

**STUDY GUIDE :  
ANIMALS ON CAMPUS**

**20**-Minutes-to...  
*Trained*

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## **20-Minutes-to...*Trained*: Animals on Campus Table of Contents**

Learning Outcomes-----	Page 2
Discussion Questions-----	Page 3
Case Studies-----	Page 4
Frank	
Case Study Questions & Answers-----	Page 5
Frank	
ADA 2010 Revised Requirements: Service Animals-----	Page 6
U.S. Department of Justice’s FAQ About Service Animals and the FDA-----	Page 9
Reasonable Accommodations? The Debate over Service and Emotional Support Animals on College Campuses-----	Page 17
ATIXA’s Model Policy on Animals on Campus-----	Page 19
ATIXA’s Guidelines for Animals on Campus-----	Page 23
ATIXA’s Navigating the Law Regarding Animals on Campus Summary Sheet-----	Page 26
ATIXA’s Do’s and Don’ts for Responding to Animals on Campus-----	Page 28

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## **20-Minutes-to...*Trained*: Animals on Campus Learning Outcomes**

- Participants will understand the rights extended to qualified individuals to be accompanied by a service dog under the Americans with Disabilities Act, Title I and Title II.
- Participants will understand the differences under the law in access to various campus areas for service animals, emotional support animals, assistance animals, and therapy animals.
- Participants will be able to explain the differences between different categories of animals and the typical issues presented on college campuses.
- Participants will be able to explain the institution's (in)ability to regulate or restrict the presence and/or access of different types of animals on campus.



## **20-Minutes-to...*Trained*: Animals on Campus Discussion Questions**

- What are the key differences between service animals and emotional support animals?
- If there are questions about the appropriate presence of an animal in a particular part of the campus, how would you appropriately collect information about the animal and its classification without violating the individual's rights?
- Service animals must be with their owner at all times. By contrast, emotional support animals are restricted from certain parts of the campus. How does your institution's policy address restrictions to the presence of animals other than service animals?
- A good policy for addressing animals on campus is to require documentation of necessity for all animals who will be on campus for an extended period of time. True or False? Why?



## **20-Minutes-to...*Trained*: Animals on Campus Case Studies**

### **Frank**

Frank, a junior biology student at Triton University, recently ended a long-term relationship with a person from his hometown. He seems depressed and disengaged, and his professors are beginning to notice a drop in his otherwise stellar academic performance. One day in biology lab, Frank had a ferret in his backpack. The lab instructor knew of Frank's troubles and overlooked the ferret since it wasn't actually *out* in the lab. Eventually, Frank was consistently bringing the ferret to all his classes. It would crawl up his arms and perch on his shoulder. Often it would rest quietly on his neck or shoulders during lecture time.

Everyone loved Frank's ferret, except his anatomy professor, who told Frank he needed a doctor's note justifying the need for the ferret, and even then he could only bring it to class, not lab. Frank has complained to the Student Disability Services coordinator that he is being discriminated against because of his medical condition and produced documentation that he's been seeing a mental health therapist for depression on the recommendation of his primary care doctor.



## 20-Minutes-to...*Trained*: Animals on Campus Case Studies Question & Answer

**Frank**

For Discussion:

- What is the first level of analysis for Frank and his ferret?
  - A ferret is not a service animal per the ADA.
  - Frank's description of his need and the ferret's function essentially describes an emotional support animal.
  - ESAs are subject to institutional policy limitations for animals in certain spaces, like classrooms, labs, etc.
- How can the institution support Frank and his ferret? What limitations apply based on federal and state law and institutional policy?
  - Explain to Frank how law and policy limit the places on campus he can bring his ferret.
  - Offer additional academic and counseling services available to Frank.
  - Federal law allows Frank's ferret, as an ESA, to reside with Frank in his private residence, despite any limitation or prohibition of animals by a landlord or property owner.
  - Additional state laws may regulate ESAs further.
  - Institutional policy may allow animals in certain spaces, but most likely prohibits animals, other than service animals, from spaces like classrooms, labs, lecture halls, auditoriums, etc.
- How can the institution proactively address animals on campus to help future students like Frank understand the guidelines ahead of time?
  - Students could receive information during orientation regarding service animals and ESAs.
  - Student Disability Services could provide resources outlining animals on campus.
  - Residence Life, faculty, and academic staff should be trained on the different rights and limitations for animals on campus.



## **SERVICE ANIMALS**

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for title II (State and local government services) and title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain new, and updated, requirements, including the 2010 Standards for Accessible Design (2010 Standards).

### **Overview**

This publication provides guidance on the term “service animal” and the service animal provisions in the Department’s new regulations.

- Beginning on March 15, 2011, only dogs are recognized as service animals under titles II and III of the ADA.
- A service animal is a dog that is individually trained to do work or perform tasks for a person with a disability.
- Generally, title II and title III entities must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.

### **How “Service Animal” Is Defined**

Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person’s disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

This definition does not affect or limit the broader definition of “assistance animal” under the Fair Housing Act or the broader definition of “service animal” under the Air Carrier Access Act.

Some State and local laws also define service animal more broadly than the ADA does. Information about such laws can be obtained from the State attorney general’s office.

### **Where Service Animals Are Allowed**

Under the ADA, State and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go. For example, in a hospital it would be inappropriate to exclude a service animal from areas such as patient rooms, clinics, cafeterias, or examination rooms. However, it may be appropriate to

exclude a service animal from operating rooms or burn units where the animal's presence may compromise a sterile environment.

