

Bastrop Independent School District

Administrative Regulations

Requests for the Use of Service Animals by Enrolled Students, Under the ADA Section 504

I. PURPOSE

The purpose of these procedures is to establish guidelines for the use of service animals by students in the Bastrop Independent School District, including school buildings, vehicles and other property. These procedures will be used to assist Bastrop ISD personnel in handling requests for service animals, including directing parents' requests to the proper individuals within Bastrop ISD, and advising parents of their rights under the relevant laws.

II. FEDERAL LAWS CONCERNING SERVICE ANIMALS IN SCHOOLS

Individuals with Disabilities in Education Act

Under the Individuals with Disabilities in Education Act ("IDEA"), eligible students are entitled to a free, appropriate public education ("FAPE"). The parent may request that an ARD committee consider whether or not the use of a service animal is necessary in order for the student to receive a FAPE. If the ARD Committee determines that the student can be provided FAPE without the use of the animal, the animal does not become a related service or support under a student's IEP.

Americans with Disabilities Act and Section 504 of the Rehabilitation Act

Under the Americans with Disabilities Act ("ADA") and Section 504 of the Rehabilitation Act (Section 504), schools are generally required to allow a disabled individual to be accompanied by a service animal, so long as the animal meets the ADA definition of "service animal," the animal is under the control of its handler, is housebroken, and does not pose a direct threat to the health and/or safety of others. Exclusion of an animal could be discrimination based on disability. The ADA requires public entities to appoint a person to handle claims of disability discrimination, the Section 504 Coordinator (See Board Policy FB and FFH). Additionally, the §504 committee should convene to apply the ADA guidelines and determine if additional accommodations are needed for access or for an equal educational opportunity.

For students who are eligible under §504 and have a §504 accommodation plan, a §504 committee should convene to review the plan to ensure the child continues to have equal educational opportunity and to consider reasonable accommodations. Additionally, the §504 committee should convene to apply the ADA guidelines and determine if additional accommodations are needed for access or for an equal educational opportunity.

III. DEFINITION OF SERVICE ANIMAL AND RELATED PROVISIONS

Service animals are defined by the ADA as any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. The work or tasks performed must be directly related to the individual's disability. The crime deterrent effects of an

Bastrop Independent School District

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. 28 C.F.R. §35.104. A service animal is not a pet.

Animals that do no work or perform tasks for the benefit of an individual with a disability are not permitted on campus. The School District permits service animals, as defined by the ADA, on campus and in its public facilities, subject to the following conditions:

- (1) The service animal must be under the control of the individual with a disability at all times. The school district may ask the individual to remove a service animal from the premises if the animal is out of control and the individual does not take effective action to control it. 28 C.F.R. §35.106(b).
- (2) The individual, not the School District, is responsible for the care, supervision and handling of the service animal. 28 C.F.R. §35.136(e).
- (3) The service animal shall have a harness leash, or other tether unless either: (a) the individual is unable because of a disability to use a harness, leash, or other tether; or (b) the use of the device would interfere with the service animal's safe, effective performance of work or tasks. In such circumstances, the service animal must be under the individual's control through another effective means such as voice control or signals. 28 C.F.R. §35.136(d).
- (4) The service animal must be housebroken. 28 C.F.R. §35.136(b)(2). The service animal must be walked, exercised, and allowed to eliminate waste only in designated areas. The individual is responsible for cleaning up after the animal.
- (5) The individual, not the School District, is responsible for any damage done by the animal and for the upkeep and cleanliness of any area traversed or occupied by the animal. Texas Human Resources Code Section 121.005.
- (6) The School District may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. 28 C.F.R. §35.136(f). If the animal does not perform work or tasks directly related to the individual's disability, the School District may instruct the individual to remove the animal from the premises. 28 C.F.R. §35.104.
- (7) The School District may ask the individual to remove the animal if the animal poses a direct threat to the health or safety of others. 28 C.F.R. §35.139.

Bastrop Independent School District

- (8) The School District may ask the individual to remove the animal if the animal's presence or behavior fundamentally alters the nature of the School District's service, program, or activity. 28 C.F.R. §35.130(b)(7).
- (9) The individual must provide annual proof in writing of the following vaccinations: DHLPPC (distemper, hepatitis, leptospirosis, parainfluenza, parvovirus, coronavirus), bordetella, and rabies and any other vaccinations required by the law in the State of Texas.
- (10) Special provisions regarding miniature horses: requests to permit a miniature horse to accompany an individual with a disability in school buildings, classrooms, or at school functions will be handled on a case by case basis considering the type, size and weight of the horse and whether the facility can accommodate these features; whether the individual has sufficient control of the miniature horse; whether the miniature horse is housebroken; and whether the presence of the miniature horse in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

IV. PROCEDURES/REQUIREMENTS

Use of service animals by a student with a disability is subject to the following procedures and requirements:

A. Parents/Adult students must submit a request (See Attachment 1) for the use of service animals to the Director of Special Education or Section 504 Coordinator. Such requests must identify and describe the need for the service animal as it relates to the student's disability and describe what work or task the animal has been trained to perform. The student's ARD committee will determine if the animal is necessary for FAPE. If it is determined that that animal is necessary for FAPE, the student will be allowed to use the animal.

