

## Berkeley College Service Animal & Emotional Support Animal Policy

### Purpose

Many people with disabilities use a service animal in order to fully participate in everyday life. Dogs, for example, can be trained to perform many important tasks to assist people with disabilities, such as, providing stability for a person who has difficulty walking, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, picking up items for a person who uses a wheelchair or alerting a person who has hearing loss when someone is approaching from behind. Unlike a service animal trained to perform certain tasks, an emotional support animal can provide companionship, relieve loneliness and sometimes help with depression, anxiety, and certain phobias.

In furtherance of the [Berkeley College Disability Services Accommodations Policy for Students](#) and the [Berkeley College Disability Services Accommodations Policy for Associates](#), Berkeley College supports the appropriate use of services animals and emotional support animals at Berkeley College.

### Scope

This Policy applies to all Berkeley College students, associates (including faculty) and third-party visitors. For purposes of this Policy, the term “College” shall include Berkeley College and BES Inc., the associates of which shall be collectively referred to as “associates.” This Policy shall be applied in conjunction with the College Disability Accommodations Policies for Students and Associates, respectively. **While students can use service animals, according to the terms of this Policy, students are prohibited from bringing emotional support animals onto campus.**

### Definitions

**A Service Animal** is a dog (or, in some cases, a miniature horse, if reasonable) 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**.

**An Emotional Support Animal (“ESA”)** - also called a therapy or comfort animal - is a support animal that provides companionship, relieves loneliness, and sometimes helps with depression, anxiety, and certain phobias, but it has *not* been trained to perform work or tasks that assist people with disabilities. An ESA provides a benefit just by being present.

According to the U.S. Department of Justice, Civil Rights Division, Disability Rights Section, Frequently Asked Questions<sup>1</sup>:

**Q. Are emotional support, therapy, comfort, or companion animals considered service animals under the ADA?**

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<sup>1</sup> [https://www.ada.gov/regs2010/service\\_animal\\_ga.html](https://www.ada.gov/regs2010/service_animal_ga.html)

A. No. These terms are used to describe animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA.

**Q. If someone's dog calms them when having an anxiety attack, does this qualify it as a service animal?**

A. It depends. The ADA makes a distinction between psychiatric service animals and emotional support animals. If the dog has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, that would qualify as a service animal. However, if the dog's mere presence provides comfort, that would not be considered a service animal under the ADA.

**A. Service Animal User Requirements and Procedures**

A service animal user may be a student, an associate, or a third-party visitor who has a disability. Users of service animals must meet the following conditions to possess a service animal on any Berkeley College campus:

1. Students with disabilities must register their service animal with an ADA Coordinator for students and provide proof of vaccination, should they desire to have a service animal accompany them in academic classes, activities, or other services on campus.
2. Associates with disabilities who require the use of a service animal should contact the ADA Coordinator for Associates to register their service animal and provide proof of vaccination, prior to bringing the service animal to campus.
3. In situations where it is not obvious that a dog is a service animal, the appropriate College ADA Coordinator may ask two questions of the user/handler to verify service animal status: 1) is the animal required because of a disability; and 2) what work or task has the dog been trained to perform in connection with that disability to support the need of a major life activity. In the College's sole discretion, the College may require this information from the user/handler in writing.
4. A service animal must be house broken and under the control of its user/handler at all times.
5. A service animal shall have a harness, leash, or other tether, at all times outside of the user/handler's private sleeping quarters or work area, unless the ADA Coordinator has determined that the user/handler's disability interferes with the use of a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's ability to execute safe work tasks.
6. The user/handler is responsible for cleaning up the service animal's waste, which must be properly disposed of in a place identified by the College. Persons with disabilities who are physically unable to clean up after their service animal are not required to do so; but they are required to notify the COO of the relevant campus, in advance; take their service animals to designated "relief areas" located on the campus; and request cleanup assistance, if needed.

7. Students and/or associates who use service animals on Berkeley College campuses shall discuss evacuation issues/plans with the College Office of Public Safety, should they want assistance for themselves and/or their service animal in an emergency.

## **B. Emotional Support Animal User Requirements and Procedures**

An ESA user may be an associate or a third-party visitor who has a disability. **Students may not bring ESAs to campus.** Users of ESAs must meet the following conditions to possess an ESA on any Berkeley College campus:

1. Associates with disabilities are permitted to request the use of an ESA in their place of employment in the same way that they request an accommodation for any disability. Associates will need to provide medical documentation supporting that the ESA is necessary to accommodate their disability so they can perform the essential functions of their job. Associates will also need to provide proof of vaccination. For more information relating to how to request an accommodation for a disability, please see <https://berkeleycollege.edu/pdf/ada-associate-policy.pdf>
2. An ESA must be house broken and under the control of its user/handler at all times.
3. The user/handler is responsible for cleaning up the ESA's waste, which must be properly disposed of in a place identified by the College.
4. Associates who use ESAs on Berkeley College campuses shall discuss evacuation issues/plans with the College Office of Public Safety, should they want assistance for themselves and/or their animal in an emergency.

