⁴⁰ Kathryn Moss, Matthew Johnsen, and Michael Ullman, “Assessing Employment Discrimination Charges Filed by Individuals With Psychiatric Disabilities Under the Americans with Disabilities Act,” *Journal of Disability Policy Studies*, 9, no. 1 (April 1998): 81-105.

¹⁴¹ C.W. Von Bergen, “Emotional Support Animals, Service Animals, and Pets on Campus,” *Administrative Issues Journal: Education, Practice, and Research* 5, no. 1 (2015): 18.

handlers. The social model correctly points out that disability cannot be viewed in isolation, or strictly in relation to an individual's disability. This is very relevant, for example, in the socio-economic barriers faced by people who rely on ESAs. First, because some handlers of ESAs had to get one because of the prohibitive costs associated with service animals, and second, the new costs associated with transporting their ESAs on airplanes.

Various authorities have cited their concern about the misrepresentation of pets as service animals as one of the reasons for the distinction between service animals and ESAs. However, without a more uniform and reliable process of training, certifying, and identifying service animals, the current laws encourage dishonesty, especially among dog owners. This in turn generally affects the credibility of ESAs. Any dog owner can simply claim that their dog is a service animal. In the end, the current laws are not nearly as effective as the authorities claim.

The denial of adequate and equal protections denies handlers of ESAs equal participation in life and society and arguments such as the fraudulent misrepresentation and safety concerns can all be addressed by appropriate laws and policies. Some psychologists have proposed an assessment model for ESAs certification comprising a 4-pronged approach for conducting these types of assessments: (a) understanding, recognizing, and applying the laws regulating ESAs; (b) a thorough, valid assessment of the individual requesting an ESA certification; (c) an assessment of the animal in question to ensure that it actually performs the valid functions of an ESA; and (d) an assessment of the interaction between the animal and the individual to determine whether the animal's presence has a demonstrably beneficial effect on that individual.¹⁴² That can be a start towards addressing the concerns about ESAs because such concerns should not override the human rights of people with mental and emotional disabilities.

The United Nations Convention on the Rights of Persons with Disabilities [CRPD] imposes on State parties the obligation to “take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in

¹⁴² Jeffrey Younggren et. al, “Emotional Support Animal Assessments: Toward a Standard and Comprehensive Model for Mental Health Professionals,” *Professional Psychology, Research and Practice* 51, no. 2 (April 2020): 156–162, <https://doi.org/10.1037/pro0000260>

rural areas.”¹⁴³ The current laws (and absence of relevant laws) in the United States and Canada do not fulfil these obligations, because people living with mental and emotional disabilities do not enjoy equal access as the general public where assistance animals are concerned.

As expected, airlines have moved swiftly to implement the new DOT rules and have banned ESAs. Major airlines in the United States have announced that they will no longer recognize ESAs, and passengers who wish to travel with animals that are not service animals will do so according to the airlines pet policies.¹⁴⁴ American, United and Delta airlines each charge \$125 each way for “cabin pets.” Alaska airlines charges pet carriage fees of \$100 in the cabin and \$100 in the cargo compartment. Southwest’s “Pet Fare” is \$95 each way.¹⁴⁵ As stated earlier in this paper, these fees can represent a financial barrier for low-income people who require the assistance of ESAs, while airlines are expected to make millions of dollars at from those who can afford the fees. Handlers of ESAs are understandably unhappy about the new rules, and advocates have threatened lawsuits.¹⁴⁶

Laws and policies in the United States and Canada on service animals and ESAs have to be amended, and service animals and ESAs should enjoy similar protections. The justifications for the distinction under the laws are weak, and they only serve to perpetuate discrimination against handlers of ESAs. The absence of ESAs under Canadian law is an unfortunate oversight that should be corrected. ESAs should be explicitly recognized and protected under Canadian laws.

¹⁴³ UN General Assembly, *Convention on the Rights of Persons with Disabilities: Resolution Adopted by the General Assembly*, A/RES/61/106 (January 24, 2007), Art. 9.

¹⁴⁴ Marnie Hunter, “Southwest Joins Other Airlines in Banning Emotional Support Animals,” *CNN*, January 25, 2021, <https://www.cnn.com/travel/article/emotional-support-animals-airlines-wellness-trnd/index.html>

¹⁴⁵ Michael Goldstein, “Emotional Support Animals Banned by United, American, Delta, Alaska: Will Southwest Hold Out?” *Forbes*, January 12, 2021, <https://www.forbes.com/sites/michaelgoldstein/2021/01/12/united-american-and-delta-join-alaska-banning-emotional-support-animals-will-southwest-hold-out/?sh=2497e4121c43>

¹⁴⁶ Michael Goldstein, “Emotional Support Animals Banned.”

