

Emotional Support Animals, Service Animals, and Pets on Campus

BY C. W. VON BERGEN & MARTIN BRESSLER



The issue of allowing animals to assist persons with disabilities in higher education has been challenging for postsecondary institutions in recent years. Although “traditional” service animals such as guide dogs have been accommodated, the use of animals to assist individuals with psychiatric issues is a more recent trend. Within the past several years, colleges with no-pet policies have received more and more requests from students who claim the need for a “companion” or “emotional support animal” (ESA) as an accommodation for their mental, psychiatric, or emotional disorder. Many postsecondary educational institutions are confused about their obligation, if any, to waive their pet bans under these circumstances. This article discusses mental health on campus, examines the current definitions of impairments and animals on campus, and recommends a number of actions (takeaways) that higher education officials may adopt.



C. W. VON BERGEN

C. W. Von Bergen is the John Massey Professor of Management at Southeastern Oklahoma State University. He received his Ph.D. from Purdue University in 1974 in industrial/organizational psychology. He has taught numerous psychology and business courses using both online and traditional formats at Purdue University, Louisiana Tech University, and Massey University in New Zealand. He has written for more than 100 publications, primarily practitioner-oriented business and legal journals and periodicals.



MARTIN BRESSLER

Martin Bressler is professor of marketing and management in the John Massey School of Business at Southeastern Oklahoma State University. Bressler was a Fulbright Scholar to Germany and Resource Panel Expert in International Business to the 1995 White House Conference on Small Business. In 2013, he was named Outstanding Professor of the Year at Southeastern.

CORE COMPETENCIES

COMMUNICATION

- Interpersonal Communication

INTERCULTURAL PROFICIENCY

- Cultural Awareness and Sensitivity

LEADERSHIP

- Collaboration and Partnerships

Mental Health and College Students

Many college students today enter their higher education experience already having significant mental health issues. Interestingly, 75% of lifetime mental disorders have first onset by the typical college age range of 18-24, the *Archives of General Psychiatry* reported in 2005. In 2012, The National Alliance on Mental Illness reported significant numbers of students having a diagnosable disorder: Over one-quarter of respondents had depression, 24% had bipolar disorder or dysthymia, 11% had some form of anxiety, 6% had schizophrenia, and 5% had Attention Deficit Hyperactivity Disorder (ADHD). According to the American Psychological Association, eating disorders, self-harm, and substance abuse issues are on the rise as well. Additionally, in the past two decades, common conditions like depression and anxiety have increased threefold and twofold, respectively.

The influx of students who arrive in college with a mental illness has been documented extensively. In a 2013 survey of college counseling center directors, 88% of respondents reported an increase in the number of students arriving on campus who require medication to regulate a mental illness. In that same survey, 95% reported continued growth in the number of students with severe psychological problems including psychiatric medication issues, self-injury, alcohol and drug abuse, eating disorders, and psychological crises.

There are various reasons for the increasing numbers of students with mental illness. It is becoming more acceptable to disclose a mental illness; therefore, more people are seeking help. Certain disorders have also become more common over the years, and youth and adolescents are receiving improved care in primary and secondary school as

well. With counseling and other support services, students with a learning disability, mood disorder, or obsessive compulsive disorder who would not have been able to attend college and be successful just a few years ago are now able to do so. Finally, the transition from attending high school and living at home with one's family to the increased academic rigor of college courses and living on one's own can be difficult for some students. These stressors can sometimes lead to mental health issues such as depression or anxiety.

Increased Prominence of ESAs on Campus

As a way of coping with this mental health state of affairs, college students increasingly ask administrators to allow them to bring animals to campus and to exempt them from the institution's "no-pets" policies. Students assert that they have a mental or psychiatric impairment and that an animal—particularly an ESA—provides a therapeutic benefit, such as alleviating or easing some symptoms of their disability.

Although students seeking permission to keep an animal on campus to mitigate their mental impairment is relatively new, the ameliorative effects of animals are not. For centuries, people have noted that animals can have a positive influence on human functioning, and conventional wisdom has long supported the use of animals in promoting human wellbeing. For example, in the 19th century, Florence Nightingale suggested a bird might be the primary source of pleasure for persons confined to the same room due to medical problems. Moreover, recent studies have found that unique benefits exist for those individuals with mental, emotional, or psychiatric disorders. In part, interactions with pets alter the tendency to focus negatively one's self. Individuals become more

involved in their environment in nonthreatening ways with a companionate animal, suggesting that service animals provide a catalyst for social interaction with people who might otherwise feel ignored or socially isolated.

