

## Instruction

### **Administrative Procedure - Service Animals**

State and federal law allow a student with a disability to be accompanied by a service animal that is individually trained to perform work or tasks for the benefit of a student. The animal may accompany the student to all school functions, whether in or outside the classroom. Use this procedure to identify and manage legal and practical issues when a student with a disability uses a service animal at school.

#### **Definitions**

**Service Animal** – A dog or miniature horse trained or being trained as a hearing animal, guide animal, assistance animal, seizure alert animal, mobility animal, psychiatric service animal, autism service animal, or animal otherwise trained to assist an individual with a physical, mental or intellectual disability, according to State law. 105 ILCS 5/14-6.02; 720 ILCS 5/48-8. Federal law defines *service animal* as any *dog* or *miniature horse* that is individually trained to perform tasks or work for the benefit of a student with a disability. 28 C.F.R. §§35.104 and 35.136. Federal law also explains that other species of animals, whether wild or domestic, trained or untrained, are not service animals.

Under federal law, *disability* includes a physical, sensory, psychiatric, intellectual, or other mental disability. The *work or tasks performed* must be directly related to the student's disability. Examples of work or tasks include, but are not limited to assisting a student who is blind or has low vision with navigation and other tasks; alerting a student who is deaf or hard of hearing to the presence of people or sounds; providing non-violent protection or rescue work; pulling a wheelchair; assisting a student during a seizure; alerting a student to the presence of allergens; retrieving items such as medicine or the telephone; providing physical support and assistance with balance and stability to a student with mobility disabilities; and helping a student with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

For more information about the definition of *service animal*, see the following U.S. Dept. of Justice, Civil Rights Div., *Disability Rights Section*, documents:

*Service Animals* at [www.ada.gov/service\\_animals\\_2010.htm](http://www.ada.gov/service_animals_2010.htm)

*Frequently Asked Questions about Service Animals and the ADA* at:

[www.ada.gov/regs2010/service\\_animal\\_qa.html](http://www.ada.gov/regs2010/service_animal_qa.html)

**Handler** - An individual who has and maintains control over the service animal. This individual may be the student using the service animal. Control of the service animal means using a harness, leash, or other tether, unless the handler is unable because of a disability to use one of these devices or their use would interfere with the service animal's safe, effective performance of work or tasks. If or when these devices are not used, control of the service animal must be accomplished through voice control, signals, or other effective means.

Actor	Action
Parent/Guardian	<ul style="list-style-type: none"> <li>• Informs the School District of the need for a service animal to accompany their disabled child to school.</li> <li>• Cooperates with the Cooperative to successfully incorporate the service animal into the educational environment.</li> </ul>
Executive Director or designee	<ul style="list-style-type: none"> <li>• Discusses this procedure with the Building Principal, other appropriate administrative and special education staff, and the Cooperative Attorney. <ul style="list-style-type: none"> <li>– The Cooperative Attorney will be a necessary participant in the Cooperative’s efforts to manage the issues presented by service animals being used in school facilities. The Executive Director may want to authorize the Building Principal to consult with the Cooperative Attorney as needed for this issue.</li> </ul> </li> <li>• Contacts the Cooperative’s insurance carrier(s) to assess appropriate coverage for issues involving service animals, including a handler.</li> <li>• Informs all Building Principals and Special Education Coordinators that any <i>disabled student</i> has the right to be accompanied by a service animal “that is individually trained to perform tasks or work for the benefit of a student” at all school facilities or functions. <ul style="list-style-type: none"> <li>– 105 ILCS 5/14-6.02 grants a student with a disability the right to bring a service animal to all school functions, whether in or outside the classroom. Schools must modify their policies, practices, or procedures to permit the use of a service animal by a student with a disability. 28 C.F.R. §35.136(a).</li> </ul> </li> <li>• Discusses 6:120-AP3, E1, <i>Guidelines for Service Animals in School Facilities</i>, with building principals and instructs them to: (1) inform their individual building staff of these guidelines when service animals are present in their individual buildings, and (2) use this exhibit as an internal District document to ensure legitimate safety interests of staff and students. It may not be used as an agreement between the District and its students and their parents/guardians as a condition of the student using a service animal.</li> </ul>
IEP and/or 504 Team	<ul style="list-style-type: none"> <li>• For a student who is not already identified as disabled, follows the Cooperative’s evaluation procedures for determining whether a student is a student with a disability within the meaning of IDEA or Section 504. See Board policy 6:120, <i>Education of Children with Disabilities</i>.</li> <li>• If a student does not qualify as a student with a disability, consult the Cooperative Attorney before excluding the service animal from the school. This will ensure that there are not special circumstances that require the school to allow access despite a student’s non-disabled status.</li> <li>• For a student with an IEP or Section 504 plan, or who qualifies for one, determines: <ol style="list-style-type: none"> <li>1. Whether the service animal is a required <i>related service</i> to ensure the provision of a “free appropriate public education” (FAPE), and/or</li> <li>2. Whether the service animal is an appropriate <i>reasonable accommodation</i> for the student’s disability.</li> </ol> </li> <li>• Permits the use of the service animal if the answer to either of the above questions is positive (i.e., determines that the service animal will perform tasks for the benefit of a</li> </ul>