Bibliography

Accessible Transportation for Persons with Disabilities Regulations. SOR/2019-244

ADA Amendments Act of 2008. Public Law 101-325. 110th Congress. (September 25, 2008)

Air Canada. "Our Accessibility Services." Accessed December 22, 2020.

<https://www.aircanada.com/ca/en/aco/home/plan/accessibility.html>

Air Carrier Access Act of 1986 Public Law 99-435. 99th Congress (October 2, 1986)

American Pet Products Association. "Can Pets Help Today's Teens Cope With Mental Health Issues?"

PR Newswire. September 26, 2019. <https://www.prnewswire.com/news-releases/can-pets-help-todays-teens-cope-with-mental-health-issues-300925514.html>

Americans With Disabilities Act of 1990. Public Law 101-336. 108th Congress. (July 26, 1990)

Barker, Sandra B, and Kathryn S Dawson. "The Effects of Animal-Assisted Therapy on Anxiety Ratings of Hospitalized Psychiatric Patients." *Psychiatric services (Washington, D.C.)* 49, no. 6 (1998): 797-801

Baun, Mara M, and Barbara W McCabe. "Companion Animals and Persons with Dementia of the Alzheimer's Type: Therapeutic Possibilities." *The American behavioral scientist (Beverly Hills)* 47, no. 1 (2003): 42-51

Bibi v Same [2011] UKSC 45 [2012] 1 AC 621 at [44]

Bourland, Kristin M. "Advocating Change Within the ADA: The Struggle to Recognize Emotional-Support Animals as Service Animals." *University of Louisville law review* 48, no. 1 (2009): 197-220

- Carroll, Joshua D, Brian S. Mohlenhoff, Charlie M. Kersten, Dale E. McNiel, and Renee L. Binder. "Laws and Ethics Related to Emotional Support Animals." *The journal of the American Academy of Psychiatry and the Law* 48, no. 4 (September 16, 2020): 509-518
<https://doi.org/10.29158/JAAPL.200047-20>
- CBS News, "How Easily can Pigs Fly for Free?" July 3, 2015, <https://www.cbsnews.com/news/how-airline-passengers-game-emotional-support-animal-system/>
- Chan, Cora. "The Burden of Proof Under the Human Rights Act." *Judicial review* 19, no. 1 (2014): 46–51
- Civil Rights Act of 1968. Title VIII- Fair Housing. Public Law 90-284. 90th Congress (April 11, 1968)
- DeCoursey, Mary, Anne C. Russel, and Kathy J. Keister. "Animal-Assisted Therapy: Evaluation and Implementation of a Complementary Therapy to Improve the Psychological and Physiological Health of Critically Ill Patients." *Dimensions of critical care nursing* 29, no. 5 (September 2010): 211–214. <https://doi:10.1097/DCC.0b013e3181e6c71a>
- Dial, Angela M. "The Working Public's Perceptions of Service Dogs: A Phenomenological Investigation of Gatekeepers' Experiences" (PhD Diss., West Virginia University, 2019), 1-388, <https://researchrepository.wvu.edu/etd/3875>
- Dolph, Annaliese. *Comment Letter on Proposed Rules on Non-discrimination on the Basis of Disability in State and Local Government Services*. Disability Rights North Carolina, (Aug. 18, 2008): 1-17
<https://www.regulations.gov/document?D=DOJ-CRT-2008-0016-1494>
- Dunn, Graham. "How the Airline Industry Grew Profitable Over the Past Decade." *FlightGlobal*. December 30, 2019. <https://www.flightglobal.com/airlines/how-the-airline-industry-grew-profitable-over-the-decade/135918.article>

Esminger, Thomas, and Lawrence J. Thomas. "Writing Letters to Help Patients with Service and Support Animals." *Journal of forensic psychology practice* 13, no. 2 (March 1, 2013): 92–115. <http://dx.doi.org/10.1080/15228932.2013.765734>

Firozi, Paulina. "An 'Emotional-Support Dog' Attacked Him On A Flight. He's Suing Delta and the Owner." *The Washington Post.*, May 29, 2019. <https://www.washingtonpost.com/transportation/2019/05/29/an-emotional-support-dog-attacked-him-flight-hes-suing-delta-owner/>

