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CIVIL RIGHTS FOR THE BLIND:
EQUAL ACCESS FOR GUIDE DOG USERS*

Leonard D. DuBoff**

I. INTRODUCTION

Many limitations experienced by physically handicapped people are actually obstacles society has imposed on the handicapped. Aggressive lobbying by the handicapped has, to some extent, recently led to recognition of this fact, both at the state and federal levels, resulting in legislation designed to eliminate some of the more common barriers to equal participation in societal activities.† Nearly every state has enacted an equal access

* This article deals with guide dogs for the blind which are sometimes referred to as dog guides, seeing eye dogs, or leader dogs. The hearing impaired have in recent years begun to use dogs as a hearing aid. A discussion of these dogs is beyond the scope of this article. However, some state statutes, *e.g.*, MASS. GEN. LAWS ANN. ch. 272, § 98A (West 1970 & Supp. 1987), deal with these dogs, and many of the problems discussed throughout this article are faced by the hearing impaired guide dog user as well.

** Professor of Law, Lewis & Clark Northwestern School of Law, Counsel to the Oregon law firm of Joseph Babener & Carpenter. I would like to acknowledge the assistance of my research assistants, Blanche Sommers, J.D. Lewis & Clark Law School 1986 and Nancy Walseth, J.D. Lewis & Clark 1978. I would also like to acknowledge the extremely valuable assistance of my partner in law and life, Mary Ann DuBoff. And, finally, I would like to thank Alex for whom this article was written.

† Cf. American Council of the Blind v. Boorstin, 644 F. Supp. 811 (D.D.C. 1986), wherein it was held that the Librarian of Congress' refusal to continue providing Braille copies of Playboy magazine to the blind was blatant censorship and paternalism, viola-
provision which guarantees access for the handicapped to public places. The U.S. Congress has passed laws prohibiting discrimination on the basis of physical handicap in programs or activities receiving federal funds and requiring public education for handicapped children. Despite these laws, many obstacles still remain.

Perhaps the most immediate and obvious challenge for many handicapped people is that of mobility. To maintain employment, one must be able to get to and from the workplace. Mobility is also crucial to participation in social and recreational activities outside the home. Federal legislation has addressed this problem for some by encouraging elimination of architectural barriers. Mobility for the blind, however, involves some unique problems which are ripe for legislative attention.

The primary means of facilitating independent travel for the blind are still dog guides and canes. Several sonar-like devices have also been developed to provide assistance to the blind traveler. These devices, called electronic travel aids (ETAs), de-
tect objects in the travel path, primarily in conjunction with a
dog or cane,\textsuperscript{10} and relay this information to the user.\textsuperscript{11} Examples
of such devices include the Sonicguide\textsuperscript{12} (housing the ETA in a
pair of eyeglasses), and the Pathsounder\textsuperscript{13} (worn around the
neck). These devices show promise but all have limitations and
are merely supplemental to a dog or cane.\textsuperscript{14}

In this article the use of dogs as guides for the blind will be
discussed and state laws which are supposed to ensure equal ac-
tess for handicapped persons will be analyzed. In particular, fo-
cus will be upon the legislative failure to address certain
problems repeatedly encountered by blind persons with dog
guides. Finally, remedial federal legislation will be proposed.

II. HISTORY AND USE OF GUIDE DOGS IN THE UNITED STATES

In 1960, the Columbia University School of Social Work
published a study of guide dog schools and users in the United
States.\textsuperscript{15} The Columbia study indicated that mobility is im-
portant to the emotional well-being of blind persons and that many
of those who chose the independence provided by dog guide use
displayed a more positive attitude about their mobility.\textsuperscript{16} The
study also indicated that dog users are more efficient at indepen-
dent travel than are cane users or even those who normally have
human guides.\textsuperscript{17}

Mobility is important for many reasons. For an individual
who works outside the home, it is critical to be able to travel
between home and the place of employment. Any activities en-

\begin{footnotes}
\item[10] Telesensory Systems Newsletter (Jan. 1975) (discussing Electronic
Travel Aids); Clark, \textit{Electronic Eyes}, \textit{Newsweek}, May 24, 1976, at 83
(discussing mini-
camera sensory imager); \textit{Handbook, supra} note 6, at 41.
\item[11] \textit{Id.}
\item[12] \textit{Id.}
\item[13] \textit{Id.}
\item[14] \textit{Id.}
\item[15] N.Y. School of Social Work, Columbia University, Study of the Demand for Dog
Guides 72–73, 94–101 (1960) [hereinafter Study].
\item[16] \textit{Id.}
\item[17] \textit{Id.}
\end{footnotes}
Engaged in outside the home require some means of mobility whether the activity is shopping, eating in a restaurant or attending a public event.

As previously stated, the two primary means of facilitating independent travel for the blind have been and still are canes and dog guides. Each of these methods has its proponents. Generally, a successful dog guide user will be very enthusiastic about the benefits of traveling with a dog. But in the past, many mobility instructors teaching use of the cane were opposed to dog guide use and relayed this opposition to their students. The reasons for their opposition are unclear; perhaps unsuccessful experiences with dogs could have influenced such attitudes. A person who has had a bad experience with a dog can become a powerful opponent of dog guides. Failures can result from poor training or poor matching of student and dog. It is especially important that the dog and user be carefully matched to make a successful team.

People who experience success with dog guides enjoy certain advantages over cane users. Travel with a dog is generally faster than with a cane and requires slightly less concentration. The user receives certain cues from the dog upon approaching hazards such as down slopes or steps. However, the individual is still responsible for knowing where he or she is and where the

18. Interview with Carol Ashland, a member of the Oregon Commission for the Blind (Apr. 15, 1986) [hereinafter Ashland]; see also Study, supra note 15, at 72-73.
19. Ashland, supra note 18; Study, supra note 15, at 41.
20. Of the schools surveyed and analyzed in EAMES, GARDNER & GINGOLD, A GUIDE TO GUIDE DOG SCHOOLS, BARUCH COLLEGE GUIDE DOG BOOK FUND (1986) [hereinafter EAMES], the dog training process appears to be fairly uniform. The schools either breed their own dogs or select from a host of potentially suitable animals. These pups are customarily raised by being placed in homes for socialization until they are approximately one year old. At that time, the dogs begin a three to six month training period with a sighted trainer. Before the animal is assigned to a blind user, it is given extensive tests for skill and obedience. Once the dog and blind user are matched, their training process begins. The periods vary, though they average between three and four weeks of intensive work. Customarily, the schools require the blind user and dog to successfully complete the mobility training before the team is permitted to function independently.
21. Id. at 2. See also interview with Iva Menning, a member of the Oregon Commission for the Blind (Apr. 17, 1986) [hereinafter Menning].
22. Ashland, supra note 18; Menning, supra note 21; FOUNDATIONS, supra note 8, at 568.
23. Ashland, supra note 18; Menning, supra note 21.
The user must tell the dog when to turn, stop or go forward. Dogs may provide advantages but they also come with additional responsibilities. The dog must be fed and groomed. Public perception of the dog may be influenced by how clean it is and how well its coat is kept. The dog must also have adequate veterinary care which can be expensive.

