

7.17P
SERVICE ANIMALS
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The following procedures implement Policy 7.17, and apply to students, faculty and staff, as well as members of the community coming on campus for occasional use.

DEFINITION:

Service animals perform some of the functions and tasks that an individual with a disability cannot perform for himself or herself. Service animal is defined in Title III of the ADA regulations (28 C.F.R. § 36.104) as follows:

Service animal means any guide dog, signal dog, or other animal individually trained to work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

If an animal meets this definition, it is considered a service animal under the ADA, even if it has not been licensed or certified by a state or local government, or by a private agency.

Occasional use of a service animal in District facilities and on District campuses (i.e., attendance at a concert or special event) may not be challenged except if the use of the animal poses a direct threat to the health or safety of other persons, or if the presence of the service animal will result in a fundamental alteration of the service, program or activity involved. (Title II of the ADA Regulations, 28 C.F.R. § 130 [b] [7])

Enrolled students wishing to be accompanied to class by a service animal on a regular basis as an accommodation shall request authorization from the Disability Resources Department. Students shall provide current verification of a disability that requires accommodation and be able to demonstrate the function the service animal performs as a disability accommodation. Qualified students will be provided with an official Disability Resources Department Authorization for Academic Accommodation letter to present to their instructors indicating the authorized use of a service animal in class.

A disability is defined in Title I of the ADA Regulations, 29 C.F.R. § 1630.2 (g) as:

A physical or mental impairment that substantially limits one or more major life activities of an individual; a record of having such an impairment, or being regarded as having such an impairment.

RESPONSIBILITIES OF PERSONS USING SERVICE ANIMALS:

The care and supervision of a service animal is the responsibility of the individual with a disability using the animal's services. If a service animal becomes unruly or disruptive (e.g., barking, running around), or solicits social attention through behavior or distracting animal clothing uncharacteristic of service animals, or if the animal is unclean, to the extent that the animal's behavior may pose a direct threat to the health or safety of others, or may cause a fundamental alteration in District services, programs or activities, then the District will consider the issue of appropriate care and supervision using the evaluation steps that follow.

All service dogs must be immunized against rabies and wear a vaccination tag in accordance with State of California Health and Safety Code, §121690.

All service animals must be on a leash and under full control of the owner at all times.

DISTRICT EVALUATION PROCEDURES:

Under the ADA and Section 504, the District may not impose a rule upon individuals with disabilities prohibiting service animals if the rule has the effect of limiting the participation of the individuals with disabilities in the District's services, programs or activities. However, the District is not obligated to permit the use of service animals if doing so would result in a fundamental alteration of the District service, program or activity, or would pose a direct threat to the health or safety of others.

Should there be questions or concerns about permitting the presence of a service animal in classes, the matter will be referred to the Director of Disability Resources. Should there be questions or concerns about permitting the presence of a service animal accompanying a visitor on campus, the matter will be referred to the District ADA Coordinator. In either case, the following evaluation procedure will be utilized to determine if the continued presence of the service animal on campus is appropriate.

1. What is the particular question or concern with the service animal?

a. The service animal does not meet the basic standards of the ADA.

The District must determine whether the service animal meets the basic ADA definition as quoted on page one of this procedure. This determination is based upon whether the service animal has been trained to provide the specific task or service required by the individual because of his/her disability(ies) and whether the animal can actually provide that task or service. If the animal cannot perform the identified task or service, the District may exclude the animal from its facilities and campuses.

b. Use of the service animal will result in a "fundamental alteration."

The District must rigorously analyze whether the presence of the service animal would actually have a significant effect upon the service, program, or activity involved. If the District determines that the use of the service animal causes a fundamental alteration in district services, programs, or activities, the District may exclude the animal from its facilities and campuses. (Title II of the ADA Regulations, 28 C.F.R., § 130 [b][7])

c. Use of the service animal will result in a "direct threat."

The District must determine whether the presence of a particular service animal poses a significant risk to the health or safety of other persons that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services. In doing so the District must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence to determine the probability that the potential injury will actually occur. If the District determines that the presence of the service animal does pose a direct threat to the health or safety of persons participating in District services, programs or activities, the District may exclude the animal from its facilities and campuses. (Title II of the ADA Regulations, 28 C.F.R., § 36.208)

d. The service animal is disruptive in a class or service area.

The District must determine if the service animal is under the control of the owner and displaying appropriate service animal behavior. Service animals do not solicit social attention from individuals other than his or her owner or wear animal clothing which draws undue attention. Service animals must be kept clean and brushed. Service animals must not display aggressive or threatening behavior such as growling or barking. If the District determines that the presence of the service animal does disrupt the instructional or service area, the District may exclude the animal from its facilities and campuses. (Title II of the ADA Regulations, 28 C.F.R. § 36.208)

2. What alternatives can be provided if the use of the service animal is denied?

If the District determines, following the interactive process, that the use of a particular service animal will not be permitted, the Director of Disability Resources or the District ADA Coordinator in consultation with the Disability Resources Department, will take the following steps to ensure that the individual with disabilities is not discriminated against on the basis of disability:

- a. Determine whether alternative modifications to District policies, practices, or procedures can be made to permit the individual to participate in District service, programs or activities.
- b. Determine whether academic adjustments or auxiliary aids may be used by a student with a disability to permit his/her participation in District services, programs or activities.

3. If denial occurs at any stage, what 504/ADA grievance procedures can the individual access?

An individual with a disability who is denied the use of a service animal may file a complaint with the District ADA Coordinator utilizing the District's Unlawful Discrimination Complaint Procedure. If the District ADA Coordinator is the person who denied the initial request, the complaint should be filed with the Director of Disability Resources.

Legal References:

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794
The Americans with Disabilities Act of 1990, 42 U.S.C. § 12101