

It's a Zoo Out There: Understanding Animals on Campus

Gavin Steiger, UHCL

Steiger@uhcl.edu

281-283-2648

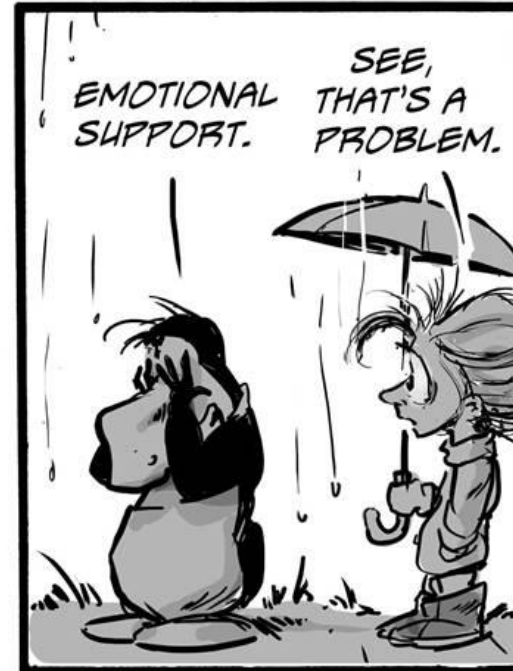
Cheryl Worley, UHV

WorleyC@uhv.edu

361-570-4287

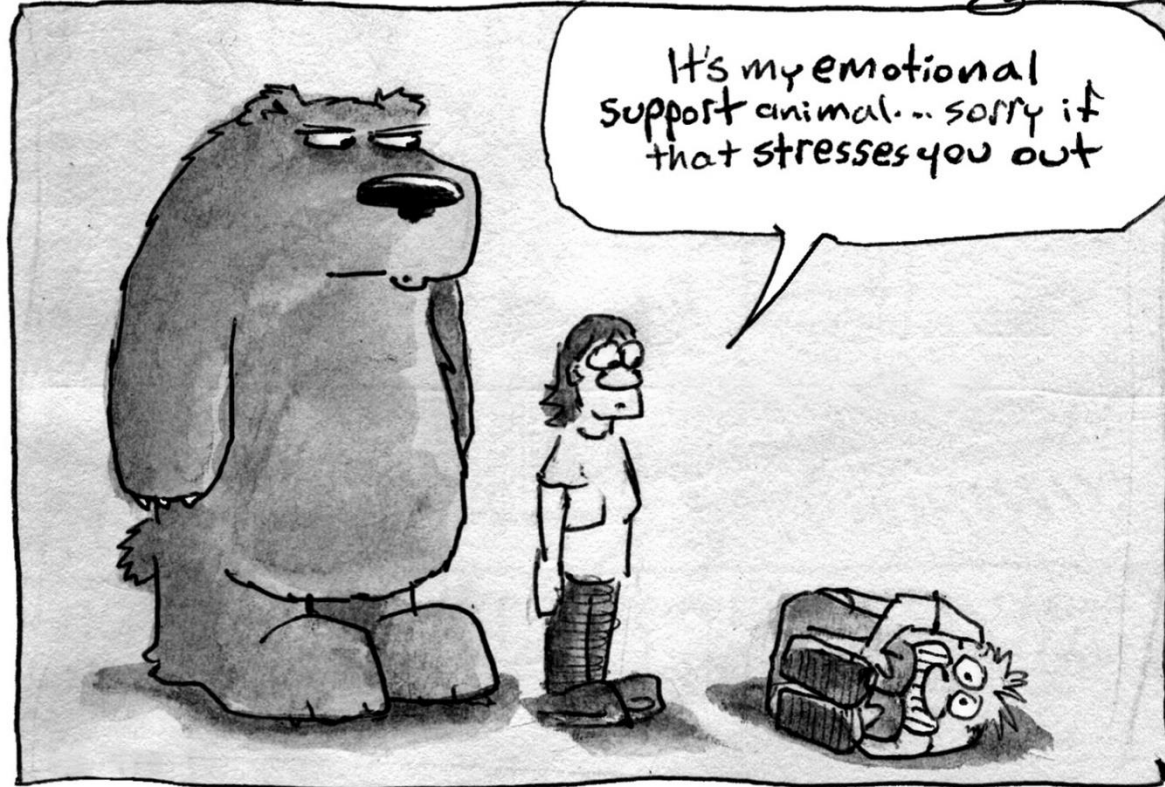
BLOOM COUNTY

by Berkeley Breathed



nuggets SKETCHBOOK

Jamie





Overview

- Learning Outcomes
- Laws that apply to Higher Education
- Handler's Responsibilities
- Appropriate Behavior

Learning Outcomes

After attending this session, participants will be able to:

- Identify the difference between a service animal and emotional support animal.
- Identify the two questions that can be asked of a person with a service animal.
- Understand the laws that apply to both types of animals.

Laws that Apply to Higher Education

- ADA and ADAAA
- Fair Housing Act
- State of Texas Statutes

Service Animals - Definitions

Definition:

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.

