

MCCCD POLICY ON SERVICE ANIMALS AND EMOTIONAL SUPPORT ANIMALS

*Office of the General Counsel
Maricopa County Community College District*



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DEFINITION OF “SERVICE ANIMAL”

The Americans with Disabilities Act defines service animals as those that are 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. **Only dogs and miniature horses are recognized as service animals.**



SERVICE ANIMALS ARE NOT EMOTIONAL SUPPORT ANIMALS (ESA'S)

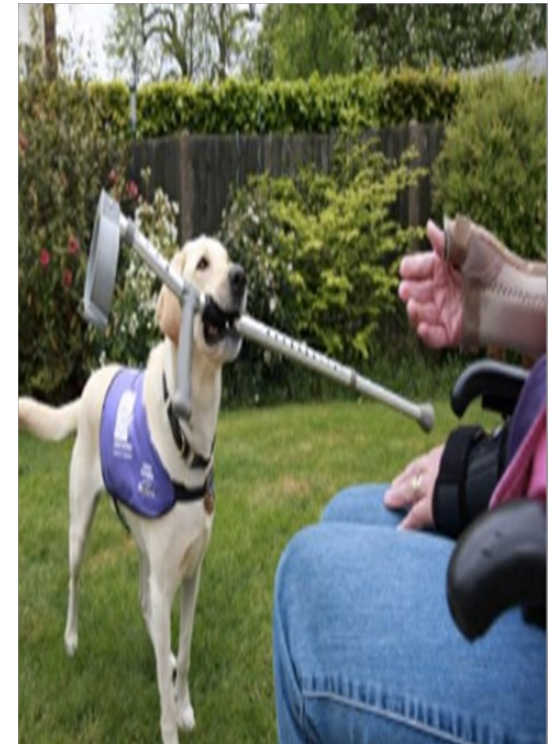
- Although emotional support animals alleviate symptoms related to disability, because they do not perform a “task,” they are not covered by the ADA.
- 28 CFR § 36.104 is a DOJ regulation authorized by the ADA that sets the minimum requirements of what constitutes a service animal.
 - “[T]he provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.”



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COMMON TASKS ASSOCIATED WITH SERVICE ANIMALS

- Open and close doors, drawers, and cabinets
- Turn lights on and off
- Bring or retrieve items such as mail, medicine, or a phone
- Pull a wheelchair
- Guide a blind individual
- Alert a deaf individual to noises
- Help keep an owner steady and balanced



SCENARIO 1: HIDDEN MOUSE

Student Jane Smith approaches you after class with a concern: Jane has noticed for the past two classes that John Jones keeps a mouse in his backpack during class. Jane doesn't like to get involved in the business of others, but she fears that if the mouse were to ever escape, she might faint.

Next class, you pull John aside and tell him you've heard he likes to keep a mouse in his backpack during class. John admits this is true, but he tells you the mouse helps calm his anxiety and he needs the mouse to help him focus in class.



Can you prohibit John from bringing his mouse to class?



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QUESTIONS ALLOWED

- Limited inquiries are allowed in an instance where it is not obvious what service an animal may actually provide. These inquiries should be vetted through those who are tasked to provide disability services on behalf of the college or the MCCCDC.
 - Is the dog a service animal required because of a disability?
 - What work or task has the service animal been trained to perform?



QUESTIONS *NOT* ALLOWED

- You may not ask about the following:
 - The person's disability
 - For medical documentation of a disability
 - For a special training card or documentation
 - For the dog to demonstrate how it performs its task
- There is no national registry of service dogs or ID cards recognized by the federal government.
- MCCCDC does have a voluntary registry of service animals that is maintained at each campus' DRS office.



GENERAL REQUIREMENTS

- Service animals shall be leashed and remain under the owner's control at all times, unless leashing prohibits the animal's service function.
- According to Maricopa County Ordinance No. 13, service animals shall maintain current dog licenses and rabies vaccinations.
- If an incident occurs that results in an animal-caused injury to students, employees, or members of the public, the College's Police Department and the District's Enterprise Risk Management Department should be contacted in order to report all injuries for documentation.



