

535 SERVICE ANIMALS IN SCHOOLS

I. PURPOSE

To prohibit discrimination against individuals with disabilities who require the assistance of a service animal and to ensure compliance with applicable state and federal law.

II. GENERAL STATEMENT OF POLICY

- A. Park Rapids School District #309 recognizes that persons with disabilities have the same rights as those without disabilities to use our facilities. Service animals are permitted to accompany individuals with a disability to public events or within public areas of the district, consistent with the Americans with Disabilities Act, 28 CFR 35, Minn. Stat. §§ 256C, and 363A.19. In determining whether the animal qualifies as a service animal, the school district may inquire when it is not readily apparent what the animal is trained to do or the work or task at hand. Use of a service animal on district property is subject to the following policy.

III. DEFINITIONS

A. **Service Animal**

A 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 purpose of this definition; they are not pets. The work or tasks performed by a service animal must be directly related to the individual's disability or necessary to mitigate the effects of a disability. An animal accompanying and individual for the sole purpose of providing emotional support, therapy, comfort, or companionship is not a service animal.

B. **Work or Tasks**

1. Performed by a service animal must be directly related to the handler's disability.
2. Examples include, but are not limited to, assisting individuals who are blind or have low vision with navigation, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items, providing physical support and assistance with balance and stability, helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behavior.
3. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship are not "work or tasks" for the purpose of this policy.

C. **Handler**

An individual with a disability who is accompanied by a service animal or a trainer who is accompanied by a service animal, or an individual who is handling a service animal for or on the behalf of an individual with a disability.

IV. REQUIREMENTS AND RESPONSIBILITIES

A. **Request**

A person who wants to be accompanied by his/her service animal on a continuing basis

must make a prior written request for all facilities, such request should be made to the superintendent.

B. Vaccination

Service animals must be immunized annually against diseases common to the type of animal, and the school district may request copies of the immunization documentation.

C. Allergies

If a Student or employee notifies the District that he or she is allergic to a service animal, the District will balance the rights of the individuals involved. Generally, allergies that are not life threatening are not a valid reason for prohibiting the presence of a service animal.

D. Control

A service animal must be under the control of its handler at all times. The service animal must have a harness, backpack, vest identifying the dog as a trained service dog, leash or tether. If the harness, backpack, vest, leash or tether are unable to be used due to the handler's disability or would interfere with the service animal's safe, effective performance of work or task, the service animal must be otherwise under the control of the handler.

E. Equal Access

A handler has the right to be accompanied by a service animal whenever and to the same extent that the handler or the individual who needs the service animal because of a disability has the right: a.) to be present on district property or in district facilities; b) to attend or participate in a school sponsored event, activity, or program; c) to be transported in a vehicle that is operated by or on behalf of the district.

F. Equal Treatment

The owner or handler of a service animal shall not be required to pay an admission fee or a charge for the animal to attend events for which a fee is charged.

G. Supervision and Care of Service Animals

The owner or handler of a service animal is responsible for the supervision and care of the animal, including feeding, exercising and clean up.

H. Damages to school property and injuries

The owner or handler of a service animal is solely responsible for any damage to school property or injury district employees, students or others caused by the animal.

J. Removal of Service Animals from School Property

- i. In accordance with the Americans with Disabilities Act, allergies and fear of dogs are not valid reasons for denying access to people using service animals. When a person who is allergic to a service animal and a person who uses a service animal must spend time in the same room or facility, they should both be accommodated by assigning them, if possible, to different locations within the room or to different rooms within the facility. A school administrator may only require an individual with a disability to remove a service animal from school property under the following:

1. The animal is out of control and the animal's handler does not take effective actions to control;
2. The animal is not housebroken
3. The presence of the animal poses a direct threat to the health or safety of others
4. The presence of the animal would require a fundamental alteration to the service, program, or activity of the school district.

- ii. If the service animal is properly excluded, the school district shall give the individual with a disability the opportunity to participate in the service, program, or activity without the service animal, unless such individual has violated a law or school rule or regulation that would warrant the removal of the individual.

V. NON-SERVICE ANIMALS FOR STUDENTS WITH INDIVIDUALIZED EDUCATION PROGRAMS (IEPS) OR SECTION 504 PLANS

- A. If a special education student or a student with a Section 504 plan seeks to bring an animal onto school property that is not a service animal, the request shall be referred to the student's IEP team or Section 504 team, as appropriate, to determine whether the animal is necessary for the student to receive a free appropriate public education (FAPE) or, in the case of a Section 504 student, to reasonably accommodate the student's access to the school district's programs and activities.

VI. NON-SERVICE ANIMALS AS AN ACCOMMODATION FOR EMPLOYEES

- A. If an employee seeks to bring an animal onto school property that is not a service animal, the request shall be referred to the superintendent or the administrator designated to handle such requests. A school district employee who is a qualified individual with a disability will be allowed to bring such animal onto school property when it is determined that such use is required to enable the employee to perform the essential functions of his or her position or to enjoy the benefits of employment in a manner comparable to those similarly situated non-disabled employees.

VII. LIABILITY

- A. An individual who, directly or indirectly through statements or conduct, intentionally misrepresents an animal in the person's possession as a service animal may be subject to criminal liability.

**** *This policy is in place of Policy 750 – Service animals in school district facilities*

Legal Refs.: Section 504 of the Rehabilitation Act of 1973

28 C.F.R. § 35.104, 28 C.F.R. § 35.130(b)(7), and 28 C.F.R. § 35.136 (ADA Regulations)

20 U.S.C. § 1400 *et seq.* (Individuals with Disabilities Education Act)

Minn. Stat. § 256C.02 (Public Accommodations for Persons with Disabilities)

Minn. Stat. § 363A.19 (Discrimination Against Blind, Deaf, or Other Persons with Physical or Sensory Disabilities Prohibited)

Minn. Stat. § 609.226 (Harm Caused by Dog)

Minn. Stat. § 609.833 (Misrepresentation of Service Animal)

Cross References: MSBA/MASA Policy 402 (Disability Nondiscrimination Policy)

MSBA/MASA Policy 521 (Student Disability Nondiscrimination)

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