## **C. Legal and Financial Responsibility**

Service/Emotional Support Animal users are responsible for all financial obligations associated with property damage or personal injury caused by their animals, including but not limited to cost of repairs, replacement items or cleaning of facilities or furnishings, and damages in connection with injuries to people or property caused by the animal. Service/Emotional Support animal users are required to adhere to all applicable laws; and fully indemnify Berkeley College and its affiliates, and their respective executives, trustees, servants, professionals, employees, directors, agents and representatives from any/all legal costs, fines, fees and liabilities (including, but not limited to, reasonable costs and attorneys' fees) connected with their animals. Service/Emotional Support Animal users shall sign an appropriate Berkeley College Release to this effect before bringing an animal on campus.

## **D. Health/Vaccinations**

Service/Emotional Support Animals on campus must be vaccinated against diseases common to that type of animal in accordance with all state and local laws and regulations. All vaccinations must be current, and the animal must wear a rabies vaccination tag, as required by law. The College shall require written proof of vaccinations from the user/handler provided to the appropriate ADA Coordinator, prior to the animal arriving on campus/at the worksite.

## **E. Relief Areas**

Berkeley College will designate relief areas for service/emotional support animals. These areas will be unmoved areas on campus. The student or associate with a disability is encouraged to meet with the COO and/or the buildings and grounds team at the subject location to discuss the locations of designated relief areas for each campus.

## **F. Service Animal Etiquette Guidelines**

Service animals are working animals and not pets. The Berkeley community shall adhere to the following guidelines when interacting with a service animal:

- Do not assume that the service animal is a pet.
- Do not pet/touch a service animal - petting a service animal will distract the service animal from completing the work task for the user/handler.
- Do not restrict the individual with a disability who uses a service animal from full participation in programs and activities available at Berkeley College. This includes off campus activities and activities involving transportation.
- Do not ask the user/handler about specific details regarding his or her medical condition.
- Do not prioritize the needs of another individual over the needs of an individual with a service animal.
- Do not feed a service animal.
- Do not play with a service animal.
- Do not startle, tease or taunt a service animal.
- Do not separate a service animal from her/his user/handler.
- Understand that service animals are trained to be very protective of the user/handler.
- Do not hesitate to inquire if the user/handler of the service animal would like assistance if needed.

## **G. Emergency Situations**

- The user/handler and/or the service animal may be scared, confused, distracted, or disoriented in a stressful situation attributed to smoke, sirens, wind noise or by shaking and moving ground.
- The service animal may be protective in their confusion and should not be considered a harmful animal.
- The user/handler should not be separated from her/his service animal during an emergency situation.
- The user/handler should make every effort to control the service animal during an emergency situation and be prepared to restrain the service animal if needed.

## **H. Conflicting Disabilities**

Sometimes, there is a presence of conflicting disabilities. Some people have allergic reactions to animals. Persons who have documented disabilities attributed to asthma, allergies, or other medical conditions that may be exacerbated by the presence of animals are asked to contact the appropriate College ADA Coordinator to provide documentation that supports this claim. The appropriate ADA Coordinator and/or the Office of Disability Services will work with the individuals in an effort to find a reasonable solution.

### **I. Restricted Areas**

Berkeley College may restrict the use of service/emotional support animals in certain locations. This would only occur if the presence of the animal would fundamentally alter the nature of the service, program or activity; or where the animal poses a direct threat to the health and safety of others. If a location is determined to be unsafe for the use of a service/emotional support animal, the appropriate ADA Coordinator or Berkeley College's Office for Disability Services will endeavor to provide reasonable accommodations to ensure that the person with a disability receives equal access to the program or activity. Should an associate or student who uses a service/emotional support animal travel to a school or work event off-campus, the student/associate user/handler must follow the rules of the host-site pertaining to service/emotional support animals. Berkeley College is not responsible for the service/emotional support animal rules of other sites/venues, as they are outside of the College's control.

### **J. Inquiries and Appeals**

Any individual with an inquiry relating to service animals or ESAs shall contact their ADA Coordinator or Director of Disability Services. If, however, an individual wants to appeal a determination already made by an ADA Coordinator relating to a service animal or ESA, that individual should follow the Appeal procedures set forth in the Student and/or Associate Disability Services Accommodations Policy, respectively.

### **K. No Discrimination or Retaliation**

In furtherance of the College *Equal Opportunity Policy*, the *Disability Services Accommodations Policy for Students* and the *Disability Services Accommodations Policy for Associates*, Berkeley College prohibits discrimination or retaliation against an individual using a service animal or ESA at Berkeley College. Such discrimination/retaliation violates federal and state laws and College policy and will not be tolerated.

### **L. Enforcement**

Failure to follow this Policy may subject the violator to disciplinary measures, up to and including suspension or dismissal from the College (student) or suspension or termination of employment (associate) and/or removal of the service animal or ESA from the College.