

SCHOOL AND COLLEGE LEGAL SERVICES *of California*

General Counsel
Margaret M. Merchat

Attorneys
Monica D. Batanero
Carl D. Corbin
Nancy L. Klein
Loren W. Soukup
Patrick C. Wilson
Frank Zotter, Jr.

*A Joint Powers Authority serving school and
college districts throughout the state*

LEGAL UPDATE

July 12, 2013

Reply to:
Santa Rosa Office
5350 Skylane Blvd.
Santa Rosa, CA 95403
(707) 524-2690
Fax: (707) 578-0517
santarosa@scscl.org

Of Counsel
Robert J. Henry
Janna L. Lambert
Virginia A. Riegel

~~~~~
Susanne K. Reed
(1947 – 2010)

To: Superintendents, Member School Districts (K-12)

From: Carl D. Corbin, Associate General Counsel

**Subject: Update on Service Animals/Assistive Animals – Revised FEHA Regulations
Memo No. 10-2013**

This document is being provided as an update of the September 3, 2010, and March 8, 2011, Legal Update No. 23-2010 from our office regarding the Americans with Disabilities Act (“ADA”) as related to recently revised California law on service animals/assistive animals. As we previously discussed, the new and amended ADA regulations regarding services animals became effective on March 15, 2011. However, in addition to the federal ADA regulations, the Fair Employment and Housing Commission recently (effective December 30, 2012) significantly revised and amended the Fair Employment and Housing Act (“FEHA”) regulations regarding:

- What constitutes a disability;
- What is a major life activity;
- How to complete the interactive process;
- How to accommodate an employee/applicant;
- How to address service animal/assistive animal issues; and
- What is the process for a post-employment offer medical examination?

We strongly encourage that our clients review these revised regulations to ensure their practice regarding the treatment of employees/applicants with disabilities is legally compliant. The updated FEHA regulations may be found at:

http://www.dfeh.ca.gov/res/docs/FEHC%20Disability%20Regs/FEHC%20FINAL_DISABILITY_REGS_12-18-12%20_2_.pdf

Generally, the revised FEHA disability regulations follow the revised ADA regulations with some exceptions. One significant exception is the definition of service animal. As described previously, the ADA did not include in its definition of service animal an animal whose only

purpose was to provide emotional support to a person with a disability. Title 2 of the California Code of Regulations section 7293.6(a) makes reference to the global term “assistive animal”, which includes within the definition guide dogs, signal dogs, service dogs, and “‘Support’ dog or other animal that provides emotional or other support to a person with a disability, including, but not limited to, traumatic brain injuries or mental disabilities such as major depression.” This provides a more expansive definition than required by the ADA in that animals that only provide “emotional support” are allowed and there is no limiting language that the animal may only be a dog - any “trained animal” is allowed.

Title 2 of California Code of Regulations section 7293.6(a)(2) provides minimum standards that must be met by the service animal:

2. Minimum Standards for Assistive Animals include, but are not limited to, the following.

Employers may require that an assistive animal in the workplace:

- (A) is free from offensive odors and displays habits appropriate to the work environment, for example, the elimination of urine and feces;
- (B) does not engage in behavior that endangers the health or safety of the individual with a disability or others in the workplace; and
- (C) is trained to provide assistance for the employee’s disability.

For an employee with a disability who is requesting to bring an assistive animal to the workplace as a reasonable accommodation Title 2 of California Code of Regulations section 7293.0(e) allows the employer to require the employee to produce a letter from the employee’s health care provider and allows for a “trial period”:

(1) a letter from the employee’s health care provider stating that the employee has a disability and explaining why the employee requires the presence of the assistive animal in the workplace (e.g., why the animal is necessary as an accommodation to allow the employee to perform the essential functions of the job); and

(2) confirmation that the animal meets the standards set forth in section 7293.6, subdivision (a)(2). Such confirmation may include information provided by the individual with a disability. The employer may challenge that the animal meets that standards set forth in section 7293.6, subdivision (a)(2) within the first two weeks the assistive animal is in the work place based on objective evidence of offensive or disruptive behavior. An employer may require an annual recertification from the employee of the continued need for the animal.

