



Policy & Legal Services
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To: Members of the Board of Education
From: Doug Larson
Re: Policy Readings
Date: April 29, 2020

Policy and Legal Services will present two First Readings during the next Board of Education meeting. A description of the policies under consideration are provided below.

Article IX.A.1.y. Access and Accommodations for Individuals with Disabilities

This policy was created to supplement the ADA statements we have in other policies and consolidate those statements with the service animal policy. This policy is intended to provide a clear statement to students, parents, and patrons that Granite School District complies with the ADA and makes appropriate accommodations to help individuals with disabilities access the services, programs, and activities the District offers. This includes providing accommodations such as auxiliary aids. The policy outlines a process for providing notice so schools and the District office can work with individuals in providing reasonable accommodations in all circumstances.

Article V.C.1. Paid Leave During School Dismissal Under Extraordinary Circumstances

This policy was created after the U.S. Department of Education promulgated a Q&A Fact Sheet regarding employee leave and seeking reimbursement from federal and state sources for reimbursement during pandemics, natural disasters, or other extraordinary events. USBE directed each LEA to develop a policy authorizing leave or work modifications during extraordinary events. LEAs must treat employees working under state and federally funded programs and grants the same. Further, employees working under state or federally funded programs and grants must perform work that qualifies under those programs and grants.

Article IX.A.1.y. Access and Accommodations for Individuals with Disabilities

A. Statement of Purpose

The Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 govern access and participation for individuals with disabilities in the public-school setting. The Board of Education of Granite School District (Board) adopts this policy to ensure compliance with the ADA and Section 504 and to ensure all individuals enjoy the benefits of Granite School District's (District) services, programs, and activities.

B. Statement of Policy

The District shall take reasonable and appropriate steps to ensure equitable access to District services, programs, and activities, including making reasonable accommodations for individuals with qualifying disabilities provided the accommodations do not create a fundamental alteration of the services, programs, or activities or impose an undue burden on the District. The District shall provide reasonable accommodations for all school-sponsored services, programs, activities, and other District or school functions including school board meetings, teacher conferences, social and cultural activities, recreational activities, adult education, and summer school.

C. Definitions

1. Auxiliary aids mean services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by a governmental agency.
2. Disability means a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.
3. Reasonable accommodations mean modifications of programs, policies, practices, or procedures enabling qualified individuals with a disability to have an equitable opportunity to benefit from and have access to District or school services, programs, or activities.

Reasonable accommodations do not include fundamentally altering District or school services, programs, or activities; placing others in danger or creating health or safety risks; or imposing an undue financial or administrative burden on the District or school.

4. School-sponsored means services, programs, activities that are approved by administration and are: initiated, managed, or supervised by District personnel; use school facilities, equipment, or other school resources (not part of a rental or other contractual arrangement); and/or supported or subsidized by school or District funds.

5. Service animal means a dog¹ 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.

The term service animal does not include an animal (wild or domestic, trained or untrained) used solely to provide a crime deterrent, emotional support, well-being, comfort, or companionship.

D. Providing Reasonable Accommodations

1. Federal and state laws prohibit discrimination and require the District to provide equitable and appropriate access to school services, programs, and activities for individuals with disabilities. School administrators and District officials shall work collaboratively with individuals with disabilities to determine what reasonable accommodations are available at no cost to the requester to achieve equitable access to school services, programs, or activities.
 - a. Schools shall make reasonable communication accommodations for individuals with disabilities by making auxiliary aids available to students, parents, and patrons including but not limited to: interpreters; readers or note takers; audio enhancement devices; computer aided communication devices; telecommunication devices (TDDs) or closed captioning; written materials; additional lighting; preferential seating; and audio recordings.
 - b. The District shall maintain a website compliant with current ADA standards and make every effort to disseminate information in an accessible manner to students, parents, and patrons with disabilities.
2. Subject to available resources and subject to requirements of federal and state laws, the District shall also seek to provide greater physical access to facilities by reducing physical barriers, allowing the use of assistive services or devices, acquiring and/or modifying useful technologies, providing appropriate physical assistance as necessary, maintaining appropriate handicapped parking, and employing alternate forms or enhanced access to transportation.
3. Requests for reasonable accommodations by individuals with disabilities shall, to the extent possible, be made in writing directly to school administrators and/or to the Director of Educational Equity at Granite School District, 2500 South State Street, Salt Lake City, Utah, 84115.

