

EQUAL EDUCATIONAL OPPORTUNITY:
SERVICE ANIMALS

FBA
(REGULATION)

PURPOSE The purpose of this regulation is to establish guidelines for the use of service animals by students in Northwest Independent School District (NISD), and assist NISD staff in being responsive to requests for service animals at NISD facilities.

SERVICE/ASSISTANCE ANIMALS AND MINIATURE HORSES A student with a qualifying disability may have the right to have a service/assistance animal, or in some circumstances a miniature horse accompany him or her on campus and other District facilities, including on District transportation. [See FB(LLEGAL), REASONABLE MODIFICATION]

SERVICE ANIMALS Service animals are defined by Americans with Disabilities Act (ADA) as any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. [See FBA(LLEGAL)]

The terms “assistance” and “service animal” are used interchangeably in this regulation.

Examples of “service animals” include:

1. Hearing dogs;
2. Guide or signal dogs;
3. Seizure alert dogs;
4. Allergen alert dogs;
5. Mobility or physical support dogs; and
6. Psychiatric service dogs.

MINIATURE HORSES A parent of a student with a qualifying disability may request that a miniature horse that has been individually trained to work or to perform tasks for the benefit of the student be permitted to accompany the student on campus or other District facilities. Consideration and approval for use of a miniature horse will be on a case-by-case basis and will be in accordance with the assessment factors prescribed in law. [See FBA(LLEGAL)]

ASSESSMENT FACTORS NISD permits service animals, as defined by the ADA on campus and in its public facilities, subject to the following conditions:

1. The service animal must be under the control of the individual with a disability at all times. The school district may ask the individual to remove a service animal from the premises if the animal is out of control and the individual does not take effective action toward it. 28 C.F.R. §35.136(b).
2. The individual, not the school district, is responsible for the care, supervision and handling of the service animal. 28 C.F.R. §35.136(e).

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3. The service animal shall have a harness, leash, or other tether unless either; (a) the individual is unable because of a disability to use a harness, leash, or other tether; or (b) the use of the device would interfere with the service animal's safe, effective performance of work or tasks. In such circumstances, the service animal must be under the individual's control through another effective means such as voice control or signals. 28 C.F.R. §35.136(d).
4. The service animal must be housebroken. The school district may ask the individual to remove a service animal from the premises if it is not housebroken. 28 C.F.R. §35.136(b)(2). Students with service animals are expected to care for and supervise their animal. The service animal must be walked, exercised, and allowed to eliminate waste only in designated areas. The student is responsible for cleaning up after the animal. The school district is not responsible for providing a staff member to walk the service animal or to provide any other care or assistance to the animal.
5. The owners of service animals are liable for any harm or injury caused by the animal to other students, staff, visitors and/or property, including upkeep and cleanliness of any area traversed or occupied by the animal. Texas Human Resources Code Section 121.005.
6. The school district may ask if the animal is required because of disability and what work or task the animal has been trained to perform. 28 C.F.R. §35.136(f). If the animal has not been trained to perform work or tasks directly related to the individual's disability, the school district may instruct the individual to remove the animal from the premises, unless the presence of the animal is an accommodation pursuant to the student's IEP or Section 504 plan (See IEPs and 504 Plans below). 28 C.F.R. §35.104.
7. The principal may ask the individual to remove the animal if the animal poses a direct threat to the health or safety of others. 28 C.F.R. §35.139.
8. The principal may ask the individual to remove the animal if the animal's presence or behavior fundamentally alters the nature of the school district's service, program, or activity. 28 C.F.R. §35.130(b)(7).
9. The owner of the service animal must provide documentation of the animal's vaccinations from the animal's veterinarian annually. Required vaccinations for dogs include: DHLPPC (distemper, hepatitis, leptospirosis, parainfluenza, parvovirus, coronavirus), bordetella, rabies, and any other vaccinations required by the law in the State of Texas. Required vaccinations for miniature horses include: Equine Infectious Anemia (Coggins Test), rabies, tetanus, encephalomyelitis, rhinoneumonitis, influenza, strangles, and any other vaccinations required by the law in the State of Texas. The owner of the service animal will be liable for all costs incurred if removal or boarding is necessary. The service animal will not be permitted to return to school property or any school activity until all costs incurred with its removal have been paid.

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10. All service animals must be treated by the owner for, and kept free of, fleas and ticks, and must be kept clean and groomed to avoid shedding and dander in order to protect the health and safety of others.

