



## **Guidance Document: Service Animals and Students**

*There are three federal laws which guide the responsibilities of districts when considering service animals at school. The Americans with Disabilities Act (ADA), Individuals with Disabilities Education Act (IDEA) and Section 504. Because of the complexities of these laws, district officials should always seek the advice of legal counsel to ensure that they are in compliance with the laws and to develop appropriate policies to address these issues. The following is a brief summary of factors to consider.*

### **What counts as a service animal?**

The Americans with Disabilities Act defines service animals as a dog, or in some cases a miniature horse, 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.” 28 C.F.R. § 35.104. The work or tasks performed by a service animal must be directly related to the individual’s disability.

### **What tasks do service animals perform?**

To determine if an animal is able to perform tasks or do work, the animal must be capable of *recognition*, realizing help is needed and *responding*, completing the task for which it was trained. Examples of work or tasks include, but are not limited to, assisting individuals with vision impairments with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, 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 July 2015 guidance from the Office for Civil Rights identifies “preventing a child with autism from wandering away” as another example.

It is also clear that providing emotional support, well-being, comfort, or companionship do not constitute work or tasks under the law. The federal guidance distinguishes between psychiatric service animals and emotional support animals. For example, if a dog has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, then the dog would qualify as a service animal—if the dog’s presence offers comfort the dog not would not qualify. Such decisions are best made in a group discussion into which the family and student have input.

## **What information may we request?**

Under the ADA, a school district official may make only two inquiries of a student asking to be accompanied by a service animal. The two inquiries are (1) whether the animal is required due to a disability and (2) what work or task the animal has been trained to perform. People with disabilities have the right to train the dog themselves and are not required to use a professional service dog training program, so documentation regarding training cannot be required. Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person's disability.

## **How do we handle a request for a service animal?**

As with most issues involving students with disabilities, the decision to grant the request must be made by a group of persons and based upon information from a variety of sources. A service animal must be required for the individual with a disability and the service animal must be individually trained to work or complete a task for that individual. Under the IDEA and Section 504, a school district is entitled to take into account whether the service animal is "necessary" for the student to benefit from his educational program and whether the school district is providing other services that serve the same function. Even if the service animal is not necessary for the student's education, the student may have a right to have the service animal participate in the school setting.

If it is determined the service animal is required for a student with disabilities, the animal must be allowed to accompany the student in all areas of the school facility where students or members of the public are allowed to go. The service animal must have a harness, leash, or other tether, unless the handler is unable to use one due to a disability, or if the use of a restraint would interfere with the service animal's safe, effective performance of work or tasks. If a harness, leash, or tether cannot be used, the service animal must be under the handler's control through voice, signals or another method. Care and supervision responsibilities of the service animal are generally that of the handler.

If a particular service animal behaves in a way that poses a direct threat to the health or safety of others, has a history of such behavior, or is not under the control of the handler, that animal may be excluded. If an animal is excluded for such reasons, staff must still offer their goods or services to the person without the animal present.

**\* If a request is received for a service animal to attend school with a student with disabilities, please immediately contact both building and BOCES administration\*.**