

Service Animals

California Military Department Equal Employment Opportunity Program

FOR THE GOVERNOR:

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History. This is a new publication.

Summary. This contains the policy and procedures for implementation of the California Military Department (CMD) Service Animals Program.

Proponent and exception authority. The proponent of this circular is the CMD J1.

Applicability. Applies to specific elements and personnel of the CMD.

Interim Changes. Interim changes to this publication are not official unless they are authenticated by The Adjutant General, CMD.

Suggested Improvements. Users are invited to send comments and suggestions to the California Military Department, ATTN: Human Resources Office, 9800 Goethe Rd., Box 37, Sacramento, CA 95826.

<u>Contents</u>	<u>Page</u>
1. General	2
2. Policy and Definitions	2
3. Reasonable Accommodation Procedure	3
4. Service Animal Identification	3
5. Service Animal Owner Responsibilities	3
6. Service Animal Behavior	4
7. California Military Department Visitors with Service Animals	4
8. Supervisor Considerations Regarding Service Animals	4
9. Fraudulent Representation	5
10. Point of Contact	5

1. General

a. Purpose. This program establishes the policy, supervisory requirements, and procedures for bringing Service Animals into the workplace of the California Military Department (CMD) plus identifies specific requirements. The information applies to all State and Federal Civilian Employees, contractors hired to support the organization, and visitors to CMD facilities but excludes service members, who follow Army Directive 2013-01, "Guidance of the Acquisition and Use of Service Dogs by Soldiers." This information also applies to service members in a supervisor capacity when they are supervising civilian employees and contractors.

b. References.

(1) California National Guard Full-time Personnel Regulation 931, "Equal Employment Opportunity Reasonable Accommodations for Individuals with Disabilities," 1 August 2009.

(2) U.S. Department of Justice, Civil Rights Division, Disability Rights Section, Revised Americans with Disabilities (ADA) Requirements 2010, "Service Animals," July 2010.

(3) U.S. Department of Justice, Civil Rights Division, Disability Rights Section, "Commonly Asked Questions about Service Animals in Places of Business," 14 July 2008.

(4) Army Directive 2013-01, "Guidance of the Acquisition and Use of Service Dogs by Soldiers."

(5) Job Accommodation Network, "Accommodation and Compliance Series: Service Animals in the Workplace," retrieved from <http://askjan.org/media/servanim.html>, March 2013.

(6) California Attorney General's Office, Disability Rights Handbook, November 2003.

(7) Fact Sheet, Highlights of the Final Rule to Amend the Dept of Justice's Regulation Implementing Title II of the ADA, from http://www.ada.gov/regs2010/factsheets/title2_factsheet.html.

c. Applicability. This regulation provides Service Animal guidance to all CMD State and Federal offices and organizations. The Service Animal Program for service members is defined separately by individual service directives. California State Military Reserve and State Active Duty service members will comply with Army Directive 2013-01.

2. Policy and Definitions

a. It is the policy of the California Military Department (CMD) to adhere to the Americans with Disabilities Act (ADA) regarding all State and Federal Civilian Employees including Contractors. The Act allows individuals with disabilities the right to bring Service Animals (SA) onto public premises. Installations, armories, bases, and other facilities under control of the CMD shall comply with this Federal mandate regarding SA.

b. A disability is defined as a physical or mental impairment which substantially limits one or more of an individual's "major life activities" such as walking, talking, seeing, hearing, learning, etc.

c. Service Animals are defined as animals individually trained to work or perform specific tasks directly related to the individual's disability to help mitigate or alleviate the disability. Service Animals are *working animals* and *exclude* the following: pets; comfort or emotional support animals, whose mere presence helps people with mental illness feel better; and therapy animals, which provide affection and physical comfort to people in often stressful situations,

such as hospitals. These excluded groups are not considered SA because they do not perform specific tasks related to an individual's disability.

d. Specific tasks performed by SA may include but are not limited to the following: guiding people who are blind; alerting people who are deaf; retrieving objects for people with mobility impairments; providing physical support for people with balance/stability issues; protecting people suffering from a seizure; reminding people with psychiatric illness to take medication; calming people with post traumatic stress disorder during an anxiety attack; interrupting impulsive/destructive behavior of people with neurological disabilities; and alerting people to the presence of allergens.

e. Currently, only dogs and miniature horses are considered SA. Other animal species, whether domestic, wild, or trained, do not qualify as SA.