The cane traveler does not have these added responsibilities. When the cane is not in use, it can be stored anywhere and never needs attention or correction. A person who is not interested in spending the extra time and effort required to care for a dog is not a good candidate for dog guide use.

Whether or not a dog guide is appropriate is a very important consideration which should be influenced by many factors. Qualifications for appropriate users of dog guides were examined in the Columbia University study of dog guide use in the United States. The author of the study examined the factors used by dog guide schools to select students and identified several additional selection criteria relevant to effective dog guide use.

The first factor is physical. The dog guide user must have the ability to hear, since the user must communicate with the dog through voice commands. The user should have an almost total lack of visual acuity. A person with some travel vision

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25. EAMES, supra note 20, at 11.
26. Menning, supra note 21; FOUNDATIONS, supra note 8, at 577.
27. Many guide dog users have arranged for low price or free veterinary care to be provided for their dogs. See telephone interview with Kim Charlson (Sept. 29, 1986). See also EAMES, supra note 20, at 11.
28. Study, supra note 15, at 16–21. This study was initiated due to the interest of the Seeing Eye, the first American dog guide school in New Jersey. The central issue was the capacity of existing schools to meet the need for dogs. Id. at 5. The study consisted of surveys, observation of a class cycle at the Seeing Eye and interviews with staff and students at the Seeing Eye. Subjects of the survey consisted of a sample of 500 blind persons on the official register of the New York Commission for the Blind, who were between the ages of 15 and 54 and who were not institutionalized. Id. at 8–12.
29. Id. at 16–17.
30. The schools just require proof of legal blindness, not total blindness. See EAMES, supra note 20, at 13.
31. As discussed supra note 7, there are degrees of blindness ranging from a total lack of vision and light perception to visual acuity of 20/200 or less which is noncorrectable.
will tend to rely on visual cues instead of the dog,\textsuperscript{22} and will tend to push the dog along, a practice known as "suit casing," which may impair the dog's training.\textsuperscript{23} The user must also have overall good health. Guide dogs are taught to walk at a fairly brisk pace and the user must be able to keep up. A related factor is age.\textsuperscript{34} Dogs are generally best suited to adults. The user must be old enough to handle the dog and mature enough to care for it,\textsuperscript{35} but not so frail as to be unable to keep up with it. Based on these criteria, most schools require students to be between 15 and 54 years of age.\textsuperscript{36}

Another factor is compatibility.\textsuperscript{37} The dog and human must develop a relationship in which the dog willingly works for its human companion.\textsuperscript{38} The person must learn how to use the dog properly and be able to handle a variety of situations without the aid of another human being. The user must be able to determine the route to be taken and command the dog accordingly.\textsuperscript{39} This also requires a certain amount of intelligence.\textsuperscript{40}

The relationship between dog and user is enhanced by constant practice. Thus, routine use of the dog is another consideration.\textsuperscript{41} The individual should use the dog frequently, such as in commuting to work or in other daily activities, in order for both the dog and the human to remain adept at working together.

The final factor is the ability to keep and maintain the dog.\textsuperscript{42} The user must have a place to live which can accommodate a dog and must be financially able to feed and care for the animal. The common prohibition on keeping dogs in rental housing is a significant problem for those who cannot afford to or do not choose to buy a home. The Columbia University study also examined the capacity of dog guide schools in determining

\textsuperscript{32} Id.
\textsuperscript{33} Ashland, supra note 18; Foundations, supra note 8, at 569.
\textsuperscript{34} Study, supra note 15, at 104.
\textsuperscript{35} Ashland, supra note 18; D. Hartwell, Dogs Against Darkness 150 (rev. ed. 1960) [hereinafter Hartwell].
\textsuperscript{36} Study, supra notes 15, at 104. But see Eames, supra note 20, at 16, where authors indicate that none of the ten active schools will accept a student under age 16.
\textsuperscript{37} Study, supra note 15, at 60–61.
\textsuperscript{38} Ashland, supra note 18; Eames, supra note 20, at 11–12.
\textsuperscript{39} Study, supra note 15, at 60–61.
\textsuperscript{40} Ashland, supra note 18; Eames, supra note 20, at 12.
\textsuperscript{41} Eames, supra note 20, at 21.
\textsuperscript{42} Study, supra note 15, at 21.
whether there were enough schools to meet the demand for dogs.\textsuperscript{43} It concluded that in 1960 the demand was adequately met.\textsuperscript{44} In 1956, there were about eleven dog guide schools in the United States,\textsuperscript{45} with only one percent of blind persons using dogs by 1960.\textsuperscript{46} A 1986 study indicated that there are thirteen schools, though only ten appear to be active.\textsuperscript{47} The 1986 study also concluded that less than two percent of blind people use guide dogs.\textsuperscript{48}

The practice of using dogs as guides for the blind actually began in Germany shortly after the First World War.\textsuperscript{49} The earliest users of guide dogs were soldiers who were blinded in the war.\textsuperscript{50} This practice came to the attention of a woman, Dorothy Eustis, who was training dogs for various purposes on a farm near Veyvey, Switzerland.\textsuperscript{51} She recognized the potential benefit of the practice for all blind persons and decided to adapt the training for general use.\textsuperscript{52}

An article written by Ms. Eustis about the work being done with these dogs\textsuperscript{53} came to the attention of Morris Frank, a young blind man in Nashville, Tennessee, who was fascinated with the idea.\textsuperscript{54} Frank, who worked as an insurance salesman, found the use of hired young men to guide him when visiting clients to be unreliable, expensive and inefficient.\textsuperscript{55} Frustrated with these problems, Frank contacted Dorothy Eustis in Switzerland and

\begin{itemize}
\item \textsuperscript{43} Id. at 86.
\item \textsuperscript{44} Id.
\item \textsuperscript{45} Id. at 30.
\item \textsuperscript{46} Id. at 46 n.4. This estimate is based on a questionnaire sent to dog guide schools as part of the Columbia University study.
\item \textsuperscript{48} Id. at 3.
\item \textsuperscript{49} HARTWELL, supra note 35, at 64–68.
\item \textsuperscript{50} Id.
\item \textsuperscript{51} Id.
\item \textsuperscript{52} Id.
\item \textsuperscript{53} See M. FRANK & B. CLARK, FIRST LADY OF THE SEEING EYE (1957).
\item \textsuperscript{54} Id.
\item \textsuperscript{55} Id. at 47.
\end{itemize}
made arrangements to travel there to obtain a dog.\textsuperscript{56}

