

**POLICY 431
SERVICE ANIMALS**

Adopted (District Policy): **January 9, 2018**

I. PURPOSE

The purpose of this policy is to prohibit discrimination against individuals with disabilities who require the assistance of a service animal and to establish procedures for the use of Service Animals in the school district programs, including school buildings, vehicles, and other property, in accordance with applicable law.

II. GENERAL STATEMENT OF POLICY

The school district prohibits discrimination against individuals on the basis of disability, including on the basis that the individual requires the assistance of a service animal. Consistent with the Americans with Disabilities Act (“ADA”) (as amended) and other applicable law, the school district shall modify its policies, practices, and procedures to permit the use of a service animal by an individual with a disability. Consistent with the ADA (as amended) and other applicable law, the school district shall make reasonable modifications in its 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.

III. DEFINITIONS

As used herein, the following terms have the definitions supplied. To the extent that there is a disparity between the following definitions and any applicable law, this policy must be interpreted as using the definition provided by law.

- A. Handler.** A “handler” is an individual with a disability who is accompanied by a service animal or the person responsible for training the service animal.
- B. Service Animal.** A “service animal” is any dog (regardless of breed) 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. Other species of animals, whether

wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

1. The work or tasks performed by a service animal must be directly related to the individual'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 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.
3. 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.

IV. RIGHTS AND RESPONSIBILITIES

- A. **Equal Access.** 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 or in school district facilities; (b) to attend or participate in any event, activity, or program sponsored by the school district; or (c) to be transported in a vehicle that is operated by or on behalf of the school district.
- B. **Equal Treatment.** Except as provided herein, the school district shall not ask or require an individual with a disability to pay any surcharge for being accompanied by a service animal. The school district will not isolate an individual with a disability accompanied by a service animal from individuals without service animals or otherwise treat an individual with a disability who is accompanied by a service animal less favorably than individuals without service animals.
- C. **Damages and Liability.** The school district reserves the right to charge all handlers for any damage caused by the handler's service animal, to the same extent that it charges other individuals for damages they cause. A handler who is accompanied by a service animal is liable for any and all harm, injury, or damage caused by the service animal.

D. Care and Supervision. The school district is not responsible for the care or supervision of any service animal. A handler who is accompanied by a service animal 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 addition, each handler is responsible for ensuring that the service animal is properly vaccinated in accordance with Minnesota law.

E. Service Animals Must Be Under the Handler's Control. A service animal must be under the control of its handler. Each handler is responsible for ensuring that the service animal is harnessed, leashed or tethered so the handler can maintain control of the animal unless: (a) the handler is unable to use the harness, leash or tether because of the disability; or (b) the use of such a harness, leash or tether would interfere with the service animal's, safe, effective performance of work or tasks.

1. Under the two exceptions, described above, where the service animal can not be effectively harnessed, leashed or tethered, the service animal must be otherwise under the handler's control through voice control, signals, or other effective means.

F. Removal. The school district may require a handler to remove a service animal from district property, a district facility, a vehicle operated by or on behalf of the district, or a school district sponsored event, activity, or program 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 service animal poses a direct threat to the health and safety of others; or
4. The service animal's presence would fundamentally alter the nature of the school district's service, program, or activity.

If the school district requires a handler to remove a service animal, the individual with a disability may remain on district property, in a district facility, in a vehicle operated by or on behalf of the school district, or at a school sponsored event, activity, or program without having the service animal, unless the individual would otherwise be subject to removal in accordance with applicable law or district policy.

G. Permitted Inquires. Unless it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability, school staff may ask the following questions:

1. If the animal is required because of a disability; and
2. If so, what work or task the animal has been trained to perform.

The district will not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

Unless otherwise authorized or required to do so by law (e.g., when developing an individualized education program pursuant to the Individuals with Disabilities Education Act or developing a plan of accommodation pursuant to Section 504 of the Rehabilitation Act), school district staff will not ask about the nature or extent of an individual's disability.

H. Allergies. If a student or employees notifies the district that he or she is allergic to a service animal, the school district will balance the rights of the individuals involved and consider available options. Generally, allergies that are not life threatening are not a valid reason for prohibiting the presence of a service animal. Similarly, fear of animals is generally not a valid reason for prohibiting the presence of a service animal.

I. Working Status of Service Animals. Students, parents, and school district employees should not feed or pet a service animal without permission from the handler. In addition, students, parents, and employees generally should not seek to separate a service animal from its handler.

J. Requests for Service Animals.

1. In the interest of efficient administration, an individual with a disability intending to bring a service animal to a school district facility, a vehicle operated by or on behalf of the school district, or a school district sponsored event, activity, or program is encouraged to provide notice to the school district regarding the service animal as early as is practicable and prior to bringing the animal to a school district facility, vehicle operated by or on behalf of the school district, or school district sponsored event, activity, or program.
2. If the service animal is to accompany a student or employee on a permanent or long-term basis, the employee, student, or student's parent or guardian must submit a written request to obtain permission for the service animal to accompany the individual with

a disability to work, school, or to a school district sponsored event, activity, or program. The written request must be delivered to [name] at the [district] at least ten business days prior to bringing the service animal to work, school or the school district event, activity, or program.

- a. Such requests must contain documentation the animal's required immunizations as well as a letter from a licensed veterinarian who has examined the animal within the last 30 days which states that the animal is in good health and does not pose a direct threat to the health and safety of others.
- b. At the time of the request, applicants must also provide the school district assurance that the animal has been treated for and is free of fleas and ticks, is housebroken and is under the control of its handler.

V. ADDITIONAL LIMITATIONS FOR MINIATURE HORSES

A. Reasonable Modifications Required. The school district must 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 an individual with a disability. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, the school 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.

B. Other Provisions Applicable. To the extent required by law, all provisions of this policy that are applicable to service animals are also applicable to miniature horses.

Legal References: 20 U.S.C. § 1401 et seq. (Individuals with Disabilities Education Act)
29 U.S.C. 794 et seq. (Section 504 of the Rehabilitation Act of 1973)
42 U.S.C. § 12112 (Americans with Disabilities Act)
28 C.F.R. § 35.104 (Definition of Service Animal)
28 C.F.R. § 35.136 (Service Animals)
28 C.F.R. § 35.139 (Direct Threat)
34 C.F.R. Part 104 (Section 504 Implementing Regulations)
Minn. Stat. § 256C.01-002 (Public Accommodations)
Minn. Stat. § 363A.19 (Minnesota Human Rights Act)

Cross References: Policy 102 (Equal Educational Opportunity)
Policy 402 (Disability Nondiscrimination)
Policy 521 (Student Disability Nondiscrimination)

RRM: 269721