



AGENDA
BHSU Staff Senate

Monday, October 19, 2020 – 10 AM
Zoom meeting the third Monday of each month

Zoom Meeting Details:

<https://bhsu.zoom.us/j/93482273114?pwd=ejFQS1NZSEJNRFB0Y2hlM3lQeDZqZz09>

Meeting ID: 934 8227 3114

Password: 860033

1. Call To Order
2. Approval of Minutes of September 21, 2020
3. Treasurer Report – William Kelly
4. Policy Review – Comments
 - 1:3 [Printing Services](#)
 - 3:3 Service Animals and Emotional Support Animals (attached)
 - 4:3 [Equal Opportunity, Non-Discrimination, and Affirmative Action](#)
 - 4:6 [Student Employment](#)
 - 4:7 [Title IX & Sexual Harassment](#)
 - 4:11 [Time & Leave Reporting](#)
 - 4:14 [Employees Seeking and Holding Elective Political Offices](#)
 - 4:15 [Delegation of Authority in Employment Actions](#)
 - 6:9 [Department Inventory Deletion](#)
 - 6:10 [Recycling](#)
 - 9:1 [Notification that a Student is Missing](#)
 - 9:2 [Dangerous Weapons and Firearms](#)
 - 9:3 [Freedom of Speech and Use of Institutional Facilities and Grounds for Expression & Demonstration](#)
 - 9:4 [Cameras used for Safety and Security](#)
5. Title IX Training
6. Staff Member Issue – state employee reduced tuition rate for online courses
7. Summer School Town Hall
8. Committee Reports
9. Announcements

BLACK HILLS STATE UNIVERSITY
Policy and Procedures Manual

SUBJECT: Service Animals and Emotional Support Animals
NUMBER: 3:3

Office: Office of Enrollment Management

Source: [US Department of Justice ADA Regulations; Rehabilitation Act of 1973, Section 504; SDCL Chapter 20-13; 20-13-1](#). Definitions. [definition of service animal in-training #17]; [20-13-23.2](#). Disability--Service Animal--Liability--Violation as misdemeanor; [43-32-36](#). Eviction for false claims of disability requiring service animal or fraudulent documentation; https://www.ada.gov/service_animals_2010.htm; https://www.ada.gov/regs2010/service_animal_qa.html; [https://www.hud.gov/program_offices/fair_housing_equal_opp/assistance_animals; Housing Providers obligations under the Fair Housing Act \(FHA\)](https://www.hud.gov/program_offices/fair_housing_equal_opp/assistance_animals;Housing_Providers_obligations_under_the_Fair_Housing_Act_(FHA);); <https://www.cityofspearfish.com/351/Animal-Ordinances>

1. Purpose

Black Hills State University is committed to equal access for persons with disabilities in compliance with federal and state laws. This policy supports the University's commitment to equal access for students with disabilities who may benefit from the presence of a Service or Emotional Support Animal. Students with disabilities may be accompanied by Service Animals in the University's public areas and where fellow participants in University programs or activities are allowed. Service Animals may be excluded from a limited number of areas under certain circumstances. Students with disabilities wishing to have an Emotional Support Animal reside with them on-campus may seek an accommodation from Disability Services that may allow them to do so.

2. Definitions

- a. Disability: a physical or mental condition or impairment that is medically recognizable, diagnosable, and substantially limits one or more of a person's major life activities. These limitations may include care for oneself, performing

manual tasks, walking, seeing, hearing, speaking, breathing, working, and learning. A person is substantially limited in major life activities if that individual is unable to perform the activity or is significantly restricted as to the way he or she can perform that activity when compared to the average person.

