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# Merit College Preparatory Academy Policies and Procedures

Section: Students

Policy Title: Service Animals

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### 1. PUPRPOSE AND PHILOSOPHY

**1.1** Merit College Preparatory Academy acknowledges the legal rights of students and/or adults with disabilities to be accompanied by a “service animal” in its facilities; on its property; at school functions, events and activities; as required by the Americans with Disabilities Act (ADA) 28 C.F.R. Part 35. Merit College Preparatory Academy shall comply with state and federal laws concerning the rights of persons with service animals.

### 2. DEFINITIONS

**2.1** The term “**service animal**” means any dog or miniature horse that is individually trained to do work or perform specific tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The service animal must perform work or specific tasks directly related to the individual’s disability, including:

**2.1.1** Assisting an individual who is blind or has low vision with navigation or other tasks;

**2.1.2** Alerting an individual who is deaf or hard of hearing to the presence of people or sounds;

**2.1.3** Providing non-violent protection or rescue work;

**2.1.4** Pulling a wheelchair;

**2.1.5** Assisting an individual during a seizure;

**2.1.6** Alerting an individual to the presence of an allergen;

**2.1.7** Retrieving an item for the individual;

**2.1.8** Providing physical support and assistance with balance and stability to an individual with a mobility disability; and/or

**2.1.9** Helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors.

**2.2** A “**service animal**” does not include:

**2.2.1** Other species of animals, wild or domestic, trained or untrained; or

**2.2.2** An animal used solely to provide: (a) a crime deterrent; (b) emotional support; (c) well-being; (d) comfort; or (e) companionship

**2.3** The term “**perform work or specific tasks**” means that the service animal is trained to respond to the needs of an individual with a disability in order to alleviate the disability. The process must have two steps: (a) recognition; (b) response. For example, if a service animal senses that an individual is about to have a psychiatric episode and from its training responds by nudging, barking or removing the individual to a safe location until the episode subsides, then the animal has indeed performed a task or done work in behalf of the individual with the disability, as opposed to merely sensing an event.

### **3 GENERAL STANDARDS**

**3.1** In general, Merit College Preparatory Academy shall permit the use of a service animal on its premises by an individual with a disability.

**3.2** Merit College Preparatory Academy shall not ask about the nature or extent of a person’s disability, but may make the following inquiries to determine whether an animal qualifies as a service animal. These inquiries may not be made if it is readily apparent that the animal is trained to do work or perform tasks for an individual with a disability (e.g. the dog is observed guiding an individual who is blind).

**3.2.1** Merit College Preparatory Academy may ask if the animal is required because of a disability.

**3.2.2** Merit College Preparatory Academy may ask what work or task the animal has been trained to perform.

**3.2.3** Merit College Preparatory Academy shall not require documentation, such as proof that the animal has been certified, trained or licensed as a service animal.

**3.3** Merit College Preparatory Academy may exclude a service animal or ask an individual with a disability to remove the animal from the premises if:

**3.3.1** The animal is out of control and the animal’s handler does not take effective action to control it;

**3.3.2** The animal is not house broken; and/or

**3.3.3** The presence of the animal constitutes a “fundamental alteration” in the nature of the school’s service, program or activity.

**3.4** In determining whether to exclude/remove a service animal, the Director of Special Education, or the designee, may consider the service animal’s:

**3.4.1** Interference with the educational program of any student

**3.4.2** Urination or defecation in inappropriate locations.

**3.4.3** Unnecessary vocalization (e.g. barking, growling, whining outside of specific task or work do has been trained to perform).

**3.4.4** Demonstration of aggression towards people or other animals.

**3.4.5** Solicitation of attention, spontaneously (without command or direction) approaching other students or school personnel.

**3.4.6** Solicitation or taking of food or other items from students or school personnel.

**3.4.7** Cleanliness, grooming and odor.

**3.5** If the Director of Special Education, or the designee, determines a service animal should be excluded/removed from school premises, the animal shall be removed immediately. It shall be left to the discretion of the Director of Special Education, or the designee, to determine if the removal be temporary or permanent.

**3.6** If any student or staff member suffers a severe allergic reaction, has a severe asthmatic reaction or suffers from extreme fear to the service animal, the Director of Special Education, or the designee, shall work with the parties involved to resolve the conflicting interests. If no

resolution can be found for such conflicting interests, the Director of Special Education, or the designee, in his/her discretion, may determine that the presence of the service animal constitutes a “fundamental alteration” in the nature of the school’s service, program or activity.