Yet some argue that requests to bring animals to school are being twisted and stretched to seemingly absurd dimensions. Some animals-on-campus critics believe some students feign maladies as a way of getting their pets to join them at school. Indeed, Jane Jarrow, president of Disability Access Information and Support, an organization that helps colleges meet disability standards, told *The Chronicle of Higher Education*: "The single biggest concern on the part of institutions [regarding animals] would be setting a precedent. They worry that if they say yes to this one, they won't be able to say no to the next one."

While most legal cases have been specific to residence halls, several campus incidents provide background information on this issue beyond one's living quarters. In 2005, first-year student Sarah Seveck, diagnosed with anxiety and depression, petitioned administrators at Our Lady of the Lake University in San Antonio for permission to bring her ferret, Lilly, to her residence hall and classes because Lilly helped Seveck cope and calmed her during panic attacks. Seveck considered her ferret to be no less legitimate than a guide dog even though the support Lilly provided was emotional, rather than physical. She filed a complaint with the U.S. Department of Justice, but the agency refused to take action on her grievance. However, even as the college won, they lost financially due to incurred legal expenses.

Similarly, Kyra Alejandro, a student at Palm Beach State College in Palm Beach, Fla., in 2011 was diagnosed with various mental disorders and as soon

as she received her diagnosis she began training her dog, a black Pomeranian named Ambrosius, as a “psychiatric service animal.” The dog was taught “to establish eye contact, nip her fingers, or snort when he perceived imminent panic attack.” When Alejandro failed her classes and was escorted off the campus several times, in part because two departments at the institution had different positions on allowing the dog in class, she filed suit against the school (*Kyra Alejandro v. Palm Beach State College*, 2011). The court held that Alejandro was an individual with a disability under the Americans with Disabilities Act and ADA Amendments Act and that Ambrosius qualified as a service animal. The court was swayed by the psychologist’s statement that her dog “makes a clinical difference for Ms. Alejandro, and has proved to be a crucial accommodation, enabling her to study and learn without experiencing debilitating anxiety,” according to the Bazelon Center for Mental Health Law legal briefing. The college was ordered to pay Alejandro and her counsel \$100,000.

These accounts highlight the ongoing struggle that many schools encounter when trying to understand the various laws that apply to student requests for accommodations for their mental disabilities. Many colleges are grappling with how to distinguish a student with a true need from one who simply does not want to be separated from their beloved pet. This effort is complicated by various animal definitions and labels.

Nevertheless, several definitions are significant: service animals, ESAs, and pets. Table 1 shows these classes along with a brief statement indicating where animals are generally allowed on campus (p. 25). Emotional support and service animals are not “pets,” but rather are considered to be more like assistive aids such as wheelchairs. Not discussed here

but relevant to housing situations is the Federal Housing Authority’s term “assistance animals.” It is not discussed as a separate category because the term includes service animals as well as ESAs.

Definitions

SERVICE ANIMALS

Service animals must generally be provided access to all campus locations. Guide dogs that assist people with visual impairments or blindness are the archetypal example of a service animal. In 2011, the U.S. Department of Justice defined a service animal 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. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The definition is explicit that the following animals are *not* considered service animals under the Americans with Disabilities Act and ADA Amendments Act: 1) any animals besides dogs (though there is a special provision permitting miniature horses in some cases); 2) animals that serve solely to provide a crime deterrent effect; and 3) emotional support, comfort, or companionship animals.

The work or tasks a service animal performs must be directly related to the individual’s disability and can include a wide variety of services, such as assisting those with low vision, alerting individuals who are hard of hearing, pulling a wheelchair, and retrieving items such as medicine or a phone. With respect to mental disabilities, service animals may perform a variety of critical functions that assist many individuals with psychiatric disabilities, including alleviating symptoms of anxiety and panic disorders by calming the handler and preventing impulsive or destructive

The use of animals in various service, assistive, therapeutic, pet, and emotional support roles has contributed to an uncoordinated and confusing expansion of labels. Among them are:

- Service animals
- Companion animals
- Comfort animals
- Emotional support animals
- Visitation animals
- Therapy animals
- Therapy/emotional support animals
- Assistive animals
- Assistance animals
- Psychiatric service animals
- Pets

To further complicate matters, definitions of animals differ from jurisdiction to jurisdiction. The Animal Legal & Historical Center at Michigan State University College of Law skillfully compares all 50 state’s assistance animal laws at www.animallaw.info/topic/table-state-assistance-animal-laws.



behaviors or interrupting inappropriate repetitive behavior with a persistent nudging task.