After several weeks of training with his dog, he returned to the United States amidst much publicity.\textsuperscript{57} The dog made an enormous difference in his mobility and independence. He was frequently called upon to demonstrate his efficiency in traveling with his dog.\textsuperscript{58} But, even at this early stage in guide dog use, Frank recognized that access to public places for his dog would be a significant limitation.\textsuperscript{59}

After his return home, Frank set up the first dog guide training school in the United States in Nashville, Tennessee.\textsuperscript{60} However, the hot, humid summers in Nashville made it difficult for the students to work with the dogs for long hours, so in 1929, the school was moved to New Jersey. Here, the students and dogs were required to spend four weeks training before graduating.\textsuperscript{61}

This school, called the Seeing Eye, still exists and is one of the ten active schools in the United States today.\textsuperscript{62} These active schools select only dogs with superior characteristics for training as guides.\textsuperscript{63} The dogs must be even tempered and must not be easily distracted.\textsuperscript{64} The user must be able to take the dog into any setting and expect the dog to be quiet and obedient.

The dog must also possess sufficient intelligence to understand its function.\textsuperscript{65} For example, the dog must anticipate dangers such as overhanging limbs, shrubs or openings in the sidewalk. A dog must also be physically large enough so that a user can easily reach the handle of the harness.\textsuperscript{66} Unsuitable dogs are rejected during the training process, and only the best dogs are ultimately selected as guides.

In order for use of dog guides to be practical, the dogs must be allowed admittance to all public places. A dog guide is a valu-

\begin{itemize}
\item \textsuperscript{56} Id. at 16.
\item \textsuperscript{57} Id. at 56.
\item \textsuperscript{58} Id. at 39-43.
\item \textsuperscript{59} Id. at 34-35.
\item \textsuperscript{60} Id. at 58-59.
\item \textsuperscript{61} Hartwell, supra note 35, at 3.
\item \textsuperscript{62} Eames, supra note 20. See supra note 47.
\item \textsuperscript{63} Eames, supra note 20.
\item \textsuperscript{64} Hartwell, supra note 35, at 120-24.
\item \textsuperscript{65} Id.
\item \textsuperscript{66} Id.
\end{itemize}
able possession, not only in terms of the time and effort spent in training with it and the cost of maintaining the dog, but also in terms of the benefit it provides to its user. It is impractical for the user to leave the dog outside when entering a public place, since the user can never be certain of the dog's safety or comfort in such a circumstance, and further, the blind user may require the dog's guidance while inside. When a person is traveling with a dog, it is imperative that the dog stay with the user.

The greatest problem in obtaining access for dog guides to many places is the general public's attitude that dogs are unsanitary, disruptive or even dangerous. This attitude has led to widespread prohibition of dogs in public places. While these restrictions may be quite valid in the case of the average pet or stray, they are inappropriate when applied to dog guides.

Guide dog users scrupulously maintain their dogs to be certain that they are clean, well-groomed and disease free. The dogs selected for guide dog schools are chosen partly for their

67. Some schools allow the individual to own a dog while others merely grant a license to use the dog so long as the person follows the school's rules. Cf. Guide Dogs for the Blind v. Martin J. Le Doux, No. 905 (Clakamas County Cir. Ct. Feb. 19, 1975), wherein the guide dog school was awarded judgment against a hit and run driver who negligently injured a Sandy, Oregon Justice of the Peace and killed his guide dog. The school recovered the cost of the dog to which it retained title.

68. See audio tape by Zedric Stanford (April 1985) [hereinafter Stanford] forwarded by Kim Charlson, President of Guide Dog Users, Inc., to Leonard D. DuBoff (Oct. 1, 1986), describing how the Stanfords were required by the proprietor of the Timberline Restaurant in Sharp County, Arkansas, to tie Mrs. Stanford's guide dog outside the restaurant while they ate, since her sighted husband could assist her.

See also telephone interview with M.J. Schmidt (Oct. 7, 1986), in which Ms. Schmidt, a member of the American Council of the Blind, informed Mr. DuBoff that she was at first denied access to an airport limousine at St. Louis Airport and was subsequently forced to take a cab to her hotel at twice the limousine fare. When Ms. Schmidt returned to the St. Louis Airport three weeks later, she was again denied access to the regular airport limousine and was informed that she and her dog could take another empty limousine and that she would be charged $15.00 rather than the customary $7.50 fare. Ms. Schmidt filed a complaint with the police, and the county prosecutor is currently pursuing the matter.

See also interview with John Vandervoort (December 3, 1986) [hereinafter Vandervoort], during which Mr. Vandervoort described how he and his guide dog, which had been trained by a guide dog school in Ohio, were ejected from Anchor Fish and Chips in Portland, Oregon, on Nov. 29, 1986. The police informed Mr. Vandervoort that there was nothing they could do despite the enforcement remedies afforded by Or. Rev. Stat. § 346.991 (1985). See infra text accompanying note 115.

69. Ashland, supra note 18; FOUNDATIONS, supra note 8, at 577.
easily maintained coats.\textsuperscript{70} The public interest in sanitation and safety is in no way threatened by the presence of a dog guide. Furthermore, the dog guides are trained to be quiet and well mannered, and are supposed to be under their owner’s control at all times. During their training, the dogs are exposed to a variety of distractions so that their capacity for obedience and attention may be tested before they are assigned to a blind person.\textsuperscript{71} The service provided by these dogs and the user’s right to be active and mobile outweigh any theoretical threat to public safety. For these reasons, a dog user and his or her dog should be permitted access to all public places.

Resistance to dogs is not limited to public places; it may be encountered in a dog user’s dwelling place\textsuperscript{72} or place of employment.\textsuperscript{73} Most state legislatures have recognized that dog guides should not be prevented access and have passed legislation intended to guarantee it.\textsuperscript{74} Nevertheless, some problems still exist.