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SERVICE ANIMALS-IN-TRAINING

- Service animals-in-training that are part of a certified or accredited program recognized within the service animal industry to train animals in compliance with the ADA are allowed on campus. Trainers should notify the college's administration in advance (via the Dean of Students).



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PROHIBITION OF SERVICE ANIMALS ON CAMPUS

MCCCD may prohibit the use of service animals in certain locations due to health and safety restrictions or places where the animal might be in danger. **EXAMPLE:** labs or kitchen classrooms

If admitting service animals would fundamentally alter the nature of a service or program, service animals may be prohibited.

If a particular service animal is out of control (and the handler does not take effective action to control it) or not housebroken, that animal may be excluded.

Allergies or fear of a service animal are **NOT** valid reasons for prohibiting the presence of the service animal or denying access to the handler.

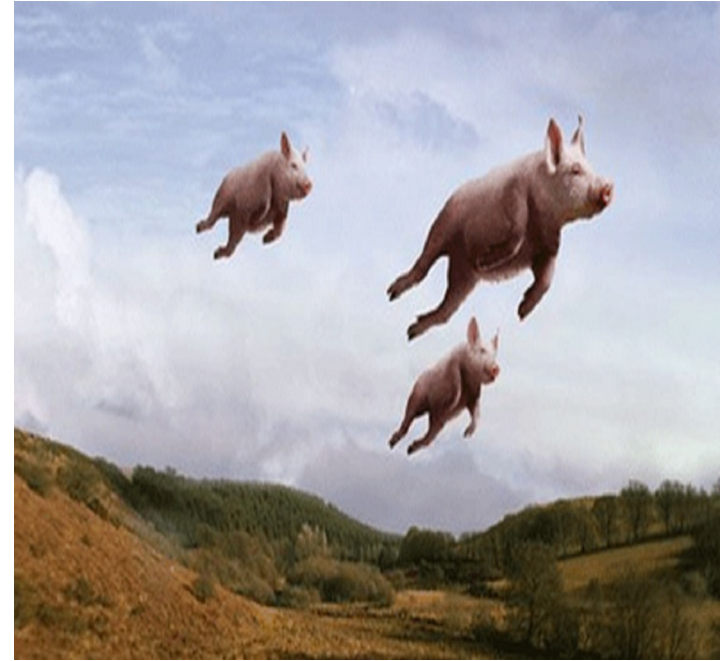


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SCENARIO 2: GUINEA HOG

Ken suffers from bipolar disorder. Because he is allergic to dogs, Ken uses his Guinea Hog to provide service and emotional support. Ken claims that the Hog calms him by performing massage therapy on Ken's hands and other body areas to reduce the effects of anxiety and depression.

Ken also asserts that he uses the Hog for physical activity by transporting the Hog with a shopping cart attached to his bike.



Does Ken have a strong case? Should the Guinea Hog be considered a service animal?

SCENARIO 2 CONTINUED

- This is a real case currently wrapped up in litigation!!! Meet Kenneth Mayle.
- Mayle sued various entities in Chicago alleging a violation of Title II of the ADA, among other claims. Mayle alleges he was repeatedly denied the right to bring his Guinea Hog to places of public accommodation in Chicago.
- The Northern District Court in Illinois found that the Guinea Hog could not be considered a service animal.
- However, Mayle's reasonable accommodation claim has survived.



**WHAT
QUESTIONS
DO YOU
HAVE FOR
US?**



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Contact information

Much of this information can be found at the following links:

<https://district.maricopa.edu/regulations/admin-regs/section-3/3-9>

<https://district.maricopa.edu/regulations/admin-regs/appendices/instruction/i-2>

Email Melissa Flores or Jacob Wiese or contact the Office of the General Counsel:

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