For your convenience, attached is a copy of various model policies developed by our office relating to animals at school that may be modified and adopted for use by our clients.

Please contact our office with questions regarding this or any other legal matter.

Board Policy

Animals At School

BP 6163.2

The _____ recognizes that animals can contribute to the District's instructional program by being effective teaching aids to students and by assisting individuals with disabilities to access District programs and activities. In addition, instruction related to the care and treatment of animals teaches students a sense of responsibility and promotes the humane treatment of living creatures.

The _____ or designee shall develop rules and procedures to ensure that when animals are brought to school, the health, safety, and welfare of students, staff, and the animals are protected. However, the District assumes no liability for the safety of animals allowed on District property.

Animals, insects and/or reptiles of any kind are not permitted on District property and/or facilities, unless the owner, sponsor, or responsible parties have followed the rules and procedures developed by the Superintendent or designee.

See: AR 6163.20 – Service Animals at School
AR 6163.21 – Service Animals in Training at School
AR 6163.22 – Non-Service Animals at School
AR 6163.23 – Live Animals in the Classroom for Instructional Purposes

Legal Reference:

EDUCATION CODE

233.5 Instruction in kindness to pets and humane treatment of living creatures
39839 Transportation of guide dogs, signal dogs, service dogs
51202 Instruction in personal and public health and safety
51540 Safe and humane treatment of animals at school

CIVIL CODE

54.1 Access to public places
54.2 Guide, signal, or service dogs, right to accompany

GOVERNMENT CODE

810-996.6 California Tort Claims Act, especially:
815 Liability for injuries generally; immunity of public entity
835 Conditions of liability

VEHICLE CODE

21113 Public grounds

CODE OF REGULATIONS, TITLE 13

1216 Transportation of property

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

794 Rehabilitation Act of 1973, Section 504

CODE OF FEDERAL REGULATIONS, TITLE 28

35.104 Definitions

35.136 Service animals

COURT DECISIONS

Sullivan v. Vallejo City USD, (1990) 731 F.Supp. 947

Management Resources:

FEDERAL REGISTER

Rules and Regulations, September 15, 2010, Vol. 75, Number 178, pages 56164-56236

CSBA PUBLICATIONS

Indoor Air Quality: Governing Board Actions for Creating Healthy School Environments, Policy Brief, July 2008

Asthma Management in the Schools, Policy Brief, March 2008

WEB SITES:

CSBA: <http://www.csba.org>

American Society for the Prevention of Cruelty to Animals: <http://www.asPCA.org>

Humane Society of the United States: <http://www.hsus.org>

U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

Date Adopted _____

Administrative Regulation

Live Animals at School for Instructional Purposes

AR 6163.23

Instructional staff (not students) may request from the school site administrator to approve the use of live animals prior to the display of the animals in the classroom. This policy is intended for a “class pet” and other appropriate limited use of animals for instructional purposes.

Instructional Staff Responsibility

1. Instructional staff must complete the request form available from the site administrator for the use of animals in the classroom prior to staff bringing any live animals to the school facility/classroom for instructional purposes. Prior to a site administrator providing approval for the use of animals in the classroom, parents of the students in the affected classroom shall be informed in writing as to the specific “type” of animal that will be in the classroom and parents shall be directed to contact the site administrator if their child has any medical issues or allergies associated with the specific type of proposed animal. The site administrator will then determine the appropriate manner to address the issue.
2. Animals whose bites are poisonous or may cause severe physiological reactions are not permitted at school.
3. Animals should be kept in an appropriate cage or enclosure that provides maximum containment of the animals, clean and sanitary conditions, shelter and protection from the weather, appropriate temperatures, and assures safety for the students. Instructional staff shall not leave the animals at the school facility/classroom over a weekend, holiday, or school break unless the safety and comfort of the animals can be ensured.
