

SERVICE ANIMALS POLICY

BACKGROUND AND LEGAL INFORMATION

Definition of a Service Animal

A “service animal” means any dog that has been 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. ***Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.*** The work or tasks performed by a service animal must be directly related to the handler’s disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. ***The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.*** Final Regulations, ADA, 29 CFR 35.136 (emphasis added).

Note:

1. The animal must be “individually trained” to do something that qualifies as work or a task. An animal that is merely a “pet” or “support animal” is not a service animal.
2. There are no size or weight limitations on a service animal.

Miniature Horses. A public entity shall make **reasonable modifications** in policies, practices, or procedures to permit the use of a **miniature horse** by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. 29 CFR 35.136(i) (Final Regulations, ADA (emphasis added)).

Assessment Factors. In determining whether reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse into a specific facility, a public entity shall consider:

1. The type, size, and weight of the miniature horse and whether the facility can accommodate these features. (no larger than some breeds of dogs e.g., Great Danes, Labrador Retrievers, and Mastiffs).
2. Whether the handler has sufficient control of the miniature horse.
3. Whether the miniature horse is housebroken.
4. Whether the miniature horse’s presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

Other requirements which apply to service animals, shall also apply to miniature horses. 28 CFR 35.136(i). Ponies and full-size horses are not covered by this provision. Official Commentary, p. 47.

WHAT TYPES OF TASKS ARE PERFORMED BY SERVICE ANIMALS?

1. Autism Service Animals

- a. Impulse Running — dog is trained to retrieve child to adult.
- b. PICA — dog is trained to interrupt the behavior.
- c. Self-Stimulation — dog is trained to physically interrupt the behavior.
- d. Self-Harming — dog is trained to interrupt the behavior.
- e. Mood Swings — dog is trained to crawl onto child’s lap and calm child.
- f. Night Awakenings — dog is trained to alert parents by barking.

2. Psychiatric Service Animals

- a. “Grounding” the Individual with a Psychiatric Disability (involves “recognition” and “response”; e.g., sensing that the person is about to have a psychiatric episode and nudging, barking, or removing the person to a safe location until the episode subsides).
- b. Calming a person who suffers from panic attacks.
- c. An “emotional support animal” or “therapy animal” is not a service animal. These are animals that have not been trained to perform a specific task that is directly related to an individual’s disability.

3. Mobility-Impaired Service Animals

- a. Provide stability for an individual with a disability.
- b. Retrieve items for an individual with a disability.
- c. Open doors for an individual with a disability.
- d. Assist the person in standing and sitting.

ADA REGULATIONS ON SERVICE ANIMALS

General. Generally, a public entity shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability. 28 CFR 35.136(a).

Exceptions. A public entity may ask an individual with a disability to remove a service animal from the premises if:

1. The animal is out of control and the animal’s handler does not take effective action to control it; or
2. The animal is not housebroken. 28 CFR 35.136(b).

Animal under handler’s control. A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal’s safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler’s control (e.g., voice control, signals, or other effective means). 28 CFR 35.136(d).

Care or Supervision. A public entity is not responsible for the care or supervision of a service animal. 28 CFR 35.136(e).

Inquiries. A public entity shall not ask about the nature or extent of a person’s disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A public entity

may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. A public entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. Generally, a public entity may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability). 28 CFR 35.136(f).

Access to areas of a public entity. Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a public entity's facilities where members of the public, participants in services, programs, or activities, or invitees, as relevant, are allowed to go. 28 CFR 35.136(g).

Surcharges. A public entity shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If a public entity normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal. 28 CFR 35.136(h).

Legal Exclusions: Dogs that are trained to provide aggressive protection, such as attack dogs, can be excluded. However, the commentary specifies that breeds of dog that are "perceived to be aggressive because of breed reputation, stereotype, or the history or experience the observer may have with other dogs" cannot be excluded from schools unless:

- a. The dog is out of control and the animal's handler does not take effective action to control it.
- b. The dog is not housebroken.
- c. The presence of the dog constitutes a "fundamental alteration" in the nature of the service, program, or activity.

All wild animals, whether born or bred in captivity or in the wild, are eliminated from coverage as service animals. Nonhuman primates, including capuchin monkeys, will not be recognized as service animals ... because of their potential for disease transmission and unpredictable aggressive behavior

SERVICE ANIMAL POLICY

The Mineral County School District acknowledges its responsibility to permit students and/or adults with disabilities to be accompanied by a “service animal” in its school buildings, in classrooms, and at school functions, as required by the Americans with Disabilities Act, 28 CFR Part 35, subject to the following:

1. All requests for an individual with a disability to be accompanied by a service animal must be addressed in writing to the Superintendent, and must contain required documentation of vaccinations. This written request must be delivered to the Superintendent’s Office at least 10 business days prior to bringing the service animal to school or a school function.
2. Owners of a service dog must provide annual proof of the following vaccinations: DHLPPC (Distemper, Hepatitis, Leptospirosis, Parainfluenza, Parvovirus, and Coronavirus), Bordetella, and Rabies.
3. Owners of service miniature horses must provide annual proof of the following vaccinations: Equine Infectious Anemia (Coggins Test), Rabies, Tetanus, Encephelomyelitis, Rhinoneumonitis, Influenza, and Strangles.
4. All service dogs must be spayed or neutered.
5. All service animals must be treated for, and kept free of, fleas and ticks.
6. All service animals must be kept clean and groomed to avoid shedding and dander.
7. Owners of service animals are liable for any harm or injury caused by the animal to other students, staff, visitors, and/or property.
8. The animal must be a dog or, in specific circumstances, a miniature horse. No other species of animal, whether wild or domestic, will be permitted in schools as a “service animal.”
9. The animal must be “required” for the individual with a disability.
10. The animal must be “individually trained” to do work or a task for the individual with a disability.
11. Special Provisions/Miniature Horses: Requests to permit a miniature horse to accompany a student or adult with a disability in school buildings, in classroom, or at school functions, will be handled on a case-by-case basis, considering:
 - a. The type, size, and weight of the miniature horse and whether the facility can accommodate these features.
 - b. Whether the handler has sufficient control of the miniature horse.
 - c. Whether the miniature horse is housebroken.
 - d. Whether the miniature horse’s presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.
12. Removal of a Service Animal: A school administrator may ask an individual with a disability or his/her parents to remove a service animal from a school building, a classroom, or from a school function if any one of the following circumstances occurs:
 - a. The animal is out of control and the animal’s handler does not take effective action to control it.
 - b. The animal is not housebroken.

c. The animal's presence would "fundamentally alter" the nature of the service, program, or activity.

13. A service animal must have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control.

14. The school system is not responsible for the care or supervision of a service animal, including walking the animal or responding to the animal's need to relieve itself.

a. 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.

b. Students with service animals are expected to care and supervise their animals. In the case of a young child or a student with disabilities who is unable to care for or supervise his service animal, the parent is responsible for providing care and supervision of the 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 in consultation with Superintendent.

Reference: ADA Regulations, 28 CFR Part 35 (as amended, 2010).

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