
Note: The following provisions are from federal law.

Service Animal

Service Dogs

“Service animal” means any dog 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. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

The work or tasks performed by a service animal must be directly related to the individual’s disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, 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 crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

28 C.F.R. 35.104

Policies, Practices,
or Procedures

A district shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability, unless the district can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. *28 C.F.R. 35.130(b)(7), .136(a)* [See FB]

Access

Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a district’s facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go. *28 C.F.R. 35.136(g)*

Exceptions

A district may ask an individual with a disability to remove a service animal from the premises if:

1. The animal is out of control and the animal’s handler does not take effective action to control it; or
2. The animal is not housebroken.

28 C.F.R. 35.136(b)

EQUAL EDUCATIONAL OPPORTUNITY
SERVICE ANIMALS

FBA
(LEGAL)

The ADA does not require a district to permit an individual to participate in or benefit from the services, programs, or activities of that district when that individual poses a direct threat to the health or safety of others. *28 C.F.R. 35.139* [See FB]

If a district properly excludes a service animal, it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises. *28 C.F.R. 35.136(c)*

Animal Under
Handler's
Control

A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means). *28 C.F.R. 35.136(d)*

Inquiries

A district shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A district may ask if the animal is required because of a disability and what work or task the animal has been trained to perform.

A district shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

Generally, a district may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

28 C.F.R. 35.136(f)

Care or Supervision
of Animal

A district is not responsible for the care or supervision of a service animal. *28 C.F.R. 35.136(e)*

Surcharges

A district shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets.

If a district normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

28 C.F.R. 35.136(h)

Miniature Horses

Reasonable
Modifications

A district shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.

Assessment
Factors

In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, a district shall consider:

1. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
2. Whether the handler has sufficient control of the miniature horse;
3. Whether the miniature horse is housebroken; and
4. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

Other Requirements

Provisions at 28 C.F.R. 35.136(c) through (h) shall also apply to miniature horses.

28 C.F.R. 35.136(i)

Note: The following provisions are from state law.

Assistance Animals

"Assistance animal" and "service animal" mean a canine that is specially trained or equipped to help a person with a disability and that is used by a person with a disability. *Human Resources Code 121.002(1)*

Assistance Animal
Access

No person with a disability may be denied admittance to any public facility in the state because of the person's disability or may be denied the use of an assistance animal.

Regulations relating to the use of public facilities by any designated class of persons from the general public may not prohibit the use of particular public facilities by persons with disabilities who, except for their use of assistance animals, would fall within the designated class.

A service animal in training shall not be denied admittance to any public facility when accompanied by an approved trainer.

Human Resources Code 121.003(c), (e), (i)

Harassment and
Harm Prohibited

A person may not assault, harass, interfere with, kill, or injure in any way, or attempt to assault, harass, interfere with, kill, or injure in any way, an assistance animal.

“Harass” means any conduct that is directed at an assistance animal that impedes or interferes with, or is intended to impede or interfere with, the animal’s performance of its duties or places a person with a disability who is using an assistance animal, or a trainer who is training an assistance animal, in danger of injury.

A person is not entitled to make demands or inquiries relating to the qualifications or certifications of a service animal for purposes of admittance to a public facility except to determine the basic type of assistance provided by the service animal to a person with a disability. If a person’s disability is not readily apparent, a staff member or manager of the facility may inquire about whether the service animal is required because the person has a disability and what type of work or task the service animal is trained to perform.

Human Resources Code 121.002, .003(j)–(l)

Transportation

No public conveyance or mode of transportation operating within the state may refuse to accept as a passenger a person with a disability solely because of the person’s disability, nor may a person with a disability be required to pay an additional fare because of his or her use of an assistance animal. *Human Resources Code 121.003(b)*

Responsibilities of
Persons with
Disabilities

A person with a disability who uses an assistance animal for assistance in travel is liable for any damages done to the premises or facilities by the animal.

A person with a disability who uses an assistance animal for assistance in travel or auditory awareness shall keep the animal properly harnessed or leashed, and a person who is injured by the animal because of the failure of a person with a disability to properly harness or leash the animal is entitled to maintain a cause of action for damages in a court of competent jurisdiction under the same law applicable to other causes brought for the redress of injuries caused by animals.

Human Resources Code 121.005

Penalties

A person, including a firm, association, corporation, or other public or private organization, or the agent of the person, who violates the provisions of Human Resources Code 121.003:

1. Commits a misdemeanor punishable by a fine of not more than \$300 and 30 hours of community service to be performed for a governmental entity or nonprofit organization that

primarily serves persons with visual impairments or other disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than one year; and

2. Is deemed to have deprived a person with a disability of his or her civil liberties. Subject to Human Resources Code 121.0041 (pertaining to notice of claim and opportunity for cure), if applicable, the person with a disability deprived of his or her civil liberties may maintain an action for damages in a court of competent jurisdiction, and there is a conclusive presumption of damages in the amount of at least \$300 to the person with a disability.

Human Resources Code 121.004