4. Staff must instruct students and visitors about inserting fingers in an occupied cage. Any incident in which a student or visitor is bit by animal must be reported to the site administrator immediately.
5. Instructional staff should train students in the care of and appropriate handling of animals, such as mice or guinea pigs, to include instruction not to excite animals or engage in activities such as poking pencils at animals because such activity encourages biting. Every reasonable precaution shall be taken to ensure animals are not teased, abused, mistreated, annoyed, tormented, or in any manner made to suffer by any person or by any means.
6. Instructional staff shall instruct students to thoroughly wash their hands after they finish touching or handling an animal in the classroom to ensure proper hygiene. Students should not eat or drink anything while touching or handling animals.

7. [RESIG statement regarding instructional staff adding the District as an additional insured – home owner policy or other insurance policy?]

See: BP 6163.2 – Animals at School
AR 6163.20 – Service Animals at School
AR 6163.21 - Service Animals in Training at School
AR 6163.22 – Non-Service Animals at School

Legal Reference:

EDUCATION CODE

233.5 Instruction in kindness to pets and humane treatment of living creatures
39839 Transportation of guide dogs, signal dogs, service dogs
51202 Instruction in personal and public health and safety
51540 Safe and humane treatment of animals at school

CIVIL CODE

54.1 Access to public places
54.2 Guide, signal, or service dogs, right to accompany

GOVERNMENT CODE

810-996.6 California Tort Claims Act, especially:
815 Liability for injuries generally; immunity of public entity
835 Conditions of liability

VEHICLE CODE

21113 Public grounds

CODE OF REGULATIONS, TITLE 13

1216 Transportation of property

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

794 Rehabilitation Act of 1973, Section 504

CODE OF FEDERAL REGULATIONS, TITLE 28

35.104 Definitions
35.136 Service animals

COURT DECISIONS

Sullivan v. Vallejo City USD, (1990) 731 F.Supp. 947

Management Resources:

FEDERAL REGISTER

Rules and Regulations, September 15, 2010, Vol. 75, Number 178, pages 56164-56236

CSBA PUBLICATIONS

Indoor Air Quality: Governing Board Actions for Creating Healthy School Environments, Policy Brief, July 2008

Asthma Management in the Schools, Policy Brief, March 2008

WEB SITES:

CSBA: <http://www.csba.org>

American Society for the Prevention of Cruelty to Animals: <http://www.asPCA.org>

Humane Society of the United States: <http://www.hsus.org>

U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

Date Adopted: _____

Date Revised: _____

Administrative Regulation

Non-Service Animals At School

AR 6163.22

Due to health concerns, safety concerns, and in order to avoid disruption of school activities all animals, insects and reptiles are prohibited from school property, school facilities, and school functions except when the animal has been permitted as a service animal (AR 6163.20), a service dog in training (AR 6163.21), or a live animal in the classroom used for instructional purposes (AR 6163.23).

