

# CAMPUS COMPANIONS: HOW TO HANDLE REQUESTS FOR SERVICE AND ASSISTANCE ANIMALS

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School officials often receive requests from students with disabilities to bring “service animals” and “assistance animals” on campus as an accommodation. Under the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, and the Fair Housing Act (FHA), virtually all institutions are required to accommodate students with disabilities by allowing service animals nearly everywhere on campus, including public spaces, academic buildings, dwelling units, and other facilities. By contrast, under these federal laws, institutions are only required to allow assistance animals in campus dwelling units and in the employment context (although state or local laws may impose additional requirements).

Below are some practice pointers for education officials upon receipt of a student’s request to bring an animal to campus.

## 1. Recognize The Difference Between “Service Animals” And “Assistance Animals”

Under Title III of the ADA, a service animal is “any dog that has been individually trained to do work or perform tasks for the benefit of an individual with a disability, including any physical, sensory, psychiatric, intellectual, or other mental disability.” Common examples of service animals include

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seeing-eye dogs trained to guide the blind, dogs trained to detect the onset of an epileptic seizure (and then help the person remain safe during the seizure), and dogs trained to remind a person with depression to take medication.

On the other hand, an assistance animal – sometimes known as an “emotional support animal” – can be a cat, dog, or other type of companion animal. It does not need to be trained to perform a service; instead, the emotional or physical benefits the animal brings qualify it to be an assistance animal. Examples might include a cat that can detect and alert its companion of oncoming seizures, a dog that alleviates a person’s depression or anxiety, a cat that reduces a person’s stress-induced pain, and a bird that alerts its hard-of-hearing companion when someone rings the doorbell.

## **2. Federal And State Laws Impose Accommodation Obligations**

At the federal level, the ADA, Section 504, and the FHA all prohibit discrimination based on disability. Title II of the ADA, for example, applies to public educational institutions, while Title III applies to private entities that are “places of public accommodation,” including private K-12, undergraduate and postgraduate schools, and other places of education. Section 504 applies to any institution receiving federal financial assistance, which covers virtually all public and private colleges and universities. The FHA pertains to residential “dwellings,” a term that likely encompasses campus housing such as residence halls and dormitories (although courts have not explicitly settled the matter).

Each of these statutes imposes various obligations upon educational institutions to accommodate students’ service or assistance animals. In addition, many states and localities have adopted further anti-discrimination statutes requiring accommodation of a broad range of service and assistance animals.

### 3. Consider The Interactive Process

Each federal statute has unique circumstances under which it mandates institutions to consider and engage in an interactive process with students. The ADA, for example, requires that any public entity or place of public accommodation “modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability.”

Generally, when a student requests permission to bring a service animal into the classroom as an auxiliary aid because of a disability, you may not make inquiries if it is readily apparent the animal is trained to do work or perform tasks for an individual with a disability. For example, if a visually impaired student requests to bring a seeing-eye dog into the classroom, you may not make inquiries about the dog.

In situations where it is not obvious the dog is a service animal, however, you may ask two specific questions: (1) whether the dog is required because of a disability, and (2) what work or task the dog has been trained to perform. Therefore, if a student requests to use a service dog to alert him when his blood sugar reaches dangerous levels, you are not allowed to request documentation for the animal (such as proof that the dog has been trained), require that the dog demonstrate its task, inquire about the nature of the student’s disability, or require medical documentation.

Under Section 504, when a student requests permission to bring a service animal into the classroom as an auxiliary aid, at least where the disability and the function of the service animal are not obvious, you may initiate the Section 504 interactive process. This permits you to ask the student for documentation to confirm the handicap, the need for the services requested, documentation of the dog’s training, and how you can best accommodate the student and the dog.

Comparatively, the FHA regulations permit a much

broader scope of animals in residential dwellings, including assistance animals. The statute further permits you to verify the existence of the disability and the need for the accommodation by requiring the student to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal serves to alleviate at least one of the identified symptoms or effects of the existing disability.

The result is a confusing interplay of the ADA, Section 504, and the FHA, often leaving institutions with little guidance. Because one size does not fit all when it comes to inquiries and accommodations, you should engage in an interactive process with students on a case-by-case basis, with the understanding that the extent of permissible inquiries may, and often does, vary in each situation.

#### **4. Train Disability Services And Residence Hall Staff**

Your goal is to accommodate the needs of students with disabilities while recognizing the health, safety, and educational goals of others in the campus community. Therefore, it is imperative that the person making inquiries is well-versed in the applicable laws and knows to not question beyond what is permitted.

Similarly, there is sometimes a stigma or skepticism associated with students whose disabilities are not apparent, or with animals not fitting the mold of the traditional seeing-eye dog. Thus, it is imperative that faculty and staff understand the antidiscrimination laws and your institution's policies and legal obligations regarding service and assistance animals.

#### **5. Remember That Federal Laws Provide A Floor, Not A Ceiling**

Even though the ADA does not require you to accommodate a student's or parent's request to bring assistance animals onto campus, you may still wish to permit them because research has not

shown that animals are “bad” for everyone. In fact, they can potentially provide therapeutic and comforting feelings to those with emotional or psychiatric disabilities. Some K-12 institutions bring comfort dogs to campus during high stress periods such as during final exams or when the community has experienced trauma. Remember that federal laws provide a floor, not a ceiling; you are free to conduct a cost-benefit analysis of accommodating student requests for assistance animals.

## **6. Consult A Professional**

Finally, your legal obligations vary significantly depending on the student’s disability, the type of animal, the work or task the animal performs, whether the student is employed by your institution, where on campus the student wishes to bring the animal, whether you are applying ADA, Section 504, or FHA standards, or whether state or local laws impose additional obligations. Therefore, it is advisable to consult a legal professional who is well-versed in these areas before making any final decisions.

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