- b. Service Animal: by law any dog individually trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by a Service Animal must be directly related to the individual's disability. Animals other than dogs are not Service Animals, with the exception that on a case-by-case basis, the University may permit miniature horses on campus that have been individually trained to serve as Service Animals. Service Animals are not required to wear any type of identification and may accompany a person with a disability anywhere the individual is allowed to go, including work, class, eating establishments, and public transportation. The effects of an animal's presence or the provision of emotional support, comfort, or companionship do not constitute a Service Animal's work or tasks. A Service Animal may provide therapeutic support or may otherwise perform like an Emotional Support Animal, but a Service Animal, unlike an Emotional Support Animal, is individually trained to take specific action when recognizing the need to assist the individual with a disability.
- c. Emotional Support Animal: an animal that may work, provide assistance, or perform physical tasks for an individual with a disability and/or provide necessary emotional support to an individual with a mental or psychiatric disability that alleviates one or more identified symptoms of an individual's disability. Emotional Support Animals are sometimes informally referred to as Therapy or Emotional Support Animals. The support provided by an Emotional Support Animal must directly relate to and alleviate one or more of the identified symptoms or effects of an individual's disability, as demonstrated by appropriate documentation when required. Emotional Support Animals may have, but do not require, formal training or certification, are not required to wear any type of identification, and are not considered to be Pets for purposes of University policy. Emotional Support Animals are not capable of serving as Service Animals, may

not always be permitted to accompany a person with a disability, and may not be allowed in non-residential University spaces such as classrooms, libraries, or dining facilities.

- d. Pet: an animal kept for ordinary use and companionship. A pet is not considered a Service Animal or an Emotional Support Animal, and therefore, it is not covered by this policy. Pets are not permitted within University controlled facilities.
- e. Reliable Third-Party: a trained professional who by virtue of their expertise, scope of practice, and familiarity with a person with a disability is able to verify that their accommodation request is directly related to their disability, that it would alleviate one or more of the identified symptoms or effects of the disability, and that the accommodation is necessary to provide that individual with an equal opportunity to use and enjoy University housing.

3. Policy

a. Service Animals

- i. Students with disabilities may be accompanied by Service Animals in all public areas on all property owned, leased, or otherwise under the University's control. Students may be accompanied by Service Animals in all locations where fellow participants in University programs, activities, or services are allowed, except as described below where the presence of a Service Animal would fundamentally alter a program or activity. A Service Animal's work or task must be directly related to its owner's disability. Examples of Service Animal work or tasks include, without limitation: assisting individuals with low vision or hearing to navigate or become aware of the presence of objects or people; pulling a wheelchair; assisting with a person's stability or balance; performing medical alerts of various types such as the onset of seizures, high or low blood sugar, or the presence of an allergen; turning lights on or off; retrieving items; or opening and closing cabinets or drawers. Service Animals can also support persons with psychiatric and neurological disabilities by helping to prevent or interrupt impulsive or self-destructive behaviors.

- ii. Fundamental Alteration of a Program or Activity. The University may exclude a Service Animal if its presence would fundamentally alter the nature of a program or activity. For example, for safety reasons, Service Animals are excluded from some laboratories. In such situations, the University will collaborate with the individual with a disability to attempt to identify reasonable alternative ways or means to participate in the program or activity. Such determinations shall be made by an ad hoc committee of knowledgeable participants empaneled and chaired by the Coordinator of Disability Services.
- iii. Miniature Horses. On a case-by-case basis the University may permit miniature horses that have been individually trained to do work or perform tasks for people with disabilities.
- iv. Service Animals in-training are not considered service animals under the ADA. Under the ADA, the dog must already be trained before it can be taken into public places.
 - I. Service Animals in-training as defined in South Dakota Codified Law [20-13-1](#): *"Service animal in training," any dog undergoing individual training to provide specific disability-related work or service for an individual with a disability. Dogs are recognized as being in training to provide disability-specific assistance only after they have completed basic obedience training and are housebroken; "Service animal trainer," any person who trains service animals for individuals with disabilities as an employee, contractor, or volunteer of a nationally recognized service animal training program.*

b. Emotional Support Animals

- i. Emotional Support Animals may not enter University property without an official accommodation granted in advance. Students with disabilities who wish to live with an Emotional Support Animal in University Housing will complete an [ESA Request form](#) and provide the proper documentation of

Commented [BA1]: Jenn is working on this form. It will be linked here, added to the policies page, and available on the disabilities services page.

the disability and the direct disability related need for the Emotional Support Animal.