See: BP 6163.2 – Animals at School
AR 6163.20 – Service Animals at School
AR 6163.21 - Service Animals in Training at School
AR 6163.23 – Live Animals in the Classroom for Instructional Purposes

Legal Reference:

EDUCATION CODE

233.5 Instruction in kindness to pets and humane treatment of living creatures
39839 Transportation of guide dogs, signal dogs, service dogs
51202 Instruction in personal and public health and safety
51540 Safe and humane treatment of animals at school

CIVIL CODE

54.1 Access to public places
54.2 Guide, signal, or service dogs, right to accompany

GOVERNMENT CODE

810-996.6 California Tort Claims Act, especially:
815 Liability for injuries generally; immunity of public entity
835 Conditions of liability

VEHICLE CODE

21113 Public grounds

CODE OF REGULATIONS, TITLE 13

1216 Transportation of property

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

794 Rehabilitation Act of 1973, Section 504

CODE OF FEDERAL REGULATIONS, TITLE 28

- 35.104 Definitions
- 35.136 Service animals

COURT DECISIONS

Sullivan v. Vallejo City USD, (1990) 731 F.Supp. 947

Management Resources:

FEDERAL REGISTER

Rules and Regulations, September 15, 2010, Vol. 75, Number 178, pages 56164-56236

CSBA PUBLICATIONS

Indoor Air Quality: Governing Board Actions for Creating Healthy School Environments, Policy Brief, July 2008

Asthma Management in the Schools, Policy Brief, March 2008

WEB SITES:

CSBA: <http://www.csba.org>

American Society for the Prevention of Cruelty to Animals: <http://www.asPCA.org>

Humane Society of the United States: <http://www.hsus.org>

U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

Date Adopted: _____

Date Revised: _____

Administrative Regulation

Service Animals in Training At School

AR 6163.21

The _____ acknowledges the District’s responsibility to permit individuals to be accompanied by a “service animal” in training on school property and/or facilities and/or at school functions as required by Civil Code section 54.2 subject to the rules and procedures described in this regulation.

This regulation only applies to members of the public, students, and staff who are requesting to be accompanied by a service animal in training to a District school property and/or facility and/or school function.

SERVICE ANIMAL IN TRAINING DEFINED

1. A service animal in training must be a dog. No other species of animal, whether wild or domestic, will be permitted as a “service animal in training.”
2. Only individuals with a disability and individuals authorized to train service dogs for individuals with a disability may request to bring a service dog in training on school property and/or facilities and/or at school functions. (Civil Code section 54.2(b)).
3. A trainer, who has been authorized to bring a service dog in training on school property and/or facilities and/or at school functions, cannot be required to pay an extra charge or security deposit.

RESPONSIBILITIES OF TRAINER OF SERVICE DOG

1. The trainer of the service dog in training shall ensure the dog is on a leash and tagged as a guide dog, signal dog, or service dog by an identification tag issued by the county clerk, animal control department, or other agency, as authorized by Chapter 3.5 (commencing with Section 30850) of Title 14 of the Food and Agricultural Code.
2. The service dog in training must be treated for, and kept free of, fleas and ticks and other pests.
3. The service dog in training must be kept clean and groomed to avoid shedding and dander.
4. The owner/trainer of the service dog in training is liable for any harm or injury caused by the animal to other students, staff, visitors, and/or property. (Civil Code 54.2).

5. The District is not responsible for the care or supervision of the service dog in training, such as walking the dog or responding to the dog's need to relieve itself. The trainer of the service dog in training must always carry equipment sufficient to clean up the dog's waste, immediately remove the waste, and be responsible for the proper disposal of the dog's waste.
6. The trainer of the service dog in training must provide annual proof of the following vaccinations: DHLPPC (Distemper, Hepatitis, Leptospirosis, Paroinfluenza, Parvovirus, Coronavirus), Bordetella, and Rabies.
7. All service dogs in training must be spayed or neutered.
8. "Therapy," "comfort," or "companion" dogs are not service animals in training and issues regarding these animals are addressed by AR 6163.22 – Non-Service Animals at School.
9. This policy does not address service animals actually performing a task for an individual with a disability. Please refer to AR 6163.20 – Service Animals at School.
10. Any person knowingly and fraudulently representing himself or herself through either verbal or written notice to be the owner or trainer of a service dog shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding one thousand dollars, or both by fine and imprisonment. (Penal Code 365.7).

REMOVAL OF A SERVICE DOG IN TRAINING

1. The _____ or designee may ask any individual who brings a service dog in training to a school property and/or facility and/or school function to remove the service dog in training if any one of the following circumstances occurs:
 - a. The dog is out of control and the animal's handler does not take effective action to control it;
 - b. The dog is not housebroken; and/or
 - c. The dog's presence would pose a "direct threat." Pursuant to 28 CFR 35.104, a direct threat is defined as 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.
