

### 80-21 Service and Assistance Animals

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1. **Purpose.** Eastern New Mexico University System (the System) recognizes its responsibilities to extend equal access and protections to individuals with disabilities who use a Service Animal on property owned, operated or controlled by the System. ENMU will not discriminate against individuals with disabilities who use Service Animals nor, subject to the terms of this policy, deny those persons access to programs, services and facilities. This policy applies to individuals with disabilities, animals in general, Service Animals, or Assistance Animals.
2. **General Policy Regarding Animals.** Animal(s) and their handler(s) on any Eastern New Mexico University System properties shall comply with all of the following:
  - A. All animals shall be under the control of their handler at all times.
  - B. All animals must be harnessed, leashed, or otherwise restrained while in public places. The only exception to this are Service Animals when these devices interfere with the service animal's work or the person's disability prevents the use of these devices.
  - C. All animals must comply with local, state and federal laws as well as applicable licensing and/or permitting.
  - D. All animals except for Service Animals are prohibited from the interior of campus facilities, classrooms or offices and the interior perimeter fence of Athletic facilities. An exception to this prohibition is that animals meeting the definition of Assistance Animals as specified in Section 5(B) may be permitted in the owner's on-campus dormitory room.
  - E. All animals except for Service Animals and approved Assistance Animals are prohibited from the interior of campus residential facilities.
  - F. Animals protected or prohibited by the New Mexico Department of Game and Fish and the United States Fish and Wildlife Service are prohibited from the System campuses. ~~of ENMU.~~
  - G. For safety, infection control and/or permitting purposes animals on campus shall be registered with the City of Portales, Ruidoso or Roswell to comply with existing city ordinance(s), when applicable.
3. **Applicability.** This policy and subsequent procedures apply to all students, faculty, staff and members of the general public.
4. **Administration.** These policies and procedures shall be administered by the Office of Accessibility Resources and Office of Housing and Residence Life (when applicable), the Special Services Office (Roswell) or the Disability Services (Ruidoso), with oversight of the executive administrator. Students using Service Animals are encouraged to voluntarily register their animal with the appropriate campus office and follow procedures established by that office for obtaining reasonable academic accommodations.

- 5. Definitions.** The following definitions apply to this policy and are consistent with those outlined by the State of New Mexico, Americans with Disabilities Act (ADA) and the U.S. Department of Justice.
- A. **Service Animal** – 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.
  - B. **Assistance Animal** – May be commonly referred to as an emotional support, therapy, comfort, and/or companion animal. Unlike a Service Animal, an Assistance Animal need not be individually trained or certified to perform a disability-related task. An animal qualifies as an Assistance Animal if (i) its master has a disability; (ii) the animal is needed to assist with the disability by performing tasks or providing emotional support; and (iii) the individual (i.e., the master) who requests the reasonable accommodation (that is, permission to keep the animal in the master’s housing unit) can demonstrate that there is a relationship between the disability and the assistance the animal provides.
  - C. **Under Control** – An animal is considered under the control of its handler when:
    - (1) The animal is harnessed, tethered or leashed while in a public place, excluding the exception mentioned in 80-21-2B;
    - (2) It is not barking repeatedly;
    - (3) The animal responds to handler’s voice, signal or other effective means to control the animal; and
    - (4) It does not exhibit unprovoked barking, aggression and/or attack.
- 6. Service Animals.** A Service Animal shall be permitted in any area of the System that is not restricted to the general public or off limits to Service Animals due to existing codes or regulations. These are areas of the System students, faculty, staff and visitors would generally have access to at the System if the presence of the Service Animal does not pose a direct threat to public safety and the presence of the Service Animal would not require a fundamental alteration of System and/or campus policies, practices or procedures. Reasonable accommodations shall be made to individuals who have a disability and require the use of a service animal as defined under federal law. In determining if a service animal is a reasonable accommodation, the following criteria must apply:
- A. The individual must have a disability as defined under federal law;
  - B. The animal must meet the definition of a service animal under federal law and must be trained to perform specific tasks to aid an individual with a disability; and
  - C. The request to have the animal must be reasonable. The crime deterrent effects of an animal’s presence and the provisions of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of the definition of a Service Animal. Therefore, assistance or companion animals are not Service Animals. While it is not required, the System strongly encourages handlers of Service Animals to readily identify their Service Animal with a vest or other appropriate accessory.
- 7. Assistance Animals.** In some cases, Assistance Animals that do not qualify as Service Animals may be permitted in on-campus housing units of the System if shown to be necessary to afford a student