Genter, Katie. "My First Class Seat was Taken by an Emotional Support Animal." *The Points Guy*, August 13, 2019, <https://thepointsguy.com/news/first-class-seat-emotional-support-animal/>

Ghebreyesus, Tedros A. *The WHO Special Initiative for Mental Health (2019-2023): Universal Health Coverage for Mental Health*, World Health Organization (2019): 1-4

Gilbertson, Gilbertson. "American Airlines Flight Attendant Bitten by Emotional Support Dog, Requires Five Stitches." *USA Today*. July 23, 2019. <https://www.usatoday.com/story/travel/airline-news/2019/07/23/american-flight-attendant-bitten-emotional-support-dog-dallas-north-carolina-stitches/1808632001/>

Goering, Sara. "Rethinking Disability: The Social Model of Disability and Chronic Disease." *Current Reviews Musculoskeletal Medicine* 8, no. 2(2015): 134-138

Goldstein, Michael. "Emotional Support Animals Banned by United, American, Delta, Alaska: Will Southwest Hold Out?" *Forbes*. January 12, 2021, <https://www.forbes.com/sites/michaelgoldstein/2021/01/12/united-american-and-delta-join-alaska-banning-emotional-support-animals-will-southwest-hold-out/?sh=2497e4121c43>

Hernandez-Silk, Chelsea. "They Say Emotional Support Dog, We Say Service Dog: Why the Americans with Disabilities Act Should Recognize Emotional Support Dogs as Service Animals."

Richmond Public Interest Law Review, 21, no. 3 (2018): 313-340.
<https://scholarship.richmond.edu/pilr/vol21/iss3/6>

Herzog, Harold. "The Impact of Pets on Human Health and Psychological Well-Being: Fact, Fiction, or Hypothesis?" *Current Directions in Psychological Science: A Journal of the American Psychological Society* 20, no. 4 (August 1, 2011): 236–239.
<http://dx.doi.org/10.1177/0963721411415220>

Human Rights Council. *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*. A/HRC/35/21 (June 6-23, 2017)

Hunter, Marnie. "Southwest Joins Other Airlines in Banning Emotional Support Animals." *CNN*, January 25, 2021. <https://www.cnn.com/travel/article/emotional-support-animals-airlines-wellness-trnd/index.html>

Invisible Disabilities Association. "Looks Can be Deceiving: Understanding What's on the Inside, Despite What You See on the Outside," accessed March 30, 2021,
<https://invisibledisabilities.org/publications/invisibleawareness/lookscanbedeceiving/>

Kunkle, Frederick. "Flight Attendant Survey Says 61 Percent Worked Flights Where Emotional Support Animal Caused a Disturbance." *The Washington Post*. September 13, 2018.
<https://www.washingtonpost.com/transportation/2018/09/14/flight-attendant-survey-says-percent-worked-flights-where-companion-animal-caused-disturbance/>

Le Roux, Marienna, and Rene Kemp. "Effect of a Companion Dog on Depression and Anxiety Levels of Elderly Residents in a Long-term Care Facility." *Psychogeriatrics* 9, no. 1 (March 2009): 23–26.
<http://dx.doi.org/10.1111/j.1479-8301.2009.00268.x>

Leonhardt, David. "It's Time to End the Scam of Flying Pets." *The New York Times*. February 4, 2018,
<https://www.nytimes.com/2018/02/04/opinion/flying-pets-scam-peacock.html>

Little Angels Service Dogs. "Applying for a Service Dog." Accessed December 25, 2020, <https://www.littleangelsservicedogs.org/apply-2/>

Manitoba Human Rights Commission Board of Commissioners Policy. "Service Animals." Policy # I-9 (February 13, 2015).