2. When a trainer's service dog in training is excluded, he/she shall be given an opportunity to participate in the service, program, or activity without having the service dog in training present. (Education Code 39839; Civil Code 54.2; 28 CFR 35.136).

SERVICE DOG IN TRAINING REQUESTS BY A MEMBER OF THE PUBLIC

All requests for a member of the public to bring a service dog in training to a school property and/or facility and/or school function must be directed to the _____, designee, or school site administrator as appropriate. The _____, designee, or school site administrator shall, in accordance with this policy, confirm that the dog is a service dog in training and shall, upon the request of the trainer, provide the trainer with a copy of this policy.

When practically possible, the member of the public requesting to bring a service dog in training to a school property and/or facility and/or school function is encouraged to make the request in writing 10 business days prior to the date the member of the public plans to bring the service dog in training; however, the trainer cannot be required to provide this advance written notice in order to bring a service dog in training to a school property and/or facility and/or school function. The written notice may be provided to the _____ at:

SERVICE ANIMAL REQUESTS ON BEHALF OF A STUDENT

All requests for a student to bring a service dog in training to a school property and/or facility and/or school function must be made in writing, 10 business days prior to the date the student plans to bring the service dog in training, to the _____ at:

The _____ or designee shall, in accordance with this policy, confirm that the animal is a service dog in training and shall provide the student's parents with a copy of this policy and require the student's parent(s) to acknowledge in writing that the parent(s) has received a copy of the policy, the parent(s) understands the contents of the policy, and the parent(s) agrees to comply with the policy. As part of the approval process, the student's parent(s) must provide proof that the service dog in training has received all required vaccinations. The student's parent(s) shall also be required to provide written documentation supporting that the student is authorized to train a service dog in accordance with Civil Code section 54.2(b).

The _____ or designee shall review and approve or deny requests to bring a service dog in training to school property and/or facility and/or school function on a case-by-case basis.

The _____ or designee shall give such permission to bring a service dog in training to school property and/or facility and/or school function only after he/she has provided written notification to all parents/guardians of students in the affected class(es) and staff in the affected class(es), asking them to verify whether their child or if staff have any known allergies, asthma, or other health condition that may be aggravated by the service dog in training's presence. When an individual has provided notification that his/her child or the staff member has provided notification that he/she has an allergy, asthma, or other health condition that may be aggravated by the service animal, the _____ or designee shall take appropriate measures to protect the student or staff member from exposure to the service dog in training. Allergies and fear of dogs are not valid reasons for denying access or refusing service to individuals training service

dogs. When an individual whose health is aggravated by the service dog in training's presence and an individual with a service dog in training must spend time in the same room or facility (for example, in a school classroom or at a school cafeteria) both individuals should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.

SERVICE ANIMAL TRAINING REQUESTS ON BEHALF OF A STAFF MEMBER

Because staff members are expected to focus on performing the duties associated with their positions with the District and to ensure the safety and security of the school community, staff members may not either voluntarily or for compensation bring a service dog in training to a school property and/or facility and/or school function.