Definition of a "task"

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.

Service Animals – Questions to Ask

- If the need is obvious, then you may not ask any questions of the student or restrict their activity.
 - Example: a guide dog for a person who is blind
- If the need for the Service Animal is not obvious, you may ask two questions of the individual:
 1. Is the dog a service animal required because of a disability?
 2. What work or task has the dog been trained to perform?

Service Animals - Documentation

- 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.
- Employees 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.

Service Animals – Important Regulations (1)

- The ADA does not require service animals to wear a vest, ID tag, or specific harness identifying them as a Service Animal.
- People with disabilities have the right to train the dog themselves and are not required to use a professional service dog training program.
- Mandatory registration of service animals is not permissible under the ADA. Colleges may offer voluntary registries that serves a public purpose (ex: ensure that emergency staff know to look for service animals during an emergency evacuation process).

Service Animals – Important Regulations (2)

- The ADA requires that service animals be under the control of the handler at all times.
- Individuals who have service animals are not exempt from local animal control or public health requirements. Service animals are subject to local dog licensing and registration requirements.
- Service Animals must be allowed access to any areas that are available to the general public, including academic buildings and dining facilities.

Service Animals – Important Regulations (3)

- If a service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, you may request that the animal be removed from the premises.
- 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.
 - Example 1: person with PTSD
 - Example 2: person who uses a wheelchair

Texas State Law – Service Animals in Training

- Must meet all regulations in place under the ADA for trained service animals.
- Must also allow for Service Animals in training to access areas normally accessible to the general public AS LONG AS they are accompanied by a approved trainer.
 - Current statutes do not define an approved trainer.
 - Previous language indicated that it was “a person who is a member of professional organization generally recognized as training dogs to be their primary mission”.
 - This language was removed from state websites when DARS merged with the Texas Workforce Commission.

Texas State Law – Penalty Provisions

Discrimination

- Denying entry or service to a person with a disability who uses a service animal is discrimination and a:
 - Misdemeanor crime punishable by a fine of not more than \$300 and 30 hours of community service
 - Violation of civil liberties that warrants a cause of action for damages in court if there is a presumption of damages to the person

Fraudulent Use of Service Animals

- Representing an untrained animal as a trained service animal is a misdemeanor punishable by a fine of not more than \$300 and 30 hours of community service.

Fair Housing Act

- FHA defines “Assistance Animals” as animals that provide physical and/or emotional support to individuals with disabilities.
 - Can be allowed as an accommodation to allow the person full enjoyment and use of a residential dwelling.
 - Includes both service animals and emotional support animals.
- Emotional Support Animals (ESA) may also be called comfort animals, therapy animals, or companion animals.
- These terms are used to describe animals that provide comfort just by being with a person.
- They DO NOT qualify as service animals because they have not been trained to perform a specific job or task.

ESA process and documentation - UNK

- UNK established the requirement that institutions have a process in place for processing requests for ESA's.
- UNK established requirements for eligibility for an ESA:
 - 1.Documentation from a qualified professional clearly stating the need for the ESA.
 - 2.Documentation from an online organization is not acceptable and is not recognized by the Department of Justice as valid.
 - 3.ESA's must be in compliance with community ordinances for pets. Any animal that is not allowed within a community due to city ordinances is not eligible as an ESA.

ESA process and documentation – Tarleton State

- An OCR opinion issued in 2016 to Tarleton State indicated that the treating professional can be required to be:
 - Licensed in the state the student is seeking the ESA approval, or
 - Licensed in the state the student resides if not the same state as the institution they are attending
- Be aware of inappropriate documentation.

ESA's on Campus

- Restricted to the immediate living area of the student.
- May NOT be taken into common living areas, such as community bathrooms, kitchens, and study areas.
- May not be taken into any other buildings on campus for any reason.

Handler's Responsibilities (SA or ESA)

- Handler is fully responsible for:
 - their maintenance, including care, feeding, and all required vaccinations.
 - cleaning up any areas where their animals relieve themselves on campus property.
 - any damage caused by the ESA or Service Animal on campus.
 - caring for the animal at all times. (Other students and University staff are not responsible for caring for the animal).

Appropriate Behaviors

- Think of the animal as an extension of the person; behavior standards that apply to students should also apply to their animals.
- Faculty Training should emphasize they are in control of the classroom and service animals must behave just like the students.
- Any animal other than a dog is not permitted in the classroom.
- You should always focus on the required behavior of the animal under ADA.
- The only reason you should want to remove a service animal is for disruptive behavior.
- Students can return to the classroom after the animal has been removed.

References

Link to Department of Justice's Service Animal document

https://www.ada.gov/service_animals_2010.htm

Link to the Department of Justice's Q&A on Service Animals and the ADA

http://www.ada.gov/regs2010/service_animal_qa.pdf

Link to the State of Texas Statute on Service Animals

<http://www.twc.state.tx.us/jobseekers/tips-tools-about-service-animals>