

# SERVICE ANIMALS AT SOUTHWESTERN COLLEGE

References: The Americans with Disabilities Act of 1990 -- 42 U.S. Code Sections 12101 et seq; 28 Code of Federal Regulations Part 35; 28 Code of Federal Regulations Part 36; 34 Code of Federal Regulations Part 104.44 (b)

In order to prevent discrimination on the basis of disability, the College District will allow an individual with a disability to use a service dog or miniature horse in College District facilities and campuses in compliance with state and federal law.

## Service Animals

References: Civil Code Sections 54 et seq.; Penal Code Section 365.5; The Americans with Disabilities Act of 1990 -- 42 United States Code Sections 12101 et seq.; 28 Code of Federal Regulations Parts 35 and 36; 34 Code of Federal Regulations Part 104.44(b)

The Southwestern Community College District is committed to providing an inclusive educational environment which is responsive and accessible to the needs of all students, employees and community members.

The College District will allow an individual with a verified disability to use a service animal in College District facilities and campuses in compliance with state and federal law.

The College District will allow an individual with a disability to use a miniature horse as a service animal in District facilities and campuses if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability and the District has determined, based on the assessment factors provided in this procedure, that a reasonable accommodation can be made.

The College District will allow an individual with a disability to be accompanied by their service animal in all areas of the College District's facilities where members of the public, invitees, clients, customers, patrons, or participants in services, programs or activities are allowed.

These procedures shall also be applicable to an individual who is training a service animal.

### Service Animal Defined

A "service animal," for purposes of this procedure, is any animal as defined in 28 Code of Federal Regulations Part 35.136 that is individually trained to do work or perform tasks for the benefit of an individual with a 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 handler's disability. 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.

### Assessment Factors for Miniature Horses

The College District shall consider the following factors:

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

### Exceptions

The College District may ask an individual with a disability to remove a service animal from the premises if:

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

If a service animal is excluded under one of these exceptions, the College District will give the individual with a disability the opportunity to obtain goods, services, and accommodations or to participate in the service, program, or activity without having the service animal on the premises.

### Control

The service animal must 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).

Service animals must work without threatening or disrupting other service animals, students and/or College District personnel. A student with a disability who has a service animal that poses a threat to health, safety, or program disruption (i.e., service animal out of control or not house broken) shall be informed that the animal is not an allowable accommodation and cannot be on campus. Failure to comply with this exclusion may result in a disciplinary action in accordance with Governing Board Policy 5500 BP.

### Care or Supervision

The College District is not responsible for the care or supervision of any service animal. Civil Code Section 54.2 requires that the owner of the service animal be responsible for any damage done to the premises or facility by the animal.

All service animals must be immunized in accordance with State of California Health and Safety Code 12690. Documentation may be requested.

### Inquiries by the College District

The College District may make two inquiries to determine whether an animal qualifies as a service animal:

- Whether the animal is required because of a disability; and
- What work or task the animal has been trained to perform.

The College District will not make either of these inquiries 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 animal 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).

An individual may choose to produce a county service dog license or identification tag as proof that the animal is a service animal. Licensure or certification is not required in order to meet the definition of service animal under this procedure. There are no licensing or certification requirements for miniature horses.

### **Evaluation Procedures**

Under the Americans with Disabilities Act (ADA) and Section 504, the College 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 College District's services, programs, or activities. However, the College District is not obliged to permit the use of service animals if doing so would result in a fundamental alteration of the College District's services, programs, or activities, or would pose a direct threat to the health or safety of others.

The College District will determine whether the service animal meets the basic ADA definition as stated herein.

The College District will analyze whether the presence of the service animal would actually have a significant effect upon the service, program, or activity involved. The Governing Board designates the College District Disability Support Services (DSS) professionals, in consultation with the program professionals and the Assistant Superintendent/Vice Presidents, to make such a determination. If the DSS professionals, in consultation with the program professionals and the Assistant Superintendent/Vice Presidents, determine that the use of the service animal causes a fundamental alteration in College District services, programs, or activities, the College District may exclude the animal from its college, campuses, sites, programs and activities (Title III of the ADA Regulations, 28 C.F.R., 36.104).

If the College District makes a determination that use of the service animal would result in such fundamental alteration, within 5 instructional days of such determination, the designated person(s) shall issue a written statement identifying the reasons for the determination in sufficient detail to meet the College District's burden to demonstrate that such alteration would occur. (Title III of the ADA Regulations, 28 C.F.R., 36.104).

If the use of the service animal would result in such fundamental alteration, at the request of an individual with a disability and in accordance with Governing Board Policy BP 5140 and Administrative Procedure AP 5140, the College District shall take any other action that would not result in such an alteration but would nevertheless allow the individual with a disability to participate in College District services or programs.

The College District will make an individualized assessment to determine whether the presence of the service animal poses a significant risk to the health or safety of other persons that cannot be eliminated by a modification of policies, procedures, or by the provision of auxiliary aids or services. If the College District determines that the presence of the service animal does pose a direct threat to the health or safety of persons participating in the College District's services, programs or activities, the College District may exclude the animal from its facilities or campuses. (Title III of the ADA Regulations, 28 C.F.R., 36.104).

A student with a disability who is denied the use of a service animal by the DSS Department may file a complaint utilizing the formal resolution process of College District Procedure 5140 AP - Academic Accommodations and Disability Discrimination for Students with Disabilities.

### **No Surcharge**

The College District will not ask or require an individual with a disability to pay a surcharge for a service animal, 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 the College District normally charges individuals for damage caused by pets, an individual with a disability may be charged for damages caused by their service animal.