

Las Cruces Public Schools - Procedures For Service Animals for Students

Administrative Procedures

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 Las Cruces Public Schools, including school buildings, vehicles and other property. These procedures will be used to assist LCPS personnel in handling requests for service animals, including directing parents' requests to the proper individuals within LCPS, 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 IEP Team consider whether or not the use of a service animal is necessary in order for the student to receive a FAPE. If the IEP Team 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* 34 C.F.R. 300.104(7)(a); 28 C.F.R. 35.107(a); *See* LCPS Board Policy JBB and Regulation JBB-RA. Additionally, the Section 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 Section 504 and have a Section 504 accommodation plan, a Section 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 Section 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

Service animals are defined by the ADA as any dog or miniature horse 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 work or tasks performed must be directly related to the individual's disability. 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. 28 C.F.R. §35.104. A service animal is not a pet. New Mexico regulations contain the following definitions:

- A. “emotional support animal”, “comfort animal” or “therapy animal” means an animal selected to accompany an individual with a disability that does not work or perform tasks for the benefit of an individual with a disability and does not accompany at all times an individual with a disability;
- B. “qualified service animal” means any qualified service dog or qualified service miniature horse that has been or is being trained to provide assistance to an individual with a disability; but “qualified service animal” does not include a pet, an emotional support animal, a comfort animal or a therapy animal;
- C. “qualified service dog” means a dog that has been trained or is being trained to work or perform tasks for the benefit of an individual with a disability who has a physical or mental impairment that substantially limits one or more major life activities; and
- D. “qualified service miniature horse” means a miniature horse that has been trained or is being trained to work or perform tasks for the benefit of an individual with a disability who has a physical or mental impairment that substantially limits one or more major life activities.

NMSA 1978 § 28-11-2.

*LCPS does not allow emotional support animals, comfort animals or therapy animals.

IV. PROCEDURES/REQUIREMENTS for Students

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

- A. Application for Use of Service Animal - Parents/Adult students must submit a request (See Attachment 1 and Attachment 2) for the use of service animals to the Section 504 Coordinator. Requests for the use of service animals on School District property must, whenever possible, be made no less than fifteen (15) business days prior to the proposed use of the service animal. The animal may be required to demonstrate that it is a trained service animal by performing the functions identified by the owner/user that are intended to mitigate the impact of a disability.
- B. Determination of Whether Animal is a Service Animal - Applications for use of Service Animal will be reviewed by the Section 504 Coordinator. The Section 504 Coordinator 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. All applications for use of the service animal on School District property will be considered on a case-by-case basis. Subject to the IDEA and Section 504, approval of the use of the service animal is subject to periodic review, revision, or revocation by the District. At a minimum, the request for a service animal will be reviewed annually. The request for use of the service animal must be renewed annually, prior to the start of each subsequent school year. In addition, the request must be renewed whenever the student changes schools or when the student desires to use a different service animal.

- C. Service animals necessary for FAPE - If the student is eligible for special education services under the IDEA, the student's IEP Team will determine if the animal is necessary for FAPE. The use of a service animal is a methodology. If the student's needs can be met by a method other than the use of a service animal, such as with assistive technology or adult support, the service animal is not necessary for FAPE. The need for a service animal is subject to periodic review and revision by the IEP Team. At a minimum, the student's IEP and the need for a service animal will be reviewed annually. A service animal will not be included as part of a student's IEP unless the IEP Team determines the animal is necessary for a FAPE.
- D. Agreement for Use of Service Animal - If the animal meets the definition of a service animal, the parent must sign and return the Agreement for Use of the Service Animal prior to the service animal being introduced into the schools setting. The LCPS requests, but does not require, that Service Animals wear an orange collar and a leash or a vest at all times that identifies it as a service animal to students and staff.
- E. Exclusion of Service Animal – 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; or 4) the animal's presence or behavior fundamentally alters the nature of the School District's service, program, or activity.
- F. Responsibility for Service Animal
1. 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.
 2. 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. Any food provided at the school must be contained in sealable containers. The service animal will not be allowed on school furnishings unless it is required for performance of its work or task. 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.
 3. 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. The District and its employees shall be held harmless in the event that the animal damages property or causes harm to any individual.

