



To: University Council

From: Mary Little, Director, Disability Services
Ashley Leonard, Compliance Counsel

Date: October 29, 2019

Re: Emotional Support Animals – after 14-day comment period

I. Introduction

The Emotional Support Animals policy is a new policy and procedure that specifies the requirements applicable to an individual's use of an emotional support animal in university housing. The public comment period for this proposed policy ran from October 7, 2019, through October 23, 2019. Nine comments were received on this policy.

II. Comments Received

Five comments asked about regulating emotional support animals outside of residence halls, although the policy states emotional support animals are allowed only as an accommodation in university housing under the Fair Housing Act. Because emotional support animals are prohibited in other areas of campus, this policy does not regulate their presence outside of university housing other than to prohibit it. Other comments proposed minor changes that were incorporated into the final draft of the policy.

III. Legal Review of the Proposed Policy

This new policy complies with the Fair Housing Act (Title VIII of the Civil Rights Act of 1968), the Americans with Disabilities Act, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended.



Emotional Support Animals	
Responsible Official: Vice President for Student Life and Enrollment	Responsible Office: Disability Services

Policy Purpose

The purpose of this policy is to specify the requirements applicable to an individual's use of an emotional support animal in University housing.

Policy Statement

A. Applicability and Scope

1. East Tennessee State University (ETSU) recognizes the importance of emotional support animals as defined by the Fair Housing Act (FHA) that assist or support individuals with qualifying disabilities. ETSU is committed to allowing individuals with qualifying disabilities the use of their needed animals on campus to facilitate equal opportunity to use and enjoy their University dwellings.
2. Although ETSU's residence facilities are pet-free buildings, ETSU provides reasonable accommodations to individuals who have qualifying disabilities upon a showing of a documented, disability-related need.
3. Emotional support animals are prohibited from accompanying persons in public areas of the University except to the extent owners take animals out for natural relief.
4. Emotional support animals are restricted to an individual's assigned University housing after completing the approval process under this policy.

B. False Claims

1. Misrepresentation of an emotional support animal is a Class B misdemeanor. (See Tenn. Code Ann. § 39-16-304).
2. ETSU reserves the right to notify ETSU Public Safety if a person knowingly misrepresents a disability or disability-related need for the use of an emotional support animal or provides documentation to ETSU that falsely states an animal is an emotional support animal.

C. Owner Responsibilities for Emotional Support Animals

Owners granted an accommodation of an emotional support animal in their residence hall unit must:

1. Keep emotional support animals contained within the owner's privately assigned individual living accommodations, except to the extent owners take animals out for natural relief.
2. Abide by current city, county, and state ordinances, laws, and/or regulations pertaining to licensing, vaccination, and other requirements for animals. It is the owners' responsibility to know and understand these ordinances, laws, and regulations.
3. Provide documentation of compliance with such ordinances, laws and/or regulations, pertaining to licensing, vaccination, and other applicable requirements.
4. Clean up after and properly dispose of the animal's waste in a safe and sanitary manner and, when provided, use animal relief areas designated by ETSU.
5. Ensure the animal is well cared for at all times. Any evidence of mistreatment, abuse, or neglect may result in immediate removal of the support animal, discipline for the responsible individual, and referral to appropriate authorities.
 - a. Emotional support animals may not be left overnight in University housing to be cared for by any individual other than the owner.
 - b. Emotional support animals may not be left alone overnight in University housing.
 - c. Owners' must provide emergency contact information for emotional support animals.
 - d. ETSU is not responsible to provide care or food for any support animal.
6. Properly house and restrain or otherwise control the animal at all times. Owners are prohibited from permitting animals to go loose or run at large. If an animal is found running at large, the animal is subject to capture and confinement and immediate removal from University housing.
7. Abide by all equally applicable residential policies.
8. Notify Disability Services in writing if the emotional support animal is no longer needed or is no longer in residence. To replace an emotional support animal, the new animal must be necessary because of the owner's disability and the owner must follow the procedures in this policy when requesting a different animal.
9. Provide written consent for Disability Services to disclose information regarding the request for and presence of the emotional support animal to those individuals who may be impacted by the presence of the animal, such as Residence Life personnel and potential and/or actual roommate(s)/neighbor(s).
 - a. Such consent will be limited to information related to the animal and will not include information related to the individual's disability.

