



## SERVICE ANIMALS IN GRADE SCHOOLS

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### HOW DOES THE ADA DEFINE SERVICE ANIMAL?

A service animal is any dog that has been individually trained to do work or perform tasks for an individual with a disability. There are no limitations on size, breed or weight of the service dog, even if the breed is illegal in the jurisdiction. The use of a miniature horse may also be recognized as a reasonable modification.

### IS A SERVICE ANIMAL A PET?

No. A service animal is a working animal. The work or task a dog has been trained to provide the individual must be directly related to the person's disability.

### WHAT ARE SOME EXAMPLES OF THE WORK OR THE TASKS PROVIDED BY SERVICE ANIMALS?

Guiding people who are blind, providing non-violent protection or rescue work, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person having a seizure, reminding a person with mental illness to take prescribed medication, helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors, or performing other duties.

### WHO CAN USE A SERVICE ANIMAL?

Anyone with a mental or physical disability.

### DOES THE SERVICE ANIMAL NEED TO BE CERTIFIED?

No. In fact, New York State and the federal government do not offer a certification process.

## DOES A SERVICE ANIMAL NEED TO BE PROFESSIONALLY TRAINED?

No. Under the ADA, a service animal does not need to be trained by a professional trainer or training center (New York Law currently requires a service animal to be trained by a recognized training center or professional trainer, but is superseded by the ADA).

## IS A SERVICE ANIMAL REQUIRED TO BE ON A LEASH OR HARNESS?

A leash, harness, or other tether is required, unless the animal is under the control of its handler through other means, such as voice control or signals, or if the use of such interferes with the safe and effective performance of the work or task.

## MUST A SCHOOL ALLOW A STUDENT TO BE ACCOMPANIED BY A SERVICE ANIMAL?

Yes. Pursuant to Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, a student receiving a public education may be accompanied by a service animal in school programs, events and activities. If a student receives special education services pursuant to IDEA, the service animal can be included in the students' IEP as either a 504 Reasonable Accommodation or a necessary support for the student to receive a free appropriate public education. If a parent or guardian asks for a service animal to be included on a student's IEP, the IDEA's administrative exhaustion requirements may apply.

## CAN A SCHOOL ASK FOR DOCUMENTATION OR PROOF THAT THE ANIMAL IS A SERVICE ANIMAL?

No. The school is only allowed to ask if the animal is required because of a disability, and what task or work the animal has been trained to do.

## CAN A SCHOOL EXCLUDE A SERVICE ANIMAL?

A public entity, such as a school, must permit individuals with disabilities to use their service animals, subject only to limited exceptions; such as only if the animal is not housebroken, or if the animal is out of control and the handler does not take effective action to control it.

## What If Other Students Have Allergies?

In almost all instances, students who are sensitive to animals and students with service animals can be accommodated in the same school, by locating the students in different parts of the classroom or in different classes, using air filters, or changing the cleaning schedule.

## CAN A SCHOOL RESTRICT A SERVICE ANIMAL'S ACCESS TO CERTAIN AREAS?

Individuals accompanied by service animals are allowed in all areas of the school where they are entitled to go. For a student, a service animal may accompany the student in the school programs, events, or activities, which include in the classroom, during extracurricular activities, and at events hosted for the school body and community.

## CAN A SCHOOL REQUIRE A STUDENT TO PAY FOR AN AIDE IF A STUDENT USES A SERVICE ANIMAL IN SCHOOL?

No. A school must provide the student with the supports needed to help the student and service animal team. For example, a school staff person is responsible for the student if the student must take the service dog outside and respond to help the student if the service dog alerts of an issue that relates to the student's disability. The school is not responsible for providing a child a service animal, or for the care and maintenance of the animal, such as feeding and vet visits.

## WHAT ABOUT PRIVATE SCHOOLS?

Private schools are considered public accommodations under the ADA and are therefore subject to regulations stating that any dog trained to do work or perform tasks for the benefit of an individual with a disability is a service animal, 28 C.F.R. §36 appx. A. Public accommodations such as private schools must modify their policies to allow service animals unless the animal is out of control or the animal is not housebroken, 28 C.F.R. §36.302(c). Additionally, Section 504 of the Rehabilitation Act of 1973 protects the right of students at schools receiving federal funding to bring their service dogs if banning the use of service animals denies a student with a disability the equal opportunity to participate or benefit from an educational program.

**Depending on the facts of your situation, Disability Rights New York may be able to assist you with your issue. Please call Toll free: 1-800-993-8982, Voice: 518-432-7861, or TTY: 518-512-3448 if you think you need our assistance.**

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