¹ In accordance with 28 CFR § 35.136, individuals with disabilities may be accompanied by a miniature horse rather than a dog unless allowing this accommodation would require the District to fundamentally alter its services, programs, or activities or it is otherwise determined by the District to be unreasonable. The District shall 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 for safe operation of schools and related business.

- a. In some instances, reasonable accommodations can be offered without prior planning. School and District officials shall make every effort to accommodate needs as they arise.
 - b. Because some requests for reasonable accommodations require planning (and may include competing needs), students, parents, guardians, and patrons are encouraged to make written requests for reasonable accommodations, particularly auxiliary aids and interpreters, well in advance of the date of a scheduled function or event. Such requests shall include:
 - i. the individual's name, school, and a description of the services, programs, or activities for which the auxiliary aid is being requested;
 - ii. an affirmation that the reasonable accommodation is required because of disability; and
 - iii. where applicable, a description of the individuals preferred accommodation.
4. Primary consideration shall be given to the reasonable accommodation choices of the individual making the request unless other equally effective means of accommodating an individual's needs are more readily available or if the request is deemed unreasonable.
5. Enhanced requirements for employees and students with disabilities are governed by other federal and state laws and are addressed in separate District policies.
 - a. Employees with qualifying disabilities shall make requests for reasonable work-related accommodations to supervisors and the Human Resources Department consistent with Article IX.A.1.w., Workplace Accommodations for Employees with Disabilities.
 - b. Reasonable accommodations for students are governed by the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act 1973. Students with disabilities shall receive evaluations, special education services, related services, and reasonable accommodations consistent with federal and state laws and Administrative Memorandum No. 62, Students with Disabilities.

E. Service Animals

1. A service animal must be trained to perform work or tasks² directly related to the individual's disability, including, but not limited to:

² The term "perform work or tasks" in this context means that the service animal is trained to respond to the needs of an individual with a disability in order to mitigate the disability. The service animal must be able to recognize and respond to a need or episode of the disabled individual. For example, if a service animal senses that an individual is about to have a psychiatric episode and responds by nudging, barking, or removing the individual to a safe location until the episode subsides, then the animal has performed a task or done work in behalf of the individual with the disability, as opposed to merely sensing an event.

- a. assisting an individual who is blind or has low vision with navigation or other tasks;
 - b. alerting an individual who is 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. alerting an individual to the presence of an allergen;
 - g. retrieving an item for the individual;
 - h. providing physical support and assistance with balance and stability to an individual with a mobility disability; and/or
 - i. helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors.
2. In response to a request for use of a service animal, District personnel shall ask two questions:
- a. Is the service animal required because of a disability?
 - b. What work or task has the service animal been trained to perform?
- Based on the response to the preceding questions, an administrator shall determine whether the animal meets the definition of a service animal and shall determine whether to permit entry with the service animal. Administrators shall refrain from asking further questions in making the determination.
3. Anyone desiring to be accompanied by a service animal may be asked to provide service animal identification that includes proof of licensure and mandatory vaccinations. Those using a service animal are asked to provide the building administrator advanced notice of the fact that the individual will be accompanied by a service animal.
4. Notwithstanding the requirements in preceding paragraphs, an animal that does not meet the definition of a service animal may be permitted as a reasonable accommodation under a student's Individualized Education Plan (IEP), Section 504 Plan, a health care plan, or an ADA accommodation plan, according to applicable District policies and procedures (see Administrative Memorandum No. 62, Students with Disabilities).
5. Service-animals-in-training may accompany a student or employee with a qualifying disability wherever the student or employee is generally permitted on District property if the service-animal-in-training is being trained for use by that student or employee to accommodate the student's or employee's disability subject to the other requirements of this policy. All other service-animals-in-training are restricted from District property in all areas not generally open to the public.

