



Revised Regulations on Service Animals for Districts, Area Education Agencies, and Accredited Nonpublic Schools

Introduction

The purpose of this question and answer (Q&A) document is to assist Iowa's school districts, area education agencies (AEAs), and accredited nonpublic schools in responding to the use of service animals by students and members of the public. This document is in response to the United States Department of Justice's (DOJ) [amended service animal regulations](#) for titles II and III of the Americans with Disabilities Act (ADA), which became effective on March 15, 2011. Title II governs school districts and AEAs. Title III governs accredited nonpublic schools.

Q&A

1. What is the basic requirement of the revised ADA service animal regulations?

A covered entity under Title II (school district or AEA) and Title III (accredited nonpublic school) "shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability" (28 C.F.R § 35.136(a)).

2. Who is an "individual with a disability" under the ADA? Are all individuals with a disability under the ADA eligible for a service animal? If no, who may request a service animal under the revised regulations?

The ADA covers persons who:

- Have "a physical or mental impairment that substantially limits one or more major life activities;"
- Have a history or record of such an impairment; and
- Who others perceive as having such an impairment (42 U.S.C. § 12102(3)).

No. The ADA's revised service animal regulations only allow individuals with a physical or mental impairment that substantially limits at least one of their life activities (i.e., first bullet) to request a service animal and do not allow individuals with a "record" of a disability or who others "perceive" to have a disability to request a service animal. This ineligibility for a service animal is because the ADA requires the individual to need the animal's services to conduct at least one major life activity. Individuals who are covered under the ADA's "record of" or "perceive as" bullets do not have an actual and present need for a service animal.

3. What is a "service animal?" What services may a service animal provide the individual with a disability?

A service animal is a dog that is:

- Individually trained to do work or perform tasks; and
- For persons with disabilities.

The DOJ's revised service animal regulations provide the following non-exhaustive list of examples of work or tasks a service animal may provide:

- “Guiding people who are blind,”
- “Alerting people who are deaf,”
- “Pulling a wheelchair,”
- “Alerting and protecting a person who is having a seizure,”
- “Reminding a person with mental illness to take prescribed medications,” and
- “Calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack.”

Other examples include:

- Preventing a person from engaging in self-injurious behavior,
- Providing stability to a person with limited balance,
- Retrieving objects for a person with limited mobility or dexterity, or
- Preventing a person from leaving a designated area.

4. Are there other animals that may qualify as service animals?

Yes. Iowa and the ADA allow miniature horses to also qualify as service animals. Miniature horses are generally 24 to 34 inches in height (measured at the shoulder) and 70 to 100 pounds. To qualify as service animals, miniature horses must meet the same requirements as dogs in that they must be: (1) individually trained to do work or perform tasks and (2) for persons with disabilities.

Only dogs and miniature horses may be service animals. All other species are not considered service animals under Iowa law. While Iowa law once allowed additional species (including nonhuman primates) to be service animals, Senate File 341 of the 2019 Iowa Acts amended Iowa's law to align with the ADA's limit of its coverage to dogs and miniature horses.

5. Are we required to allow a miniature horse to be used as a service animal?

It depends. The school district, AEA, and accredited nonpublic school must make reasonable modifications to its policies, practices, or procedures to permit the individual with a disability to use a miniature horse. The school district, AEA, or accredited nonpublic school must consider four factors in determining whether the necessary modifications to accommodate the miniature horse are reasonable:

1. Whether the miniature horse is housebroken;
2. Whether the miniature horse is under the owner's control;
3. Whether the facility can accommodate the miniature horse's type, size, and weight; and
4. Whether the miniature horse's presence compromises legitimate safety requirements necessary for safe operation.

Whether these factors allow a miniature horse as a service animal will depend on the facts of each individual's case.

6. Are emotional support animals or therapy animals considered “service animals?”

No. According to the DOJ's revised regulations, “Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.”

7. Are there ways in which Iowa law is more expansive than federal law?

Yes. Iowa law specifically covers “service-animals-in-training,” while federal law does not. Iowa Code section 216C.1A, subsection 3 defines a service-animal-in-training as “a dog or miniature horse that is undergoing a course of development and training to do work or perform tasks for the benefit of an individual that directly relate to the disability of the individual.” Iowa law provides that:

- Service-animals-in-training may be in any place where service animals may go.

- A person assisting an individual with a disability by handling the service animal may be present in any public facility or place of public accommodation. The handler does not need to be an individual with a disability.
- Individuals providing training to service-animals-in-training are also protected by Iowa law.

8. A child's IEP team has determined that a child needs an emotional support animal in the classroom to receive a FAPE. May an IEP contain such a provision?

Yes. While the ADA's revised regulations do not cover emotional support or comfort animals (and thus, the child is not entitled to such an animal), an individual's individualized education plan (IEP) team may determine—based on a child's data—that a comfort or emotional support animal is required to provide the eligible child a free appropriate public education (FAPE).

9. My organization has an employee who is requesting a service animal as a reasonable accommodation. Do these revised service animal regulations apply to the employee's request?