### **Service Animals Must Be Under Control**

Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

### **Inquiries, Exclusions, Charges, and Other Specific Rules Related to Service Animals**

When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions:

- Is the dog a service animal required because of a disability, and (2) what work or task has the dog been trained to perform. Staff cannot ask about the person's disability, require medical documentation, require a special identification card or training documentation for the dog, or ask that the dog demonstrate its ability to perform the work or task.
- Allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals. When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility, for example, in a school classroom or at a homeless shelter, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.
- A person with a disability cannot be asked to remove his service animal from the premises unless: (1) the dog is out of control and the handler does not take effective action to control it or (2) the dog is not housebroken. When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.
- Establishments that sell or prepare food must allow service animals in public areas even if state or local health codes prohibit animals on the premises.
- People with disabilities who use service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals. In addition, if a business requires a deposit or fee to be paid by patrons with pets, it must waive the charge for service animals.
- If a business such as a hotel normally charges guests for damage that they cause, a customer with a disability may also be charged for damage caused by himself or his service animal.
- Staff are not required to provide care or food for a service animal.

### **Miniature Horses**

In addition to the provisions about service dogs, the Department's revised ADA regulations have a new, separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities. (Miniature horses generally range in height from 24 inches to 34 inches measured to the shoulders and generally weigh between 70 and 100 pounds.) Entities covered by the ADA must modify their policies to permit miniature horses where reasonable. The regulations set out four assessment factors to assist entities in determining whether miniature horses can be accommodated in their facility. The assessment factors

are (1) whether the miniature horse is housebroken; (2) whether the miniature horse is under the owner's control; (3) whether the facility can accommodate the miniature horse's type, size, and weight; and (4) whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

To receive e-mail notifications when new ADA information is available, visit the ADA Website's home page and click the [link](#) near the top of the middle column.

[ADA Information Line](#)

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The Americans with Disabilities Act authorizes the Department of Justice (the Department) to provide technical assistance to individuals and entities that have rights or responsibilities under the Act. This document provides informal guidance to assist you in understanding the ADA and the Department's regulations.

This guidance document is not intended to be a final agency action, has no legally binding effect, and may be rescinded or modified in the Department's complete discretion, in accordance with applicable laws. The Department's guidance documents, including this guidance, do not establish legally enforceable responsibilities beyond what is required by the terms of the applicable statutes, regulations, or binding judicial precedent.



## FREQUENTLY ASKED QUESTIONS ABOUT SERVICE ANIMALS AND THE ADA

Many people with disabilities use a service animal in order to fully participate in everyday life. Dogs can be trained to perform many important tasks to assist people with disabilities, such as providing stability for a person who has difficulty walking, picking up items for a person who uses a wheelchair, preventing a child with autism from wandering away, or alerting a person who has hearing loss when someone is approaching from behind.

The Department of Justice continues to receive many questions about how the Americans with Disabilities Act (ADA) applies to service animals. The ADA requires State and local government agencies, businesses, and non-profit organizations (covered entities) that provide goods or services to the public to make "reasonable modifications" in their policies, practices, or procedures when necessary to accommodate people with disabilities. The service animal rules fall under this general principle. Accordingly, entities that have a "no pets" policy generally must modify the policy to allow service animals into their facilities. This publication provides guidance on the ADA's service animal provisions and should be read in conjunction with the publication [ADA Revised Requirements: Service Animals](#).

[Definition](#) | [General Rules](#) | [Certification and Registration](#)  
[Breeds](#) | [Exclusion of Service Animals](#) | [Miscellaneous](#) | [Resources](#)

### I. DEFINITION OF A SERVICE ANIMAL

A. Q1. What is a service animal?

**A.** Under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability.

B. Q2. What does "do work or perform tasks" mean?

**A.** The dog must be trained to take a specific action when needed to assist the person with a disability. For example, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind her to take her medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure.

C. Q3. Are emotional support, therapy, comfort, or companion animals considered service animals under the ADA?

**A.** No. These terms are used to describe animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA. However, some State or local governments have laws that allow people to take emotional support animals into public places. You may check with your State and local government agencies to find out about these laws.

D. Q4. If someone's dog calms them when having an anxiety attack, does this qualify it as a service animal?

**A.** It depends. The ADA makes a distinction between psychiatric service animals and emotional support animals. If the dog has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, that would qualify as a service animal. However, if the dog's mere presence provides comfort, that would not be considered a service animal under the ADA.

E. Q5. Does the ADA require service animals to be professionally trained?

**A.** No. People with disabilities have the right to train the dog themselves and are not required to use a professional service dog training program.

F. Q6. Are service-animals-in-training considered service animals under the ADA?

**A.** No. Under the ADA, the dog must already be trained before it can be taken into public places. However, some State or local laws cover animals that are still in training.

## II. GENERAL RULES

A. Q7. What questions can a covered entity's employees ask to determine if a dog is a service animal?

**A.** In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions: (1) is the dog a service animal required because of a disability? and (2) what work or task has the dog been trained to perform? Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person's disability.

