

SERVICE ANIMALS

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This policy adopted is to ensure that individuals with disabilities are able to participate in and benefit from district services, programs and activities, to ensure that the district does not discriminate against individuals on the basis of disability, and to otherwise comply with applicable state and federal laws.

“Service Animal” means any dog that is 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. The work or tasks performed by a Service Animal must be directly related to the employee or student’s disability.

“Service Animal-in-Training” means a dog that is being trained as a Service Animal.

In accordance with federal law, a miniature horse may be treated the same as or similar to a Service Animal. However, under no circumstances, may a miniature horse be considered to be or treated the same as or similar to a Service Animal-in-Training.

In accordance with law, individuals with disabilities may be accompanied by Service Animals in district facilities and vehicles, on district grounds and at district functions.

In accordance with law, trainers of Service Animals may also be accompanied by a dog that the trainer is in the process of training. Such trainer may be accompanied in district facilities and vehicles, on district grounds and at district functions.

If, in the judgment of the building principal or authorized designee, any Service Animal is not under the control of its handler while on district property, during district transportation or at a district function, the matter may be reported to local law enforcement and the permission granted pursuant to this policy may be revoked. The employee or the parent/guardian of the student having custody and control of the Service Animal will be required to remove the Service Animal from district premises immediately.

If an animal is not housebroken, it shall also be excluded from district property and transportation.

LEGAL REFS.: 20 U.S.C. § 1400, *et seq.*, 34 C.F.R. part 300 (Individuals with Disabilities Education Act)
 29 U.S.C. § 794, 34 C.F.R. part 104 (Section 504 of Rehabilitation Act of 1973)

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42 U.S.C. § 12101, *et seq.*, 28 C.F.R. §§ 35.104, 35.136 (Americans with Disabilities Act)

C.R.S. § 22-36-101 (Public Schools of Choice)

C.R.S. § 24-34-803 (Rights of Persons with Assistance Dogs)

CROSS REFS.: AC, Nondiscrimination/Equal Opportunity
JFBA, Intra-District Choice/Open Enrollment
JFBB, Inter-District Choice/Open Enrollment

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Definitions

1. “Service Animal” means any dog that is 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. Except as provided by law, other species of animals, whether wild or domestic, trained or untrained, are not Service Animals for purposes of this definition. (As discussed below, federal law requires that, in certain circumstances, miniature horses be treated the same as or similar to Service Animals.)

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:

- a. Assisting individuals who are blind or have low vision with navigation and other tasks;
- b. Alerting individuals who are deaf or hard of hearing to the presence of people or sounds,
- c. Providing non-violent protection or rescue work;
- d. Pulling a wheelchair;
- e. Assisting an individual during a seizure;
- f. Alerting individuals to the presence of allergens;
- g. Retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and
- h. 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.

2. “Service Animal-in-Training” means a dog that is being trained as a Service Animal. (“Service Animal-in-Training” does not mean a miniature horse.)
3. In accordance with state law, “trainer of a Service Animal” means a person who is qualified to train dogs (and not miniature horses) to serve as Service Animals.

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4. “Direct threat” means a significant risk to the health and safety of others that cannot be eliminated by a modification of policies, practices or procedures. In determining whether an individual or Service Animal poses a “direct threat” to the health or safety of others, the district will make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

Admission of Service Animals

In accordance with law, individuals with disabilities, including students, employees and visitors, may be accompanied by Service Animals in district facilities and vehicles, on district grounds and at district functions. A student with a disability or employee with a disability may submit a request to be accompanied by a Service Animal to school or work. However, there is no automatic right to be accompanied by a Service Animal.

Admission of Service Animals-in-Training

In accordance with state law, a trainer of a Service Animal may be accompanied by a Service Animal that the trainer is in the process of training in district facilities and vehicles, on district grounds and at district functions. However, there is no automatic right to be accompanied by a Service Animal-in-Training.

504 Plans and Individualized Education Plans

If a student has either a 504 plan or an individualized education plan (“IEP”), the Service Animal may be included in the 504 plan or IEP under the following conditions:

1. In the case of a 504 plan, if use of a Service Animal is necessary to avoid discrimination on the basis of a disability, to enable the student to participate in or benefit from the district’s services, programs or activities (except as otherwise provided by this policy or by applicable law) or to provide the student with a free appropriate public education (“FAPE”) as defined by section 504; and

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2. In the case of an IEP, if use of a Service Animal or other animal is required for the student to receive a FAPE as defined by the Individuals with Disabilities Education Act.

While not every student who requires a Service Animal will qualify for a section 504 plan, any student with a Service Animal who does not have a 504 plan may request that such a plan be developed.

