



SERVICE ANIMALS ON CAMPUSES

BACKGROUND

Federal and state laws must be considered when confronted with a request to use a service animal on district grounds. On the federal side, districts must comply with the requirements of the Americans with Disabilities Act (ADA), the Individuals with Disabilities Education Act (IDEA), and Section 504 of the Rehabilitation Act. On the state side, districts must consider the potential impacts of the California Unruh Civil Rights Act, the California Disabled Persons Act (CDPA), and the Fair Employment and Housing Act (FEHA).

ADA regulations state that Title II entities, including public schools, “*shall modify [their] policies, practices, or procedures to permit the use of a service animal by an individual with a disability.*” These regulations define a service animal as a dog that is specifically trained to do work or perform tasks that must be directly related to a person’s disability¹. Subsequently, the ADA revised the regulations to include a miniature horse as a service animal. Districts must permit miniature horses where reasonable. The regulations state four assessment factors in determining whether a miniature horse can be accommodated as follows: (1) is housebroken; (2) is under the owner’s control; (3) the facility can accommodate the miniature horse’s type, size, and weight²; and (4) its presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

While there may be concerns over permitting a service animal in a district, the ADA limits the circumstances under which a service animal can be excluded. Generally, service animals cannot be barred because of unsubstantiated health, sanitation, or safety concerns. Moreover, service animals may go anywhere pupils are permitted, including classrooms, hallways, and cafeterias. Should a teacher or another student be allergic to dog dander, the U.S. Department of Justice (“DOJ”) suggests that he or she be placed in a different classroom than with an individual using a service animal.

¹ A disability may include physical, sensory, psychiatric, intellectual, or other mental disability. Tasks performed may include, but are not necessarily limited to, pulling a wheelchair, retrieving dropped items, alerting a person to a sound, reminding a person to take medication, or pressing an elevator button. In California, a service animal should wear a standardized identification tag for “assistance dogs” which are defined as “guide dogs, signal dogs, or service dogs.” pursuant to Cal. Food and Agriculture Code § 30850 (2004).

² Generally, miniature horses range in height from 24-34 inches measured to the shoulders and weigh between 70-100 pounds.

PROCEDURES RELATED TO SERVICE ANIMALS ON CAMPUSES

When asked to use a service animal on campus, a district may inquire only about the following:

- 1) Is the service animal required because of a disability?
- 2) What work or task(s) is the service animal trained to perform?
- 3) Is the service animal's rabies vaccination current?

If the service animal has been trained to recognize when the individual's disability is manifesting itself and to respond accordingly, the service animal must be permitted to attend school with the student and should be a part of the student's IEP or 504 plan. If accompanying a non-student who would otherwise be permitted to enter the school grounds, the dog must be permitted to accompany the individual it is serving.

There are certain isolated circumstances under which a service animal may be excluded as follows: (1) the animal is out of control and the animal's handler does not take effective action to control it; (2) the animal is not housebroken; and (3) the animal does not have a current rabies vaccination (may be excluded until vaccination is brought to current). Although a district does not have to accommodate an animal that provides only emotional support or comfort³, a district should convene in the IEP process for students, or engage in the interactive process for employees, to determine whether an accommodation is necessary. If use of either a service or comfort animal is recommended as part of a student's IEP or 504 plan, then the district should comply.

Should you have questions, please contact ASCIP's Risk Services staff at (562) 404-8029 to discuss your risk management or loss control needs.

Relevant Links:

Service Animals: http://www.ada.gov/service_animals_2010.pdf

FAQs about Service Animals: http://www.ada.gov/regs2010/service_animal_qa.pdf

A Guide to IEPs: <http://www2.ed.gov/parents/needs/speced/iepguide/index.html>

FAQs about 504 plans: <http://www2.ed.gov/about/offices/list/ocr/504faq.html>

Service Animal v. Comfort Animals: <http://adata.org/publication/service-animals-booklet>

Service Animals include Miniature Horses on an Individualized Basis:

http://www.ada.gov/service_animals_2010.htm

³Emotional support animals, comfort animals, and therapy dogs are not service animals under Title II and Title III of the ADA. Other species of animals, whether wild or domestic, trained or untrained, are not considered service animals either. Regardless if a person has a note from a doctor that states that the person has a disability and needs to have the animal for emotional support, a doctor's letter does not turn an animal into a service animal.