B. Q8. Do service animals have to wear a vest or patch or special harness identifying them as service animals?

**A.** No. The ADA does not require service animals to wear a vest, ID tag, or specific harness.

C. Q9. Who is responsible for the care and supervision of a service animal?

**A.** The handler is responsible for caring for and supervising the service animal, which includes

toileting, feeding, and grooming and veterinary care. Covered entities are not obligated to supervise or otherwise care for a service animal

D. Q10. Can a person bring a service animal with them as they go through a salad bar or other self-service food lines?

**A.** Yes. Service animals must be allowed to accompany their handlers to and through self-service food lines. Similarly, service animals may not be prohibited from communal food preparation areas, such as are commonly found in shelters or dormitories.

E. Q11. Can hotels assign designated rooms for guests with service animals, out of consideration for other guests?

**A.** No. A guest with a disability who uses a service animal must be provided the same opportunity to reserve any available room at the hotel as other guests without disabilities. They may not be restricted to "pet-friendly" rooms.

F. Q12. Can hotels charge a cleaning fee for guests who have service animals?

**No.** Hotels are not permitted to charge guests for cleaning the hair or dander shed by a service animal. However, if a guest's service animal causes damages to a guest room, a hotel is permitted to charge the same fee for damages as charged to other guests.

G. Q13. Can people bring more than one service animal into a public place?

**A.** Generally, yes. Some people with disabilities may use more than one service animal to perform different tasks. For example, a person who has a visual disability and a seizure disorder may use one service animal to assist with way-finding and another that is trained as a seizure alert dog. Other people may need two service animals for the same task, such as a person who needs two dogs to assist him or her with stability when walking. Staff may ask the two permissible questions (See Question 7) about each of the dogs. If both dogs can be accommodated, both should be allowed in. In some circumstances, however, it may not be possible to accommodate more than one service animal. For example, in a crowded small restaurant, only one dog may be able to fit under the table. The only other place for the second dog would be in the aisle, which would block the space between tables. In this case, staff may request that one of the dogs be left outside.

H. Q14. Does a hospital have to allow an in-patient with a disability to keep a service animal in his or her room?

**A.** Generally, yes. Service animals must be allowed in patient rooms and anywhere else in the hospital the public and patients are allowed to go. They cannot be excluded on the grounds that staff can provide the same services.

I. Q15. What happens if a patient who uses a service animal is admitted to the hospital and is unable to care for or supervise their animal?

**A.** If the patient is not able to care for the service animal, the patient can make arrangements for a family member or friend to come to the hospital to provide these services, as it is always preferable that the service animal and its handler not be separated, or to keep the dog during the hospitalization.

If the patient is unable to care for the dog and is unable to arrange for someone else to care for the dog, the hospital may place the dog in a boarding facility until the patient is released, or make other appropriate arrangements. However, the hospital must give the patient the opportunity to make arrangements for the dog's care before taking such steps.

J. Q16. Must a service animal be allowed to ride in an ambulance with its handler?

**A.** Generally, yes. However, if the space in the ambulance is crowded and the dog's presence would interfere with the emergency medical staff's ability to treat the patient, staff should make other arrangements to have the dog transported to the hospital.

### III. CERTIFICATION AND REGISTRATION

A. Q17. Does the ADA require that service animals be certified as service animals?

**A.** No. Covered entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry.

There are individuals and organizations that sell service animal certification or registration documents online. These documents do not convey any rights under the ADA and the Department of Justice does not recognize them as proof that the dog is a service animal.

B. Q18. My city requires all dogs to be vaccinated. Does this apply to my service animal?

**A.** Yes. Individuals who have service animals are not exempt from local animal control or public health requirements.

C. Q19. My city requires all dogs to be registered and licensed. Does this apply to my service animal?

**A.** Yes. Service animals are subject to local dog licensing and registration requirements.

D. Q20. My city requires me to register my dog as a service animal. Is this legal under the ADA?

**A.** No. Mandatory registration of service animals is not permissible under the ADA. However, as stated above, service animals are subject to the same licensing and vaccination rules that are applied to all dogs.

E. Q21. My city / college offers a voluntary registry program for people with disabilities who use service animals and provides a special tag identifying the dogs as service animals. Is this legal under the ADA?

**A. Yes.** Colleges and other entities, such as local governments, may offer voluntary registries. Many communities maintain a voluntary registry that serves a public purpose, for example, to ensure that emergency staff know to look for service animals during an emergency evacuation process. Some offer a benefit, such as a reduced dog license fee, for individuals who register their service animals. Registries for purposes like this are permitted under the ADA. An entity may not, however, require that a dog be registered as a service animal as a condition of being permitted in public places. This would be a violation of the ADA.

#### IV. BREEDS

A. Q22. Can service animals be any breed of dog?

**A. Yes.** The ADA does not restrict the type of dog breeds that can be service animals.

B. Q23. Can individuals with disabilities be refused access to a facility based solely on the breed of their service animal?

**A. No.** A service animal may not be excluded based on assumptions or stereotypes about the animal's breed or how the animal might behave. However, if a particular service animal behaves in a way that poses a direct threat to the health or safety of others, has a history of such behavior, or is not under the control of the handler, that animal may be excluded. If an animal is excluded for such reasons, staff must still offer their goods or services to the person without the animal present.

C. Q24. If a municipality has an ordinance that bans certain dog breeds, does the ban apply to service animals?

**A. No.** Municipalities that prohibit specific breeds of dogs must make an exception for a service animal of a prohibited breed, unless the dog poses a direct threat to the health or safety of others. Under the "direct threat" provisions of the ADA, local jurisdictions need to determine, on a case-by-case basis, whether a particular service animal can be excluded based on that particular animal's actual behavior or history, but they may not exclude a service animal because of fears or generalizations about how an animal or breed might behave. It is important to note that breed restrictions differ significantly from jurisdiction to jurisdiction. In fact, some jurisdictions have no breed restrictions.