Marx, Patricia. "Pets Allowed: Why Are So Many Animals in Places Where They Shouldn't Be?" *The New Yorker*, October 13, 2014, <https://www.newyorker.com/magazine/2014/10/20/pets-allowed>

Maujean, Annick, Christopher A. Pepping, and Elizabeth Kendall. "A Systematic Review of Randomized Controlled Trials of Animal-Assisted Therapy on Psychosocial Outcomes." *Anthrozoös* 28, no. 1 (April 28, 2015): 23–36. <https://doi:10.2752/089279315X14129350721812>

McQuery, Kristen. "Pets on Planes and Our Indulgent Culture." *Chicago Tribune*. May 14, 2018. <https://www.chicagotribune.com/opinion/commentary/ct-perspec-mcqueary-column-pets-airlines-20180515-story.html>

Moss, Kathryn, Matthew Johnsen, and Michael Ullman. "Assessing Employment Discrimination Charges Filed by Individuals with Psychiatric Disabilities Under the Americans with Disabilities Act." *Journal of Disability Policy Studies*, 9, no. 1 (April 1998): 81-105

Owens, David. "Pooping Pig and Its Owner Booted from Bradley Flight." *Hartford Courant*, November 19, 2014, <https://www.courant.com/breaking-news/hc-pig-on-plane-at-bradley-1130-20141129-story.html>

Price, Margaret. "What is a Service Animal? A Careful Rethinking." *Review of Disability Studies: An International Journal* 13, no. 4 (December 1, 2017): 1-18

- Ragusa, Gina. "How Much Does It Cost to Train a Service Dog?" *Showbiz Cheatsheet*, December 4, 2018. <https://www.cheatsheet.com/entertainment/how-much-does-it-cost-to-train-a-service-dog.html/>
- Reed, Dan. "Delta Yanks Hard on the Leash of Those who've Abused Service Animal Travel Policies." *Forbes*, January 22, 2018, <https://www.forbes.com/sites/danielreed/2018/01/22/delta-yanks-hard-on-the-leash-of-those-who-ve-abused-its-service-support-animal-travel-policies/?sh=767c3c493eed>
- Regina (F (A Child)) v Secretary of State for the Home Department* [2010] UKSC 17 [2011] 1 AC 331 at [17]
- Resnick, Brian. "The Surprisingly Weak Scientific Case for Emotional Support Animals." *Vox*, November 18, 2018, <https://www.vox.com/science-and-health/2018/2/23/17012116/emotional-support-animal-airplane-psychology-research-dogs>
- Roman, Leslie G. "Go figure! Public pedagogies, invisible impairments and the performative paradoxes of visibility as veracity." *International Journal of Inclusive Education*, 13, no. 7 (2009): 677-698 DOI: [10.1080/13603110903041920](https://doi.org/10.1080/13603110903041920)
- Rossetti, Jeanette, and Camille King. "Use of Animal-assisted Therapy with Psychiatric Patients." *Journal of Psychosocial Nursing & Mental Health Services* 48, no. 11 (2010) 44–48. [https://doi:10.3928/02793695-20100831-05](https://doi.org/10.3928/02793695-20100831-05)
- Samuels, E. *Fantasies of Identification: Disability, Gender, Race*. (New York: NYUP, 2014)
- Schoenfeld-Tacher, Regina, Peter Hellyer, Louna Cheung, Lori Kogan. "Public perceptions of Service Dogs, Emotional Support Dogs, and Therapy Dogs." *International journal of environmental research and public health* 14, no. 6 (June 15, 2017): 642-654. [https://doi-org.uml.idm.oclc.org/10.3390/ijerph14060642](https://doi.org/10.3390/ijerph14060642)

Shapiro, Shapiro. "Veteran Accuses American Airlines of Stopping Him, Service Dog from Boarding Flight," *ABC News*. September 22, 2015. <https://abcnews.go.com/US/veteran-accuses-american-airlines-stopping-service-dog-boarding/story?id=33943749>

Stone, Sharon Dale. "Reactions to invisible disability: The experiences of young women survivors of hemorrhagic stroke." *Disability and Rehabilitation*, 27, no. 6 (2005) 293-304, DOI: [10.1080/09638280400008990](https://doi.org/10.1080/09638280400008990);

Taylor, Myra F., Mary E. Edwards, and Julie Ann Pooley. "Nudging Them Back to Reality: Toward a Growing Public Acceptance of the Role Dogs Fulfill in Ameliorating Contemporary Veterans' PTSD Symptoms." *Anthrozoös*, 26, no. 4 (December 1, 2013): 593-611. <https://doi.org/10.2752/175303713X13795775535896>

Teitell, Beth. "Service Dogs Barred, Doubted, and Deeply Treasured," *The Boston Globe*, September 18, 2013, https://www.bostonglobe.com/lifestyle/2013/09/18/the-growing-number-dogs-assisting-people-with-invisible-conditions-causing-conflict-and-some-cases-confrontation/igPnUBYHa97K07ccBGJJVJ/story.html?p1=Article_Related_Box_Article

