



Property and Casualty Coverage for Education

An ounce of prevention can save the day



Q&A: Service animals in school settings

Service animals may help people with a variety of disabilities including sight, hearing and mobility impairments, autism, seizures and post-traumatic stress disorders. They also may trigger allergies and fears in others. A request to bring a service animal to school presents difficult questions due to complex disability discrimination laws, insufficient medical and psychological data concerning service animal benefits and difficulty distinguishing between a service animal and a regular household pet. We hope these facts will help.

What is a service or assistance animal?

- The Americans with Disabilities Act defines “service animal” as any guide dog, signal dog, or other animal individually trained to work or perform tasks for the benefit of a person with a disability. Oregon law defines “assistance animal” as any animal trained to assist a person with a physical impairment in one or more daily life activities.
- Service animals do not include wild animals, farm animals, rodents and animals whose sole function is to provide emotional support, comfort, companionship, or therapeutic benefit.

How can administrators distinguish between a service animal and a pet?

When a student or staff member asks to use a service animal in school, open up the lines of communication. Find out if the animal is required because of a disability, how the animal serves the person and how it has been trained. Ask for documentation or demonstration of the service the animal provides and the link between the disability and the service provided.

Is the school required to admit service animals?

Deciding whether a service animal can come to school requires complex statutory analysis and is best done on a case-by-case basis with legal counsel. Communication with the person making the request may uncover alternatives. Alternatives must be effective in all functions the service animal performs with respect to the disability.

What laws could require a public school to admit a service animal?

Many laws come into play: 1) Title II of the Americans with Disabilities Act (ADA); 2) Section 504 of the Rehabilitation Act of 1973 (Section 504); 3) The Individuals with Disabilities in Education Act (IDEA); and 4) state and local laws.

If the animal is not a service animal, can the district deny access?

Not necessarily. For students, schools also must consider whether the animal is necessary for a free and appropriate education (FAPE) under IDEA or Section 504. The individual education plan (IEP) or Section 504 team should make this decision in accordance with law. Consult legal counsel before adding a service animal to an IEP or 504 plan.

What factors should an IEP or 504 team consider to determine whether a service animal is necessary to provide FAPE?

- The team should consider:
- The academic and behavioral functions the animal is trained to provide the student and the extent to which these functions can be fulfilled by other means.
 - The animal’s impact upon the student’s ability to function successfully and independently.
 - The animal’s impact on the student’s behavior, including the student’s ability to meet conduct expectations and develop and maintain constructive social relationships.
 - The degree to which separation from the animal during the school day would impair the student’s transition to independent living skills.

Are school staff members responsible for caring for service animals at school?

No. Care and supervision of a service animal is solely the owner’s responsibility. Generally, schools are not responsible for care, food or a special location for the animal.

Are schools required to allow a service animal if other students are frightened or allergic?

Competing circumstances do not diminish the right of a person with a disability to use a service animal at school if the animal is necessary for equal access to educational services or programs. Students with chemical sensitivity and extreme allergies might also have a covered disability under the law. Where both students have a right to accommodation based on a disability, the law likely requires a practical solution to accommodate both students’ needs. One

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disorder does not take precedence over another. Where competing interests arise, see if students' needs can be met in ways other than the use of a service animal.

Is the district required to allow service animals on school buses?

If a student needs the animal for equal access to educational services and programs, then the animal should be permitted to go everywhere its handler can go unless it is determined to be unsafe. This includes school buses. Oregon law specifies that guide/assistance animals from recognized programs can ride school buses when accompanying blind, deaf or physically impaired persons.

Can the district refuse to allow an animal if it is disruptive to the learning environment?

Service animals are trained not to be disruptive and cannot be excluded solely because students may be distracted by an animal in the classroom. However, schools generally are not required to allow service animals that handlers are unable to control or that are unreasonably disruptive.

Can the district require certain procedures before allowing a service animal on school property?

Yes, the district may require:

- A written request detailing the need for the animal and the services it performs, submitted a reasonable amount of time before the first day of proposed use.
- Meetings with the person making the request to gain more understanding.
- Letters from health care providers.
- Documents certifying proper vaccinations and proper training for the animal and its handler.
- Documentation of insurance covering any injury or damage to property caused by the animal.

Can animals that assist individuals with autism be service animals?

Yes. For students with autism, the question is whether the animal is necessary for access to facilities, services or programs to receive FAPE. For staff members, the question is whether the animal is necessary to perform the essential functions of the position. Such determinations should be made on a case-by-case basis.

What can the district do to decrease liability for service animals in school?

Districts can:

- Develop a service animal policy with legal counsel.
- Train staff to evaluate each request on a case-by-case basis.
- Train staff and students in interaction with the animal.
- Exclude the animal if it is not effectively controlled by its handler, interferes with school function or poses a threat to the health or safety of others that cannot be eliminated by reasonable modifications.
- Require a signed waiver indemnifying the district against injury to person or property caused by the animal.

How can school administrators help students and staff members better understand the role of service animals?

Administrators can:

- Ask a certified animal trainer to give a demonstration at school.
- Show students videos about service animal training.
- Have students do a research project about service animals.
- Ask a willing student who uses a service animal to demonstrate how the animal assists him or her in daily life.
- Help students and staff members better understand the role of service animals and the laws permitting service animal access to public places.

For more information about service animals, contact **Tom Lenox**, PACE pre-loss attorney, 503-588-2800, tlenox@osba.org.

Policy assistance from Oregon School Boards Association

OSBA has developed sample policies regarding animals in schools and the use of service animals in classroom situations. For more information, contact OSBA Policy and Board Development, 503-588-2800.



For assistance reducing potential liabilities in your schools, contact a PACE pre-loss attorney:

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The information provided in this Q&A should not be construed as legal advice. For legal advice regarding your particular situation, contact PACE pre-loss legal services, OSBA attorneys or other counsel.