No. However, that does not mean the organization may ignore the employee's service animal request. The revised ADA regulations discussed in this Q&A apply only to titles II and III, not to the ADA's protection for employees with disabilities under Title I. Title I is enforced by the Equal Employment Opportunity Commission (EEOC). Under Title I, the EEOC states that a service animal may be a reasonable accommodation for an employee with a disability. The EEOC has prepared several fact sheets on Title I of the ADA, which are available at <https://www.eeoc.gov/disability-discrimination#resources>.

10. My organization has a policy limiting pets in the classroom. May my organization apply that to service animals?

No. Service animals are not pets.

11. Can I put all children who need service animals in a separate class?

No. A child cannot be put in a separate class or building solely because they use a service animal.

12. Must my preschool program allow service animals?

Yes. The preschool program must allow service animals either under ADA Title II (public preschool) or Title III (private preschool).

13. Must my staff provide the food or take the animal on walks to relieve itself?

No. Those items and activities are the responsibility of the handler. The handler must be permitted time to do those activities opportunities.

14. May I charge a fee or deposit before allowing a service animal on my campus?

No. If the service animal causes damage, however, you may assess a charge for damages.

15. Where on my organization's campus is the service animal allowed?

Under the ADA's revised regulations, school districts, AEAs, and accredited nonpublic schools "must allow service animals to accompany people with disabilities in all areas ... where the public is normally allowed to go." This would include classrooms and school common areas.

16. My school food service refuses to allow the child to bring their service animal into the cafeteria or through the meal line. They base their refusal on local health and food service codes. Are they correct?

No. The ADA's service animal rules preempt those local health codes.

17. My transportation department wants to know whether service animals are required to be allowed on school buses. Are they?

Yes. The transportation department must allow service animals on school buses.

18. When service animals are on my organization's campus, must they be under control?

Yes. Service animals are on the organization's campus to provide a service to a covered individual and must be under control to do so. The DOJ's revised regulations state:

Service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

19. An animal is out of control. May I ask that it be removed?

Yes. According to the DOJ's revised regulations, you may ask that the service animal be removed if the animal is not in control and "the handler does not take effective action to control it."

20. The animal had an "accident" today. This was the first accident the animal has had. May I have it removed?

No. Everyone has a bad day at work once in a while, including service animals. If this is a rare occasion, the dog is not removable. If it is frequent, then the dog is not housebroken and may be removed.

21. The animal is not housebroken. May I ask that it be removed?

Yes. The organization may ask that the service animal be removed because it is not housebroken.

22. May I exclude a service animal that is a direct threat to other students or fundamentally alters the services that my organization provides?

Yes. If a service animal provides a direct threat to others (e.g., biting others; see #33) or fundamentally alters the educational environment (e.g., repeatedly barking during instruction), then the ADA does not cover the animal. It is important to remember that the "direct threat" or "fundamental alteration" determination must be based on facts, not conjecture or prejudice.

23. May my organization exclude a service animal from the classroom if the animal appears unhealthy, is poorly kept, smells bad, or has fleas or ticks that are now in the classroom carpet?

It depends. The organization should consider whether the service animal's poor state is a one-time occurrence or its normal state. If this is the animal's normal state, the organization may so if the animal is excludable exclude the animal because it:

- Poses a direct threat to the health and safety of students and/or staff,
- Is an undue burden on the organization, or
- Is a fundamental alteration of the organization's services. It is also important to note that the service animal's user (i.e., the individual with the disability) is responsible for all damage caused by the animal, including damage caused by infestation of fleas or ticks.

24. May my organization require that the animal has received the appropriate vaccinations (rabies, distemper, etc.) to protect students and staff?

Yes, based on the few cases that have been decided after the 2011 regulations. This conclusion is reinforced by the DOJ's concerns about contagion and disease transmission in its comments about the 2011 regulations.

25. If my organization has the animal removed, does the individual with a disability have any rights?

Yes. Under the ADA, the organization must offer the individual the opportunity to obtain the organization's services (or goods) without the use of the service animal.

26. May my organization establish a policy that certain breeds of dog (such as pit bulls) are not considered service animals?

No. According to the DOJ, however, the organization may exclude animals that have been trained to attack.

27. Before I allow a child to bring a service animal onto my organization's campus, I would like to have an IEP team meeting or 504 team meeting to determine whether a service animal is necessary to provide the child with a FAPE. Is that permissible?

No. A child's rights under the ADA—including the right to use a service animal—are civil rights and are not contingent on whether they provide a FAPE or other educational benefit to the child.

28. May I ask for a doctor's note demonstrating that the person needs a service animal?

No. The organization cannot request a doctor's note from the individual with a disability.

29. May I ask for evidence that the animal has received a special certification or other documentation of training?

No. The organization cannot request evidence that the service animal has special certification or training.

30. May I ask the person to demonstrate the service the animal has been trained to perform?

No. The organization cannot ask the individual with a disability to demonstrate the service animal can perform work or tasks.

31. What questions may I ask a person who requests to use a service animal at my organization?

School districts, AEAs, and accredited nonpublic schools may ask these two questions:

- "Do you need or require this animal because of a disability?"
- "What work or task has the dog been trained to perform?"

