Title: **Service Animals Procedure**
Code: EJ R
Section: Section E: Support Services

Definitions

1. "Service Animal" 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. Except as provided by law, other species of animals, whether wild or domestic, trained or untrained, are not service animals for purposes of this definition. (As discussed below, federal law requires that, in certain circumstances, miniature horses be treated the same as or similar to service animals.)

   The work or tasks performed by a service animal must be directly related to the handler's disability. Examples of work or tasks include, but are not limited to:

   a. Assisting individuals who are blind or have low vision with navigation and other tasks;

   b. Alerting individuals who are deaf or hard of hearing to the presence of people or sounds,

   c. Providing non-violent protection or rescue work;

   d. Pulling a wheelchair;

   e. Assisting an individual during a seizure;

   f. Retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility

   disabilities, and

   g. 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.

2. "Service Animal-in-training" means a dog that is being trained as a service animal. ("Service Animals-in-training" does not mean a miniature horse.)

3. In accordance with state law, "Trainer of a Service Animal" means a person who is qualified to train dogs (and not miniature horses) to serve as service animals.

4. "Direct threat" means a significant risk to the health and safety of others that cannot be eliminated by a modification of policies, practices or procedures. In determining whether an individual poses a "direct threat" to the health or safety of others, the district will make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

Admission of Service Animals

In accordance with law, individuals with disabilities, including students, employees and visitors, may be accompanied by service animals in district facilities and vehicles, on district grounds and at district functions. A student with a disability or employee with a disability may submit a request to be accompanied by a service animal to school or work. However, there is no automatic right to be accompanied by a service animal in any district facility or vehicle, on district grounds or at district functions.

Admission of Service Animals-in-Training

In accordance with state law, a trainer of a service animal may be accompanied by a service animal that the trainer is in the process of training in district facilities and vehicles, on district grounds and at district functions. However, there is no automatic right to be accompanied by a service animal-in-training in such facilities and vehicles, on such grounds or at such functions.

504 Plans and Individualized Education Plans

If a student has either a 504 plan or an individualized education plan ("IEP"), the service animal may be included in the 504 plan or IEP under the following conditions:

1. In the case of a 504 plan, if use of a service animal is necessary to avoid discrimination on the basis of a disability, to enable the student to participate in or benefit from the district's services, programs or activities (except as otherwise provided by this policy or by applicable law) or to provide the student with a free appropriate public education ("FAPE") as defined by section 504; and

2. In the case of an IEP, if use of a service animal or other animal is required for the student to receive a FAPE as defined by the Individuals with Disabilities Education Act.

A student with a service animal who does not have a 504 plan may request that such a plan be developed. A student with a disability may be accompanied by a service animal regardless of whether the service animal is written into a 504 plan or IEP, subject to any conditions or limitations established by this policy or by applicable law.

Inquiries

Before a service animal will be allowed in a district facility or vehicle, on district grounds or at district functions, the owner or handler of the animal, to the extent it is not readily apparent, may be asked questions regarding the following:

1. Whether the animal is required because of a disability; and
2. The type of work or task the animal has been trained to perform.

Care and Supervision of Service Animal

The owner/handler of a service animal shall be solely responsible for:

1. Supervision and care of the animal, including any feeding, exercising, walking to relieve, clean up and stain removal; and
2. Except as provided below, harnessing, leashing or tethering the animal.

The district is not responsible for the care and supervision of a service animal.

Identification of Service Animal

It is recommended that a service animal wear a harness, saddle bag or vest which identifies him/her as a service animal. A service animal must always be on 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).

Reasonable Accommodation / Facilities, Vehicles, Grounds and Functions

In accordance with law, the district shall strive to make reasonable accommodations so that its facilities, vehicles, grounds and functions are accessible for an individual with a disability who is accompanied by a service animal, unless the accommodation would impose an "undue hardship" on the district. "Undue hardship" means an action requiring significant difficulty or expense.