III. Current State Access Laws

Most states and territories of the United States have enacted laws mandating access for the disabled in all places of public accommodation.\textsuperscript{75} All of these statutes include a provision for access for persons accompanied by a dog guide. Many of these laws are variations of the Model White Cane Law which was sponsored by the National Federation for the Blind.\textsuperscript{76} However, the numerous laws enacted across the country take many forms and include various nonuniform provisions. Generally, they require that public transportation and public accommodations provide access for all handicapped persons, and further provide that blind persons must be allowed to be accompanied

\begin{footnotesize}
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\item 70. Menning, \textit{supra} note 21; Foundations, \textit{supra} note 8, at 571.
\item 71. \textit{Eames, supra} note 20, at 18–19.
\item 72. \textit{See Tannenbaum, New Crusaders—Angry Blind Militants, Seeking “Equal Rights” Try Tougher Tactics, Wall St. J., July 10, 1975, at 21, col. 1, discussing the plight of blind sculptor Henry Mitchell, who was denied an apartment because of his guide dog. Subsequently, the Pennsylvania Human Rights Commission ordered the landlord to pay him compensation for mental anguish and to offer him an apartment.}
\item 73. \textit{Eames, supra} note 20, at 8.
\item 74. \textit{See supra} note 2 and accompanying text; \textit{see also infra} notes 76–77, 82–83 and accompanying text.
\item 75. \textit{Id.}
\item 76. \textit{S. Rep. No. 1238, 92d Cong., 2d Sess. 2 (1972).}
\end{itemize}
\end{footnotesize}
by a guide dog at no additional charge. The owner of the dog is responsible for any damage the dog might cause. A few of these laws provide for similar access rights and the same responsibilities for persons accompanied by a guide dog in training. Some laws require equal access to housing accommodations and prohibit restrictions on keeping a dog guide in rented housing. A few require access to places of employment for guide dogs. All of these statutes create a civil enforcement mechanism, or criminal sanctions, or both.

A. Access to Public Places

The anti-discrimination laws contain a provision for equal access to places of public accommodation and modes of public transportation for the handicapped and blind persons with dog guides. The definition of public accommodation in these access laws ranges from the very specific to the ambiguous. A stat-

77. But cf. supra note 68.
78. See statutes cited infra notes 92-93.
79. See statutes cited infra notes 96-97.
80. See statutes cited infra notes 110-12.
81. See statutes cited infra notes 115-16, 118 & 120.
ute which is designed to prevent restrictions on access for the handicapped should clearly cover a broad range of public places, particularly those in which people accompanied by dogs are most likely to encounter resistance. An examination of the current laws reveals significant gaps in coverage.

One example of an ambiguous statute is that of Oklahoma, which provides for access to "any common carrier, airplane, motor vehicle, railroad train, motor bus, street car, boat, or any other public conveyance or mode of transportation" and "any hotel, motel, public inn, public cafe, public elevator, or any other similar place." While the list of public carriers is exhaustive, the list of public places does not state whether places such as schools, courthouses, apartment buildings, stores or theatres are included. It could logically be read as limited in its application to lodging places and restaurants.

North Dakota's statute expressly provides for access to "places of public accommodations, common carriers, and all places in which the public is generally invited." This basic definition is an improvement over Oklahoma's in that it does not implicitly exclude certain places by providing only a partial list. However, more specificity in the statute might better express the legislative intent to provide for access to virtually every public place. The description should name places where the blind are most likely to encounter difficulty such as restaurants and hotels, stores, schools, public buildings and professional offices. After this list, an adequate *jusdem generis* clause would assure that nothing is left out by implication.

The statute enacted by the Virgin Islands has the most comprehensive description of public accommodation. This statute provides for access to:

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[All] common carriers, airplanes, motor vehicles, motor buses, street cars, boats, or any other public conveyances or modes of transportation, hotels, lodging places, stores, restaurants, grocery stores, elevators, courts, public educational facilities, including colleges and dormitories, places of public accommodation, amusement or resort, and other places to which the general public is invited.\textsuperscript{97}

This list leaves little doubt as to the scope of access provided. Most state statutes fall somewhere between the North Dakota statute and the Virgin Islands statute in degree of specificity. Ambiguity in the statutes has left the determination of their scope to the courts and local law enforcement authorities, with resulting ad hoc determinations and uncertainty.\textsuperscript{88} There are, however, only a few reported cases interpreting these laws.\textsuperscript{89}

Another aspect of the problem of access to public places is that of access for dogs in training. Before the dogs can be placed with their blind companions,\textsuperscript{90} they must undergo special extensive training designed to prepare the dog for many common situations it will encounter with its blind user.\textsuperscript{91} To accomplish this training, the trainer and the dog must have access to public places.

Only seven states\textsuperscript{92} and the Virgin Islands\textsuperscript{93} have included provisions allowing access for dogs in training. These statutes

\begin{footnotes}
\footnote{87. Id. § 152(b).}
\footnote{88. See Stanford, supra note 68. Mr. Stanford described how his wife, Vickie, and her guide dog were ejected from the Timberline Restaurant in Arkansas. The Stanfords complained to the District Attorney and Attorney General of Sharp County, Arkansas, and were advised that enforcement of guide dog legislation was not a high priority item and that no action would be taken.}
\footnote{89. See, e.g., Lyons v. Grether, 218 Va. 630, 239 S.E.2d 103 (1977) (a blind woman accompanied by her dog guide was evicted from a doctor’s office after she refused to allow the dog to be removed from the waiting room; the trial court held that the doctor’s office was not a place “to which the public is invited” under the Virginia access law, Va. Code Ann. § 51.01-44(B) (Supp. 1986); on appeal the court reversed this decision but was unwilling to hold that the access law applied to all doctors’ offices; thus, the scope of this access law remains uncertain). See also cases cited supra note 82.}
\footnote{90. Hartwell, supra note 35.}
\footnote{91. Eames, supra note 20, at 18-19.}
\footnote{93. V.I. Code Ann. tit. 10, § 156 (Supp. 1986).}
\end{footnotes}
generally provide that persons training dogs have the same rights, privileges and responsibilities as blind persons in public places. This type of provision is critical in that it facilitates training of dog guides, yet not all states in which guide dog schools are located have enacted similar provisions.  

B. Access to Housing

Equal access to public places is crucial to effective use of a guide dog. However, another significant obstacle to effective use of a guide dog is that of housing. The landowner who rents housing needs protection from damage caused by tenants. A blanket prohibition against dogs being kept on rented premises is therefore a common provision of a residential rental agreement. Such a blanket prohibition eliminates any risk of dog-caused damage for the property owner and may be generally justifiable when the dog is a pet, but is not justifiable in the case of a dog which serves a vital function. A reasonable damage deposit would ensure compensation of the landlord for any damage caused by a dog guide, and the tenant, of course, should be contractually responsible for any damage that exceeds the deposit amount. This compromise ensures that housing will be available to a blind person with a dog guide and that property owners will be adequately protected.