The State Hospital. "Animals As Therapy in Mental Health." (August 2007): 1-28. <https://www.tsh.scot.nhs.uk/Person%20Centred/Docs/Animals%20as%20Therapy%20booklet%20-%20Aug%2007.pdf>

U.S. Department of Justice. "Americans with Disabilities Act Title III Regulations: Non-discrimination on the Basis of Disabilities by Public Accommodations and in Commercial Facilities; Final Rule." *Federal Register* 75, no. 178 (September 15, 2010): 56236-56358

U.S. Department of Justice. "Americans With Disabilities Act Title 11 Regulations: Non-discrimination on the Basis of Disability in State and Local Government Services; Final Rule." *Federal Register* 75, no. 178 (September 15, 2010): 56164-56236

U.S. Department of Transportation. "Nondiscrimination on the Basis of Disability in Air Travel; Final Rule." *Federal Register* 73, no. 93 (May 13, 2008):34508-34557

U.S. Department of Transportation. "Traveling by Air with Service Animals; Final Rule." *Federal Register* 85, no. 238 (December 10, 2020): 79742-79776

UN General Assembly. *Convention on the Rights of Persons with Disabilities: Resolution Adopted by the General Assembly*. A/RES/61/106 (January 24, 2007)

UN Human Rights Council. *Report of the United Nations High Commissioner for Human Rights, Mental health and Human Rights*. A/HRC/34/32 (February 27-March 24, 2017)

Underhill, Kevin. *Comment Letter on Proposed Change to Service Animal Regulations*. Shook, Hardy & Bacon, LLP (Aug. 18, 2008), <https://www.regulations.gov/comment/DOJ-CRT-2008-0016-1546>

Von Bergen, C.W. "Emotional Support Animals, Service Animals, and Pets on Campus." *Administrative Issues Journal: Education, Practice, and Research* 5, no. 1 (2015): 15-34.
<https://doi.org/10.3390/ijerph14060642>

Wang, Amy B. "Daniel the Emotional Support Duck Takes His First Plane Ride, Soars in Popularity." *The Washington Post*. October 20, 2016.
<https://www.washingtonpost.com/news/animalia/wp/2016/10/20/daniel-the-emotional-support-duck-takes-his-first-plane-ride-soars-in-popularity/>

Wasserman, David, Adrienne Asch, Jeffrey Blustein, and Daniel Putnam. "Disability: Definitions, Models, Experience", *The Stanford Encyclopedia of Philosophy* (Summer 2016 Edition), Edward N. Zalta (ed.), <https://plato.stanford.edu/entries/disability/>

WestJet. "Service Animals." Accessed December 22, 2020. <https://www.westjet.com/en-mx/travel-info/special-needs/service-animals>

Włodarczyk, Justyna. “When Pigs Fly: Emotional Support Animals, Service Dogs and the Politics of Legitimacy Across Species Boundaries.” *Medical humanities* 45, no. 1 (March 2019): 82-91. [http://doi.org/ doi:10.1136/medhum-2018-011625](http://doi.org/doi:10.1136/medhum-2018-011625)

World Health Organization. *Mental Health Action Plan 2013-2020* (WHO Geneva, Switzerland 2013).

World Health Organization. *Resource Book on Mental Health, Human Rights, and Legislation*. (WHO Geneva, Switzerland 2005)

Young, Janette, Rhianna Pritchard, Carmel Nottle, and Helen Banwell. “Pets, Touch, and COVID-19: Health Benefits from Non-Human Touch Through Times of Stress.” *Journal of Behavioural Economics for Policy* 4, no. 2 (2020):25-33. <https://sabeconomics.org/wordpress/wp-content/uploads/JBEP-4-S2-3.pdf>

Younggren, Jeffrey N, Jennifer A. Boisvert, and Cassandra L. Boness. “Examining Emotional Support Animals and Role Conflicts in Professional Psychology.” *Professional Psychology, Research and Practice* 47, no. 4 (August 2016): 225-250. [http://dx.doi.org/ 10.1037/pro0000083](http://dx.doi.org/10.1037/pro0000083)

Younggren, Jeffrey, Cassandra L. Boness, Leisl M. Bryant, Gerald P. Koocher, and Kathi A. Borden. “Emotional Support Animal Assessments: Toward a Standard and Comprehensive Model for Mental Health Professionals.” *Professional Psychology, Research and Practice* 51, no. 2 (April 2020): 156–162. <https://doi.org/10.1037/pro0000260>