A service animal may be trained by a noncertified professional, a friend, a family member, or the person with the disability. Service animals are working animals and must be harnessed, leashed, or tethered, unless these devices interfere with the animal's work or the individual's disability prevents using these devices. In that case, the person must maintain control of the animal through voice, signal, or other effective controls. A service dog is not required to be registered or wear a special tag or vest identifying it as a service animal.

When it is not obvious what service an animal provides, staff may only ask two questions: 1) Is the service animal required because of a disability? 2) What work or task has the service animal been trained to perform? Any inquiry beyond these two questions opens up organizations to litigation. Administrators 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.

Safety considerations for denying an accommodation must be based on actual risks rather than on mere speculation, stereotypes, or generalizations about individuals with disabilities or about a dog's breed (e.g., Pit Bull). A perceived threat without evidentiary basis will not likely support exclusion. Moreover, there is no specific legal requirement as to the amount or type of work a service animal must provide.

ESAs

ESAs (sometimes called therapy animals or support animals) are typically dogs and cats but may include other animals of any species that provide support, well-being, comfort, aid, or a calming

influence through companionship, nonjudgmental positive regard, affection, and a focus in life simply by being close to their handler. Such animals, by their mere presence, and without specific training, may relieve or help reduce psychologically or emotionally induced pain in persons with certain medical conditions. Because they are not individually trained to perform work or tasks, ESAs are not service animals but may be effective at ameliorating the symptoms of psychiatric disabilities by providing therapeutic nurture and support.

The principal service that ESAs provide is simply companionship. Moreover, while service animals are trained to behave flawlessly in public, ESAs may not be as well-behaved. For instance, due to the lack of training, an ESA may bark and smell other people, whereas service dogs are trained not to do so. As such, ESAs are virtually indistinguishable from the family pet. One more source of confusion for universities is that a variety of animal types can be claimed as ESAs including rabbits, hamsters, snakes, and pot-bellied pigs.

Additionally, there is a valid distinction between the functions animals provide to persons with disabilities in the public arena as compared to how ESAs might be used in a student's dwelling. For example, ESAs may provide private functions for persons with mental and emotional disabilities. Specifically, ESAs by their very nature, and without training, may relieve depression and anxiety, and help reduce stress-induced pain in persons with certain medical conditions.

PETS

The term pet has long been the affectionate term for animals kept for pleasure and companionship. Brigham Young University, often cited as having a model policy for animals on campus, defines a pet as an animal kept for ordinary use and companionship. Pets

are not considered service animals or ESAs, and most universities have not usually permitted them on campus. Importantly, what differentiates ESAs from pets is that the student owner/handler has been diagnosed by a medical professional as having a verifiable (mental) disability that is not transitory and minor.

MENTAL IMPAIRMENTS

Mental or psychiatric impairments refer to the collection of all diagnosable mental disorders causing severe disturbances in thinking, feeling, relating, and functional behaviors that can result in a markedly diminished capacity to cope with the demands of daily life. More formally, U.S. federal laws define a person with a disability as "any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment." Under the ADA Amendments Act, "major life activities" was expanded to include a non-exhaustive list of "major bodily functions."

A mental impairment includes any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities, as well as psychological disorders or emotional or mental illnesses, which significantly limit one or more major life activities. Examples of these are depression, bipolar disorder, anxiety disorders, schizophrenia, personality disorders, and other similar conditions identified in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*. It is not necessary that the disability be an obvious one.

Critics of the new *Diagnostic and Statistical Manual of Mental Disorders*, published in 2013, feel that thresholds for the diagnosis of many disorders have been

lowered and what was once considered psychologically healthy (or at least not unhealthy) is presently considered a mental illness. For instance, people who are extremely shy and concerned about how others might evaluate them, and who thus avoid certain types of activities, might be diagnosed with “avoidant personality disorder.” These same characteristics were not historically considered pathological, and in some other cultures they are not thought to be so. Some of the behaviors, beliefs, and feelings that were within the then-normal range of human experience are now deemed to be pathological. Thus, the actual definition of mental illness has broadened, creating a bigger tent with more people under it.