## V. EXCLUSION OF SERVICE ANIMALS

### A. Q25. When can service animals be excluded?

- A.** The ADA does not require covered entities to modify policies, practices, or procedures if it would “fundamentally alter” the nature of the goods, services, programs, or activities provided to the public. Nor does it overrule legitimate safety requirements. If admitting service animals would fundamentally alter the nature of a service or program, service animals may be prohibited. In addition, if a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded.

### B. Q26. When might a service dog's presence fundamentally alter the nature of a service or program provided to the public?

- A.** In most settings, the presence of a service animal will not result in a fundamental alteration. However, there are some exceptions. For example, at a boarding school, service animals could be restricted from a specific area of a dormitory reserved specifically for students with allergies to dog dander. At a zoo, service animals can be restricted from areas where the animals on display are the natural prey or natural predators of dogs, where the presence of a dog would be disruptive, causing the displayed animals to behave aggressively or become agitated. They cannot be restricted from other areas of the zoo.

### C. Q27. What does under control mean? Do service animals have to be on a leash? Do they have to be quiet and not bark?

- A.** The ADA requires that service animals be under the control of the handler at all times. In most instances, the handler will be the individual with a disability or a third party who accompanies the individual with a disability. In the school (K-12) context and in similar settings, the school or similar entity may need to provide some assistance to enable a particular student to handle his or her service animal. The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the person's disability prevents use of these devices. In that case, the person must use voice, signal, or other effective means to maintain control of the animal. For example, a person who uses a wheelchair may use a long, retractable leash to allow her service animal to pick up or retrieve items. She may not allow the dog to wander away from her and must maintain control of the dog, even if it is retrieving an item at a distance from her. Or, a returning veteran who has PTSD and has great difficulty entering unfamiliar spaces may have a dog that is trained to enter a space, check to see that no threats are there, and come back and signal that it is safe to enter. The dog must be off leash to do its job, but may be leashed at other times. Under control also means that a service animal should not be allowed to bark repeatedly in a lecture hall, theater, library, or other quiet place. However, if a dog barks just once, or barks because someone has provoked it, this would not mean that the dog is out of control.

D. Q28. What can my staff do when a service animal is being disruptive?

**A.** If a service animal is out of control and the handler does not take effective action to control it, staff may request that the animal be removed from the premises.

E. Q29. Are hotel guests allowed to leave their service animals in their hotel room when they leave the hotel?

**A.** No, the dog must be under the handler's control at all times.

F. Q30. What happens if a person thinks a covered entity's staff has discriminated against him or her?

**A.** Individuals who believe that they have been illegally denied access or service because they use service animals may file a complaint with the U.S. Department of Justice. Individuals also have the right to file a private lawsuit in Federal court charging the entity with discrimination under the ADA.

## VI. MISCELLANEOUS

A. Q31. Are stores required to allow service animals to be placed in a shopping cart?

**A.** Generally, the dog must stay on the floor, or the person must carry the dog. For example, if a person with diabetes has a glucose alert dog, he may carry the dog in a chest pack so it can be close to his face to allow the dog to smell his breath to alert him of a change in glucose levels.

B. Q32. Are restaurants, bars, and other places that serve food or drink required to allow service animals to be seated on chairs or allow the animal to be fed at the table?

**A.** No. Seating, food, and drink are provided for customer use only. The ADA gives a person with a disability the right to be accompanied by his or her service animal, but covered entities are not required to allow an animal to sit or be fed at the table.

C. Q33. Are gyms, fitness centers, hotels, or municipalities that have swimming pools required to allow a service animal in the pool with its handler?

**A.** No. The ADA does not override public health rules that prohibit dogs in swimming pools. However, service animals must be allowed on the pool deck and in other areas where the public is allowed to go.

D. Q34. Are churches, temples, synagogues, mosques, and other places of worship required to allow individuals to bring their service animals into the facility?

**A.** No. Religious institutions and organizations are specifically exempt from the ADA. However, there may be State laws that apply to religious organizations.

E. Q35. Do apartments, mobile home parks, and other residential properties have to comply with the ADA?

**A.** The ADA applies to housing programs administered by state and local governments, such as public housing authorities, and by places of public accommodation, such as public and private universities. In addition, the Fair Housing Act applies to virtually all types of housing, both public and privately-owned, including housing covered by the ADA. Under the Fair Housing Act, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with a disabilities, or provide emotional support to alleviate a symptom or effect of a disability.

F. Q36. Do Federal agencies, such as the U.S. Department of Veterans Affairs, have to co

**A.** No. Section 504 of the Rehabilitation Act of 1973 is the Federal law that protects the rights of people with disabilities to participate in Federal programs and services. For information or to file a complaint, contact the agency's equal opportunity office.

G. Q37. Do commercial airlines have to comply with the ADA?

**A.** No. The Air Carrier Access Act is the Federal law that protects the rights of people with disabilities in air travel. For information or to file a complaint, contact the U.S. Department of Transportation, Aviation Consumer Protection Division, at 202-366-2220.