Restrictions on keeping dogs may also be found in owners’ agreements in condominiums or housing cooperatives. Once again, concerns about noise, cleanliness and safety of common areas are certainly legitimate reasons for restrictions on pets but are not valid concerns regarding a dog guide, which is never supposed to run free, is trained not to bark, and is always supposed to be under its user’s control.

Equal access to rental housing has been mandated in only twenty-four states, the Virgin Islands and the District of Co-

94. Those states in which guide dog schools are located but which have not enacted provisions allowing access for dogs in training include: Connecticut, Florida, Michigan and Ohio.
95. EAMES, supra note 20, at 34.
Thus, in over half of the states, this right is not guaranteed by statute. Some of the laws that exist present problems with interpretation.

Two states, Michigan and Arkansas, have merely included housing accommodations in their lists of places to which persons accompanied by dog guides are entitled to access. The Michigan statute uses the words "private housing," and the Arkansas statute lists "housing accommodation." Both references are unclear: do persons with dogs have the right to rent such places or merely to visit them? If they can rent the premises, may the landlord require excessive rent or an exorbitant damage deposit?

More specific statutes have been enacted in Oregon and North Carolina. The North Carolina statute states that the dog user has a right to keep the dog "on any premises the person leases, rents or uses." This is an improvement over the statutes of Michigan and Arkansas, but the Oregon statute addresses the situation even more effectively by providing: "A landlord . . . may not refuse to rent a dwelling unit . . . to a blind person on the basis of the person's use or possession of a dog guide." The statute also provides, "[n]o blind person shall be required to pay an additional nonrefundable fee or an excessive deposit for the dog guide." Thus, the landlord is able to obtain a reasonable deposit to ensure payment for damage but may not penalize the renter by charging an extra fee or requiring

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105. Id. § 346.630(2).
deposit high enough to prevent rental of the premises by a blind person. 106

A statute which will effectively guarantee an equal right to housing must specifically prohibit discrimination in renting or selling housing to a person who owns or intends to own a guide dog. This prohibition should extend to the terms and conditions of renting such that neither excessive rent, nonrefundable fees nor excessive damage deposits may be imposed. The owner of the dog should be held liable for any damage caused by the dog, and the landlord should not be required to make any physical modifications of the premises to accommodate the dog or its owner.

C. Access to Places of Employment

Another area of concern is access for the dog and owner to the workplace. The use of a dog guide can improve the ability of an individual to commute to and from a place of employment. The individual must, however, be able to keep the dog with him during the work day. The main obstacle here is the attitude of employers. Some employers will not want to have a dog on their premises, fearing that the dog will be dangerous or will distract other employees. The employer is justifiably interested in providing a safe workplace and an atmosphere conducive to productive working.

The presence of a dog guide need not interfere with these interests. Dog guides are selected because of their mild temperament and are trained to be quiet and obedient at all times. They should remain near their owners during working hours. 107 Any distractions caused by the dog's presence is likely to be due to the reactions of other employees. 108 The solution to any such problem, therefore, lies with the people and not with the dog.

Use of a dog guide should not be an acceptable excuse for not hiring an individual. A hiring decision should be based on the employee's capabilities alone. 109 Yet, only New Jersey, 110

106. See id.
107. Ashland, supra note 18; EAMES, supra note 20, at 5.
108. Ashland, supra note 18; EAMES, supra note 20, at 8.
New York,111 and the Virgin Islands112 prohibit discrimination in employment against dog guide users. The provisions are substantially similar: each provides that an employer shall not deny an individual the opportunity to obtain a position or advance in such position due to blindness or use of a dog guide unless it can be shown that the "person's blindness prevents the performance of the work involved."113 The emphasis is on the individual's abilities, and the presence of a dog guide is apparently not to be considered. This kind of provision would improve the employment outlook for a dog guide user, but exists in only three jurisdictions.114

D. Enforcement

Without a means to effectively enforce the right of access, it is meaningless. An individual faced with resistance must be able to assert his or her rights affirmatively and cannot depend on the public to comply with these laws gratuitously.

Most states' access statutes incorporate various criminal enforcement procedures. Twenty-six states do not specify penalties within the statute itself but classify violations as misdemeanors or infractions.115 Ten states and Puerto Rico establish fines of
one hundred dollars or less (the lowest at twenty-five dollars) for violations.\textsuperscript{116} Of these, seven provide for possible incarceration of 60 days or less.\textsuperscript{117} Twelve jurisdictions provide for penalties of over one hundred dollars,\textsuperscript{118} with the highest in the Virgin Islands, which imposes a fine of $500 to $1000.\textsuperscript{119} Hawaii imposes a $1000 penalty, applicable only to public transportation.\textsuperscript{120} Of the twelve jurisdictions with higher monetary penalties, only five provide for incarceration.\textsuperscript{121}

Most of these moderate criminal penalties do not effectively deter violations of the access laws. Realistically, prosecutorial resources are not focused on these sorts of violations.\textsuperscript{122} A civil damage remedy could in most instances provide a more effective enforcement tool.

In states without a specific statutory civil damage remedy, the common law is available, but will not necessarily provide a remedy. In \textit{Woodruff v. Kroger Co.},\textsuperscript{123} a blind woman was not allowed to enter a grocery store with her dog guide. Since there

\textsuperscript{116} See Vandervoort, supra note 68; see also supra note 88.

\textsuperscript{117} 475 F. Supp. 147 (M.D. Ga. 1979).
is no cause of action for private enforcement under the Georgia statute, she filed an action for mental pain and suffering caused by the defendant's refusal to allow her and her dog entry into its grocery store.\textsuperscript{124} Case law required that the defendant's conduct be malicious, willful or wanton in order for the plaintiff to obtain damages for purely mental injury unaccompanied by physical or property damage.\textsuperscript{125} The court held that since the store manager was ignorant of the equal access statute, his conduct was not malicious, willful or wanton, thus the plaintiff was denied any recovery.\textsuperscript{126}

Only five states and the Virgin Islands provide for some type of civil damage remedy in their access statutes.\textsuperscript{127} These provisions also vary widely. Virginia's statute provides for civil enforcement only, authorizing injunctive and such other equitable relief as is appropriate.\textsuperscript{128} The statute also allows for compensatory damages and attorney's fees but excludes damages for pain and suffering and punitive damages.\textsuperscript{129} While this civil damage remedy is better than none, compensatory damages may be difficult to establish. A person who is denied access to a restaurant or hotel will have difficulty proving monetary damage, and an after-the-fact injunction may be small compensation for having been turned away previously. An injunction is also a weak deterrent. The potentially small awards will make a lawsuit economically unattractive; thus, this civil remedy with limited damages may be as ineffective as the criminal penalties.