- b. ETSU reserves the right to assign an individual with an emotional support animal to a single room without a roommate upon availability.

D. Dogs and Cats Additional Requirements:

1. Puppies and kittens who are too young to receive vaccinations under local or state ordinance will not be considered as emotional support animals. All required immunizations must be up-to-date and a copy of the immunizations must be on file with Disability Services and Housing and Residence Life.
2. Collars and tags must be worn at all times. Emotional support animals must also wear a current rabies vaccination tag and a specific ETSU tag identifying the animal as an emotional support animal.
3. Emotional support animals must possess friendly and sociable characteristics. A specific dog or cat can be restricted from the premises based on any confirmed threatening or territorial behavior.
4. Cat litter boxes may not be placed directly on carpet and must have a protective layer between the box and the carpet/floor that extends beyond the edges of the litter box. Litter boxes should be scooped daily.

E. Other Animals Additional Requirements:

1. Collars and tags must be worn at all times. If emotional support animals cannot wear a current rabies vaccination tag or a specific ETSU tag identifying the animal as an emotional support animal, the collars and tags must be displayed on the animals' housing units.
2. Where the animal is a species other than a dog or cat, a letter from a veterinarian written within three months from the request for accommodation is required that identifies the animal and confirms the animal has been inspected and is healthy.
 - a. The veterinarian must confirm the animal does not pose a significant risk of zoonosis in a residence hall setting.
 - b. The veterinarian's letter should identify the care the particular animal requires, including feeding, handling, and cage cleaning to maintain a low risk of zoonosis in a shared residence hall setting.
 - c. If the animal eats live food, the veterinarian should identify exactly what the animal eats, including amount and frequency, safe handling, and any zoonotic risks from the live food.
 - d. A student must also submit a written plan for safe cleaning, feeding, and storage of the live food.
3. Disability Services may place other reasonable conditions or restrictions on emotional support animals depending on the nature and characteristics of the animal.

F. Removal of Emotional Support Animals

1. The University may require the owner to remove the animal from University housing if:
 - a. The animal poses a direct threat to the health or safety of others or causes substantial property damage to the property of others, including University property;
 - b. The animal's presence results in a fundamental alteration of a University program;
 - c. The owner does not comply with the owner responsibilities set forth above; or
 - d. The animal or its presence creates an unmanageable disturbance or interference with the University community.
2. The University will base such individualized determinations upon the consideration of the behavior of the particular animal and resident on a case-by-case basis, in consultation with Housing and Residence Life and the Office of University Compliance.
3. Should the emotional support animal be removed from the premises for any reason, the owner is expected to fulfill their housing obligations for the remainder of the University housing contract.
4. Owners may be charged for any damage caused by their emotional support animals beyond reasonable wear and tear to the same extent that ETSU charges other individuals for damages beyond reasonable wear and tear.
5. Owners' living accommodations may also be inspected for fleas, ticks or other pests if necessary as part of the University's standard or routine inspections.
 - a. If fleas, ticks or other pests are detected through inspection, the residence will be treated using approved fumigation methods by a University-approved pest control service.
 - b. The Owner will be billed for the expense of any pest treatment above and beyond standard pest management in the resident halls.

Authority: Tenn. Code. Ann. § 39-16-304; the Americans with Disabilities Act, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Fair Housing Act (Title VIII of the Civil Rights Act of 1968).

Definitions

Disability	A physical or mental impairment that substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment.
Emotional Support Animal	An animal that has been prescribed or recommended by a healthcare provider to provide emotional support that alleviates one or more symptoms or effects of the

individual's disability. Emotional support animals are not considered service animals under the Americans with Disabilities Act or this policy.

Healthcare provider	Someone located in Tennessee or the student's home state who is familiar with the individual's disability and the necessity for the requested accommodation, such as a doctor, licensed therapist, or other medical professional with whom the individual has a current and ongoing medical or therapeutic relationship.
Qualifying Disability	A current emotional or psychiatric disability.
Owner	The ETSU student or other covered person who has requested an accommodation and been approved for an emotional support animal per the procedures listed in this policy.