- 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. Prior to the introduction of the service animal into the school, relevant campus staff will create a plan with the student and the student's parent to integrate an approved service animal into the classroom and school environment and to meet the animal's basic needs during the school day. The plan will consider appropriate training for school staff, emergency evacuation and disaster response, and any other activities or conditions appropriate for the learning environment.
- I. To the extent that use of a service animal is not a related service addressed in an IEP or Section 504 plan, an integration plan does not constitute a service or accommodation under the IDEA or Section 504.
- J. The introduction of a service animal into the school setting may result in medical issues among other students and/or employees. Should such issues arise, the District will resolve those issues by considering the needs of all persons involved. The student's schedule may be altered or other appropriate action taken in order to accommodate the document needs of all students and staff on the campus.
- K. Las Cruces Public Schools follows all applicable laws and regulations to protect the health and safety of the students and employees of LCPS. New Mexico law pertaining to the treatment of animals shall apply. See NMSA 1978 § 30-18-1.
- L. By allowing a service animal on District facilities, the District does not waive any immunity under the Torts Claim Act, NMSA 1978 §41-4-6.

V. COMPLAINT PROCEDURES

Las Cruces Public Schools 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 Section 504 Coordinator at 575-527-6628 or 5802. Any disputes or complaints by any person involving service animals should be made in writing to the Section 504 Coordinator. Some disputes may be subject to the grievance procedures outlined by School Board Policy and/or in the Student Handbook.

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

District Section 504 Coordinator

Contact Phone Number: 575-527-5851 or 5802

Facsimile: 575-527-6681

Service Animal Procedure Checklist

Internal Procedure Checklist

- Attachment 1 and Attachment 2 (optional) Submitted to _____ (Campus) on _____ (Date)
- Attachment 1 reviewed by Campus Principal
- Attachment 1 and 2 reviewed by Section 504 Coordinator or Designee
- Attachment 1 and Attachment 2 (if applicable) Reviewed by IEP Team
- IEP Team Decision (Check appropriate line below based on IEP Team decision.)
 - Service Animal is Required for FAPE _____
 - Service Animal is Not required for FAPE _____
- Final Approval must be given by Section 504 Coordinator if not required for FAPE
 - Section 504 Coordinator (Name) _____ (Date) _____

Forward Approval to:

- Campus Administrator (Name) _____ (Date) _____
- School Nurse (Name) _____ (Date) _____
- Campus SAT/504 Chairperson (Name) _____ (Date) _____

- Campus Administration will create a plan for the integration of approved service animal. Complete the following Attachments.

Reference:

- Attachment 1: Service Animal Documentation Form (Page 6)
- Attachment 2: Consent for Release of Medical Information (Page 7)
- Attachment 3: Agreement for Use of Service Animal (Page 8)

Campus SAT/504 Chairperson Signature

Campus Principal Signature

ATTACHMENT 1

SERVICE ANIMAL DOCUMENTATION FORM

Student handler of animal: _____ Name of School/Facility: _____

Type of Service Animal: _____ Breed: _____

Name of Animal: _____ School Year _____

Documentation attached that the Service Animal is: (Check all that apply.)

- _____ Properly and currently vaccinated (current vaccination documents required)
- _____ Properly trained and licensed, if applicable (NOT REQUIRED)
- _____ Current certifications of training, if applicable (NOT REQUIRED)
- _____ Letter from physician is attached, if available (NOT REQUIRED)
- _____ Consent to speak to physician, if available (NOT REQUIRED)

Please respond to the following questions:

1. Is the service animal required because of a disability?

2. What work or tasks has the animal been trained to perform? *(Please attach additional sheets if necessary)*

Signature: Parent/Adult Student

Date

Printed Name of Parent/Adult Student

ATTACHMENT 2

DATE:

CONSENT FOR RELEASE OF MEDICAL INFORMATION

I, _____ do / do not **(Please circle selection.)** consent to the exchange of written and verbal information between the following medical providers and LCPS regarding my child.

Child's Name: _____

Date of Birth: _____

Provider Name: _____

Provider Name: _____

Phone Number: _____

Phone Number: _____

Address: _____

Address: _____

Please initial next to each statement below to indicate your understanding and agreement with the following statements:

_____ I give consent for the provider(s) named above to exchange written and/or verbal information regarding my child with Las Cruces Public Schools at the following address.

_____ I understand that my consent is voluntary and may be revoked at any time by providing written notice to all of the parties listed above, including LCPS. However, my revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

Please submit documents to: _____

ATTN: _____

Signature: Parent/Adult Student

Date

Printed Name of Parent/Adult Student

ATTACHMENT 3

AGREEMENT FOR USE OF SERVICE ANIMAL

I have read and understand the LCPS's Service Animals procedures. I acknowledge that I have received a copy of these procedures, and agree that I will abide by the terms of these procedures. I understand that LCPS has the discretion to exclude or remove my Service Animal if it 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,
- Posing a direct threat to the health or safety of others that cannot be eliminated by reasonable modifications.

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: Campus SAT/504 Chairperson

Date

Signature: Principal

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, whenever the student changes schools, or whenever a different Service Animal will be used. (This form is to be provided only after a determination of eligibility is approved.)