6. A service animal shall always remain under the control of its handler while on District property. A service animal shall have a harness, leash, or other tether unless the handler is unable to use a harness, leash, or other tether because of a disability or the use of a harness, leash, or 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). The owner or the handler of a service animal may be liable for damage to property or injuries to persons caused by the service animal. Owners and handlers of service animals are assumed to have read this policy and understand this assumption of risk when they bring service animals onto school property.
7. Service animals must be housebroken. The service animal handler shall always be responsible for the care of the service animal including but not limited to feeding, exercise, clean-up, and restraint. The District or individual school is not responsible for providing a staff member to provide care or supervision to the animal. In the case of a young child or a student with disabilities who is unable to care for or supervise his/her service animal, the parents/guardians are responsible for care and supervision of the animal. Any handler who accompanies the child and service animal shall comply with all District policies and may be required to undergo a criminal background check.
8. The District may deny a request for use of a service animal or have the service animal removed from a District facility or vehicle, District grounds, or District function if:
 - a. the service animal is out of control and the handler does not take effective action to control it;
 - b. the presence of the service animal will require a fundamental alteration of service, program, or activity; disrupt or interfere with the education process; or pose a direct threat to the health or safety of others; or
 - c. the handler fails to submit proof of current licensure and/or vaccinations.
9. Other individuals that are adversely impacted by the presence of a service animal should contact school administration or a department director/supervisor. Such individuals will be asked to provide evidence/documentation of the disability and the need for accommodations. (Certain individuals with animal dander allergies or fear of dogs may qualify as individuals with disabilities.) School administrators or department directors/supervisors shall facilitate a process to find a resolution to the conflicting needs/accommodations of the disabled individuals involved. The school administration or department director/supervisor may exclude the service animal if it poses a direct threat to the health or safety of others.

F. Complaints of Discrimination

A complaint regarding any claim or allegation of discrimination under this policy or under any other circumstance may be filed according to the procedures outlined in Article

V.C.1. Prohibition of Discrimination, Harassment, and Retaliation. The District will attempt to resolve issues working collaboratively at the lowest possible level. Alternatively, complaints may be filed at any time with the Office for Civil Rights (OCR), Region VIII, US Department of Education, Federal Building, Suite 310, 1244 Speer Boulevard, Denver, Colorado 80204.

REFERENCES

29 U.S.C. 794, Section 504 of the Rehabilitation Act

42 U.S.C. 12101 *et seq.*, Americans with Disabilities Act

20 U.S.C. 1400 *et seq.* Individuals with Disabilities Education Act (IDEA)

28 C.F.R 35.101 *et seq.*, Nondiscrimination on the Basis of Disability in State and Local Government Services

Utah Code § 62A-5b-104, Right to be Accompanied by Service Animal or Support Animal
Article IX.A.1.w., Workplace Accommodations for Employees with Disabilities.

Memorandum 62, Students with Disabilities

FORMS

- Request to be Accompanied by a Service Animal: available on the Educational Equity website
- Discrimination, Harassment, and Retaliation Complaint Form: available on the Educational Equity website and under Article V.C.1., Prohibition of Discrimination, Harassment, and Retaliation

Article IX.A.1.y. Service Animals

A. Purpose

The Board of Education adopts this policy to ensure that individuals with disabilities are able to participate in and benefit from District services, programs, and activities, and to ensure that the District does not discriminate against individuals on the basis of disability. As established and defined by the Americans with Disabilities Act and its accompanying regulations, individuals with disabilities shall be permitted to bring their service animals on District property in accordance with this policy.

