

## **Policy ~~8390~~ 311 – Use of Service Animals**

### **Revised policy effective upon passage**

*1<sup>st</sup> reading*      January 24, 2019

*2<sup>nd</sup> reading*      February 7, 2019

*3<sup>rd</sup> reading*

**Statutory authority**      (none)

**Administrative Guidelines**  
(none)

### **Introduction**

The Board of Education recognizes that there are many occasions when animals are present on County property and many reasons for those animals' presence. Animals are commonly utilized by teachers during classroom presentations and are often housed in classrooms and other locations on campus. Additionally, employees, students, parents, vendors, and other members of the public may be accompanied at school by a service animal in accordance with Federal and State law and this policy.

~~This policy shall apply to all animals on County property, including service animals.~~

### **Definitions**

- A. Pursuant to West Virginia Law, "Animal means any animal other than human, and the term includes fowl, birds, amphibians, fish, and reptiles, wild or domestic, living or dead."
- B. "Service animal", pursuant to 28 C.F.R. §35.104, "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."

The Americans with Disabilities Act (ADA) has also defined a miniature horse as an animal that can serve as a service animal, so long as the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. To better determine whether the Board must allow for the use of a miniature horse or make modifications to buildings, the Board should refer to Section 35.136 (c) through (h) of the ADA.

West Virginia Code also defines "service animal" as any guide dog, signal dog or other animal individually trained to do

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.

### **~~Vaccination, Licensing and/or Veterinary Requirements~~**

~~Animals housed on County property or brought on County property for any school purpose, such as to conduct random searches for illegal substances or to support classroom activities, or brought on to County property on a regular basis for any purpose, including Service animals, must meet every veterinary requirement set forth in State law and County and/or local regulation/ordinance, including but not limited to rabies vaccination or other inoculations required to be properly licensed.~~

### **~~Non-Service Animals in Schools and Elsewhere on County Property~~**

~~Animals permitted in schools and elsewhere on County property shall be limited to those necessary to support specific curriculum-related projects and activities, those that provide assistance to a student or staff member due to a disability (e.g. seizure disorder), or those that serve as service animals as required by Federal and State law.~~

~~Taking into consideration that some animals can cause or exacerbate allergic reactions, spread bacterial infections, or cause damage and create a hazard if they escape from confinement, the Principal may permit non-service animals to be present in classrooms to support curriculum-related projects and activities only under the following conditions:~~

~~A. the staff member seeking approval to have an animal in his/her classroom shall:~~

- ~~1. provide a current satisfactory health certificate or report of examination from a veterinarian for the animal;~~
- ~~2. take precautions deemed necessary to protect the health and safety of students and other staff;~~
- ~~3. ensure that the animal is treated humanely, keeping it in a healthy condition and in appropriate housing (e.g., a cage or tank) that is properly cleaned and maintained; and, \_\_\_\_\_~~
- ~~4. keep the surrounding areas in a clean and sanitary condition at all times.~~

~~B. other staff members and parents of students in areas potentially affected by animals have been notified in writing and adjustments have been made to accommodate verified health-related or other concerns.~~

~~Except where required by law, the presence of a non-service animal shall be disallowed if documented health concerns of a student or staff member cannot be accommodated.~~

### **Service Animals for Students**

A service animal is permitted to accompany a student with a disability to whom the animal is assigned anywhere on the school campus where students are permitted to be.

A service animal is the personal property of the student and/or parents. The student, or handler, is also responsible for the supervision and care of the service animal. Supervision and care includes meeting the health needs of the animal, feeding and watering, exercising, animal cleanliness, clean up and waste disposal. Service animals shall not be left unattended.

Service animals may be walked and exercised only in designated areas on campus. Animal waste shall be bagged and disposed of in a garbage bin. Dog waste shall not be disposed of in green bins, compost bins, or flushed in a bag.

The Board does not assume responsibility for training, daily care, or healthcare of service animals. The Board does not assume responsibility for personal injury or property damage arising out of or relating to the presence or use of service animals on County property or at County-sponsored events.

A service animal that meets the definitions set forth in the ADA and this policy shall be under the control of its handler (e.g., a student with a disability or a separate handler if the student is unable to control the animal). 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).