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## Reasonable Accommodations? The Debate Over Service and Emotional Support Animals on College Campus

POSTED ON JANUARY 8, 2014 BY KIMBERLY A. GRIEVE, PH.D., DEAN OF STUDENTS, UNIVERSITY OF SOUTH DAKOTA

Service and emotional support animals have recently been a topic of conversation on college campuses, despite decades of controversy related to the interpretation of federal law. Amendments to the Americans with Disabilities Act (ADA) offer specific definitions of a service animal; however, the Fair Housing Act has generated further questions regarding the interpretation of permissible service animals under federal law.

According to Lissner, the acceptance of emotional support animals on college campuses as a reasonable accommodation continues to be debated, even though the ADA has provided a tighter definition. A review of current working definitions, a brief policy summary, relevant cases, and a list of resources may prove beneficial to professionals working in higher education.

Prior to the September 2010 Department of Justice ruling ([http://www.ada.gov/service\\_animals\\_2010.htm](http://www.ada.gov/service_animals_2010.htm)), little distinction existed between the legal definition of a “service animal” and an “emotional support animal,” as indicated by the ADA. Amendments to Title II thereof state that a “service animal” is specifically any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability.

The work or tasks performed by a service animal must be directly related to the handler's disability. Provisions are also included in the ruling for the use of a miniature horse. Conversely, “emotional support animals” are defined in the Fair Housing Act (1988), in broader terms, as those animals that belong to a person who is emotionally or psychologically disabled.

The right of people with disabilities to keep emotional support animals is stated in Section 504 of the Rehabilitation Act of 1973, the Fair Housing Amendments Act of 1988, and Title II of the American with Disabilities Act. As emotional support and service animals are not “pets” in the conventional sense but rather considered assistive aids, akin to wheelchairs, federal policy requires that reasonable accommodation be considered to persons with disabilities an equal opportunity to use or enjoy a dwelling. There are currently no Federal restrictions on the species of an animal in an emotional support role.

These policies apply to any public or private higher education institution receiving federal financial support. As applied to campus housing, no qualified individual shall be kept from full participation in the institution's programs or activities, including access to residence halls. The Fair Housing Act (1988) applies to virtually all forms of housing, whether for sale or rent, including residence halls.

According to the FHA, colleges and universities must make reasonable accommodations for persons with disabilities requiring service animals or emotional support animals. A noteworthy difference between the FHA and the ADA considers how service animals and emotional support animals are used in public settings compared with use in the home, i.e., providing mental and/or emotional support. The 1990 amendments to the ADA restrict the definition of a service animal, as mentioned above, and permit the use of a service animal in areas of public accommodation. This may entail modifications to institutional policy, practices, or procedures.

In *United States v. University of Nebraska Kearney*, wherein a student requested accommodation for the use of an emotional support animal, District Court Judge John M. Gerrard ruled that the university housing in question is considered a "dwelling" and is subject to the provisions of the FHA. Allegations were based not only on refusal to make reasonable accommodation but also on the nature and degree of inquiry into the student's disability and need of the emotional support animal.

In *Alejandro v. Palm Beach State College*, District Judge Donald M. Middlebrooks ruled in favor of a student's right to be accompanied on campus, in residence halls, and to classes by a psychiatric service dog, which was trained to respond to the onset of anxiety attacks the student experienced as a result of Post Traumatic Stress Disorder. The ruling stated that any potential harm or disruption caused by the presence of the service dog was minimal in comparison to the benefit experienced by the student, and, therefore, its presence was considered a reasonable accommodation.

Future cases, specifically those heard at a higher level, may augment the current understanding of reasonable accommodation, as well set precedence in distinguishing between service and emotional support animals, as well as address the relevance of the distinction. Basic working knowledge of the abovementioned federal laws and current institutional policy will inform implementation, which must be assessed on an individual basis. In order to maintain the dignity and privacy of people with disabilities who rely upon service and emotional support animals, specific guidelines exist and can be found in the resources below. Increasingly, healthcare providers and individuals with emotional or psychological disabilities are recognizing the merits of alternative assistive aids, emotional support animals among them.



## ATIXA's MODEL POLICY ON ANIMALS ON CAMPUS

### Introduction

"X" College prohibits animals on campus, in all living environments, classrooms, cafeterias, sports facilities, and all other places of public accommodation unless the animal is a legitimate Service Dog, or provided through approval as a verified disability accommodation as an Emotional Support Animal in College residential facilities.

### Regulations Regarding Service Dogs and Emotional Support Animals

#### SERVICE ANIMALS

Service animals are working animals and are restricted to dogs (or miniature horses in some situations) that are specifically trained to engage in work or a task directly related to support their handler's disability, such as guiding an individual who is blind, alerting an individual who is deaf, pulling a wheelchair, alerting an individual with diabetes if they need to take insulin. Any other animal, whether wild or domestic, trained or untrained, are not service animals.

Dogs that serve solely to provide a crime deterrent effect, or to provide emotional support, comfort or companionship are not service animals under the law. Access of service animals on campus is controlled by the American's with Disabilities Act (ADA) and laws of the State of New York.

Service animals have the same rights of access anywhere on campus, in accordance with their handler's rights to access, with limited exceptions based on health or safety issues, such as certain laboratories, animal research facilities, certain medical facilities and food preparation areas. Service animals are considered an extension of their handler and should be with that person and leashed or harnessed at all times, unless there is a disability related reason why a leash, harness or tether is not possible.

Service animals are not required by law to wear a vest or harness designating them as a working animal, although many handlers wish to do so to signal to others that their animal is working and is not to be considered a pet. There is no state or federal registry of service animals, or agencies that provide approval.