The Texas statute provides for both criminal penalties and a civil damage remedy.\textsuperscript{130} In that state, a conclusive presumption of one hundred dollars damages is provided as a civil damage remedy; equitable relief is not specified nor is the issue of attor-
ney's fees addressed.\textsuperscript{131} Presumed damages eliminate the need for the plaintiff to make a showing of actual damages, which could be quite difficult. Such a provision attempts to encourage plaintiffs to enforce their rights, but one hundred dollars will likely not cover court costs or attorney's fees.

Massachusetts also provides for statutory damages of no less than one hundred dollars.\textsuperscript{132} Louisiana's statute provides that for every violation of the statute the offender shall pay five hundred dollars to any person aggrieved.\textsuperscript{133} This type of penalty does not require a civil action to be filed but is dependent on enforcement by the local prosecutor. Although the aggrieved party is spared the costs of a court action, he or she has no control over the proceedings.\textsuperscript{134}

California's enforcement mechanism is also a civil remedy. Here, the perpetrator is liable for actual damages and any amount up to three times actual damages but not less than two hundred and fifty dollars and reasonable attorney's fees.\textsuperscript{135} This treble-damage statute provides more incentive for private enforcement than those previously discussed.

The Virgin Islands statute provides for both civil and criminal liability. This statute provides the stiffest enforcement provisions with a fine of five hundred to one thousand dollars for a criminal violation, and an action at law by the aggrieved party for actual and/or punitive damages, equitable relief or "other proper proceedings for redress."\textsuperscript{136} While criminal enforcement is more effective here due to higher fines, the civil remedy could be improved by a specific provision for the award of attorney's fees.

An effective enforcement statute should provide for both criminal penalties and a civil right of action. An egregious violation would presumably be punished by criminal sanctions, but a victim faced with official indifference or insufficient prosecutorial resources could then enforce his or her own rights.

\textsuperscript{131} Id.
\textsuperscript{134} Stanford, supra note 68 (prosecutorial discretion was exercised in favor of non-action in prosecuting a violation of the Arkansas statute). See also supra note 88.
\textsuperscript{135} Cal. Civ. Code § 54.3 (West 1982).
Since actual damages are difficult to prove with accuracy, and some of the damage is intangible but quite real for the blind person, a presumption of minimal actual damages and an allowance of punitive damages is appropriate. This would allow reasonable compensation for any violation and punitive damages upon a showing of malice. Compensation for costs and attorney's fees must be allowed in order for a civil remedy to be practical since damage awards are likely to be small.

Some substantial verdicts could enhance public awareness of the problems faced by handicapped individuals as well as the laws which exist to protect their rights. The federal district court in Woodruff observed:

It is interesting to note how little fame § 79-601 [the Georgia provision] has acquired in the twenty-nine years since its first version was enacted. No Georgia court, or court of any kind has ever cited it in a published opinion. The depositions suggest that few of the Department of Agriculture officials were aware of the statute and also that the local police were ignorant of its existence as well. Apparently, § 79-601 has been virtually ignored over the years.137

It is little wonder that public enforcement has been inadequate. While access laws are widespread, they are frequently vague and their coverage is limited or uncertain. Some important provisions, such as equal access to housing and employment, and access for dogs in training are limited to just a few jurisdictions. Thus, a person traveling with a dog or moving from one state to another cannot be certain of his or her rights.138 The enforce-

137. Woodruff, 475 F. Supp. at 149.
138. Indeed, traveling to and from Hawaii underscores the problem. That state requires all animals entering the state to be quarantined for a period of 120 days. See 4 Admin. Rul. § 4-18-7, ch. 18 (Haw. Dep't Agric. 1981), discussed in Keeping Dogs in Quarantine Holds Rabies at Bay, Experts Say, The Sunday Star Bulletin & Advertizer (Honolulu), Mar. 18, 1984, at A5, col. 1. There is no exemption from the quarantine for guide dogs accompanied by blind users. See Testimony before the Hawaii House and Senate Committees on Agriculture regarding S.R. 55/S.C.R. 56 and H.R. No. 354/H.R.C. 143, 12th Leg. (Mar. 30, 1983). See also letter from Gary D. Moniz, Animal Quarantine Manager, Department of Agriculture, State of Hawaii, to Leonard DuBoff (Oct. 28, 1986), pointing out that there is only one animal quarantine facility which is located in Oahu. In order for an owner to place a dog in quarantine, a fee of $456.00 must be prepaid, though the state will accept this amount in three installments in hardship situa-
ment provisions in these statutes have been shown to be weak and inadequate. A solution to the problem of ineffective and non-uniform state laws protecting the rights of the handicapped is to enact comprehensive federal legislation.

IV. FEDERAL LEGISLATION

In the discussion of the White Cane Law passed by the District of Columbia, the Senate Committee for the District of Columbia described this legislation as a codification of the preexisting civil rights of the handicapped. Unfortunately, congressional recognition of these rights did not prompt enactment of legislation designed to enforce them throughout the United States. Access to federal buildings for blind persons accompanied by dog guides is mandated, but there is no general federal access law applicable to all public places and there is no federal statute requiring blind interstate travelers with guide dogs to be permitted to travel unhampered. Indeed, Hawaii requires all dogs, including guide dogs, to be quarantined for 120 days. While blind guide dog users may stay at the quarantine facility and work with their animals during the quarantine period, this still is a substantial interference with free travel and may not be practical for many guide dog users. In fact, many persons going to Hawaii may not be staying for a four month period.

A federal statute dealing with all of the problems identified in this article would provide the uniform coverage necessary to assure that the interests of dog guide users are protected everywhere in the United States and that travel from state to state by
blind persons and their guide dogs will not face interference. Congress’ power to regulate access to public places under the commerce clause of the U.S. Constitution is illustrated by the civil rights laws. These laws prohibit unlawful discrimination of certain groups in all public establishments which affect interstate commerce. Operations affecting interstate commerce are described in these laws as those serving or offering to serve interstate travelers, those in which a substantial portion of the food served or products sold have moved in commerce, or those places of entertainment in which the sources of entertainment have moved in commerce.