See: BP 6163.2 – Animals at School
AR 6163.20 – Service Animals at School
AR 6163.22 – Non-Service Animals at School
AR 6163.23 – Live Animals in the Classroom for Instructional Purposes

Legal Reference:

EDUCATION CODE

233.5 Instruction in kindness to pets and humane treatment of living creatures
39839 Transportation of guide dogs, signal dogs, service dogs
51202 Instruction in personal and public health and safety
51540 Safe and humane treatment of animals at school

CIVIL CODE

54.1 Access to public places
54.2 Guide, signal, or service dogs, right to accompany

GOVERNMENT CODE

810-996.6 California Tort Claims Act, especially:
815 Liability for injuries generally; immunity of public entity
835 Conditions of liability

VEHICLE CODE

21113 Public grounds

CODE OF REGULATIONS, TITLE 13

1216 Transportation of property

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

794 Rehabilitation Act of 1973, Section 504

CODE OF FEDERAL REGULATIONS, TITLE 28

35.104 Definitions

35.136 Service animals

COURT DECISIONS

Sullivan v. Vallejo City USD, (1990) 731 F.Supp. 947

Management Resources:

FEDERAL REGISTER

Rules and Regulations, September 15, 2010, Vol. 75, Number 178, pages 56164-56236

CSBA PUBLICATIONS

Indoor Air Quality: Governing Board Actions for Creating Healthy School Environments, Policy Brief, July 2008

Asthma Management in the Schools, Policy Brief, March 2008

WEB SITES:

CSBA: <http://www.csba.org>

American Society for the Prevention of Cruelty to Animals: <http://www.asPCA.org>

Humane Society of the United States: <http://www.hsus.org>

U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

Date Adopted: _____

Date Revised: _____

Administrative Regulation

Service Animals At School

AR 6163.20

The _____ acknowledges the District's responsibility to permit students and/or adults with disabilities to be accompanied by a "service animal" on school property and/or facilities and/or at school functions as required by the Americans with Disabilities Act, 28 CFR Part 35, and applicable California law subject to the rules and procedures described in this regulation.

This regulation only applies to members of the public, students, and staff with disabilities who are requesting to be accompanied by a service animal to a District school property and/or facility and/or school function.

SERVICE ANIMAL DEFINED

1. A service animal must be a dog or, in limited specific circumstances, a miniature horse. No other species of animal, whether wild or domestic, will be permitted as a "service animal."
2. **Miniature Horses**: Requests to permit a miniature horse to accompany a student or adult with a disability on school property and/or facilities and/or at school functions will be handled on a case-by-case basis, considering:
 - 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.
3. A service animal must be "required" for the individual with a disability and the service animal must be "individually trained" to do work or a task for the individual with a disability. These tasks may include, but not be limited to, guiding an individual with a disability, alerting individuals with impaired hearing, pulling a wheelchair, or fetching dropped items. The task performed by the service animal must be directly related to the functional limitation of the individual's disability. Service animals are working animals and are not pets.
4. If it is obvious what service the animal provides to the individual with a disability, then staff should not make any further inquiries regarding the tasks performed by the service animal (i.e. a guide dog for an individual with impaired vision). Only limited inquiries are allowed by District staff to determine if a dog is a service animal when it is not

obvious what service the dog provides and staff may ask only the following 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?

Staff cannot ask about the individual's disability, require medical documentation, require a special identification card or training documentation for the service animal, require the service animal to wear an identifying vest, or ask that the service animal demonstrate its ability to perform the work or task.

5. "Therapy," "comfort," or "companion" animals are not service animals and issues regarding these animals are addressed by AR 6163.22 – Non-Service Animals at School.
6. This policy does not address service animals being trained as service animals but not actually performing a task for an individual with a disability. Please refer to AR 6163.21 – Service Animals in Training at School.
7. Any person knowingly and fraudulently representing himself or herself through either verbal or written notice to be the owner or trainer of a service dog shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding one thousand dollars, or both by fine and imprisonment. (Penal Code 365.7).

RESPONSIBILITIES OF INDIVIDUAL WITH A DISABILITY/HANDLER

1. All animals must be treated for, and kept free of, fleas and ticks and other pests.
2. All animals must be kept clean and groomed to avoid shedding and dander.
3. The owner/handler of the animal is liable for any harm or injury caused by the animal to other students, staff, visitors, and/or property. (Civil Code 54.2).
4. All animals must 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 other tether would interfere with the animal's safe, effective performance of work or tasks, in which case the animal must be otherwise under the handler's control.