The College, and its employees are not permitted to request or require documentation of the handler's disability status or of the service animal's training. If it is not readily apparent that an animal is a service animal College personnel may ask only the following questions: "Is the animal required because of a disability?" and "What work or task is the animal trained to perform?" The handler cannot be required to produce a special identification card or training documentation for the service animal, or be asked for the service animal to demonstrate its ability to perform the designated work or task.

#### EMOTIONAL SUPPORT ANIMALS

Emotional Support Animals (ESA's), sometimes referred to as "comfort animals" or "companion animals", is an animal whose sole responsibility is to provide a calming influence, affection, stability or security to their owner/handler. Unlike a service animal, an emotional support animal does not assist a person with a disability with activities of daily living and do not perform tasks that would qualify them as a service animal, nor does it accompany a person with a disability at all times, but may be considered an accommodation in alleviating symptoms of an individual's disability. Emotional support animals are restricted to the College residential facility.

In order to ensure that the presence of a requested animal will not place undue burden on residence life staff or other residents, the Office of Residence Life reserves the right to assess living situations as a part of the determination of the animal as a reasonable accommodation. All requests are given consideration on a case-by-case basis. Factors to be considered include whether the available and/or assigned housing space is appropriate for the animal; whether the presence of the animal is in conflict with another resident of the room or immediate vicinity who may have a disability impacted by the emotional support animal.

A student seeking to be accompanied in their College residential facility by their emotional support animal must request an accommodation in accordance with the Disability Services Policy and provide appropriate medical documentation of their disability. The student is subject to the interactive process in determining if the requested animal is an appropriate accommodation for the student's documented disability.

An emotional support animal is not limited to dogs, but must be an "approved animal" granted as a reasonable accommodation. If the animal is approved as an accommodation they may accompany their owner in the housing unit and may only be outside of the unit for exercise or natural relief and must remain on a leash, harness or tether.

#### The Process for Approval of an Emotional Support Animal

1. 1. Register with \_\_\_\_\_.
2. Provide verification of a disability from an appropriately licensed medical professional. The verification of the disability should also include a letter stating the purpose for the assistance animal and discuss the nexus between the animal and how the animal will support the individual's disability.
3. If the approves the animal as an appropriate accommodation, the student must
4. submit the following forms:
  - a. Animal Registration Form
  - b. Limited Waiver of Information form to allow notification to roommate/suitemate and immediate neighbors.
  - c. Roommate and immediate neighbors' acknowledgement form.
  - d. Veterinary immunization records. The animal must have all required immunizations. If the animal is too young for all immunizations, the animal is not eligible to serve as an emotional support animal.
  - e. Photograph of animal
  - f. Proof of licensing in (your county) if the animal is a dog or cat.
5. Students are not allowed to be accompanied by their emotional support animal until the approval of accommodation and supporting documentation forms are completed.

#### **RESPONSIBILITIES FOR THE OWNER/HANDLER OF A SERVICE ANIMAL OR EMOTIONAL SUPPORT ANIMAL**

1. The handler must be in full control of the animal at all times.

2. The handler must keep the animal on a harness, leash or other tether unless this would interfere with the animal's ability to safely and effectively perform its duties. In such cases, the animal must still be under the handler's control through voice control, signals or other effective means.
3. The handler must assure the animal does not display any behaviors or noises that are unduly disruptive to others in the living environment or for service animals in classrooms or on campus. The animal cannot interfere with the reasonable use and enjoyment of others living in the same dwelling.
4. The animal may not fundamentally alter the nature of the College's operations or pose an undue financial or administrative burden to the College.
5. The handler must immediately remove and properly dispose of any animal waste.
6. All animals must be in compliance with county licensing laws and have up-to-date vaccinations and have a record from a veterinarian of a clean bill of health. The owner is responsible to provide documentation of licensing and vaccination information.
6. The owner/handler, not the College, is responsible for the actions of their animal, including bodily injury or property damage or cleaning costs that exceed regular campus or residence hall maintenance. Any damage caused by the animal that necessitates replacement or repair of damaged furniture (beyond the regular wear and tear), carpet, extra cleaning due to poor animal hygiene will be charged to the owner/handler.

#### **RESPONSIBILITIES SPECIFIC TO OWNERS OF EMOTIONAL SUPPORT ANIMALS**

1. The owner may not leave the animal for extended periods of time or overnight. If the owner leaves for overnight the animal must accompany him/her or the animal must be boarded at an appropriate facility, not in another residence hall room.
2. The animal must remain in a cage, crate or carrier when the owner is not present.
3. The owner may not ask others to care for their emotional support animals in their absence.
4. Emotional support animals are limited to the resident's room except when exiting or entering the residence hall or apartment.

#### **REMOVAL OF A SERVICE OR EMOTIONAL SUPPORT ANIMAL**

A College official may require a handler/owner remove a service or support animal from the College premises for the following reasons:

1. If the animal is unruly or disruptive or out of control and the handler/owner does not take immediate effective action to control the animal.
2. If the animal is not house broken
3. If the owner/handler fails to properly clean up and dispose of the animal's waste
4. If the animal is ill or in poor health
4. If the animal poses a substantial and direct threat to the health and safety of others, and the threat cannot be reduced or eliminated by a reasonable accommodation. There are no automatically excluded breeds of animals and an inherent fear of an animal is not sufficient reason to have it removed.

