

When the Accommodation Has Four Legs: What New Jersey Employers Need To Know

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New Jersey's Law Against Discrimination ("LAD") says a great deal about service and guide dogs, but almost nothing about emotional support animals in the workplace. N.J.S.A. 10:5-29.1 makes it an unlawful employment practice to deny an otherwise qualified person with a disability the opportunity to obtain, maintain, or advance in employment solely because that person uses a service or guide dog. Emotional support animals, unlike service dogs, are not individually trained to perform specific tasks and are not mentioned in that provision. Additionally, no New Jersey decision has yet addressed whether an employer must permit them in the workplace. Until one does, the closest guidance comes from a housing case. In *Players Place II Condominium Association, Inc. v. K.P.*, 256 N.J. 472 (2024), a unanimous New Jersey Supreme Court set out a framework for evaluating requests to keep an emotional support animal ("ESA") notwithstanding a "no pet" policy. The context is residential, but the Court construed the same statute that governs the workplace.

What Happened?

A condominium association limited pets to those weighing 30 pounds or less at maturity. Before the association responded to a unit owner's inquiry about an emotional support dog, her spouse adopted a 63-pound dog. The association filed suit to have the dog removed. The unit owner had been diagnosed with bipolar II disorder, PTSD, panic disorder, and attention deficit disorder, and her clinicians testified that her emotional support dog shortened and softened her depressive episodes. The chancery court nonetheless dismissed the couple's discrimination claims, finding that the unit owner did not have a "disability" under N.J.S.A. 10:5-5(q) of the LAD.

What Did the Court Decide?

The New Jersey Supreme Court reversed. N.J.S.A. 10:5-5(q) offers two independent paths to establishing a mental or psychological disability: a condition that "prevents the typical exercise of any bodily or mental functions," or one that is "demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques." The lower court considered only the first path. Under the second, the record included testimony from the association's own expert that diagnoses of bipolar II disorder, major depressive disorder, and generalized anxiety disorder establish a disability. The LAD, the Court reiterated, is broader than federal law and requires no substantial limitation of a major life activity. The requester must then show that the accommodation "may be necessary" to afford an equal opportunity to use and enjoy the dwelling, meaning that it alleviates at least one symptom, not that it cures the disability. Critically, the LAD does not require that an ESA be

prescribed by a mental health professional, proof of a specific need for an animal exceeding the policy's weight limit, or evidence that the animal is trained. The burden then shifts to the provider to prove that the accommodation is unreasonable, and both sides are expected to engage in a good-faith interactive dialogue rather than simply exchange firm positions through correspondence. In *Players Place II*, the New Jersey Supreme Court remanded the matter to the lower court for further proceedings, allowing the dog to remain in the home while the case is reevaluated under the framework outlined above.

What Can Employers Learn From This Case?

The employment provisions of the LAD run parallel to those governing housing accommodations. An employer must reasonably accommodate an employee or applicant with a disability who requests an accommodation involving an emotional support animal unless the employer can demonstrate undue hardship. Additionally, N.J.A.C. 13:13-2.5(b)(2) requires employers to consider accommodation before firing, demoting, or refusing to hire or promote an individual on the ground that the disability precludes job performance. The law also provides that undue hardship is assessed on a case-by-case basis using four factors: the size of the business, measured by its workforce, facilities, and budget; the type of operations, including the composition and structure of the workforce; the nature and cost of the accommodation, accounting for tax credits, deductions, and outside funding; and the extent to which the accommodation would waive an essential job requirement rather than a tangential one.

Need Guidance on Workplace Accommodation Requests?

An employer facing a support animal request should not treat a no-animals policy as the end of the conversation. Confirm the disability through appropriate documentation, ask how the animal alleviates symptoms, and assess the particular animal in the context of the specific workplace. Coworker allergies, sanitation and safety requirements, client-facing environments, and collective bargaining obligations are legitimate considerations, but they must be evaluated individually and documented rather than assumed. Employers should also explore alternative accommodations and engage in the interactive dialogue emphasized by the Court in *Players Place II*, as the absence of such a dialogue was among the shortcomings identified by the Court.

The [Employment Law Team](#) at Wilentz is available to assist with accommodation requests and the review of workplace policies. Call us today to schedule a consultation.

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