5. The District is not responsible for the care or supervision of the service animal, such as walking the animal or responding to the animal's need to relieve itself. The owner/handler of the service animal must always carry equipment sufficient to clean up the animal's waste, immediately remove the waste, and be responsible for the proper disposal of the animal's waste.
6. Students with service animals are expected to care for and supervise their 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 student's parents are responsible for providing care and supervision of the animal. Issues related to the care and supervision of service animals will be addressed on a case-by-case basis at the discretion of the _____ or designee.

7. If the request is for a service dog, the person making the request must provide annual proof of the following vaccinations: DHLPPC (Distemper, Hepatitis, Leptospirosis, Parainfluenza, Parvovirus, Coronavirus), Bordetella, and Rabies.
8. All service dogs must be spayed or neutered.
9. If the request is for a service miniature horse, the person making the request must provide annual proof of the following vaccinations: Equine Infectious Anemia (Coggins Test), Rabies, Tetanus, Encephelomyelitis, Rhinoneumonitis, Influenza, and Strangles.

REMOVAL OF A SERVICE ANIMAL

1. The _____ or designee may ask any individual who brings a service animal to a school property and/or facility and/or school function to remove the service animal 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 it;
 - b. The animal is not housebroken; and/or
 - c. The animal's presence would pose a "direct threat." Pursuant to 28 CFR 35.104, a direct threat is defined as 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.
2. When an individual's service animal is excluded, he/she shall be given an opportunity to participate in the service, program, or activity without having the service animal present. (Education Code 39839; Civil Code 54.2; 28 CFR 35.136).

SERVICE ANIMAL REQUESTS BY A MEMBER OF THE PUBLIC

All requests for a member of the public to bring a service animal to a school property and/or facility and/or school function must be directed to the _____, designee, or school site administrator as appropriate. The _____, designee, or school site administrator shall, in accordance with this policy, confirm that the animal is a service animal and shall, upon the request of the individual, provide the individual with a copy of this policy.

When practically possible, the member of the public requesting to bring a service animal to a school property and/or facility and/or school function is encouraged to make the request in writing 10 business days prior to the date the member of the public plans to bring the service animal; however, the individual cannot be required to provide this advance written notice in

order to bring a service animal to a school property and/or facility and/or school function. The written notice may be provided to the _____ at:

SERVICE ANIMAL REQUESTS ON BEHALF OF A STUDENT

All requests for a student to bring a service animal to a school property and/or facility and/or school function must be made in writing, 10 business days prior to the date the student plans to bring the service animal, to the _____ at:

The _____ or designee shall, in accordance with this policy, confirm that the animal is a service animal and shall provide the student's parents with a copy of this policy and require the student's parent(s) to acknowledge in writing that the parent(s) has received a copy of the policy, the parent(s) understands the contents of the policy, and the parent(s) agrees to comply with the policy. As part of the approval process, the student's parent(s) must provide proof that the service animal has received all required vaccinations.

The _____ or designee shall review and approve or deny requests to bring a service animal to school property and/or facility and/or school function on a case-by-case basis.

The _____ or designee shall give such permission to bring a service animal to school property and/or facility and/or school function only after he/she has provided written notification to all parents/guardians of students in the affected class(es) and staff in the affected class(es), asking them to verify whether their child or if they have any known allergies, asthma, or other health condition that may be aggravated by the service animal's presence. When an individual has provided notification that his/her child or the staff member has provided notification that he/she has an allergy, asthma, or other health condition that may be aggravated by the service animal, the _____ or designee shall take appropriate measures to protect the student or staff member from exposure to the service animal. Allergies and fear of dogs are not valid reasons for denying access or refusing service to individuals using service animals. When an individual whose health is aggravated by the service animal's presence and an individual who uses a service animal must spend time in the same room or facility, for example, in a school classroom or at a school cafeteria, both individuals should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.