	<p>student with a disability).</p> <ul style="list-style-type: none"> <li>• Informs the parent/guardian that the student's service animal may accompany the student to school, and explain that the service animal must be under the control of its handler at all times and housebroken. 28 C.F.R. 35.136(b), and (d).</li> <li>• If the school excludes the service animal:             <ol style="list-style-type: none"> <li>1. Notifies the parent/guardian in writing of the reasons for the exclusion and the right to appeal. Provides any required procedural safeguard notices. See 23 Ill.Admin.Code Part 226; 34 C.F.R. Parts 104 and 300; and 6:120-AP1, E1, <i>Notice to Parents/Guardians Regarding Section 504 Rights</i>.</li> <li>2. Gives the student with a disability the opportunity to participate in all of the school's services, programs, or activities without having the service animal at the school facility.</li> </ol> </li> </ul>
Building Principal	<p><b>When notice of the need for a service animal in a school facility is provided:</b></p> <ul style="list-style-type: none"> <li>• Balances student's need for the service animal and the legitimate safety interests of other students and staff by ensuring the service animal will meet the guidelines listed in 6:120-AP3, E1, <i>Guidelines for Service Animals in School Facilities</i>.</li> <li>• Takes appropriate steps to inform the student's parent/guardian of any unmet guidelines and what actions must be taken to meet these guidelines and avoid exclusion of the service animal.</li> <li>• Discusses 6:120-AP3, E1, <i>Guidelines for Service Animals in School Facilities</i>, with building staff. Requests to be immediately informed if the animal's behavior does not conform to these guidelines.</li> <li>• Ensures that the Cooperative conducts a criminal background check on any handler(s) pursuant to policy 6:250, <i>Community Resource Persons and Volunteers</i>. See 6:250-E, <i>Resource Person and Volunteer Information Form and Waiver of Liability</i>.             <ul style="list-style-type: none"> <li>– ADA regulations, 28 C.F.R. §§35.130(f) and 35.136(h), and the Ill. White Cane Law, 775 ILCS 30/3, both prohibit charging a disabled individual a deposit or a surcharge as a condition to allowing a service animal to accompany the disabled individual. Consult the Cooperative Attorney about payment of any criminal background screening fees for an adult handler.</li> </ul> </li> <li>• Creates a plan with the student's parent/guardian and the handler for:             <ol style="list-style-type: none"> <li>1. Integrating the animal into the classroom and school environment (assemblies, cafeteria, library, etc.), and</li> <li>2. Meeting the service animal's basic needs during the school day.</li> </ol> </li> </ul> <p>Any plan depends on the individual student's service animal arrangement, any management issues, and the schedules within each individual building. The school staff is not required to provide care or assistance except in special circumstances. See 28 C.F.R. § 35.136(e). Consider addressing: where the animal will relieve itself, who disposes of the waste, where the animal drinks water, and who provides it, etc. <b>Note:</b> While the school is not required to provide staff to take the animal outside, it may need to provide a staff member to accompany a student outside if the student is the animal's handler. (See 28 C.F.R. §35.130(b)(7); <u>Alboniga v. Sch. Bd. of Broward Co. Fla.</u>, 87 F.Supp.3d 1319 (S.D. FL. 2015).</p>