The courts have broadly interpreted the situations in which a particular establishment’s operations affect commerce. In challenges to civil rights legislation, the United States Supreme Court has upheld Congress’ power to enact such legislation based on its finding that segregation in the aggregate has an adverse effect on interstate commerce. Under this broad interpretation, grocery stores, clothing stores, professional offices, and most large and many small businesses would fall into the category, since these activities deal with products that have traveled

144. The equal protection clause of the fourteenth amendment to the U.S. Constitution would seem to be a logical basis for congressional authority to enact equal access guide dog legislation. However, equal protection challenges to state legislation, primarily dealing with education of the visually handicapped, have uniformly been denied. One court clearly enunciated the issue: “Named plaintiffs’ request for strict judicial scrutiny under the equal protection clause is misplaced. No court has ever declared that handicapped persons constitute a suspect class for purposes of equal protection analysis, and we decline to do so today.” Brown v. Sibley, 650 F.2d 760, 766 (5th Cir. 1981).

The Supreme Court, also in the context of education, has held that although Congress often seeks to aid the states in carrying out their duty to provide equal protection under the laws, it did not intend for the states to provide strict equality of opportunity or services for the handicapped. Bd. of Educ. of the Hendrick Hudson Cent. School Dist. v. Rowley, 458 U.S. 176 (1982). Thus it appears that the judiciary does not consider the handicapped to be a suspect class within the meaning of the equal protection clause of the fourteenth amendment.


148. Id. This finding was the basis for upholding restrictions on a small, local restaurant (Ollie’s Barbeque). Although few, if any, travelers patronized this restaurant, a portion of the food it served had traveled in interstate commerce. The Court found this a sufficient basis for Congress’ power to regulate this business.
in interstate commerce.\textsuperscript{149}

An access law for the blind dog guide user should list a broad range of public places and modes of transportation. The list should be followed by a catch-all phrase so that no establishment is left out by implication. The statute should guarantee that a blind person has the right to be accompanied by a dog guide at no additional charge and that a person training a dog as a guide should have the same right to access. In addition, the access law should provide that the dog's owner will be held responsible for any damage caused by the dog so that the interests of business owners are protected. The statute must also permit unhampered travel from state to state and exempt guide dogs from any state quarantine restrictions.

The following proposed law is intended to meet these criteria:

\textit{Definitions}

1. \textit{Dog Guide}
   
   Dog guide as used in this legislation shall mean a dog which has been graduated by a certified school\textsuperscript{150} and which has received immunization for rabies and distemper.

2. \textit{Certified School}
   
   Certified school as used herein shall mean a school which has met certain minimal standards.\textsuperscript{151}

3. \textit{Public Accommodations}
   
   Each of the following establishments is a place of public accommodation within the meaning of this legislation if its operations affect commerce:
   
   Any hotel; lodging place; store; restaurant; grocery store; elevator; court; public educational facility, including a college or dormitory; professional office; public building; any place of public accommodation, amusement

\textsuperscript{149} For a discussion of standing, see Note, \textit{Implied Rights of Action to Enforce Civil Rights: The Case for a Sympathetic View}, 87 \textit{Yale L.J.} 1378 (1978); see also \textit{Cannon v. Univ. of Chicago}, 441 U.S. 677 (1979), holding that there is an implied right of action under Title IX of the Education Amendments of 1972, which was patterned after Title VI of the 1964 Civil Rights Act.

\textsuperscript{150} The certification process is discussed more fully in section V of this Article.

\textsuperscript{151} This concept is discussed more fully in section V of this Article.
or resort; and other places to which the general public is invited.

4. Common Carriers

Each of the following is a common carrier within the meaning of this legislation if its operations affect commerce:

Any airplane, train, motor vehicle, motor bus, street car, boat, or any other public conveyance or mode of transportation.

5. Operations Affecting Commerce

An establishment's operations affect commerce if it serves or offers to serve interstate travelers, if a substantial portion of the food served or products sold or dispensed have moved in commerce, if its operations make extensive use of the mails or other means of interstate communications, or if the services or entertainment provided has moved in commerce.

Equal Access

All blind persons are entitled to full and equal enjoyment of the goods, services, facilities, privileges, and accommodations of all common carriers and places of public accommodation and shall be permitted to travel unhampered from state to state. Every blind person shall have the right to be accompanied by a dog guide on any common carrier or in any place of public accommodation and shall have the right to travel interstate with such dog guide and the dog guide shall be exempt from state quarantine laws. No blind person accompanied by a dog guide shall be charged an extra fee for the dog guide, provided that the person accompanied by such a dog guide shall be liable for any damage caused by the dog guide. Upon reasonable request, any blind person accompanied by a dog guide shall be required to provide proof that the dog guide and blind person have completed training at a certified guide dog school and that the dog guide has been immunized.  

152. The proof may be in the form of an ID card which shall be issued by the certified school and shall bear a photograph of the blind person and the guide dog as well as the dog's identification tattoo. Many schools do currently give such cards. See EAMES,
A person training a dog as a guide shall have the same rights and privileges and the same responsibilities under this legislation as a blind person accompanied by a dog guide.

There is no current federal legislation that deals with the problem of housing for dog guide users. A comprehensive federal statute should include an equal access to housing provision which prohibits discrimination in the sale or rental of any housing accommodations on the basis of handicap.

Such a law must specifically pertain to guide dogs. This statute must state clearly that property owners may not refuse to rent housing to handicapped persons because they own or intend to own a guide dog. The tenant must not be charged an excessive amount of rent or a nonrefundable fee due to the dog’s presence. In addition, the landlord should not be required to modify the premises in any significant way to accommodate a blind person and may be allowed to charge a reasonable refundable damage deposit for the dog.

A blind person wanting to purchase housing must also be protected. Thus, restrictions in home owners’ agreements or covenants should not prevent a blind person with a dog guide from purchasing and living in a condominium or housing development. Here, too, the dog’s user should be responsible for any damage to community property caused by the dog.

The following is a proposed equal access to housing law:

**Housing Accommodations**

All blind persons are entitled to full and equal access to all housing accommodations and are entitled to rent, lease or purchase any housing as are other members of the general public. Nothing in this section shall require any person renting, leasing or providing compensation for real property, to modify such property in any way to provide a higher degree of care for any blind person than for any other person. A blind person who has a dog guide shall be entitled to full and equal access to all housing accommodations and shall not be required to pay extra

*supra* note 20, at 19.

compensation whether in the form of additional rent, non-refundable fees or an excessive deposit, but shall be liable for any damage done to the premises by such dog. Any provision in any lease, rental agreement, purchase agreement or owners' agreement prohibiting maintenance or ownership of a pet or pets on or in the premises shall not be applicable to a guide dog. The dog's owner shall be liable for any damage done to common areas by the dog.

Federal legislation should include a prohibition on employment discrimination. Current federal law attempts to encourage employment of the handicapped by funding job training programs and encouraging federal contractors to consider employment of handicapped persons. However, there is generally no federal prohibition on employment discrimination or on discrimination on the basis of dog guide use.

