

### **5337 SERVICE ANIMALS**

In compliance with Title II of the Americans with Disabilities Act (ADA) as amended by the ADA Amendments Act of 2008, it is the policy of the Board to permit use of a service animal by an individual with a disability in all areas of the district where the public is normally permitted: in district buildings; on district property; and on vehicles owned, leased, or controlled by the district.(28 CFR §35.136)

#### A. Definitions

1. “Act” means the Americans with Disabilities Act (ADA) as amended by the ADA Amendments Act of 2008.
2. “Designated administrator” means Principal or person designated by the Principal to coordinate these activities.
3. “District” means this school district.
4. “Handler” means the animal’s owner who is an individual with a disability or a person, such as a trainer, assisting the owner with control of the service animal.
5. “Service animal” means a dog individually trained to do work or perform a specific job or task for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. (28 CFR §36.104)
  - a. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.
  - b. The work or tasks performed by a service animal must be directly related to the individual’s disability (e.g. navigation, alerting physical support and assistance, preventing or interrupting impulsive or destructive behaviors).



- c. Work or tasks for the purposes of this definition do not include the provision of emotional support, well-being, comfort, therapy, companionship, or crime deterrence.

### B. Generally

1. The district shall permit the use of a service animal by an individual with a disability unless:
  - a. The animal is out of control and the animal's handler does not take effective action to control it;
  - b. The animal is not housebroken.
2. 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 CFR §35.136(d))
3. If an animal is properly excluded, the district 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 CFR §35.136(b))
4. If there are places in the district where it is determined to be unsafe for a handler and service animal, reasonable accommodations will be provided to assure the individual with a disability has equal access to the activity.
5. Unless the need for a service animal is readily apparent, the individual with a disability or his/her parent will be required to provide the district with information that:
  - a. The service animal is required because of a disability; and



- b. What work or task the animal has been trained to perform.
- 6. The district may not require documentation, including proof that the animal has been certified, trained, or licensed as a service animal; nor that the dog demonstrates its ability to perform the work or task. (28 CFR §35.136(f))
- 7. Individuals with a disability who have service animals are not exempt from local animal control or public health requirements.
- 8. Service animals must be licensed and registered in accordance with State and local laws.

### C. Delegation of Responsibility

- 1. The district is not responsible for the care or supervision of a service animal, in accordance with (28 CFR §35.136(e)).
  - a. The district is not responsible to pay for or provide a handler to aid the individual with a disability in the control of the service animal.
  - b. The district is responsible to provide assistance to an individual with a disability in performing the tasks required of the individual for the care and maintenance of the service animal.
- 2. If the district normally charges individuals for damage they cause, an individual with a disability may be charged for damage caused by his or her service animal. (28 CFR §35.136(h))
- 3. The district will designate relief areas for the service animal which will be included in mobility training and orientation of students and animals new to the school.



### D. Notification and Responsibilities

1. In the event a service animal will be introduced as part of the school community, the designated administrator will develop a comprehensive implementation plan prior to introduction of the service animal into the school to include:
  - a. Notification to parents of students who may be in contact with the service animal;
  - b. Appropriate accommodations:
    - (1) For students who are allergic to the service animal; and/or
    - (2) For students who have fears regarding the service animal.
  - c. Appropriate etiquette regarding service animals to include:
    - (1) Never pet a service animal while it is working;
    - (2) Never feed a working service animal;
    - (3) Do not deliberately startle, tease, or taunt a service animal;
    - (4) Do not hesitate to ask the handler if he or she would like assistance regarding directions **for** navigating the facility.
2. The use of a service animal introduced as part of the school community will require inclusion into the student's Individualized Education Plan (IEP) or the student's Section 504 Accommodation Plan.
3. The district may request, but cannot require, the owner of a service animal introduced as part of the school community



and, as included in the student's IEP or Section 504 Accommodation Plan, maintain liability insurance for the service animal. The School Business Administrator/Board Secretary will ensure the school district has appropriate insurance in the event a service animal is introduced as part of the school community.

### E. Miniature Horses

1. Miniature horses, although not included in the Act under the definition of "service animal," may only be permitted if individually trained to do work or perform tasks for the benefit of the individual with a disability and if they meet the assessment factors outlined in 3. below. (28 CFR §35.136(i))
2. Ponies and full size horses are not considered miniature horses.
3. Assessment factors to determine whether the district can reasonably modify its policies, practices, and procedures to allow for the use of miniature horses on its property, facilities, or vehicles include:
  - a. Type, size, and weight of the miniature horse and whether the facility can accommodate those features;
  - b. Whether the handler has sufficient control of the miniature horse;
  - c. Whether the miniature horse is housebroken; and
  - d. Whether the miniature horse's presence compromises legitimate safety requirements necessary for safe operation.
4. All requirements for the use of service animals also apply to the use of miniature horses.



# POLICY

## MILLBURN TOWNSHIP BOARD OF EDUCATION

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28 CFR §35.136  
28 CFR §36.104

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