It is noteworthy that some conditions included in the *Diagnostic and Statistical Manual of Mental Disorders* are excluded under the ADA, including kleptomania, pyromania, exhibitionism, voyeurism, transvestitism, substance abuse problems, and transsexualism. Moreover, some mental disability claims filed under the ADA have involved “fanciful conditions” including “chronic lateness syndrome,” “sexual impulse control disorder,” and “authority figure stress reaction syndrome,” and have not been classified as impairments and therefore do not require accommodation. Worries or unease related to marital problems, financial hardships, roommate difficulties, or harsh and unreasonable treatment from instructors also are not classified as impairments. Additionally, traits or behaviors are not, in themselves, mental impairments; e.g., stress, in itself, is not automatically a mental impairment. Stress, however, may be shown to be related to a mental or physical impairment. Similarly, traits such as irritability, quick temper, chronic lateness, and poor judgment are not, in themselves,

mental impairments, although they may be linked to mental disorders. Finally, many people ask if suffering from anxiety makes them qualified to have a service dog for emotional support, and the consensus answer is “no.”

Addressing Student Animal Request Accommodations

After receiving a student request for an accommodation to bring an animal on campus, an administrator must consider the following:

1) **Why is the student requesting an exception to the college’s policy of no animals on campus?** This should give the administrator information on what animal category (i.e., pet, ESA, service animal) the student is requesting. Administrators must be able to interpret the student’s request broadly and should not disqualify a student who did not use exact wording such as an ESA or service animal. Documentation of the need for an ESA should include the following:

- A letter from the student explaining the need for the animal, the type of animal, a description of the animal, the animal’s name, whether the animal is housebroken, the date[s] of the medical examinations and prescriptions for the animal, and the date when the animal was acquired.
- A signed letter, on professional letterhead, from the student’s physical or mental healthcare provider or licensed therapist or other qualified professional that includes at a minimum the nature of the applicant’s disability, the provider’s opinion that the condition affects a major life activity, how the animal is necessary to provide the

When it is not obvious what service an animal provides, staff may only ask two questions:

1.

Is the animal a service animal required because of a disability?

2.

What work or task has the animal been trained to perform?

Administrators cannot ask about the person’s disability, require medical documentation, require a special identification card or training documentation for the animal, or ask that the animal demonstrate its ability to perform the work or task.

TABLE 1.

Key animal categories relevant to colleges and locations where they are generally allowed.

SERVICE ANIMAL
Dogs generally allowed in all campus locations
EMOTIONAL SUPPORT ANIMAL (ESA)
Generally allowed in student housing and in student campus jobs
PET
Generally not allowed in any campus location

impaired student access to the university's housing or employment settings, and the relationship between the disability and the assistance the animal provides.

2) Is the student's accommodation request reasonable? Here administrators may consider whether granting the request would constitute an undue financial or administrative burden, or would fundamentally alter the nature of the institution. In addition, animal accommodation requests may be denied if the specific animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation; or if the specific assistance animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.

A determination that an animal poses a direct threat of harm to others or would cause substantial physical damage to the property of others must be based on an individualized assessment that relies on objective evidence about the specific animal's actual conduct—not on mere speculation or fear about the types of harm or damage an animal may cause and not on evidence about harm or damage that other animals have caused. Breed, size, and weight limitations are not applicable to ESAs. Conditions and restrictions that housing providers and employers apply to pets may not be applied to service and ESAs. For example, while housing providers may require applicants or residents to pay a pet deposit, they may not require applicants and residents to pay a deposit for ESAs.

Takeaways

There are a number of lessons for administrators regarding accommodations and "no-pets" policies. These are based on suggestions and observations from the National Association of College and University Attorneys, the Bazelon Center for Mental Health Law, the Job Accommodation Network, and the Animal Legal & Historical Center at Michigan State University's College of Law.

First, be prepared to address animals on campus in the future as this matter continues to be an evolving situation, especially as mental disorders in the student age range continue to trend upward as discussed earlier. Additionally, students will continue to question differences between service animals and ESAs and may well mention the fact that ESAs are permitted in university housing and so should also be permitted in other campus locations. Particularly astute students may even bring to an administrator's attention the Air Carrier Access Act of 1986, which allows ESAs to accompany passengers in the aircraft cabin. If ESAs can travel with their handlers on an airplane, these students might say, then surely allowing ESAs in campus facilities should be permitted.

Another factor that will contribute to greater demand for accommodations for service animals and ESAs involves the myriad of Internet-related sites. Multiple websites now offer certifications, registrations, endorsements, identification tags, clothing identifying the animal as a service animal or ESA, and evaluation letters from mental health professionals highlighting the disability and how the presence of an animal is beneficial to an individual's mental health. A virtual industry has developed to assist individuals in qualifying pets as service animals or ESAs—for a price. For example, the National Service Animal Registry advertises that for only

\$64.95 plus shipping and handling fees individuals get a lifetime registration, a database listing, an official embossed certificate, two professional-quality photo ID cards, and two photo ID card clips. Applicants can also purchase a vest with a round National Service Animal Registry-Certified patch professionally sewn to the vest. Some of these sites will arrange for a mental health professional to send the applicant a prescription letter.