The proposed statute set forth below should apply to all employers whose businesses affect interstate commerce and to all state or federal agencies. The employment decision should be based on the abilities of the employee and use of a dog should not be relevant. The proposed law does not require affirmative action on the part of any employer, just equal consideration.

The phrase "otherwise qualified handicapped individual" is based on a section of the Rehabilitation Act, which prohibits discrimination in federally funded programs. This language has been interpreted to mean that a handicapped individual must otherwise meet all of the qualifications of a given situation and that accommodation is not required. Thus, this proposed statute does not require any affirmative action by an employer and only requires equal opportunity for a qualified individual.

The proposed statute follows:

Employment

An otherwise qualified handicapped individual shall be employed on the same terms and conditions as any person who is not handicapped by any employer whose busi-
ness affects interstate commerce or any agency of a state or the federal government and shall not be denied the opportunity to obtain or maintain employment solely because such person is handicapped or is accompanied by a dog guide.

All segments of the proposed federal legislation should include a comprehensive enforcement process, including a private right of action for any person discriminated against under any of the provisions of the statute. This provision should allow recovery of attorney's fees and costs of suit as well as adequate presumed damages. Punitive damages should also be available for willful or malicious violation along with equitable relief in appropriate situations. These remedies should make private enforcement feasible for the average plaintiff and should encourage compliance by most potential defendants while allowing the court to respond to any situation. A proposed enforcement section is:

Enforcement

The rights granted by this legislation may be enforced through civil action by any person aggrieved in appropriate United States district courts without regard to the amount in controversy, and in appropriate state or local courts of general jurisdiction. The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages, costs and attorney's fees, and punitive damages when appropriate. Actual damages shall be conclusively presumed to be not less than $1000.

V. Certification Of Schools

As previously discussed, blind individuals using guide dogs have equal access to places of public accommodation, transportation, housing and employment, yet as noted throughout this article, that is not always the case. Instances of discrimination abound and the blind person who chooses a dog guide to aid with mobility is frequently forced to prove that the use is permitted or suffer the embarrassment and inconvenience of being
denied public transportation,\textsuperscript{157} or public accommodations.\textsuperscript{158} The user may also be denied housing\textsuperscript{159} or employment.\textsuperscript{160}

Since the dog guide should be universally accepted as a mobility aid for the blind and its use should not be denied equal access, it is appropriate for the school which trained the dogs and users to adhere to some standard of performance. The fact that a dog guide user is trained at one of the ten active dog guide schools is important, yet there does not appear to be any uniform standard of certification for the schools. Only California has a state certification process,\textsuperscript{161} although the National Accreditation Council for Agencies Serving the Blind and Visually Handicapped (NAC) does certify organizations serving the blind.\textsuperscript{162} Thus far, only one dog guide school is certified.

At present, an individual could create a dog guide school and provide shoddy training while soliciting donations from the public or seeking grants from foundations.\textsuperscript{163} Even if the states were to enact licensing requirements for dog guide schools, still there is no assurance that the criteria would be uniform from state to state. An unscrupulous individual could relocate to a state without regulations or with less demanding regulations. It is therefore important for there to be a means by which dog guide schools can assure the blind trainee and other members of the public that the dogs used, as well as the training provided,

\begin{itemize}
  \item \textsuperscript{157} See supra note 68.
  \item \textsuperscript{158} See supra notes 88–89.
  \item \textsuperscript{159} EAMES, supra note 20, at 8; see also supra note 71.
  \item \textsuperscript{160} EAMES, supra note 20, at 8. The National Accreditation Council for Agencies Serving the Blind and Visually Handicapped (NAC) has promulgated guidelines for accrediting guide dog schools. However, to date, it has certified only one school, Guiding Eyes for The Blind, in Yorktown Heights, N.Y. According to Ruth Westman, Director of Standards Management for NAC, guide dog schools in California are regulated by the CAL. BUS. \& PROF. CODE §§ 7200–7217 (West 1975 & Supp. 1987). The law sets forth certain standards for licensing schools and instructors. Health requirements for the animals are also mandated. Telephone interview with Ruth Westman (Oct. 29, 1986) [hereinafter Westman].
  \item \textsuperscript{161} EAMES, supra note 20, at 20.
  \item \textsuperscript{162} Westman, supra note 160. The standards for accrediting guide dog schools are quite out of date and it will be necessary to revise them if they are to be effective. It is intended that such a revision will occur when necessary funds are available. Id. When the revision process is undertaken, all concerned individuals and organizations will be invited to participate. Letter from Ruth Westman to Leonard DuBoff (Oct. 29, 1986). The guidelines and list of certified agencies are available from NAC at 15 W. 65th Street, 9th floor, New York, NY 10023.
  \item \textsuperscript{163} See Stanford, supra note 68.
\end{itemize}
meet certain standards of quality. Perhaps the best way to accomplish this would be to have representatives from each of the ten active schools promulgate some minimum standards of operation and training. In this way, graduates of certified schools from coast to coast would at least have received the minimal formal training for dog guide use. The public would thus be assured that the dog and user were properly trained.

It would also be important to require that the dogs meet certain minimal health standards. This would overcome objections like those articulated in the hearings before the Hawaii legislature when it considered modification of the Hawaii quarantine laws.164 Dog guide users who have completed programs at certified schools should carry some means of identification in the form of an ID card.165 In this way the user would be able to respond to any questions regarding the dog's qualifications and medical status.

It would also be useful for the certifying body to make the public aware of the equal access standards. If an individual were to abuse the privilege of using a dog guide, then the school could be contacted and appropriate action taken. If remedial procedures were not followed or enforced by the school, then the school's certification could be jeopardized.

By providing a uniform certification process, the public could be assured that dog guides and blind users would have the means of utilizing their mobility to the fullest, while protecting the public from improperly trained animals and users.

VI. CONCLUSION

Optimizing mobility encourages the blind to participate fully in our society as a whole. The choice of a means of facilitating mobility is an important individual decision. The individual should not be hindered in his or her decision by access problems.

The current state access laws are a definite step in the right direction. In some situations they adequately ensure that the rights of blind people accompanied by dog guides are protected. However, since the laws are not consistent in every state, and

164. See supra note 138.
165. As previously noted, guide dog schools do presently give identification cards to their students. See Eames, supra note 20, at 19.
are inadequate in many, federal legislation is necessary. A uniform federal law would encourage mobility and travel for all citizens but would not require any expenditure of funds or alteration of existing facilities. The end result would be the promotion of employment and self-sufficiency of blind people to the benefit of all members of society.