OTHER
REQUIREMENTS

Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of the District's facilities where the individuals are ordinarily allowed to go. 28 C.F.R. §35.136(g)

REMOVAL OF
SERVICE ANIMAL OR
MINIATURE HORSE

If a service animal or miniature horse is not housebroken, displays signs of being out of control at any time and the animal's handler does not take effective action to control it, or is a direct threat to the health or safety of others, the animal will be removed from the building, and the student's parent will be contacted. [See FB(LEGAL), DIRECT THREAT]

PARENT REQUEST

Parents/Adult students must submit a request for the use of a service animal (see Exhibit A) to the Principal at least 15 school days prior to bringing the service animal to school or to a school function. Such a request must identify and describe the work or task the animal is trained to perform as it relates to the student's disability. The required documentation of current vaccinations must accompany the request.

ADULT HANDLER

The service animal or miniature horse handler is presumed to be the student. However, the District may permit an adult handler to accompany the student and the animal on a case-by-case basis. An adult handler is a designated adult who has agreed to handle the service animal or miniature horse in the educational setting. (See Exhibit B)

APPROVAL FOR
AN ADULT
HANDLER WHO IS
NOT AN
EMPLOYEE

If an adult handler who is not an employee is needed to accompany the student and the service animal or miniature horse the District will conduct a criminal history check of the handler, in accordance with CJA(LEGAL) or GKG(LEGAL). Any fees associated with a criminal history check will be paid by the District. In addition, the District will verify whether the adult handler is a registered sex offender. [See GKC(LEGAL)]

An adult handler will not be permitted to accompany the student and the service animal or miniature horse on any school campus or to any District facility prior to the completion of a criminal history check and final approval of the Superintendent or designee.

Upon final approval, an adult handler will be required to comply with all campus visitor procedures.

INTEGRATION

IEPS AND 504
PLANS

A student's admission, review, and dismissal (ARD) committee or 504 committee, as appropriate, will convene to determine whether an animal is necessary for the student to receive a free and appropriate education (FAPE) under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act. In some circumstances, a student may be permitted to be accompanied by an animal that does not meet the definition of a "service animal" under the ADA, provided that the presence of such an animal is an undue burden on the school district or would fundamentally alter the nature of the service, program, or activity. If the animal is necessary for the student to receive a FAPE, the animal will be provided for in the student's individualized education program (IEP) or 504 plan, as appropriate. (See EHBAB, FB)

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INTEGRATION PLAN

The District's ADA/Section 504 coordinator, the student's teachers, the school nurse, and the campus principal will create a plan with the student, the student's parent, and the adult handler, if applicable, to integrate the service animal, miniature horse, or other animal approved as an 504/DEA accommodation into the classroom and school environment and to meet the animal's basic needs (i.e., rest, food, water and toileting and care schedule) during the school day.

The plan will consider:

1. A District- or schoolwide educational program to educate students and staff, including bus and cafeteria staff, on how to behave appropriately around the animal;
2. Rest times and a rest place for the animal, if needed;
3. An area for the animal to relieve itself;
4. Emergency evacuation and disaster response;
5. Alternate accommodations/plans in the event the primary adult handler or the animal is unable to accompany the student to school due to illness, injury, or death; and
6. Impact on other students in the learning environment, including students and staff with known allergies among the school population.

To the extent the use of a service animal or miniature horse is not specifically included as a related service addressed in an IEP or 504 plan, an integration plan does not constitute a service or accommodation under the IDEA or Section 504.

NOTIFICATION

The campus principal will notify campus parents/guardians that a service animal will be assisting a student at the school. (See Exhibit C)

PARENT, STUDENT,
AND/OR HANDLER
RESPONSIBILITIES

It is the responsibility of the student who uses a service animal to provide proper handling of the service animal. The service animal must be under control of the handler at all times. In the case of a young child or a student with disabilities who is unable to care for or supervise his/her service animal, the parent or approved handler is responsible for providing care and supervision of the animal. The school district is not responsible for the care or supervision of the animal. Any cost incurred to handle the service animal will be the responsibility of the owner of the service animal. Issues related to the care and supervision of service animals will be addressed on a case-by-case basis at the discretion of the building administrator.

The service animal shall have a harness, leash, or other tether unless either: (a) the handler is unable because of a disability to use a harness, leash, or other tether; or (b) the use of such a device would interfere with the service animal's safe, effective performance of work or tasks. In such circumstances, the service animal must be under the handler's control through another effective means such as voice control or signals.

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The handler will be responsible for ensuring the service animal is provided any food and water needed by the animal and regular outside time to relieve itself in a designated place, including proper disposal of waste. It is the handler's responsibility to inform others that the animal is a service animal and should not be petted, bothered, harassed or fed.

APPEAL

Complaints alleging discrimination or harassment based on disability may be appealed in accordance with FFH(LOCAL).

All other decisions regarding service animals or miniature horses may be appealed in accordance with FNG(LOCAL).