

## POLICY 4188

### Service and Emotional Support Animals on School Premises

#### A. Access to Services, Programs and Activities

1. The Local Education Agency (LEA) has the goal of providing equal access to all services, activities and programs it offers. Students, employees or members of the public will not be denied access to services, programs or activities due to their legitimate use of a service animal.
2. LEA protocols for addressing the needs of those utilizing service animals are derived from [28 CFR Section 35](#), [Utah Code Title 62A, Chapter 5b](#), and applicable published guidance from the U.S. Department of Justice.
3. The LEA shall impose legitimate safety requirements necessary for the safe operation of its services, programs, or activities. Those requirements must be based upon actual risks, not on mere speculation, stereotypes, or generalizations about people with disabilities.

#### B. Definitions

1. "Direct Threat" – A significant risk to the health and safety of others that cannot be eliminated by a modification to policies, practices or procedures, or by the provision of auxiliary aids or services.
2. "Disability" – As defined in [42 U.S.C. 12102](#) of the Americans with Disabilities Act, as may be amended in the future, and [28 CFR Section 36](#) of the Code of Federal Regulations, as may be amended in the future.
3. "Emotional Support Animal" (ESA) – A domesticated animal that is individually necessary for the emotional support, well-being, comfort, or companionship of an individual with a disability. The tasks performed by an ESA must be directly related to the individual's disability. Non-human primates are specifically excluded from this definition.

4. "Service Animal" – Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purpose of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. The provision of emotional support, well-being, comfort, or companionship does not constitute work or tasks for the purposes of this definition.

#### C. General Provisions

1. Other than service animals as defined above, or approved service animals in training granted facility access by the LEA, personally owned animals are not permitted at LEA facilities without the written consent of an LEA representative.
2. The LEA will reasonably modify its policies, practices or procedures to permit the use of a service animal by an individual with a disability.
3. Individuals with disabilities shall be permitted to be accompanied by their service animals in all LEA facilities where members of the public, participants in services, programs or activities, or invitees are permitted.
4. Students with disabilities shall be permitted to be accompanied by their service animals in all LEA facilities where students are permitted.
5. ~~The LEA may ask an individual with a disability to remove a service animal from its facilities if the animal is out of control and the animal's handler does not take effective action to control it.~~ A school administrator may ask an individual with a disability or the child's parents to remove a service animal from the school building, classroom, or from a school function if any one of the following circumstances occurs:
  - a. ~~The animal is out of control and the animal's handler does not take effective action to control the animal.~~
  - b. ~~if the animal poses a direct threat.~~
  - c. ~~The animal's presence fundamentally alters the nature of the service, program or activity.~~

6. If the school administrator is considering removal of a service animal, the administrator must contact the appropriate district director prior to the removal of the service animal. The director will determine if Risk Management should be contacted.
7. In the event a service animal is removed, excluded, or otherwise prohibited, the individual with a disability shall be given the opportunity to participate in the service, program, or activity at issue without the accompaniment of the service animal.
8. ~~The LEA may ask an individual with a disability to remove a service animal from its facilities if the animal is not housebroken.~~ Permitted service animals must be housebroken.
9. The owner or handler of the service animal shall be solely responsible for supervision and care of the service animal, including feeding, exercising, clean up, and stain removal.
10. A service animal shall have 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 leash, harness, or other tether would interfere with the 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).
11. ~~The LEA may ask an individual with a disability to remove a service animal from its facilities if the animal poses a direct threat.~~
12. Neither the LEA nor any of its employees are responsible for the care or supervision of a service animal, unless documentation exists specifically requiring such care or supervision by the LEA or its employees.
13. If the need for a service animal is not readily apparent, the animal's owner may be required to affirm that the animal is required because of a disability. Additionally, the animal's owner may be required to articulate what work or task the animal has been trained to perform.
14. A service animal's owner may be required to provide documentation indicating the service animal has been licensed in the jurisdiction(s) in which the owner resides. A

person accompanied by a service animal while on school property or at a school function is strongly encouraged to exhibit one of the following:

- a. The animal's identification card;
- b. The animal's service vest; or
- c. Another form of identification sufficient to put others on notice that the animal is a service animal.

#### D. Miniature Horses

1. The LEA shall make reasonable modification in its policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.
2. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, the LEA may consider:
  - a. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
  - b. Whether the handler has sufficient control of the miniature horse;
  - c. Whether the miniature horse is housebroken; and
  - d. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary safe operation.

#### E. Service Animals in Training

1. As provided in Utah law, service animals in training shall be granted access to LEA facilities, buildings or areas that are accessible to any member of the public.
2. The LEA may establish reasonable procedures and guidelines governing the presence of service animals in training in its facilities, programs and services.

3. An LEA may decide whether it will allow service animals in training in any of its facilities, buildings or areas that are not accessible to any member of the public (e.g., student areas, classrooms, locker rooms, school libraries, buses, etc.)
4. An individual accompanied by a dog in training is liable for any **and all damages to property or injuries to persons caused by the service animal in training** ~~loss or damage the dog causes to the school premises.~~

a. [Utah Code § 26B-6-803\(3\) \(2023\)](#)

#### F. Emotional Support Animals (ESA) in an Educational Setting

1. In an educational context (i.e., a request by a student), the use of an Emotional Support Animal (ESA) (sometimes referred to as a “comfort animal”) may be considered a request for a reasonable modification of LEA policies, practices or procedures under [Title II of the Americans with Disabilities Act \(ADA\)](#).
2. An LEA may choose to allow ESAs in its facilities, programs or activities. (Such a designation should be in a published policy.)
3. A request for the use of an ESA must be supported by recent, reliable, objective medical documentation.
4. Only domesticated animals may be considered as an ESA.
5. Documentation regarding an ESA may be required to address legitimate safety requirements necessary for the safe operations of an LEA’s programs, services, or activities.

#### G. Service Animals and Emotional Support Animals in the Employment Setting

1. In the employment context (i.e., a request by an employee) the use of a service or an emotional support animal may be considered a request for accommodation under [Title I of the Americans with Disabilities Act](#).
2. If the use of a Service Animal in the employment setting is to mitigate physical barriers or to ensure equal access to programs, buildings or facilities, the service

animal should be permitted in accordance with the guidance for service animals published by the US Department of Justice.

3. If the use of a service animal or an emotional support animal is requested for reasons other than barrier removal or equal access to programs, buildings or facilities, the request should be supported by recent, reliable, objective medical documentation, and the employee and the LEA should engage in the ADA interactive process.

#### H. Unique Circumstances or Requests

1. Circumstances or requests requiring special consideration shall be reviewed by the LEA Risk Coordinator in consultation with other appropriate LEA personnel (e.g., Section 504 Coordinator, ADA Coordinator, etc.).
2. The LEA Risk Coordinator shall coordinate with State Risk Management prior to denying a service animal, a miniature horse, a service animal in training, or an ESA access to any LEA facility, service, program or activity.