

In This Issue

- Reasonable Suspicion and Employee Intoxication
- Service Animal vs. Emotional Support Animal
- Resolving Staff Conflict and Codes of Conduct

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Reasonable Suspicion and Employee Intoxication

Occasionally, as an administrator you may encounter a situation where you believe that an employee may be under the influence of alcohol while at work. Sometimes this belief is based upon your own observation of the employee's behavior, or it may be based on reports by staff or students that the employee smells of alcohol, is slurring their words, having difficulty standing or walking, etc.

The standard in these situations is **reasonable suspicion**. Under this standard, you must have "specific and articulable facts" that an individual is under the influence. If you believe that you have met this standard, you should isolate the employee as best you can (such as placing them in your office or in a conference room) and contact the Department of Labor Relations (DoLR) immediately. Once you contact DoLR, we will walk you through the facts you have been presented and ask questions to ensure we've met the reasonable suspicion standard. If so, we will direct you to contact School Police so that an officer (preferably a detective) will be dispatched with a Preliminary Breath Test (PBT).

Do **NOT** confront the employee and ask if they have been drinking. Wait for School Police to arrive and let the officer take the lead, as they are trained to recognize the signs of alcohol impairment. School Police will ask the employee to consent to a breathalyzer. The employee has the right to refuse, but if they do the officer may still tell them they need to contact someone to come and get them from work. If they consent and test over the legal limit, you will contact DoLR and we will work with you to place the employee on Administrative Leave pending a "fitness for duty" evaluation. You will then tell them to contact someone to come and get them. **Under no circumstances should you take the employee home yourself.** Once the employee has been assessed by a professional, we will discuss next steps to return the employee to work.

Service Animal vs. Emotional Support Animal

A service animal is defined as "Any dog 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." Although the definition of service animal is limited to dogs, miniature horses meet the definition in special cases. District staff may not inquire about the nature or extent of a person's disability or require certification or other proof of the need for a service animal. Instead, District

Quick Tips/Links

- Office of the General Counsel webpage
- Civil Rights Compliance Forms
- Staff Resources – Student Bullying Complaints, Investigation and Resolution Process
- OGC FAQs, Civil Rights Compliance FAQs, Labor Relations FAQs, Administrative Investigations FAQs

Topics for Future Newsletters

- Do you have a topic you would like covered in a future OGC Newsletter? Email your ideas or areas of interest/questions/concerns to bread@washoeschools.net for consideration of coverage in a future issue.

Upcoming Staff Training Dates

CIVIL RIGHTS COMPLIANCE

Mandatory Coaches Training

- Tuesday, May 19th 4-5 pm (full)
 - ZOOM
- Tuesday, May 26th 4-5 pm
 - ZOOM
 - Contact Ellie Centeno for registration
- Tuesday, August 4th 8-9 am
 - McQueen High School (tentative)
- Wednesday, August 5th 6:15-7:15 pm
 - Galena High School (tentative)

LABOR RELATIONS

- To be scheduled...

staff may only ask the following two questions: 1) Is the animal required because of a disability? 2) What work or task has the animal been trained to perform?

A question often arises whether the dog is a service animal or a therapy/emotional support dog, particularly when it is represented that the dog is being used for mental health or anxiety. The distinction between a “psychiatric” service animal and an emotional support animal turns on the work or tasks the animal performs. While emotional support animals provide comfort or companionship, psychiatric service animals perform tasks to assist/benefit the individual’s disability, such as reminding an individual with a disability to take medication, performing safety checks or room searches for individuals with post-traumatic stress disorder (PTSD), interrupting self-mutilation, and removing disoriented individuals from dangerous situations.

In sum, in order for the animal to be a service dog, the task performed has to be connected to the student’s disability, which can include a psychiatric disability. Unlike a therapy dog, a service dog’s function is not to provide emotional support, but to perform tasks which enable the student to have equal access to the educational environment.

Resolving Staff Conflict and Codes of Conduct

Conflict between staff members can sometimes be inevitable, particularly in situations where employees have contrasting ideas about how to do their job or how to communicate with their peers. So how can you resolve these sorts of issues when they don’t necessarily rise to the level of formal disciplinary action?

One way is of course through issuing counseling memos as things happen. But, when it is clear that the issue is two staff members who simply cannot get along, another alternative is a Code of Conduct. A Code of Conduct is essentially a “contract” between the involved employees that usually states: the employees will behave in a professional manner with each other; will not disparage or treat each other in a rude or discourteous manner; will do their expected jobs; and, if there are continued issues, the employees will bring those issues to their administrator or supervisor to resolve. The Code of Conduct also states that if the employees do not follow the Code of Conduct, they may be subject to potential disciplinary action.

A Code of Conduct is not structured to assign blame to one employee or another, but places both employees “on notice” that they are not acting in a manner consistent with the District’s expectations. It is not a disciplinary document. Both employees are expected to sign acknowledging they have received it and will follow it.

Commonly, Codes of Conduct are used to regulate the behavior of Education Support Professionals, particularly ones who work in close proximity (custodial, nutrition services, teacher aides, etc.) with minimal supervision during their work time. If you feel you need to implement a Code of Conduct, please contact the Department of Labor Relations for assistance.