B. Policy

Individuals with disabilities including students, employees, and visitors, will be permitted to be accompanied by their service animal in District facilities and vehicles, on District grounds, and at District functions, subject to the provisions of this policy. By contrast, pets and other animals, except as allowed for pre-approved educational purposes, are restricted from District property. The Director of Educational Equity is responsible for the administration of this policy, including the formulation of guidelines and procedures as necessary. School administrators and department directors/supervisors are responsible for ensuring compliance with this policy in schools, departments, or offices.

C. Definition of Service Animals

1. A service animal means a dog that is individually trained to do or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.
2. Other species of animals, except under subsection C.5. below, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.
3. The work or task performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.
4. 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.

5. ~~In accordance with 28 CFR § 35.136, individuals with disabilities may be accompanied by miniature horses to the extent necessary to avoid discrimination on the basis of disability unless allowing this accommodation 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:~~
 - 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 for safe operation.~~
6. ~~The service animal must be:~~
 - a. ~~required because the individual has a disability; and~~
 - b. ~~individually trained to do work or perform tasks for the benefit of the individual with a disability.~~

~~D. Guidelines and Procedures~~

1. ~~Students and Employees. To facilitate the District's need to accommodate a variety of disabilities and conditions (which may include the competing needs of children and/or staff with animal allergies or fears), all students or employees with a disability requesting to be accompanied by a service animal shall provide advance notice of the request to the Director of Educational Equity at Granite School District, 2500 South State Street, Salt Lake City, Utah, 84115. The Director of Educational Equity shall make the proper notifications to schools or worksites of any requests.~~

~~Where practicable, the request should be submitted in writing at least 10 business days prior to bringing the service animal to a school site, school function, or workplace. Failure to provide advance notice may result in exclusion of the service animal from the school or worksite for up to 10 work days so that the request can be considered and necessary planning completed.~~

~~The request must include:~~

- a. ~~the individual's name, school or work site, and a description of the school or work functions at which the service animal is requested to be used;~~

- b. ~~an affirmation that the animal is required because of disability;~~
- c. ~~a description of the work or tasks that the service animal has been trained to provide for the person with the disability; and~~
- d. ~~proof of licensure and other mandatory vaccinations pursuant to applicable animal control ordinances.~~

~~2. Visitors and Patrons. Parents, visitors, volunteers, and members of the public visiting or attending functions at school facilities are asked to provide the building administrator advance notice of the fact that the individual will be accompanied by a service animal. Parents, visitors, and volunteers are also asked to provide service animal identification that includes proof of licensure and other mandatory vaccinations. Subject to section H, below, no member of the public shall be denied access to a school facility on the basis of being accompanied by a service animal.~~

~~3. To avoid confusion about whether an animal is a service animal, a person accompanied by a service animal while on school property or at school functions is strongly encouraged to exhibit one of the following:~~

- a. ~~the animal's laminated identification card;~~
- b. ~~the animal's service vest; and/or~~
- c. ~~another form of identification sufficient to put others on notice that the animal is a service animal.~~

~~E. Management of Service Animals~~

- ~~1. A service animal shall be under the control of its handler.~~
- ~~2. 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 harness, leash, or 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).~~

~~F. Care of and Responsibility for Service Animals~~

- ~~1. Service animals must be housebroken.~~
- ~~2. The District, including school and classroom staff, are not responsible for the care or supervision of a service animal. The District or individual school is not responsible for providing a staff member to walk the service animal or to provide any care or assistance to the animal. In the case of a young child or a student with~~

~~disabilities who is unable to care for or supervise his service animal, the parents and guardians are responsible for providing care and supervision of the animal.~~

~~3. The owner or handler of the service animal shall be solely responsible for:~~

~~a. supervision and care of the service animal, including but not limited to feeding, exercising, clean-up, and stain removal; and~~