- j. Student University Housing Restrictions
 - i. If an Emotional Support Animal's owner is to be absent overnight or longer from their University residence, the animal must accompany the owner. Emotional Support Animals may not be left unattended overnight in University housing, nor may they be cared for overnight or longer by any individual other than the animal's owner. Additionally, when away from their residence during the day, the owner must ensure that the Emotional Support Animal is properly contained.
 - ii. Emotional Support Animals may not interfere with routine residence hall or other campus facility operations or activities, or cause difficulties or disturbances for others.
 - iii. Emotional Support Animals are only allowed on campus for as long as they are necessary to help alleviate or mitigate specific symptoms of their owner's disability.
 - iv. If an owner wishes to replace an approved Emotional Support Animal with a new Emotional Support Animal, a new accommodation is required.
 - v. Should the University require that an Emotional Support Animal be removed from a campus residence facility for any reason, the owner remains bound by and responsible for fulfilling their housing contract obligations.

- k. Interference
 - 1. Intentionally or maliciously disrupting or distracting a Service Animal's work or task, attempting to or separating a Service or Emotional Support Animal from its owner or handler, or petting, feeding, deliberately startling, or otherwise interfering with a Service or Emotional Support

Animal after being directed not to do so by its owner or handler is considered misconduct subject to appropriate disciplinary action.

4. Procedures

a. Service Animals

i. Documentation, Identification, and Permitted Inquiries.

1. An individual with a disability is not required to provide documentation that their dog (or in limited cases a miniature horse) has been individually trained as a Service Animal, which are not required to wear any type of identifying badge, cape, or vest. When it is not readily apparent that an animal is a Service Animal, only the following two inquiries may be made:

- a. is the animal required because of a disability, and
- b. what work or task has the animal been trained to perform.

b. Emotional Support Animals

1. Approved Emotional Support Animals may accompany a student everywhere within the student's assigned University housing and common area within that building. Student Emotional Support Animals are not permitted in other facilities on campus such as academic spaces or dining facilities unless an accommodation is granted allowing them to do so. During a first term of occupancy, the University cannot guarantee that it will be possible to meet new student accommodation requests submitted less than 60 days prior to moving into University housing. New students are, therefore, strongly encouraged to submit their accommodation request as early as possible.

m. Documentation and Criteria

i. When considering Emotional Support Animal accommodation requests, the Coordinator of Disability Services will only require information necessary to verify whether an individual has a disability and to evaluate whether the requested accommodation

may be necessary to provide an equal opportunity to use and enjoy University housing. When an individual's disability and need for an Emotional Support Animal accommodation is obvious, no further verification is necessary. When an individual's disability or the need for Emotional Support Animal accommodation is not apparent, the Disability Services Coordinator will require documentation from a Reliable Third-Party to verify that the request is necessary for providing an equal opportunity to use and enjoy University housing. Emotional Support Animal accommodation requests may be denied if, in the opinion of Disability Services Coordinator, the documentation is inadequate, or the presence of the animal would impose an undue financial or administrative burden on the University, would fundamentally alter the residential, learning, would pose an undue threat to personal or public health or safety, or would generate substantial risk to University property or the personal property of others. In addition to what may be other relevant factors, the University may also consider whether the animal is too large, whether its presence would violate other's rights to peaceful enjoyment of their living environment, or whether the animal has a history of or undue potential for aggressive or threatening behavior.

n. Formal Grievance Process:

- i. Students who wish to complete a formal appeal regarding accommodation decisions must submit a written appeal letter to the Student Success Center Director, or designee. Written appeals should clearly define the basis of the appeal and a proposed resolution to the situation. Any relevant documentation should be enclosed with the appeal. The Student Success Center Director, or designee will develop an appropriate investigatory process depending on the circumstances surrounding the reasonable accommodation grievance. The Student Success Center Director,

or designee, will respond to the student filing the appeal in writing within fifteen (15) working days of receiving the appeal.

