

# HIGHER EDUCATION LAW

## INFORMATION MEMO

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### Less Exposure, Not a Free Pass: HUD's New Approach to Animal Accommodations

On May 22, 2026, the Department of Housing and Urban Development (HUD) issued a memo that significantly limits how the Office of Fair Housing and Equal Opportunity (FHEO) will handle complaints regarding animal-related accommodations under the Fair Housing Act (FHA).

Effective immediately, HUD no longer expects housing providers to treat emotional support animals (ESAs) the same way as trained service animals. Moving forward, FHEO will find reasonable cause against housing providers only in cases involving animals that are trained to provide disability-related assistance. The memorandum borrows the ADA's training concept as a guide, but it also makes clear that an FHA accommodation may involve a trained animal other than a dog.

The HUD memorandum cites HUD's limited resources to investigate and resolve the many complaints it has received from individuals charging that a residence subject to the FHA denied them the opportunity to have an ESA. According to the recent HUD memo, in recent years, more than 20% of fair housing complaints have involved untrained ESAs.

The FHA does not specify the type of training required for a reasonable, animal-related accommodation and instead refers to the ADA's language regarding service animals. The memo states, "[u]nder the ADA, a service animal '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.'" The memo provides examples of functions that a service animal would provide to an individual with a disability that an ESA would typically not provide, such as retrieving items, recognizing when an individual might be having a seizure or alerting an individual with hearing loss that others are present. The memo continues, "But 'the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.'"

While the HUD memorandum is an important development, it is not HUD's final word. HUD says it intends to pursue notice and comment rulemaking to update its decades-old housing regulations and harmonize them with the ADA to the extent possible. Further, despite its narrowed focus, HUD clarifies that its May 22, 2026, guidance does not address how the department will process complaints under Section 504 of the Rehabilitation Act or the ADA and it does not eliminate a complainant's right to file a private lawsuit.

#### ***What this means for colleges and universities with residence halls***

For colleges and universities that operate campus housing subject to the FHA, the practical takeaway is that the risk of HUD complaints arising out of ESA disputes is now significantly lower. That said, the HUD guidance is not a green light for blanket denials of animal-related accommodation requests, as requests involving trained service animals remain presumptively reasonable. Open ESA matters will still receive case-by-case review, and private litigation remains available.

While the recent HUD position on evaluating ESA requests may result in fewer approvals of such requests in light of federal law, several states, including New York, California and Illinois, have laws that provide greater

protection for individuals requesting an ESA as an accommodation in college housing. New York's Human Rights Law, for example, requires landlords to allow a tenant to have an ESA if that tenant can provide documentation from a licensed mental health care provider that certifies that the ESA owner has a disability that requires the presence of an ESA. New York City's Human Rights Law has a similar requirement.

Institutions should review housing intake forms, website FAQs and other written materials available to students and ensure they clearly separate service animal requests from untrained ESA requests and capture the training, disability-related task and necessity issues HUD emphasizes as important to service animal requests.

With respect to ESA requests, institutions should still avoid automatic outcomes, whether that means automatically waiving fees for every claimed ESA or automatically denying every request involving an untrained animal. Requests involving multiple animals, unusual species or mass-produced online letters warrant heightened review and clear written documentation. This means residence life and disability services staff should review documentation carefully, test reliability where appropriate and document why any requested exception is or is not necessary and reasonable in the specific housing setting.

If you have questions about these new rules and compliance obligations, please contact [Suzanne Messer](#), [Barbara Lee](#) or any attorney in Bond's [higher education practice](#) or the Bond attorney with whom you are regularly in contact.