#### **REQUIREMENTS FOR THE COMMUNITY**

Members of the College community are required to abide by the following practices:

1. Allow a service animal to accompany its owner at all times and in all places on campus, except where specifically prohibited.
2. Do not touch or pet a service or emotional support animal unless invited to do so.
3. Do not feed a service or emotional support animal.
3. Do not deliberately startle a service or emotional support animal.

4. Do not inquire for details about a person's disabilities or ask a person with a qualifying disability to demonstrate the work or task performed by their service animal.



## GUIDELINES FOR ANIMALS ON CAMPUS

Under Title II of the ADA and Sec. 504 of the Rehabilitation Act colleges and universities must modify all policies, practices or procedures to permit the use of a service animal by an individual with a qualifying disability

- The institution may not ask about the nature or extent of a person’s disability (after the individual has provided appropriate documentation to the proper office), but may make inquiries regarding what task or work the animal performs.
- The service animal does not have to be certified, trained or licensed as a service animal
- Service animals are permitted to accompany their owner in all areas of the campus
- An individual with a qualifying disability may not be charged a surcharge for maintaining the service animal on the campus (even if others are required to pay such a fee)
- The individual with a disability may be charged for damages caused by the service animal

Title II of the American’s with Disability Act does not require institutions to accept an animal whose sole purpose is to provide comfort, therapy or emotional support

- The Office of Housing and Urban Development (HUD), under the Fair Housing Act (FHA) requires accommodation of “assistance animals” which includes untrained emotional support, comfort, therapy, animals must be allowed as an accommodation for anyone with a qualifying disability in any “dwelling which is occupied as a residence by one or more families”.
  - At least two federal courts have held that college and university residence halls are considered a dwelling under the FHA
  - Short-term or transient facilities do not constitute dwellings
- Although institutions must accommodate an individual with a qualifying disability provisions for an assistance/comfort/emotional support animal in a residence hall or campus apartment the institution is not required to allow the individual to bring that animal into the work environment, classroom or other areas or buildings on campus unless the animal qualifies as a service animal under the ADA and Sec. 504

Institutions must also be aware of prevailing state laws that may mandate broader accommodation of animals. Any allowed animal is considered an extension of the owner and subject to the same Code of Conduct regulations.

### Service Animals

- Must provide an accommodation for an individual with a history of or documentation for a qualifying disability
- Must be individually trained to provide work or a specific task directly related to and provide accommodation for the disability
- May only be a dog or a miniature horse (no other animals, wild or domestic, trained or untrained are acceptable)

- Animals whose sole role is to provide emotional support, well-being, comfort or companionship do not qualify as a service animal
- Must be housebroken
- Must remain under the care and supervision of the owner at all times
- Must remain under the owner’s control
  - Must be on a harness, leash or other tether, unless doing so would interfere with the service animal’s safe performance of work or task
- Schools must modify guidelines or practices to permit the use of a miniature horse by an individual with a qualifying disability, applying the following guidelines:
  - The horse must be individually trained to do work or perform a task for the benefit of the individual with a disability
  - The institution may consider the type, size and weight of the miniature horse and whether the facility can accommodate it
  - The handler must be able to maintain sufficient control of the miniature horse at all times
  - The miniature horse must be housebroken
  - The miniature horse’s presence in a specific facility may not compromise legitimate safety requirements necessary for the safe operation

### **Comfort, Emotional Support or Assistance Animals**

- Generally comfort, emotional support or assistance animals (hereinafter “assistance animals”) provide private functions for persons with mental and emotional disabilities and must be allowed (subject to reasonable limitations) in residence halls if:
  - The individual has a qualifying disability
  - The assistance animal is necessary to afford the person with a disability an equal opportunity to use and enjoy a dwelling
  - There is an identifiable relationship or nexus between the disability and the assistance the animal provides
- Assistance animals may be an animal other than a dog or a miniature horse
- All requests for assistance animals should be determined on a case-by-case basis
  - The institution is entitled to balance the need for the assistance animal with the impact of that animals on others in the environment
- Guidelines for consideration for acceptance of an assistance animal in a residence hall:
  - The individual seeking to bring an assistance animal into the residence hall must provide documentation of a qualifying disability and the recommendation from the treating physician or mental health therapist is an assistance animal
  - There must be a nexus between the qualifying disability and the role of the assistance animal
  - The owner of the animal is subject to the interactive process for determination of a reasonable and appropriate accommodation for the qualifying disability
  - Are subject to the same limitations imposed on service animals
  - May not pose a direct threat to the health or safety of others in the dwelling
  - May not cause substantial damage to the property of others
  - May not pose an undue financial or administrative burden to the institution
  - May not fundamentally alter the nature of the institution’s operations
  - The animal may not disrupt the environment by barking, meowing, scratching, screeching, growling
  - The animal may not disturb, annoy or cause any nuisance to other residents

- The animal cannot interfere with the reasonable use and enjoyment of others living in the same dwelling
  - This may include those with allergies, phobias, religious preferences
- The animal must always be under the control of the owner, either on a leash or harness or in a crate or carrier when the owner is not present
- The owner may not leave the animal for extended periods of time or overnight
- The animal must meet state requirement for licensing and vaccinations
- The owner must maintain a clean, odor-free environment with the animal, and must clean up and appropriately dispose of all animal waste
- The animal must be well cared for and in good health
- The owner will be responsible for all conduct of the animal and for any damage to the premises