A student with a disability may be accompanied by a Service Animal regardless of whether the Service Animal is written into a 504 plan or IEP, subject to any conditions or limitations established by this policy or by applicable law.

Inquiries

Before a Service Animal will be allowed in a district facility or vehicle, on district grounds or at district functions, and only to the extent it is not readily apparent, the owner or handler of the animal may be asked questions regarding the following:

1. Whether the animal is required because of a disability; and
2. The type of work or task(s) the animal has been trained to perform.

Where a Service Animal will be at a site frequently, the school district may also require sufficient documentation and information to show that a Service Animal will not endanger the health, safety, and welfare of students and staff, including proof of vaccinations, health, and cleanliness. In addition, the school district may inform the owner/handler of the Service Animal as to waste disposal and behavior requirements.

Care and Supervision of Service Animal

The owner/handler of a Service Animal shall be solely responsible for:

1. Supervision and care of the animal, including any feeding, exercising, walking to relieve, clean up and stain removal; and
2. Except as provided below, harnessing, leashing or tethering the animal.

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The district is not responsible for the care and supervision of a Service Animal.

Identification of Service Animal

It is recommended that a Service Animal wear a harness, saddle bag or vest which identifies him/her as a Service Animal. A Service Animal must always be on 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).

Reasonable Accommodation/Facilities, Vehicles, Grounds and Functions

In accordance with law, the district shall strive to make reasonable accommodations so that its facilities, vehicles, grounds and functions are accessible for an individual with a disability who is accompanied by a Service Animal, unless the accommodation would impose an "undue hardship" on the district. "Undue hardship" means an action requiring significant difficulty or expense.

Exclusion of Service Animal

The district may exclude a Service Animal from district facilities, vehicles, grounds or functions under the following circumstances:

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;
3. The animal poses a direct threat to the health or safety of others; or
4. For any other reason permitted by law.

If the district excludes a Service Animal, it shall provide the individual with a disability the opportunity to participate in the service, program or activity without the Service Animal on the premises.

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Access to Areas

Individuals with disabilities may be accompanied by their Service Animals in all areas of the district's facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go.

Conflicting Disabilities

Individuals with disabilities that are adversely impacted by Service Animals should contact the building principal/administrator. Such individuals will be asked to provide documentation that identifies their disabilities and their need for accommodations. (For example, certain individuals with animal dander allergies may qualify as individuals with disabilities.) The building principal/administrator shall strive to facilitate a process to resolve the conflict that considers the conflicting needs/accommodations of the disabled individuals involved. However, the building principal/administrator may exclude the Service Animal only if it poses a direct threat to the health or safety of others.

Grievance Procedures

A student with a Service Animal, who believes the district has discriminated against him or her on the basis of a disability by excluding the Service Animal, may: (i) file a grievance in accordance with the district's 504/ADA grievance procedure; (ii) file a report/complaint under Regulation AC-R; and/or (iii) file a complaint with the U.S. Department of Education, Office for Civil Rights (OCR). A copy of the district's notice of nondiscrimination can be found under policy AC, Nondiscrimination/Equal Opportunity.

A student with a Service Animal, who believes the district denied him or her a FAPE under the Individuals with Disabilities Education Act by excluding the Service Animal, may: (i) appeal the decision to the superintendent or his or her designee by filing a written grievance outlining facts supporting the appeal; and/or (ii) file a state complaint with or request a due process hearing from the Colorado Department of Education.

An employee with a Service Animal, who believes the district discriminated against him or her on the basis of a disability by excluding the Service Animal, may: (i) file a grievance pursuant to Board Policy AC and Regulation AC-R, and/or (ii) file a charge with the U.S. Equal Employment Opportunity Commission or the Colorado Civil Rights Division.

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Liability

The owner or the handler of a Service Animal or a Service Animal-in-training is liable for any and all damages to property or injuries to persons caused by the Service Animal or Service Animal-in-training.

Miniature Horses

Individuals with disabilities may be accompanied by miniature horses if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability and to the extent necessary to avoid discrimination on the basis of disability. However, a miniature horse may not accompany such individual if it would require the district to fundamentally alter its services, programs or activities or is otherwise determined by the district that the modifications to its policies practices or procedures which would be necessary to allow the miniature horse into the specific facility would not be reasonable.

In evaluating “reasonableness,” the district shall consider:

1. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
2. Whether the handler has sufficient control of the miniature horse;
3. Whether the miniature horse is housebroken; and
4. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

If the district determines that an individual with disabilities may be accompanied by a miniature horse, the provisions of this policy relating to services animals shall apply.