

# BOND

## HIGHER EDUCATION INFORMATION MEMO

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### Navigating Requests for Animals on Campus

With college student mental health issues on the rise nationwide, college administrators are likewise seeing an increase in requests for emotional support animals to be present on campus. In considering these requests, disability services offices must be knowledgeable of the various laws that come into play, as well as the unique terminology that—while sometimes used interchangeably—play an important role in understanding the legal rights of the college and the student making the request.

Requests for animals on campus implicate the Americans with Disabilities Act (ADA), which applies to both public and private institutions; Section 504 of the Rehabilitation Act (Section 504), which requires recipients of federal funding to make modifications to its policies and services for students with disabilities; and the Federal Fair Housing Act (FHA), which applies to student housing.

The first step in addressing a student's request to have an animal on campus is to identify whether the student is requesting a "service animal"—which is specifically defined under the ADA—or whether the request is for an "assistance" or "emotional support" animal.

For purposes of postsecondary institutions and other places of public accommodation, the ADA provides a very specific definition of a "service animal"—a dog (and in some circumstances a miniature horse) that is individually trained to do work or perform tasks for an individual with a disability. The task that the dog is trained to perform must be directly related to assisting the student's disability (e.g., alerting a diabetic student that their blood sugar is low). Institutions should take note that this definition of "service animal" is specific to addressing student requests, and that this definition does not necessarily apply to employee requests for reasonable accommodations in the workplace under Title I of the ADA.

When receiving a request for a student to be accompanied on campus by a "service animal," the institution is not allowed to require documentation about the training or certification of the service animal. The institution, however, may ask the student to provide proof that the service animal has received any vaccinations that may be required under state or local laws that are generally applicable to all animals. Service animals are permitted to accompany the student anywhere on campus that the student may go—including the student residences and classrooms.

When evaluating requests for a student to have an animal in student housing, the FHA comes into play. This opens the door to not only requests for service animals in student housing (for which the above restrictions would apply) but also "assistance" or "emotional support animals" (ESA). Unlike a "service animal," an ESA does not have to be trained to perform a specific task for an individual. Rather, an ESA generally provides emotional support that may help to alleviate an identified symptom of a student's disability (e.g., alleviating feelings of anxiety related to post-traumatic stress disorder). Likewise, an ESA is not limited to only dogs, and can include a variety of other animals.

To substantiate the need for an ESA, the institution may ask the student to provide documentation from a healthcare provider to establish the existence of the student's disability as well as how the animal will help to alleviate a disability-related symptom of the student. If, however, the animal meets the definition

of a “service animal” then the institution cannot ask for this information. While ESAs are generally limited to residences, if the ESA meets the definition of a “service animal,” the animal may accompany the student handler to other parts of campus, such as to class.

Whether the institution has approved a service animal or an ESA, such approval does not come without restrictions and safeguards. Service animals may be removed from campus if they pose a direct threat to the health or safety of others on campus, or if there is evidence that the animal would cause physical damage to the property of others. In that regard, accommodating students with a service animal where other students in the same residence or classroom may have a severe allergy can present its own unique challenges. Similarly, ESAs can be removed from campus if the animal is “out of control” or if the animal is not housebroken.

Institutions should be sure to periodically review and update their policies and procedures for evaluating these requests. Section 504 requires postsecondary institutions to have a designated staff member who is responsible for complying with Section 504 requests, and also requires institutions to have a grievance procedure for students to appeal decisions related to disability-related accommodation requests. Finally, because this can be a very complicated topic with various legal implications, institutions should confer with legal counsel when navigating these types of requests to ensure compliance.

If you have any questions about the information presented in this memo, please contact [Robert F. Manfredo](#), any attorney in Bond's [Higher Education practice](#) or the attorney at the firm with whom you are regularly in contact.