## Navigating the Law Regarding Animals on Campus Summary Sheet

- Overview of the problem: A student comes to your office and requests to have her cat with her in her room due to her anxiety disorder.
  - Do you allow it?
  - What does the law say?
  - Is this a therapy animal or service animal? What's the difference?
  - Does the university have to allow animals on campus for students with a disability?
- Service animals are defined as dogs or miniature horses that are individually trained to do work or perform tasks for people with disabilities. Under ADA, we must allow these animals to accompany people with disabilities.
- If a miniature horse, they must meet four conditions:
  - Housebroken
  - Under the owners control
  - The facility must be able to accommodate a miniature horse
  - The horse must not compromise the safety of the facility
- Service animals are working animals, not pets. Dogs whose sole function is to provide emotional support are not service animals.
- Therapy (or companion) animals are not defined by federal law (except in some states) and have no training requirement. Therapy animals are not services animals.
- The conflict is that Title II & III have been amended to say that universities don't have to accept comfort or therapy animals, only animals who perform an actual "service."
- Then enter (from the side) HUD and the Fair Housing Act that turned it on its head by supporting a student at UN-K in a "lawsuit" overseen by an administrative law judge who decided the university violated her rights under FHA because they would not let her pet dog "Butch" live in her dorm room to give her comfort.
- Complainant ("X") filed a complaint with the U.S. Dept. of Housing and Urban Development, under the Fair Housing Act, alleging discrimination based on her disability. X was diagnosed with depression and anxiety sufficient to limit her major life activity. She took medications for the symptoms and also relied on a comfort animal... her Miniature Pinscher named Butch.



- The Administrative Law judge found that the University engaged in discriminatory housing practice under the FHA (who defines a dwelling to be “any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families”).
- The judge issued an injunction against the university for discrimination against a person based on disability in any aspect of occupancy, use or enjoyment of a dwelling; awarded her damages sufficient to fully compensate her for her damages; awarded attorney fees; and issued a \$16,000.00 civil penalty against the university for each violation of the act.

**Kendra Velzen & Fair Housing Center v. Grand Valley State University**  
**U.S. Dist. Ct., W. Dist. Michigan (2012)**

- Ms. Velzen was diagnosed with depression, cardiac arrhythmia and had a pacemaker implanted. She relied on her attachment to animals as emotional support and was formally prescribed an emotional support animal....a guinea pig, Blanca. The prescribing physician prescribed Blanca as a means of controlling Velzen’s stress and manage her symptoms.



- In January, 2013 the university settled the case for \$40,000. Additionally, the settlement requires that if Velzen chooses to live on campus and requests to live with a guinea pig or another animal similar in size or nature, the request will be approved by the university. The university also agreed to create a “Support Animal Accommodation Policy” within 90 days and train their staff within 90 days of creation of the policy.

**What to do?**

- **Work with Students to Find a Solution**
  - Don’t require the student to jump through hoops. This can be stressful and overwhelming
  - Work with the student through the process, not against them
  - If you cannot grant a request, help the student identify other ways to have their needs met
- **Some Creative Approaches**
  - What Student working with animal shelter or local pet store
  - University helps student coordinate a pet stress free zone during the semester (finals, parents’ weekend)
  - Locate a place on campus that can allow or encourage animals (farm or designated residence hall)



## DO'S & DON'T'S FOR RESPONDING TO ANIMALS ON CAMPUS

### Do

- Treat each case with a careful review of the individual circumstances

### Don't

- Act overly dismissive to a student citing policy and ignore unique or importance circumstance.

### Do

- Meet with the student and discuss their options for accommodations at your university or college with an understanding they may need some assistance filling out paperwork and understanding your review requirements for accommodations

### Don't

- Send a student out of your office with a list without a personal explanation or point them to a website to fill out paperwork prior to talking to someone about the process

### Do

- Ensure you have any policy reviewed by a lawyer or general counsel familiar with 504 and ADA policy at the federal level

### Don't

- Assume your existing policy is sufficient and will protect your school from a lawsuit because "it has always worked in the past"

### Do

- Understand services animals (dogs and miniature horses) are different in terms of an accommodation request

### Don't

- Lump all animals together and develop a policy that avoids a distinction between therapy and companion animals and service animals

### Do

- Realize there is a training regulation for service animals that is different than is required for companion and therapy animals

### Don't

- Don't require the student to provide proof of training or demonstrate the dog or miniature horses abilities on cue in front of you as part of the disability accommodation.

### **Do**

- Include specific language about expectations to the service animal and therapy/companion animal policy on your campus that are related to health, safety or disruptive behavior. This could also include damage to property, being out of the control of the student or not being housebroken.

### **Don't**

- Interpret disruptive behavior of a services animal widely (such as the presence of the animal in the classroom distracting other students or a student with an allergy). Immediately separate an animal from campus prior to looking for middle ground comprises such as the student covering damage expenses or trying to find a different setting for the student and animal.

### **Do**

- Look for opportunities to support animals on campus in other settings if your college or university is unable to offer a disability accommodation for an assistance/therapy/companion animal. These may include a club or organization, connection to a local shelter or “stress-free” zones where students and animals can interact during high stress times like finals.

### **Don't**

- Deny a student a disability accommodation without offering to continue to the conversation around what other assistance the university may offer for the student's disability. Even if the accommodation cannot be granted, the university should make every reasonable effort to look for ways to assist the student in their academic progress.