SERVICE ANIMAL REQUESTS ON BEHALF OF A STAFF MEMBER

All requests for a staff member to bring a service animal to a school property and/or facility and/or school function must be made in writing, 10 business days prior to the date the staff member plans to bring the service animal, to _____ , at:

The _____, or designee shall, in accordance with this policy, confirm that the animal is a service animal and shall provide the staff member with a copy of this policy and require the staff member to acknowledge in writing that he/she has received a copy of the policy, he/she understand the contents of the policy, and he/she agree to comply with the policy. As part of the approval process, the staff member must provide proof that the service animal has received all required vaccinations.

The _____, or designee shall review and approve or deny requests to bring a service animal by a staff member to school property and/or facility and/or school function on a case-by-case basis. This approval process shall include a meeting with the _____, or designee, the staff member, and if requested by the staff member, a representative from the staff member's bargaining unit and other individuals deemed appropriate by the District. The purpose of the meeting will be to address any questions or concerns regarding the approval process that either the District and/or staff member may have.

The _____, or designee shall give such permission to bring a service animal to school property and/or facility and/or school function only after he/she has provided written notification to all parents/guardians of students in the affected class(es) and staff in the affected class(es), asking them to verify whether their child or if staff have any known allergies, asthma, or other health condition that may be aggravated by the service animal's presence. When an individual has provided notification that his/her child or the staff member has provided notification that he/she has an allergy, asthma, or other health condition that may be aggravated by the service animal, the _____, or designee shall take appropriate measures to protect the student or staff member from exposure to the service animal. Allergies and fear of dogs are not valid reasons for denying access or refusing service to individuals using service animals. When an individual whose health is aggravated by the service animal's presence and an individual who uses a service animal must spend time in the same room or facility (for example, in a school classroom or at a school cafeteria) both individuals should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.

All requests for permission for an employee with a disability to bring a service animal or assistive animal, as defined in Title 2 of the California Code of Regulations section 7293.6(a), into the workplace as a reasonable accommodation will be addressed through the Interactive Process as described in AR _____[CSBA model sample – is numbered AR 4032].

See: BP 6163.2 – Animals at School
AR 6163.21 – Service Animals in Training at School
AR 6163.22 – Non-Service Animals at School
AR 6163.23 – Live Animals in the Classroom for Instructional Purposes
AR _____ - Reasonable Accommodations

Legal Reference:

EDUCATION CODE

- 233.5 Instruction in kindness to pets and humane treatment of living creatures
- 39839 Transportation of guide dogs, signal dogs, service dogs
- 51202 Instruction in personal and public health and safety
- 51540 Safe and humane treatment of animals at school

CIVIL CODE

- 54.1 Access to public places
- 54.2 Guide, signal, or service dogs, right to accompany

GOVERNMENT CODE

- 810-996.6 California Tort Claims Act, especially:
- 815 Liability for injuries generally; immunity of public entity
- 835 Conditions of liability

VEHICLE CODE

- 21113 Public grounds

CODE OF REGULATIONS, TITLE 13

- 1216 Transportation of property

UNITED STATES CODE, TITLE 20

- 1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

- 794 Rehabilitation Act of 1973, Section 504

CODE OF FEDERAL REGULATIONS, TITLE 28

- 35.104 Definitions
- 35.136 Service animals

COURT DECISIONS

- Sullivan v. Vallejo City USD, (1990) 731 F.Supp. 947

Management Resources:

FEDERAL REGISTER

- Rules and Regulations, September 15, 2010, Vol. 75, Number 178, pages 56164-56236

CSBA PUBLICATIONS

- Indoor Air Quality: Governing Board Actions for Creating Healthy School Environments, Policy Brief, July 2008
- Asthma Management in the Schools, Policy Brief, March 2008

WEB SITES:

CSBA: <http://www.csba.org>

American Society for the Prevention of Cruelty to Animals: <http://www.asPCA.org>

Humane Society of the United States: <http://www.hsus.org>

U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

Date Adopted: _____

Date Revised: _____