If the student with a disability is unable to control the service animal and another person serves as the animal's handler, that individual shall be treated as a volunteer and, as such, will be subject to Board Policy 8120 310.

### **Removing and/or Excluding a Student's Service Animal**

Service animals may be excluded by a building principal if the animal:

- A. has demonstrated that it is not under the control of the student, or handler, and the student, or handler, does not take effective action to control the animal;
- B. has demonstrated that it is not housebroken;
- C. the student, or handler, fails to supervise and care for the animal;
- D. the presence of the animal poses a direct threat to the health and safety of others; or,
- E. the presence of the animal would require a fundamental alteration of the service, program or activity of the County.

If a service animal is removed based upon one (1) or more of the above-listed exclusions the individual with a disability shall be provided with the opportunity to participate in the service, program, or activity without the service animal.

Further, the Principal should notify the Superintendent when a service animal has been removed and/or excluded, and, immediately subsequent to such notification, document the reasons for the removal and/or exclusion.

The Principal's decision to remove and/or exclude a service animal from County property may be appealed in accordance with the conflict resolution process for citizens complaint procedure set forth in West Virginia Board of Education Policy 7211. ~~AG 2260B – Complaint Procedures for Nondiscrimination and Equal Educational Opportunity/Access.~~

~~The procedures set forth in AG 2260B – Complaint Procedures for Nondiscrimination and Equal Educational Opportunity/Access do not intend to interfere with the rights of a student and his/her parents or guardians or an eligible student to pursue a complaint of legally prohibited discrimination with the United States Department of Education's Office for Civil Rights.~~

### **Eligibility of a Student's Service Animal for Transportation**

A student with a disability shall be permitted to access County transportation with his/her service animal. There may also be a need for the service animal's handler, if the handler is someone other than the student, to also access County transportation.

When a service animal is going to ride on a school bus owned or leased by the County, the student and his/her parents or guardians, or eligible student, and the handler, if s/he is someone other than the student, shall meet with the transportation supervisor to discuss critical commands needed for daily interaction and emergency/evacuation, and to determine whether the service animal should be secured on the bus/vehicle with a tether or harness.

At the discretion of the transportation supervisor an orientation will take place for students and staff who will be riding the bus/vehicle with the service animal regarding the animal's functions and how students should interact with the animal.

The service animal shall board the bus by the steps with the student, not a lift, unless the student uses the lift to enter and exit the bus. The service animal must participate in bus evacuation drills with the student.

While the bus is in motion, the service animal shall remain positioned on the floor, at the student's feet.

Situations that would cause cessation of transportation privileges for the service animal include:

- A. the student, or handler, is unable to control the service animal's behavior, which poses a threat to the health or safety of others; or
- B. the service animal urinates or defecates on the bus.

The student and his/her parents or guardian shall be informed of behaviors that could result in cessation of transportation privileges for the service animal, in writing, prior to the first day of transportation.

If it is necessary to suspend transportation privileges for the service animal for any of the above reasons, the decision may be appealed to the transportation supervisor.

Although transportation may be suspended for the service animal, it remains the County's responsibility to transport the student. Furthermore, unless the behavior that resulted in the service animal's removal from the bus is also documented during the school day, the service animal may still accompany the student in school.

### **Service Animals for Employees**

In accordance with Federal and State law and policy ~~Policy 1422, Policy 3122, and Policy 4122 Prohibition of Disability Discrimination in Employment~~, the Board provides qualified individuals with disabilities with reasonable accommodation(s). An employee with a disability may request authorization to use a service animal while on duty as such an accommodation. The request will be handled in accordance with the ADA mandated interactive process.

### **Service Animals for Parents, Vendors, Visitors, and Others**

Individuals with disabilities who are accompanied by their service animals are permitted access to all areas of the County's facilities where members of the public, as participants in services, programs or activities, as vendors, or as invitees, are permitted to go. Individuals who will access any area of the County's facilities with their service animals should notify the Principal that their service animal will accompany them during their visit.

An individual with a disability who attends a school event will be permitted to be accompanied by his/her service animal in accordance with Federal and State law and policy ~~Policy 9160 Public Attendance at School Events~~.