Service Animals in Stadium Seating

By Marion Gwizdala

The following information is intended as informal guidance only and should not be construed as legal advice. For more information, you may contact

National Association of Guide dog Users Inc.

National Federation of the Blind

Hotline: 888-624-3841 (888-NAGDU411)

Info@NAGDU.ORG

<http://www.nagdu.org>

This guidance is in response to the question as to whether a disabled individual accompanied by a service animal has the right to sit in general stadium seating or is required to sit in a seat specifically designated as disabled seating. This information is provided as informal guidance only and should not be construed as legal advice.

Title III of the Americans withDisabilities act (ADA prohibits private entities that provide public accommodations from discriminating against individuals with disabilities. The implementing regulations of Title III of the ADA are contained in 28 CFR Part 36. According to the Act, public accommodations include “a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment“. (42 USC 12181(7)(C)) according to the implementing regulations of the ADA, “Service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.” (28 CFR Part 36.104) Places of public accommodation are required to modify their policies, practices, and procedures to permit individuals with disabilities accompanied by their service animals in all areas where members of the public, program participants, clients, customers, patrons, or invitees, as relevant, are allowed to go. (28 CFR Part 36.302(7)

A place of public accommodation may refuse to allow an individual with a disability to be accompanied by a service animal if the presence of the animal poses a direct threat to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures (28 CFR Part 36.208), if the animal is out of control and the handler does not take effective action to correct the behavior (28 CFR Part 36.302(c)(2)(i)), or if the animal is not housebroken (28 CFR Part 36.302(c)(2)(ii)). If an entity asserts the animal poses a direct threat, it must demonstrate that such a threat exists. In determining if a direct threat to the health or safety of others exists, a public accommodation must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain the nature, duration, and severity of the risk, the probability that the potential injury will actually occur, and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.; (28 CFR Part 36.208(b)) A public accommodation cannot assume such a threat exists. If a service animal is properly excluded, the public accommodation must allow the individual with a disability the opportunity to obtain goods, services, and accommodations without having the service animal on the premises (28 CFR Part 36.302(c)(3)).

Though stadiums are required to have at least 1% of its capacity seating designated as wheelchair seating on an accessible path, there are no regulations requiring an individual with a disability accompanied by a service animal to make use of such seating. In fact, the implementing regulations specifically state, “Nothing in this part shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit available in this part that such individual chooses not to accept.” (28 CFR Part 36.203(c)(1))

In summary, a stadium is a place of public Accommodation. Disabled individuals must be allowed to occupy any area of a place of public accommodation that other patrons are allowed to occupy. In addition, a disabled individual is allowed to be accompanied by a service animal unless doing so poses a direct threat, the animal is out of control and the handler does not take effective action to control it, or the animal is not housebroken. Furthermore, disabled individuals accompanied by service animals may not be required to sit in designated areas if they so choose to not make use of such seating. For more information about the subject of stadium seating or other concerns involving the use of guide or other service dogs, you may contact the NAGDU Information & Advocacy Hotline at 888-NAGDU411 (888-624-3841) or send an email to

Info @NAGDU.ORG

The National Association of Guide dog Users is the nation’s leading membership organization for blind people who use guide dogs. NAGDU is a strong and proud division of the National Federation of the Blind. NAGDU conducts public awareness campaigns on issues of guide dog use, provides advocacy support for guide dog handlers who face discrimination, supports sound policy and effective legislation to protect the rights of guide dog users, offers educational programs to school and civic organizations, and functions as an integral part of the National Federation of the Blind. For more information about the National Association of Guide Dog Users and to support their work, you can visit their website at

[HTTP://WWW.NAGDU.ORG](http://www.nagdu.org/)

Or send an email message to

[Info@NAGDU.ORG](mailto:Info@NAGDU.ORG)