Exclusion of Service Animal

The district may exclude a service animal from district facilities, vehicles, grounds or functions under the following circumstances:

1. The animal is out of control, and the animal's handler does not take effective action to control it;
2. The animal is not housebroken;
3. The animal poses a direct threat to the health or safety of others; or
4. For any other reason permitted by law.

If the district excludes a service animal, it shall provide the individual with a disability the opportunity to participate in the service, program or activity without the service animal on the premises.

Access to Areas

Individuals with disabilities may be accompanied by their service animals in all areas of the district's facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go.

Conflicting Disabilities

Individuals with disabilities that are adversely impacted by service animals should contact the building principal/administrator. Such individuals will be asked to provide documentation that identifies their disabilities and their need for accommodations. (Certain individuals with animal dander allergies or fear of dogs may qualify as individuals with disabilities.) The building principal/administrator shall strive to facilitate a process to resolve the conflict that considers the conflicting needs/accommodations of the disabled individuals involved. However, the building principal/administrator may exclude the service animal if it poses a direct threat to the health or safety of others.

Complaint Procedures

A student with a service animal, who believes the district has discriminated against him or her on the basis of a disability by excluding the service animal, may: (i) file a complaint in accordance with the district's 504/ADA grievance procedure (AC-R) ; (ii) file a report/complaint under policy KE and associated procedure KE-R; and/or (iii) file a complaint with the U.S. Department of Education, Office for Civil Rights (OCR). A copy of the district's 504/ADA complaint procedure (AC-R) is available on the district website.

A student with a service animal, who believes the district denied him or her a FAPE under the Individuals with Disabilities Education Act by excluding the service animal, may: (i) appeal the decision to the Superintendent or his or her designee by filing a written complaint outlining facts

supporting the appeal; and/or (ii) file a state complaint with or request a due process hearing from the Colorado Department of Education.

An employee with a service animal, who believes the district discriminated against him or her on the basis of a disability by excluding the service animal, may: (i) file a complaint pursuant to administrative policy AC and associated procedure AC-R, and/or (ii) file a charge with the U.S. Equal Employment Opportunity Commission or the Colorado Civil Rights Division.

Liability

The owner or the handler of a service animal or a service animal-in-training is liable for any and all damages to property or injuries to persons caused by the service animal or service animal-in-training. The owner or the handler of a service animal or a service animal-in training must also indemnify, defend and hold harmless the district from and against any and all claims, actions, suits, judgments and demands brought by any party arising on account of, or in connection with, any activity of or damage or injury caused by the service animal or service animal-in-training.

Miniature Horses

Individuals with disabilities may be accompanied by miniature horses to the extent necessary to avoid discrimination on the basis of disability. However, a miniature horse may not accompany such individual if it would require the district to fundamentally alter its services, programs or activities or is otherwise determined by the district to be unreasonable.

In evaluating "reasonableness," the district shall consider:

1. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
2. Whether the handler has sufficient control of the miniature horse;
3. Whether the miniature horse is housebroken; and
4. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

If the district determines that an individual with disabilities may be accompanied by a miniature horse, the provisions of this policy relating to services animals shall apply.

Adopted: October 15, 2012

LEGAL REFS:

20 U.S.C. § 1400, *et seq*., 34 C.F.R. part 300 (Individuals with Disabilities Education Act)

29 U.S.C. § 794, 34 C.F.R. part 104 (Section 504 of Rehabilitation Act of 1973)

42 U.S.C. § 12101, *et seq*., 28 C.F.R. §§ 35.104, 35.136 (Americans with Disabilities Act)

C.R.S. § 22-36-101 (Public Schools of Choice)

C.R.S. § 24-34-803 (Rights of Persons with Assistance Dogs)

CROSS REFS:

AC (Policy Prohibiting Discrimination and Harassment)

AC-R (Discrimination Reporting and Appeal Procedures)

JB (Equal Educational Opportunity for Students)

JB-E (Student Complaint Form)

KE (Public Concerns and Complaints)

KE-R (Public Concerns and Complaints Procedure)

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Attachments EJ R Service Animals Procedure 10-15-12.pdf