

## ASPEN ACADEMY

Adopted: Oct 16, 2018

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Reviewed: \_\_\_\_\_

### 808 SERVICE ANIMALS IN SCHOOLS

#### I. PURPOSE

The purpose of this policy is to establish procedures for the use of service animals by students, employees, and visitors within school buildings and on school grounds.

#### II. GENERAL STATEMENT OF POLICY

Individuals with disabilities shall be permitted to bring their service animals into school buildings or on school grounds in accordance with, and subject to, this policy.

#### III. DEFINITIONS

A. Service Animal - A “service animal” is a dog (regardless of breed or size) or miniature horse that is individually trained to perform “work or tasks” for the benefit of an individual with a disability, including an individual with a physical, sensory, psychiatric, intellectual, or mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals. Service animals are working animals that perform valuable functions; they are not pets.

B. Handler - A “handler” is an individual with a disability who is accompanied by a service animal or a trainer who is accompanied by a service animal. For purposes of this policy, the terms “handler” and “individual with disability” may be used interchangeably.

C. “Works or Tasks”

1. “Work or tasks” are those functions performed by a service animal. The “work or tasks” performed by a service animal must be directly related to the handler’s disability.
2. 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 non-violent protection or rescue work, pulling 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.

3. The prime 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 purposes of this policy.

D. Trainer - A "trainer" is a person who is training a service animal and is affiliated with a recognized training program for service animals.

#### **IV. ACCESS TO PROGRAMS AND ACTIVITIES; PERMITTED INQUIRIES**

A. In general, handlers (i.e. individuals with disabilities or trainers) are permitted to be accompanied by their service animals in all areas of school district properties where members of the public, students, and employees are allowed to go. A handler has the right to be accompanied by a service animal whenever and to the same extent that the handler has the right:

(a) to be present on school district property

(b) to attend or participate in a school sponsored event, activity, or program; or

(c) to be transported in a vehicle that is operated by or on behalf of the school district.

B. When an individual with a disability brings a service animal to a school district property, school district employees shall not ask about the nature or extent of a person's disability, but may make the following two inquiries to determine whether the animal qualifies as a service animal:

1. If the animal is required because of a disability; and

2. What work or tasks the animal has been trained to perform.

C. School district employees shall not make these inquiries of an individual with a disability bringing a service animal to school district property when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability.

D. An individual with a disability may not be required to provide documents such as proof that the animal has been certified, trained, or licensed as a service animal.

## **V. MANAGEMENT OF SERVICE ANIMALS**

A service animal must be under the control of its handler. 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 (e.g., voice control, signals, or other effective means)

## **VI. CARE OF, AND RESPONSIBILITY FOR, SERVICE ANIMALS; LIABILITY**

A. The handler is solely responsible for the care and supervision of the service animal including, but not limited to, feeding, watering, cleaning, and toileting. Neither the school district nor its staff will assume such responsibilities. In the case of a young child or a student with disabilities who is unable to care for or supervise his or her 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 direction of the school administrator.

B. Individuals with disabilities who are assisted by service animals are responsible for providing the supplies and equipment needed by the service animal.

C. The owner of the service animal or non-service animal is responsible for any harm or injury to an individual and for any property damage caused by the service animal while on school property.

## **VII. REMOVAL OR EXCLUSION OF A SERVICE ANIMAL**

A. A school official may require a handler to remove a service animal from school district property, a school building or a school-sponsored program or activity, if:

1. The service animal is out of control and the handler does not take effective action to control it;
2. The service animal is not housebroken;
3. The presence of the animal would fundamentally alter the nature of a service, program or activity; or
4. The handler fails to submit proof of current vaccinations and immunizations of the service animal.

B. 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.

## **VIII. ADDITIONAL LIMITATIONS FOR MINIATURE HORSES**

In assessing whether a miniature horse may be permitted in a school building or on school grounds as a service animal, the following factors shall be considered:

- 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 building or on school grounds compromised legitimate safety requirements that are necessary for safe operation; and
- E. Whether the miniature horse's presence is contrary to any other provision of this Policy.

## **IX. ALLERGIES; FEAR OF ANIMALS**

If a student or employee notifies the school district that he or she is allergic to a service animal, the school district will balance the rights of the individuals involved. In general, allergies that are not life threatening are not a valid reason for prohibiting the presence of a service animal. Fear of the animals is generally not a valid reason for prohibiting the presence of a service animal.

## **X. ANIMALS FOR STUDENTS WITH IEPS OR SECTION 504 PLANS**

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").

## **XI. SERVICE ANIMALS FOR EMPLOYEES**

Use of a service animal by a school district employee who is a qualified individual with a disability will be allowed when such use is necessary 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.

### **Legal References:**

- 28 C.F.R. § 35.104, 28 C.F.R § 35.130(b)(7) and 28 C.F.R § 35.136
- Minn. Stat. § 363A.19 (Discrimination Against Blind, Deaf, or Other Persons with Physical or Sensory Disabilities Prohibited)

- Minn. Stat. § 256C.02 (Public Accommodations)

**Cross References:**

- MSBA Policy 402 - Disability Nondiscrimination Policy
- MSBA Policy 521 - Student Disability Nondiscrimination