Policy History

Effective Date:

Revision Date:

Procedure (s)

A. Requesting an Accommodation

1. Students requesting an accommodation for an emotional support animal must have a current mental health disability, register with Disability Services, and provide a completed ETSU healthcare provider form as soon as possible, preferably at least 30 days prior to move-in.
 - a. Accommodation requests are renewed each year, 30 days before the start of the housing license agreement. Renewals include submitting any updated documentation.
 - b. All accommodation requests for campus housing are reviewed on a first-come first-serve basis. Submitting a late request could jeopardize the accommodation process based on the availability of housing.
2. Disability Services will determine if the accommodation is necessary and reasonable within 14 business days of receiving completed healthcare provider documentation and any requested additional documentation.
 - a. Disability Services may consult with other professionals as needed to determine the necessity of the accommodation, including requesting informed consent to discuss the matter with the individual's healthcare provider.
 - b. Disability Services will contact the owner to discuss approval or denial of the accommodation. When approved, the owner will be instructed on implementation of the approved accommodation.
3. Disability Services considers the following factors in determining whether the presence of the animal is reasonable or in the making of housing assignments for individuals with emotional support animals:

- a. The animal's welfare;
 - b. The animal's size;
 - c. The animal's presence would force another individual from individual housing (i.e., serious allergies);
 - d. Individuals' right to peace and quiet enjoyment;
 - e. The animal is not housebroken or is unable to live with others in a reasonable manner;
 - f. The animal's vaccinations are not up-to-date;
 - g. The animal poses or has posed in the past a direct threat to the individual or others; and
 - h. The animal causes or has caused excessive damage to housing beyond reasonable wear and tear.
 - i. Determinations will not be made on mere speculation or fear about the types of harm or damage an animal may cause or that other animals of that type have caused.
4. A request for an emotional support animal in University housing may be denied as unreasonable if the presence of the animal:
- a. Imposes an undue financial and/or administrative burden;
 - b. Fundamentally alters University housing policies;
 - c. Poses a direct threat to the health and safety of others;
 - d. Poses a threat to the animal's welfare; or
 - e. Would cause substantial property damage to the property of others, including University property.
5. If Disability Services determines a requested accommodation is necessary but unreasonable, the Office will contact the individual to engage in an interactive process with the individual to determine if there are alternative accommodations that might effectively meet the individual's disability-related needs.
- a. If the individual is unwilling to accept any alternative accommodation offered by Disability Services or there are no alternative accommodations available, Disability Services will provide a verbal explanation and written notification to the individual of the denial, the reasons for the denial, the right to appeal the decision, and the procedures for that appeals process.

- b. The notification will be in writing and made within seven business days of the notification from the individual of his/her unwillingness to accept any of the alternative accommodations offered or the determination that there are no alternative accommodations available.
- c. All appeals are made and reviewed by ETSU's Office of University Compliance pursuant to ETSU's ADA and Section 504 Grievance Procedure.
- d. Students who have been denied an emotional support animal as an accommodation may request a subsequent emotional support animal accommodation no earlier than 365 days after receiving notice of the university's decision.

B. Non-Discrimination and Non-Retaliation

If an individual with a disability believes a request for accommodation under this policy has been unlawfully denied or a response has been unreasonably delayed, they may file a complaint with:

1. ETSU Disability Services
Nell Dossett Hall, Third Floor
423-439-8346
littleme@etsu.edu
2. ETSU's Office of University Compliance
Nell Dossett Hall, Room 201
423-439-8545
compliance@etsu.edu
3. U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
Knoxville Field Office
John J. Duncan Federal Building
710 Locust Street, SW
3rd Floor
Knoxville, TN 37902
865-545-4370
4. Tennessee Human Rights Commission
Tennessee Tower
312 Rosa L Parks Ave.
23rd Floor
Nashville, TN 37243
615-741-5825

Procedure History

Effective Date:

Revision Date:

Related Form(s)

Scope and Applicability

Primary: Students

Secondary: Health and Safety, Operations and Facilities

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