~~b. restraint of the service animal at all times.~~

~~4. Where a child is unable to act as handler for the animal, any handler who accompanies the child and animal, and who has unsupervised access to children or school facilities will be required to comply with all District policies and undergo a criminal background check.~~

G. Liability

~~The owner or the handler of a service animal may be liable for damage to property or injuries to persons caused by the service animal. Owners and handlers of service animals are assumed to have read this policy and understand this assumption of risk when they bring service animals onto school property.~~

H. Removal or Exclusion of Service Animal

~~1. The District may deny a request for use of a service animal, or ask an individual with a disability to remove a service animal from a District facility or vehicle, District grounds, or District function if:~~

~~a. the service animal is out of control and the service animal's handler does not take effective action to control it;~~

~~b. the presence of the service animal will require a fundamental alteration of the program, disrupt or interfere with the education process, or pose a direct threat to the health or safety of others; or~~

~~c. the handler fails to submit proof of current licensure and/or vaccinations when the service animal is to be used regularly during the school/work day or at school/work events.~~

~~2. If the service animal is properly removed or prohibited from the premises, the District will continue to give the individual with a disability the opportunity to participate in the District services, programs, or activities without having the service animal on the premises.~~

I. Conflicting Disabilities

~~Individuals with disabilities that are adversely impacted by service animals should contact their school administrator or department director/supervisor. 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 school administrator or department director/supervisor shall strive to facilitate a process to resolve the conflict that considers the conflicting needs/accommodations of the disabled individuals involved. However, the school administration or department director/supervisor may exclude the service animal if it poses a direct threat to the health or safety of others.~~

~~J. Complaint Procedures~~

- ~~1. A student with a disability, who believes the District denied him or her a Free and Appropriate Public Education (FAPE) under Section 504 of the ADA by excluding his or her service animal, may file a complaint in writing to the District 504 Coordinator for student issues according to the procedures in District policy 11IR-101 Section 504 Students with Accommodations, within ten (10) school days from the date the service animal was excluded.~~
- ~~2. A student with a disability, who believes the District denied him or her a Free and Appropriate Public Education (FAPE) under the Individuals with Disabilities Education Act by excluding the service animal, may file a complaint in writing to the District Director of Special Education within ten (10) school days from the date the service animal was excluded and/or may file a state complaint with, or request a due process hearing from the Utah State Office of Education (USOE).~~
- ~~3. A student with a disability not receiving services under a 504 Accommodation or an IEP, who believes the District has discriminated against him or her by excluding his or her service animal, may file a complaint to the District Compliance Officer according to the procedures in District policy 11IR-100 Nondiscrimination Policy and Complaint Procedures, within ten (10) work days from the date the service animal was excluded.~~
- ~~4. An employee with a disability, who believes the District discriminated against him or her by excluding his or her service animal, may file a complaint in writing to the District Benefits Office for employment issues according to the procedures in District policy 11IR-102 Provision for Reasonable Accommodation to Individuals with Disabilities, within ten (10) work days from the date the service animal was excluded.~~
- ~~5. A parent, patron, visitor, or volunteer with a disability, who believes the District discriminated against him or her by excluding his or her service animal, may file a complaint in writing to the District Policy and Legal Services Office within ten (10) school days from the date the service animal was excluded.~~

DEFINITIONS

~~Disability: means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.~~

~~Direct threat: means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided in 28 CFR 35.139.~~

~~Service animal: see section 3 of the policy.~~

REFERENCES

~~29 U.S.C. 794—Section 504 of the Rehabilitation Act~~

~~42 U.S.C. 12101 et seq.—Americans with Disabilities Act~~

~~28 C.F.R Title 28 Part 35—Nondiscrimination on the Basis of Disability in State and Local Government Services~~

FORMS

~~Request to be Accompanied by a Service Animal: available on the Educational Equity website~~