- 3.7** Animals that are trained to provide aggressive protection (e.g. trained to bite, aggressively vocalize or lunge at others) can be excluded for the safety of other students, staff and guests. However, breeds of dog that are perceived to be aggressive because of breed reputation or stereotype cannot be excluded from school district premises except as per any one of the exceptions listed in Section 3.3 above.
- 3.8** If an individual has a legitimate complaint or concerns regarding a service animal, he/she should inform the Director of Special Education, or the designee, in writing (e.g. letter or email).
- 3.9** If Merit College Preparatory Academy properly excludes/removes a service animal, it must give the individual with a disability the opportunity to participate in the service, program or activity without having the service animal on the premises.
- 3.10** A service animal shall be under the control of its handler by a harness, leash or other tether, unless either: (a) the handler is unable because of a disabling condition to use a harness, leash, or other tether; or (b) the use of a harness, leash, or other tether would interfere with the service animal’s safe, effective performance of work or tasks. If one of the exceptions mentioned occurs, the service animal must be otherwise be under the handler’s control through voice controls, signals, or other effective means.
- 3.11** For the protection and safety of its students, Merit Academy may require a criminal background check on any service handler who is not the student pursuant to Merit College Preparatory Academy’s Employment Background Check Policy.
- 3.12** Merit College Preparatory Academy is not responsible for the care or supervision of a service animal. The service animal’s handler is responsible for feeding, exercising and cleaning up after the animal.
- 3.13** Merit College Preparatory Academy may charge an individual with a disability for any damage to school property caused by his or her service animal.
- 3.14** To ensure the safety and health of individuals on the school premise, a service animal’s handler should not solicit others to physically contact the animal.
- 3.15** All individuals who have physical contact with the service animal are encouraged to wash his or her hands often.
- 3.16** An individual accompanied by a service animal is encouraged to identify the animal by exhibiting one or more of the following:
  - 3.16.1** the animal’s laminated identification card;
  - 3.16.2** the animal’s service vest; or
  - 3.16.3** another form of identification.
- 3.17** Individuals with disabilities shall be permitted to be accompanied by their service animal on all of Merit College Preparatory Academy’s premises and vehicles where students (members of the public) participate in services, programs or activities. Public invitees, as relevant, are allowed to go or attend accompanied by their service animal with the same protection.
- 3.18** While an individual with a disability may be charged for his or her own admission to events, Merit College Preparatory Academy shall not ask or require an individual with a disability to pay a fee or surcharge for a service animal to attend activities or events which are fee charged.
- 3.19** All service animals must be kept clean and groomed to avoid shedding, dander, and unpleasant odor. All service animals must be treated for, and kept free of, fleas and ticks. All service dogs must be spayed or neutered.
- 3.20** Merit College Preparatory Academy shall permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or

perform specific tasks for the benefit of an individual with a disability. Requests to permit a miniature horse to accompany an individual with a disability in school buildings; in classrooms, at school functions, activities or events; and/or in connection with transportation services shall be handled on a case-by-case basis. Merit College Preparatory Academy shall consider:

**3.20.1** The type, size and weight of the miniature horse and whether the facility can accommodate these features;

**3.20.2** Whether the handler has sufficient control of the miniature horse;

**3.20.3** Whether the miniature horse is housebroken; and

**3.20.4** Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

**3.21** Merit College Preparatory Academy may exclude the miniature horse if its larger size and lower level of flexibility results in a fundamental alteration to the nature of the services provided. The standards applying to service animals described in the Section 3 shall also apply to miniature horses.

**3.22** If an individual wishes to appeal a decision to remove/exclude a service animal, the dispute resolution procedures described in Utah State Board of Education – Special Education Services Dispute Resolution Policy Manual shall apply.

**3.23** If a student is eligible for Special Education services and claims a deprivation of a Free and Appropriate Public Education (FAPE) caused by the exclusion/removal of a service animal, then the dispute resolution procedures described in Merit Academy's Special Education Policy and Procedures Manual shall apply.

**3.24** If a student is eligible for Section 504 services and claims a deprivation of FAPE caused by the exclusion/removal of a service animal, then the dispute resolution procedures described in Merit College Preparatory Academy's Section 504 Policy and Procedures Manual shall apply.

#### **4 PROCEDURES TO REQUEST ACCOMPANIMENT BY A SERVICE ANIMAL**

**4.1** All requests for an individual with a disability to be accompanied by a service animal must be addressed in writing to the Director of Special Education at 1440 W Center St. Springville, UT 84663, and must contain required documentation of vaccinations. This written request must be delivered to the Director of Special Education at least ten (10) school days prior to bringing the service animal on school premises.

**4.1.1** Merit College Preparatory Academy may require a meeting between the Director of Special Education, or the designee, and the individual with a disability requesting accompaniment by a service animal to: (a) determine if the animal complies with this policy; and (b) discuss any necessary accommodations.

**4.1.2** The Director of Special Education, or the designee, shall be responsible for developing procedures to accommodate a student's use of a service animal on school premises and on school transportation. Such accommodations may include, but are not limited to: (a) helping resolve conflicting interests between individuals accompanied by a service animal and individuals with severe allergies, severe asthma or extreme fear of service animals; (b) reviewing emergency evacuation plans; (c) reviewing fire drill plans/participation; (d) ensuring an alternative accommodation/plan is in place if the service animal's primary handler (if not the student) or the service animal is not able to accompany the disabled child to school due to illness, injury or death; (e) providing opportunities to education others on how to behave appropriately around the service animal; and (f) designing a rest place for the service animal.

**4.1.3** Merit College Preparatory Academy may require a person who will have custody and control of the service animal to sign a document stating that they have read and understood this policy.

**4.2** To ensure that the service animal does not pose a health or safety threat to any student, personnel or other persons:

**4.2.1** Owners of a service dog must provide annual documentation of the following vaccinations: DHLPPC (Distemper, Hepatitis, Leptospirosis, Parainfluenza, Parovirus, and Coronavirus), Bordetella, and Rabies.

**4.2.2** Owners of a service miniature horse must provide annual documentation of the following vaccinations: Equine Infections Anemia (Coggins Test), Rabies, Tetanus, Encephelomyelitis, Rhinoneumonitis, Influenza, and Strangles.

**References:**

American with Disabilities Act, 28 C.F.R. 35.104

American with Disabilities Act, 28 C. F. R. 35.130

American with Disabilities Act, 28 C. F. R. 35.136

American with Disabilities Act, 75 F. R. 56164

USBE-SES, Service Animals in Schools: Legal Requirements and Technical Assistance (February, 2017)

USBE-SES, Dispute Resolution Manual (August, 2011)

Merit College Preparatory Academy, Special Education Policy and Procedures Manual (October, 2017)