3. Reasonable Accommodation Procedure

Employees must first request a Reasonable Accommodation (RA) for an individual with disabilities before attempting to bring SA to the workplace. Title I of the ADA does not automatically allow employees to bring a SA to work. They shall submit requests through their supervisors to their respective personnel offices (State or Federal). A workplace RA is defined as a change or adjustment in a work area that makes it possible for an otherwise qualified employee with a disability to perform the duties or tasks required, provided that the RA does not place undue hardship, including financial or extenuating circumstances, upon the Agency. Excluding any hardship, attempts will be made to grant the requested RA. If the RA is not possible, employees requesting RAs and management will work together to create mutually acceptable accommodations.

4. Service Animal Identification

Federal Law under the ADA does not require that SA be certified, and supervisors may not insist on seeing certification documents or tags. They are allowed to ask owners/handlers if the animal is a SA and what specific task the SA performs but not about the nature or extent of the individual's disability. Although it is not a Federal legal requirement for SA to wear special vests, harnesses, collars, or tags, some SA owners/handlers prefer to have their animals assessed and trained, so that SA may be identified by wearing particular gear. Once SA are trained, some owners/handlers also feel more comfortable because they are able to provide identification papers/cards upon request. Service animals may either be professionally trained or trained by their owners.

5. Service Animal Owner Responsibilities

It is the responsibility of the SA owner to ensure minimal disruption in the work area by the following:

a. The SA shall be properly trained to provide specific assistance to individuals with disabilities.

b. The SA must be harnessed, leashed, or tethered under control unless these devices interfere with their work, or the individual's disability prevents using these devices. If so, the SA must be under control through voice, signal, or other effective methods.

- c. The SA shall be properly cleaned and groomed to minimize pest infestation and odors.
- d. Owners have sole responsibility to provide care for SA including breaks, water, food, and comfortable bedding. Hydration and feeding should be accomplished out of the work area to minimize hygienic issues.
- e. All efforts should be made to have SA urinate and defecate away from areas frequented by the public then cleaned up as soon as possible.
- f. If the SA is a canine, it shall have all current vaccinations and be licensed with the appropriate city/county Animal Control Department. A miniature horse SA must also meet all local licensing requirements, if any.

6. Service Animal Behavior

- a. The SA shall not distract or obstruct other SA in the performance of their duties.
- b. Service Animals which are disruptive, including those not trained as housebroken, excessively barking, growling, or displaying other aggressive behavior, may be excluded from the work area.

7. California Military Department Visitors with Service Animals

California Military Department visitors with SA shall be treated similarly as outlined above, except that they shall not request a RA.

8. Supervisor Considerations Regarding Service Animals

To address concerns of coworkers and workplace visitors who may have fear or allergy issues, employers should consider taking the following actions:

- a. Allow employees in question to work in different areas of the building and establish different travel paths.
- b. Utilize alternatives to in person communication such as telephone, fax, email, teleconferencing, or videoconferencing.
- c. Grant flexible scheduling for employees in question.
- d. Plan so that employees/visitors in question do not use common areas at the same time.
- e. Ask the employee with the SA if he/she is able to use temporary accommodations to replace tasks performed by SA during meetings attended by employees/visitors in question.
- f. Use portable air purifiers and/or High Efficiency Particulate Air (HEPA) filters.
- g. Ask the employee with the SA if he/she is willing to regularly use dander care products on it.
- h. Ask the employee/visitor who is allergic to the SA if wearing an allergen mask would be beneficial.

i. Have the work area (including shelves, carpets, cubicle walls, and window treatments) regularly dusted, vacuumed, and cleaned.

9. Fraudulent Representation

Any person who knowingly and fraudulently represents himself as an individual with disabilities who requires a SA to be present in the workplace is in violation of Federal Law and subject to fine and/or imprisonment.

10. Point of Contact

Point of contact is the J1 front desk at (916) 854-3350.