If it is determined that the animal is not necessary for FAPE, then §504/ADA procedures are implicated. The §504 Coordinator or committee, as appropriate, will determine if the animal meets the definition of service animal under the ADA. If the animal meets the definition of service animal and there are no grounds to remove the animal, the student will be allowed to use the animal on campus.

B. Requests for the use of service animals on School District property must, whenever possible, be made no less than three (3) weeks prior to the proposed use of the service animal.

C. Under the Americans with Disabilities Act, a service animal may be excluded if: 1) it is out of the handler's control and the handler cannot take effective steps to control the animal; 2) the animal is not housebroken; 3) the animal poses a direct threat to the health or safety of others;

Bastrop Independent School District

or 4) the animal's presence or behavior fundamentally alters the nature of the School District's service, program, or activity.

D. It is the responsibility of the student who uses a service animal pursuant to this procedure to provide proper handling of the service animal. The service animal must be under the control of the handler at all times. The school district is not responsible for the care or supervision of the animal. Any cost incurred to handle the service animal will be the responsibility of the adult student or parent of the student who uses the service animal. The school nurse will be consulted by school administration regarding any known allergies among the school population. Any measures needed to minimize contact between any allergic students and the service animal will be identified by the school administration and followed by the handler.

E. The service animal shall have a harness, leash, or other tether unless either: (a) the handler is unable because of a disability to use a harness, leash, or other tether; or (b) the use of such device would interfere with the service animal's safe, effective performance of work or tasks. In such circumstances, the service animal must be under the handler's control through another effective means such as voice control or signals. The handler will be responsible for ensuring the service animal is provided any food and water needed by the animal and regular outside time to relieve itself in a designated place, including proper disposal of waste. It is the handler's responsibility to inform others that the animal is a service animal and should not be petted, bothered, harassed or fed.

F. The adult student or the student's parents/guardians, are liable for any damage to school or personal property and any injuries to individuals caused by the service animal.

G. The District may, at its discretion, require that the student/parent requesting the use of a service animal complete the steps of this procedure, as often as reasonable so that the District may ensure the safety of patrons and the continued need for the service animal to the student.

H. Bastrop Independent School District follows all applicable laws and regulations to protect the health and safety of the students and employees of Bastrop ISD. Texas law pertaining to the treatment of animals shall apply. *See* Tex. Penal Code Chapter 42 and Tex. Human Res. Code Chapter 121.

V. COMPLAINT PROCEDURES

Bastrop Independent School District provides training to staff to ensure compliance with the ADA and Section 504 regarding requests for service animals. Any individual who believes that he/she is being denied access to buildings or programs, or discriminated against based on disability, should immediately inform the 504 Coordinator.

Bastrop Independent School District

For additional information regarding filing complaints about any issue related to the request for a service animal, please refer to the following:

Type of Complaint	Where to File	Board Policy
Reports of discrimination based on disability	File report with ADA/Section 504 Coordinator: Steve Murray, Superintendent or Tessie Young, Director of Elementary Instruction, 906 Farm Street, Bastrop, TX 78602 (512) 321-2292	FB and FFH
Complaint about Section 504 program or plan.	Contact Section 504 Coordinator: Steve Murray, Superintendent or Tessie Young, Director of Elementary Instruction, 906 Farm Street, Bastrop, TX 78602 (512) 321-2292 for an impartial hearing.	FB
Complaint about identification, evaluation, placement, or provisions of a free, appropriate public education (FAPE) under IDEA.	Contact Special Education Director Sherri Gilmore at 512-321-4488. Parents may also file a complaint or a request for due process hearing with TEA.	EHBAE
Complaints other than discrimination, 504, or IDEA.	File a Level One Complaint with the Administrator, Superintendent or designee.	FNG
<i>A parent or student may contact the Department of Education Office for Civil Rights at any time if they believe they have been discriminated against based on disability.</i>		FFH

Bastrop ISD does not discriminate against students on the basis of race, sex, national origin, disability, religion, color or ethnicity.

Bastrop Independent School District

Attachment 1

SERVICE ANIMAL DOCUMENTATION FORM

Student handler of animal: _____

Name of School/Facility: _____

Type of Service Animal: ___ Dog ___ Other: _____

Name of Animal: _____

Documentation attached that the Service Animal is:

___ Properly trained and licensed, if applicable (**NOT REQUIRED**)

___ Properly and currently vaccinated

___ Current certifications of training, if applicable (**NOT REQUIRED**)

___ Letter from physician is attached, if available (**NOT REQUIRED**)

I have read and understand the School District’s Service Animals procedure. I will abide by the terms of these procedures. I understand that if my Service Animal is: out of control and/or the animal’s handler does not effectively control the animal’s behavior; not housebroken or the animal’s presence or behavior fundamentally interferes in the functions of the School District; or, poses a direct threat to the health or safety of others that cannot be eliminated by reasonable modifications, the School District has the discretion to exclude or remove my Service Animal from its property. I agree to be responsible for any and all damage to School District property, personal property, and any injuries to individuals caused by my Service Animal.

OWNER APPROVAL

Signature: Parent/Adult Student

Date

Signature: Director of Special Education

Date

Note: This Service Animal Documentation Form is valid until the end of the current school year. It must be renewed prior to the start of each subsequent school year or whenever a different Service Animal will be used.