Be ready to respond to requests for therapy animals on campus

By Allan L. Shackelford

Last year, I wrote about the impact of the revised Title II and Title III Americans with Disabilities Act regulations concerning accommodations for “service animals.” I also discussed the evolving legal focus on requiring institutions to provide accommodations for “therapy animals” (see April 2012 issue, p. 3).

In that column, I mentioned a lawsuit that the Department of Justice had filed against the University of Nebraska at Kearney. It challenged the institution’s decision to deny a student’s request to have a therapy dog in her university apartment as a disability accommodation for diagnosed depression and anxiety. The basis for this lawsuit is not the ADA, but the Fair Housing Act and its implementing regulations, plus guidelines of the Department of Housing and Urban Development.

The university asserts that it is not a landlord and is challenging the application of the Fair Housing Act to campus housing. The lawsuit is currently scheduled for trial this month, and the university’s motion to dismiss is pending.

Shortly after I wrote my column last year, a somewhat similar federal lawsuit was filed against Grand Valley State University in Michigan, as well as its board of regents and several administrators. In this lawsuit, a former student, in conjunction with the Fair Housing Center of West Michigan, asserted that the university had improperly denied her the right to keep a guinea pig in campus housing. The animal was to help her cope with severe depression and a heart condition requiring a pacemaker.

The basis for the lawsuit was also the Fair Housing Act. Earlier this year, GVSU paid $40,000 to settle the case. The university also agreed to work with the Fair Housing Center to develop a policy for providing accommodations for therapy or support animals in on-campus residences and to train staff to implement the policy.

In the worlds of disability services and residence life at other institutions, questions are being asked about what this settlement means going forward.

In a pure legal sense, you could say the case means very little because there is no court decision, but rather a negotiated settlement that GVSU says was motivated by a desire to avoid the expense of further litigation.

But from a practical perspective, the case signals that there are many more such requests to come — especially in the context of what some “experts” are saying about the value provided by support or therapy animals.

There may not be a substantive amount of longitudinal research at this point fully justifying the various benefits of therapy animals. But there is a growing body of research showing that the use of therapy animals can provide positive, healing effects for certain physical or psychological challenges.

And there are an increasing number of governmental entities, including some rehabilitation facilities within the Veterans Administration, advancing and advocating the use of therapy animals.

One significant difference in the use of support or therapy animals versus regulatory defined “service animals” are the costs associated with each. Training a service dog can take up to two years and cost as much as $20,000, an expense not covered by insurance. On the other hand, while they are typically evaluated for their health, behavior, and ability to socialize and interact, therapy dogs or other animals generally undergo limited or even no formal training.

While I personally believe that HUD and others are overreaching in their attempts to extend the legal obligations and duties of the Fair Housing Act to campus housing facilities, you need to factor the possibility that this may happen at your institution into your thinking and planning for the future. In doing so, consider:

➢ Involving appropriate senior administrators and your legal counsel in discussions before agreeing to allow any support or therapy animal onto your campus. The policy, precedent-setting, and potential legal implications of any such decision need to be carefully considered and thought through.

➢ The potentially increased risks to students, residence life staff and others who may be associated with therapy animals. Health issues, including allergic reactions, may arise from exposure to animals. There have been reports of serious incidents involving therapy dogs, including a recent one in central Florida when two therapy dogs attacked and seriously injured a young teenager.

➢ Paying deliberate attention to what other institutions are doing to address this evolving issue and the reasons behind their actions.