

## **“FiFi Needs to Come to School with Me” Service Animals in School Settings**

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## Which agency addresses service animals in schools?

The US Department of Justice oversees most of the ADA's enforcement of service animal issues.

In the educational K-12 context, the Office for Civil Rights Division of the US Department of Education oversees the implementation of the ADA and Section 504.

## What is a service animal?

The Department of Justice (DOJ) regulations to the ADA define "service animal" as, "any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability".



## **Are service animals considered to be dogs which have only been trained to work with the visually impaired?**

No. Animals are now trained to provide far more services such as alerting individuals who are deaf 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, 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.

## **What about miniature horses?**



## Miniature Horses

Although the regulations only speak to dogs, miniature horses have been recognized as a possible reasonable accommodation as a service animal.

Why a mini horse?

- ✓ They are stronger and larger than most dogs, so they can push and pull heavier objects.
- ✓ They are smart and easy to train.
- ✓ They offer mobility and balance assistance to a handler.
- ✓ They can live for 25-30 years.
- ✓ They possess excellent eyesight, including peripheral vision and night vision.

## Can a service animal be for comfort?

Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

Additionally, dogs that only provide a crime deterrent effect do not qualify as a service animal under the ADA.



## How is an emotional support animal defined?

The ADA makes a distinction between psychiatric service animals and emotional support animals. If the dog has been trained to sense that an anxiety attack is about to happen and take specific action to help avoid the attack or lessen its impact, that would qualify as a service animal.

However, if the dog's mere presence provides comfort, that would not be considered a service animal under the ADA. In this instance, the dog is not trained for a specific job.

When parents request a service animal for the student, be sure to at least consider the request.

## What information or documentation may the district require?

In determining whether to approve or deny a student's request to bring a service dog to school, administrators may ask: 1) whether the dog is *required because of a disability*; and 2) what *work or task* the dog has been *trained* to perform.

## **Can the district require medical documentation as to the student's need for service animals?**

No. A district cannot require a physician to verify the student's need for a service animal.

## **Can the district ask for the service animal to demonstrate its ability to perform the work or task identified?**

No. According to the Department of Justice guidance, you cannot require the animal to demonstrate its skills.



## Can you charge a service fee for the service animal?

No. A service fee would be considered discriminatory since other students are not required to pay fees.

## Can a district ever refuse a request for a service animal?

Yes. The ADA provides exceptions to the accommodation requirement, such as when the animal is a direct threat to others or when the presence of the animal would fundamentally alter the program or service provided.

For instance, if the dog bites a student, that could be grounds for removal. If the dog barks occasionally, this would not demonstrate a direct threat. Also, the DOJ and OCR are reluctant to find that the animal's presence would fundamentally alter the service provided.

## **What can the district do if the dog has “accidents” at school?**

The district can exclude a service dog if it is not house-broken.



## **What can the district do if the dog growls at other students and/or staff?**

The district is also allowed to exclude a service dog if the dog is out of control.



### **What can the district do if there is another student who is scared of the service dog?**

The Department of Justice takes the position that fear of dogs is not a valid reason for denying access to people using service animals. Generally, the school is required to accommodate the concerns of both students, perhaps by using different classrooms. Training is important in these situations.

### **Can a service animal be excluded if another student is allergic to dog dander?**

Similar to fear of dogs, the Department of Justice does not consider it a valid reason to exclude the service animal. The Department recommends that both students be accommodated by assigning them, if possible, to different locations within the room or different rooms in the school.

**If the district has a health plan for seizures, can the district provide that accommodation be used in lieu of the “service dog” as long as the purpose of both is to address seizures?**

No. The district is not permitted to survey possible alternative accommodations or modifications and determine what it believes the most reasonable accommodation to be. The individual with the disability is entitled to choose the accommodation.

But see . . . *Strife v. Aldine ISD*, #24-20269 (5th Cir. May 16, 2025)

**Can the district require that the student with a disability maintain liability insurance for a service animal?**

No. Insurance costs are over and above what other students are required to pay in order to attend school.

### **Is the district required to be a handler for the service animal?**

No. As the caselaw has indicated, requiring a public entity to act as handler for and to control the service animal would not be a reasonable accommodation. However, minor assistance may be a necessary accommodation in some instances.

### **Why does a district have to allow a service animal when an alternative accommodation is available?**

The Department of Justice, in its statement of interest in litigation, provided the following:

“Honoring the individual's choice to be accompanied by his service animal in all aspects of community life, including at school, the regulation is a reasonable construction of the ADA because it promotes the statutes overarching goals of ensuring equal opportunity for, and full participation by, individuals with disabilities in all aspects of civic life”.

## **Can service animals be any breed of dog?**

Yes. The ADA does not restrict the type of dog breeds that can be service animals.



## **Can individuals with disabilities be refused access to a facility based solely on the breed of their service animal?**

No. A service animal may not be excluded based on assumptions or stereotypes about the animal's breed or how the animal might behave. However, 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.

**What does under control mean? Do service animals need to be on a leash? Do they have to be quiet and not bark?**

The ADA requires that service animals be under the control of the handler at all times. The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the student's disability prevents use of these devices. In that case, the student must use voice, signal, or other effective means to maintain control of the animal. For example, a student who uses a wheelchair may use a long, retractable leash to allow her service animal to pick up or retrieve items. She may not allow the dog to wander away from her and must maintain control of the dog, even if it is retrieving an item at a distance from her.

**Does the ADA require that service animals be certified as service animals?**

No. School districts may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry.

### **Can the district require proof of vaccinations?**

Yes. Students who have service animals are not exempt from local animal control or public health requirements.

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### **Does the ADA require service animals to be professionally trained?**

No. People with disabilities have the right to train the dog themselves and are not required to use a professional service dog training program.

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## **Are service-animals-in-training considered service animals under the ADA?**

No. Under the ADA, the dog must already be trained.

However, in March of 2025, in *Misson Working Dogs v. Brookfield Properties Retail, Inc.*, 2025 U.S.D.C (Maine); Lexis 41134, a US District Court in Maine found that animals in training are considered to be service animals. This case was based on summary judgment, and was influenced by state law claims. It is not applicable in Texas.