Administrators should not ask for any overly intrusive, burdensome, confidential, or unnecessary documentation, with respect to an accommodation for a student. Limit the amount of information requested for an accommodation and do not ask for excessive material. Generally, if an individual's disability and need for the animal is evident, then do not ask for additional information from a student. If the disability is evident, but the need for the animal is not, the institution is authorized to request only the specific data necessary to evaluate the disability-related need.

But in situations where neither the disability nor the need for the animal are obvious, the school may request disability-related information that first verifies the condition as any that substantially limits one or more of the person's major life activities; second, describes the need for the requested accommodation; and finally, demonstrates the relationship between the resident's disability and the need for reasonable accommodation.

This inquiry must not be highly intrusive, and in most cases, an individual's medical records or detailed information about the nature of their disability are not necessary. While a university does have a right to conduct a meaningful review when asked to grant exemptions to the institution's rules and policies, it needs to be careful not to request details that

go beyond that required to obtain the necessary information.

Employers can also expect that ADA cases are likely to move from “threshold” issues (whether an employee has a disability) to “liability” issues (whether the employee actually was discriminated against and the organization failed to provide reasonable accommodation). While every impairment may not be a disability, employers will often need to assume disability and attempt reasonable accommodation. Moreover, schools should clearly state that requests for animals on campus and exemptions from no-pets rules will be decided on a case-by-case basis.

Also complicating the analysis of when an animal must be permitted is the fact that many state (and municipal) laws do not directly parallel the federal laws. For example, Minnesota law uses the term “support animal.” Maryland law uses the term “service animal.” Nevada uses both terms. Generally, state law definitions include some reference to training, although the language can vary. In Indiana, a service animal is a “professionally trained animal.” The Alaska definition states that the animal must be “certified by a school or training facility for service animals as having completed that training.” Illinois uses the language that an animal is “trained in obedience and task skills.”

The focus of some of these definitions may be on the impact of having the animal for the person with the disability. An example is the language in Minnesota law that states that the animal “accompanies a person with a disability to assist in managing the disability and enables the person to perform functions that the person would

otherwise be unable to perform.” Likewise, many municipalities have a number of requirements including vaccinations, licensure, ID tags, etc. These should be incorporated in appropriate college policies.

Administrators must be prepared to address other students’ concerns. There may be individuals on campus with legitimate grounds to object to the presence of animals in employment settings, classrooms, and other buildings based on allergies, phobias, or other psychological or physiological problems with animals. Balancing the needs of both sets of students presents a greater level of complexity, but the Department of Justice has been clear that “allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals.”

At the same time, schools cannot strike this balance by segregating a student with a service dog since the Department of Justice’s guidance on service animals also indicated: “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.”

Finally, administrators should also address responsibilities of persons with service animals or ESAs. The accommodated student is responsible for ensuring the clean-up of the animal’s waste and, when appropriate, must toilet the animal in areas designated by the university consistent with the reasonable capacity of the owner. Administrators also may want to give notice to students when animals may be asked to be removed. This might include

defining behavior that is unruly or disruptive (e.g., barking excessively, running around, bringing attention to itself, jumping on people, exhibiting aggressive behavior, repeated soiling of facilities). Animals that are excessively unclean (e.g., repeated soiling of facilities, flea-infested, foul-smelling, and/or shedding excessively) may be excluded from university facilities. Repeated instances of such behavior or uncleanliness may result in exclusion from university facilities until the student can demonstrate that they can effectively manage the animal.

Summary and Conclusion

Even as a dog is said to be “man’s best friend” [*sic*], students realize that their best friend is often not welcome at many colleges. Some universities—mostly private—recognize the importance of animals to their owners and have adopted a pet-friendly stance as a marketing technique to recruit new students. They view pets on campus as a strategic opportunity and believe this provides them with a competitive advantage. For example, at Eckerd College in St. Petersburg, Fla., residential students can have one pet (e.g., cats, dogs, ducks) and two domestic animals (e.g., gerbils, sugar gliders, reptiles less than 6 feet long and nonvenomous).

While such practices may be uncommon, across student affairs, and within the “campus living room” context of the college union, administrators will continue to address requested accommodations such as support and service animals—the ultimate goal being to provide an inclusive community space for students, staff, and guests of the institution, including persons with disabilities. **B**