However, ADA regulations (28 C.F.R. § 36.302(c)(6)) provide the following limitation on these permissible questions:

Generally, a public accommodation 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 helping with stability or balance to an individual with an observable mobility disability).

32. I am afraid that the child's use of a service animal would cause the child to not learn important skills. May I ask that the service animal be taken from the child during those skill-building activities?

It depends. The child and their family would have to agree to the removal of the child's service animal. Since the use of a service animal is a civil right—which may be exercised on demand—a school district, AEA, or

accredited nonpublic school cannot require a child to forego using a service animal in the name of skill-building.

33. What about the rights of other children with dog allergies or phobias? May my organization exclude a service animal because another child in the class is allergic to dog dander?

It is a violation of the ADA to categorically exclude service animals based on phobia or allergy. When a school district, AEA, or accredited nonpublic school faces the situation where a child's allergies or phobias may be triggered by an individual with a disability's service animal, the organization must perform a nuanced analysis to ensure the rights of all are protected.

The starting point is whether the allergy or phobia is a disabling condition under the ADA. If it is not, then the service animal must remain. If it is, then the organization must accommodate both disabilities. It cannot automatically prefer either the person with the allergy or phobia or the person who uses a service animal.

According to the DOJ's revised service animal regulations:

When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility, for example, in a school classroom or at a homeless shelter, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.

If it is not possible to accommodate both children, then the organization must take neutral action (i.e., does not automatically prefer or penalize the service animal's user). That may include reassigning one of the children to a different classroom, area of the building, or school. Potential solutions include:

- If one child's educational needs are greater than the other child's needs, the organization could allow the child with the greater educational need to remain in the original educational setting.
- If all things are equal and both children cannot remain in the original setting, the organization may "break the tie" by any method that is disability neutral, such as by a random selection process (e.g., flipping a coin).

It is important to note that any placement change must follow the required procedural safeguards in Section 504 of the Rehabilitation Act or the IDEA.

34. My organization has a kindergarten student with a disability whose mother is the child's service dog handler. We have a visitors' policy that limits parent access to classrooms. Must my organization permit the child's mother to be in the classroom?

Yes, under Iowa law. The organization's policy must yield to the child's right to the service animal under Iowa law.

35. My organization has a kindergarten student with a disability whose mother is the child's service dog handler; however, she interrupts the classroom teacher during the literacy block, corrects the classroom's paraeducator during his duties, and assists her child in completing assignments. Must my organization permit the child's mother to remain in the classroom?

Laws regarding service animals are premised on the animals being trained and undisruptive. If a dog disrupts a classroom (e.g., barking during reading circle, growling whenever approached), the organization may exclude the dog from the classroom. Likewise, a handler of a service animal cannot disrupt a classroom. To the extent that a handler goes beyond the role in a disruptive way, the teacher or paraeducator should treat the handler like any other classroom guest and according to the organization's related policy.

36. My organization has a kindergarten student with a disability whose mother is the child's service dog handler. The kindergarten teacher requires the mother to assist with classroom functions, such as assisting with literacy probes, monitoring recreational activities, and making copies. Is this permissible?

No. The kindergarten teacher must respect the handler's role in the classroom and cannot require the service animal's handler to assist in classroom functions (or any other function outside of that role). The handler must be available to assist with the service animal and is not to be treated as the teacher's assistant.

37. A child's service animal handler is a person who would otherwise be excludable from our campus under our organization's visitor policy. Must we permit the handler onto our campus?

It depends. The handler may be excluded if the handler's presence would:

- Create an undue burden to the organization,
- Create a fundamental alteration of the organization's services, or
- Pose a direct threat to the organization's students, staff, and others in the school community.

This is a very fact-specific inquiry. The organization may wish to consult with counsel when making this determination.

38. Is my organization required to provide the handler?

No, in most cases. The organization must provide the service animal's handler only if the child requires the handler to receive a FAPE under the IDEA or Section 504. In other words, the handler must be necessary for the child to receive a FAPE and not merely beneficial, helpful, or advisable.

39. What are the consequences for violating state and federal law regarding service animals?

The consequences of noncompliance with the related state and federal laws are beyond the scope of this document. If you have questions of this nature, please consult with an attorney.

40. Where can I find additional information about service animals in the schools?

The following pages may be of assistance:

- [United States Department of Education's Office for Civil Rights](#)
- [United States Department of Justice's ADA page](#)
- [Iowa Civil Rights Commission](#)
- [Iowa Department of Education](#)
- [Disability Rights Iowa](#)
- [Iowa Legal Aid](#)
- [Iowa Association of School Boards](#)
- [School Administrators of Iowa](#)

In addition, the organization may wish to consult an attorney. If you do not have an attorney, the Iowa State Bar Association's [Find-A-Lawyer service](#) may be able to assist you.

Questions and Additional Guidance

If you have questions about this document, please contact Thomas Mayes at thomas.mayes@iowa.gov or Rachel Bosovich at rachel.bosovich@iowa.gov. For additional special education guidance and information, please visit the Department's [Special Education State Guidance webpage](#).