



ASCIP *RISK ALERT!*

Date: October 1, 2007

Attention: ASCIP Members

Subject: Assistance Dogs – Guide, Signal and Service

ASCIP has received a number of inquiries regarding a district's obligation to allow 'assistance dogs', 'service animals', and 'animals in training' on school campuses and what types of requirements the district may impose on those owners to prove financial responsibility and comply with the various regulations governing such activities. Some districts have authorized and others have denied service animals and animals in training access to their campuses.

The American with Disabilities Act (ADA) of 1990 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."

The definition offered by the ADA does not require service animals to be licensed or certified by a State or local government. However, State laws may enact more restrictive requirements for service animals including licensing and/or certification requirements. In California, Food & Agriculture Code Section 30850 requires service animals to be qualified and licensed as an assistance animal.

The California Civil Code Section 54 *et. seq.* affords individuals with disabilities 'full and equal access, as other members of the general public, to accommodations, advantages, facilities...'. The Civil Code Section 54.2 further guarantees an individual with disabilities the right to be 'accompanied by a guide dog, signal dog, or service dog' in facilities (including school facilities) as described in the Civil Code. While individuals with disabilities are afforded 'full and equal access' to facilities and to be accompanied by a service animal in those facilities, Civil Code Section 54.2 also requires that the owner of the service animal be responsible for any damage done to the premises or facility by the animal.

Since the California Civil Code places liability on the service animal owner for any damages to premises, some districts have requested that the owner provide the district with proof of financial responsibility. While a district may ask for proof of financial responsibility, a district may not ask for any changes/additions/deletions that would impose an 'extra charge or security deposit' to be paid by the service animal owner. A request for an 'additional insured' endorsement that may require the owner to pay an 'extra charge' should be avoided. Politically, a district will need to evaluate the value of requesting such an additional insured endorsements.

In addition, the California Civil Code Section 54.2 affords the above rights to persons licensed to train service animals. Therefore, guide dogs, service dogs, and such dogs (or other qualified and licensed guided or assistance animals) in training may not be denied access to a school campus or school bus, provided they would otherwise have a right or need to access the campus or participate in a school activity (student pickup, meeting with personnel, or attending an event).

If you have any questions regarding the use of service animals, please consult with ASCIP and/or competent legal counsel.

References:

Civil Code - Sections 54.1, 54.2, 54.3, 54.4

Food & Agricultural Code - Sections 30850, 30851, 30852, 30853, 30854

Health & Safety Code - Sections 114190(2), 114332.3(2)

Penal Code - Sections 365.5, 365.6, 365.7, 417.27, 600.2, 600.5

Vehicle Code - Sections 21963, 39839

Welfare & Institutions Code - Sections 12553, 12554