

MEMO

To: President's Council

From: Alexis Palmer/Irene Whittier, Policy 160 Stewards

CC: Jeremy Knee, Associate General Counsel

RE: Policy 160 *Animals on Campus*—General Information

As you review Policy 160, please keep in mind several aspects associated with emotional support animals (ESAs).

1. Service Animals

- a. Must be individually trained to perform a task or work to alleviate the effects of a disability. The training need not be “official.” May be trained by owner.
- b. Only dogs and miniature horses may be authorized as service animals under the *Americans with Disabilities Act (ADA)*.
- c. UVU may ask only two questions of an individual about their dog or miniature horse when it's not otherwise obvious that the animal is a “service animal”:
 - i. Is this dog/horse required because of a disability?
 - ii. What work or task has the dog/horse been trained to perform?
- d. If a student, staff, or faculty member has an allergy towards another student's service animal or emotional support animal, a direct threat analysis would be conducted to assess the health and safety of the individual with the allergy. The assessment would need to include documentation that the allergy constitutes a disability and reasonably establish that the presence of the animal is causing the aggravating condition.

2. Emotional Support Animals (ESAs)

- a. Not individually trained to perform any task or work related to a disability.
- b. ESAs are usually authorized through the *Fair Housing Act*; UVU does not have student housing for purposes of the FHA.
- c. ESAs could be viewed as a “reasonable accommodation” elsewhere on campus under Section 504 of the *Rehabilitation Act*. OCR, the EEOC, and at least one federal court have expressed some support for this interpretation, and therefore, this creates some litigation defense/enforcement risk.
- d. While this policy draft allows consideration of animals other than service animals in the interactive process, this policy draft creates a presumption against granting such accommodation unless no other accommodation would allow an

individual with a disability to access UVU's education programs, activities, or services.

- e. Any animal (not limited to dogs or miniature horses).