- ii. If the response of the Student Success Center Director, or designee, is not satisfactory to the student, he or she has five (5) working days, following the receipt of the response, to file an appeal with the Vice President of Enrollment Management. All prior written responses related to the appeal be enclosed with this appeal. The Vice President of Enrollment Management will respond to the student filing the appeal within fifteen (15) working days of receiving the appeal. The decision of the Vice President of Enrollment Management is final.

c. Service and Emotional Support Animal General Requirements

i. Owner or Handler Responsibilities

1. Owners or handlers are responsible, at all times, for the proper control and care of their Service or Emotional Support Animals, for any damage or injury they may cause, and must know and comply with all applicable laws and regulations including licensure, vaccination, and leash requirements.
2. Service Animals shall be restrained with a harness, leash, or other tether unless an individual's disability precludes the use of such devices or if such devices would unreasonably hinder or interfere with the Service Animal's safe and effective performance of its work or tasks. If not tethered, a Service Animal must otherwise be under the control of its owner or handler, whether by voice, signals, or other effective means.
3. The University may request documentation that confirms an animal is properly licensed.
4. Owners and handlers must direct their animals to designated animal relief areas and must ensure the removal and proper disposal of their animal's waste.
5. While the University does not charge any type of Service or Emotional Support Animal fee, all costs or other liabilities

associated with any cleaning, damage or harm caused by Service or Emotional Support Animals are the owner or handler's responsibility.

6. Misrepresentation: South Dakota law ([20-13-23.2](#)) prohibits fraudulently misrepresenting a pet or other animal as a Service Animal or Emotional Support Animal.

ii. Conflicting Disabilities or Health Conditions

1. Students with a health condition (e.g., allergies, asthma), phobia, or disability that conflicts with or is adversely affected by exposure to a Service or Emotional Support Animal should contact the Coordinator of Disability Services to resolve the matter. The individual raising the concern may be asked to provide documentation that identifies the impacts of their condition to allow the Coordinator of Disability Services to determine if there is a need for an accommodation. The University will make a reasonable effort to resolve any conflicts that arise due to the presence of a Service or Emotional Support Animal by considering the needs or accommodations of all persons involved.

iii. Exclusion or Removal

1. In addition to exclusion of Services Animals due to a potential fundamental alteration of a program or activity as outlined in 3:Section I (b), the University may, in consultation with Coordinator of Disability, also exclude or require an owner or handler to remove a Service or Emotional Support Animal from University-controlled property if the animal poses a direct threat to the health or safety of others, threatens or causes substantial damage to University property or the private property of a University community member, causes excessive disruption, becomes unmanageable or aggressive, is not housebroken, or if the owner or handler refuses to comply with their responsibilities as outlined in this policy and applicable law. The University may

remove a Service or Emotional Support Animal that is mistreated or that appears to be suffering from a health issue or injury. The University may require an unclean or unkempt Service or Emotional Support Animal to be removed until the issue is resolved. The owner may request reconsideration of a decision to remove a Service or Emotional Support Animal from University property as outlined in 3:Section III (b)(i).

iv. Complaints and Dispute Resolution

1. Students, employees, and visitors may contact the Coordinator of Disability Services to request assistance with resolving disputes or complaints involving the presence of a Service or Emotional Support Animal on University property. In particular, discriminatory behavior involving, or related to, or stemming from the presence of a Service or Emotional Support Animal is a violation of University policy and should be immediately reported. The Coordinator of Disability Services will assist with informal or formal complaint investigation and resolution in this regard. For issues related to Service or Emotional Support Animal accommodations, or to request reconsideration of a denial or scope of an approved accommodation, students may contact the Coordinator of Disability Services to request informal assistance or to initiate the formal Disability Services Complaint Process.

v. Responsibilities

1. Coordinator of Disability Services: provides support and assistance to students in regard to Service and Emotional Support Animal accommodations, including resolution of associated disputes or complaints.
2. Title IX/EO Coordinator: responds to any complaint or instance of discriminatory behavior related to or stemming from the presence of a Service or Emotional Support Animal on University property.

3. Housing and Residence Life: works to inform all residents and to ensure compliance with University policy regarding Service and Emotional Support animals in University housing.

5. Responsible Administrator

- a. The Vice President for Enrollment Management, or designee, is responsible for the ad hoc and annual review of this policy and its procedures. The University President is responsible for approval of this policy.

SOURCE: Approved by President Laurie Nichols on 10/5/2020.