	<ul style="list-style-type: none"> <li>• Checks with the school nurse regarding any known allergies among students attending the school.</li> <li>• Manages identified students' competing educational interests by:             <ol style="list-style-type: none"> <li>1. With the Executive Director's permission, consulting the Cooperative Attorney.</li> <li>2. Minimizing contact between any allergic students and the service animal.</li> <li>3. Creating a method to monitor identified competing educational interests between students based upon the individual facts of the situation.</li> <li>4. Responding to future unidentified competing educational interests and managing them immediately.</li> <li>5. Modifying any other conditions as the individual facts of the situation require.</li> </ol> <p>See <i>Kalbfleisch ex rel. v. Columbia Cmty. Unit Sch. Dist.</i>, 396 Ill.App.3d 1105 (5<sup>th</sup> Dist. 2009), for a discussion about the balancing of interests. Other helpful publications include:</p> <p>The U.S. Dept. of Education's <i>Reasonable Accommodation Handbook</i>, Section C10, provides information about balancing competing interests in the context of a service animal's presence in the work environment. See: <a href="http://www2.ed.gov/policy/gen/leg/foia/acshbom3.pdf">www2.ed.gov/policy/gen/leg/foia/acshbom3.pdf</a>.</p> <p>The Ill. Attorney General Office's <i>Disability Rights Service Animals: A Guide for Illinois Businesses and Other Public Accommodations</i> at: <a href="http://www.illinoisattorneygeneral.gov/rights/servanimals.html">www.illinoisattorneygeneral.gov/rights/servanimals.html</a>.</p> <p>The U.S. Dept. of Justice's <i>Commonly Asked Questions about Service Animals in Places of Business</i> available at: <a href="http://www.ada.gov/qasrvc.htm">www.ada.gov/qasrvc.htm</a>.</p> <p>Klein, Thorp and Jenkins, Ltd. And the Ill. Association of School Boards' <i>Service Animals Factsheet Q &amp; A</i> at: <a href="http://www.iasb.com/IASB/media/Documents/ServiceAnimalsQA2019.pdf">www.iasb.com/IASB/media/Documents/ServiceAnimalsQA2019.pdf</a>.</p> </li> <li>• Facilitates the dissemination of accurate information about the presence of the service animal at school while respecting privacy rights.</li> <li>• Considers creating a joint communication from the Building Principal and the parent/guardian of the student using a service animal. The communication should inform other students and their parents/guardians about the placement of a service animal in their educational setting.</li> </ul>
	<p>Providing a joint communication allows the school to exchange the information needed to balance competing educational interests without violating federal or State laws that govern student records. See the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, and its implementing rules at 34 C.F.R. Part 99; Ill. School Student Records Act, 105 ILCS 10/, and its implementing rules at 23 Ill.Admin.Code Part 375. FERPA prohibits schools from disclosing personally identifiable information from students' education records without the consent of a parent or eligible student, unless an exception applies. See policy 7:340, <i>Student Records</i>.</p> <ul style="list-style-type: none"> <li>• Prepares a list of answers to anticipated questions.</li> <li>• Educates students, staff, and the community about the rights of students to use service animals in the school and the consequences for mistreatment of animals. See the Humane Care of Animals Act, (510 ILCS 70/4.03, 70/4.04, and 70/7.15 (makes it unlawful to meddle or tamper with a service dog or to tease, strike or mistreat one); Ill. White Cane Law, 775 ILCS 30/4 (makes it unlawful to interfere with the rights of a disabled person).</li> </ul>

	<ul style="list-style-type: none"><li>• Contacts the student's parent/guardian if at any time the animal fails to meet the guidelines listed in 6:120-AP3, E1, <i>Guidelines for Service Animals in School Facilities</i>.</li></ul> <p><b>When a service animal arrives at school without notice:</b></p> <ul style="list-style-type: none"><li>• Keeps the animal with the student if the service animal is obviously:<ol style="list-style-type: none"><li>1. Able to perform tasks or work for the benefit of a student with a disability,</li><li>2. Able to stay under the control of its handler and, if not, the handler can take effective action to control it, and</li><li>3. Housebroken.</li></ol></li><li>• Informs staff that the animal may not be taken away from the student.</li><li>• Informs the parent/guardian of this procedure and requests their cooperation with the Cooperative and District to successfully incorporate the service animal into the educational environment.</li><li>• Excludes the animal and contacts the student's parent/guardian if the animal does not obviously meet the conditions in 6:120-AP3, E1, <i>Guidelines for Service Animals in School Facilities</i>.</li><li>• Contacts animal control if the Principal or designee believes the animal is not properly vaccinated, licensed, may be dangerous, or is sick.</li></ul>
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LEGAL REF.: 105 ILCS 5/14-6.02.  
510 ILCS 70/, Humane Care for Animals Act.  
775 ILCS 30/, Ill. White Cane Law.  
28 C.F.R. Part 35.  
34 C.F.R. Parts 100 and 300.

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