

BILL: Senate Bill 409
TITLE: County Boards of Education - Therapy Dogs – Policy for Handling and Use in Schools
DATE: February 11, 2021
POSITION: OPPOSE
STATUS: Education, Health, and Environmental Affairs
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE), representing all of the State's boards of education, opposes Senate Bill 409, because it would unreasonably mandate the accommodation of "therapy dogs" in schools in a manner that is not consistent with federal or state laws governing service animals, which are already clearly permitted. In addition, this bill would unreasonably mandate the presence of a handler to accompany each student and therapy dog.

The Americans with Disabilities Act (ADA) is a federal statute, amended most recently in 2008, that prohibits discrimination on the basis of an individual's disability, and Title II of the Act makes it applicable to public schools (42 U.S.C. 12101 et seq.). In the education setting, the ADA requires the provision of reasonable accommodations for disabled students such as building new facilities in an accessible fashion, altering existing facilities to provide accessibility, redesigning educational equipment for use by the disabled, providing needed aides, and providing tests and other written materials in alternative formats.

Under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The tasks performed by the dog must be directly related to the person's disability. The dog must be trained to take a specific action when needed to assist the person with a disability. For example, a person with diabetes may have a dog that is trained to alert them when their blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind them to take their medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure.

Students with service animals may bring their service animals with them to school as an accommodation. Under the Individuals with Disabilities and Parents of Minors with Disabilities Service Animals (Md. Code Ann., Hum. Serv. 7-702, 7-704, 7-705) the definition of service animals is enhanced to include animals which perform any of the following tasks: guiding individuals with impaired vision, alerting individuals with impaired hearing to an intruder or sounds, providing minimal protection or rescue work, pulling a wheelchair, fetching dropped items, or detecting the onset of a seizure. The purpose of this law is to broaden the rights of individuals who use service animals. A person who violates this law is guilty of a misdemeanor and on conviction is subject to a fine up to \$500.00 for each offense.

The federal government has also weighed in on the topic of service animals. The United States Department of Justice published Final Rules governing the use of service animals in schools (28 C.F.R. Part 35 (Sept. 15, 2010)). A service animal under the Final Rules is a dog that is housebroken and has been individually trained to do work or perform tasks for the benefit of a person with a disability.

However, the provision of emotional support, well-being, comfort, or companionship is not considered work or tasks under the federal regulations governing service animals. MABE opposes the expansion of the provisions of state and federal law currently applicable to service animals to require schools to adopt policies in order to permit the use by students of therapy dogs.

For these reasons, MABE requests an unfavorable report on Senate Bill 409.