with a documented disability an equal opportunity to use student housing opportunities. Assistance animals are not permitted in classrooms or in interior public areas on campus. Assistance animals are allowed in outside areas of campus that are not restricted to the general public to exclude the interior perimeter fence of athletic facilities. A person who seeks a reasonable accommodation in the form of authorization to have an Assistance Animal reside in his or her dormitory housing unit may be required to provide documentation from a physician, psychiatrist, social worker or other mental health professional that the person has a disability and that the animal provides support that alleviates at least one of the identified symptoms or effects of the person's disability.

8. **Inquiries by System Employees.** A Service Animal must be trained to provide specific support services to the individual with a disability. Generally, when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., a dog is observed guiding an individual who is blind or has low vision or pulling a person's wheelchair), ENMU employees should not make otherwise allowable inquiries. If it is not readily apparent, ENMU employees shall not ask about the nature or extent of the individual's disability, but may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. A System employee may ask to see the animal and for a demonstration of the task the animal is trained to perform. Employees in general cannot ask for documentation, such as proof that the animal has been certified, trained or licensed as a Service Animal. For ENMU programs or classes held at non-ENMU facilities, the owner of the property may require notification or verification of the Service Animal.
  
9. **Responsibility for the Care and Supervision of Animals.** All individuals with animals on property owned, operated and/or controlled by the System are responsible for managing and handling their animals at all times, maintaining proper infection control measures, managing proper animal hygiene and are responsible for the behavior and activities of the animal. Individuals are personally responsible for any damages to a facility caused by their animals, including if the individuals are ENMU students, faculty or staff whose animals have caused damage in a residence hall, classroom or other facility. Individuals are also personally responsible for any damages to another animal or person by their animal as the result of an unprovoked attack. Animals on ENMU property must be:
  - A. Licensed or permitted in accordance with applicable local, state or federal laws;
  - B. In good health with acceptable animal hygiene maintenance;
  - C. Housebroken (when applicable) and individuals are responsible for the proper cleaning and disposition of animal waste or animal fluid; and
  - D. Harnessed, leashed, or otherwise under the control of the handler unless otherwise provided by federal law such that the animal does not disrupt or interfere with the ability of other users of the space, property or activity.
  
10. **Direct Threat.** A direct threat is a significant risk to the health or safety of others that cannot be eliminated or mitigated by a reasonable modification of policies, practices, or procedures, or by the provision of auxiliary aids or services. This may be an animal that could be reasonably believed to be a vicious animal. If the System determines that a Service Animal poses a direct threat to the health or safety of others in a building or portion thereof, access to the facility by the Service Animal will be denied. In determining whether a Service Animal poses a direct threat to the health or safety of others, the System shall make an individualized assessment, based on reasonable judgment that

relies on current medical knowledge, professional knowledge or on the best available objective evidence, to identify:

- A. The nature, duration, and severity of the risk;
- B. The probability that the potential injury will actually occur; and
- C. If there are reasonable modifications of policies, practices, or procedures that will mitigate the risk.

- 11. Removal of Animals.** An individual with a disability cannot be asked to remove his or her Service Animal from the premises unless the animal poses a direct threat to the health or safety of others or the Service Animal or individual fails to meet one or more of the requirements of this policy or federal laws and regulations. A history of allergies or fear of animals are generally not valid reasons for denying access or refusing service to individuals with Service Animals; however, all situations will be evaluated on a case-by-case basis. If after careful evaluation removal is necessary, ENMU employees should consider an alternative option for the individual to obtain the goods and/or services. Animals that are reasonably believed to pose a direct threat which are not Service Animals will be removed from property owned, operated or controlled by the System Also, animals that qualify as Assistance Animals, but not as Service Animals, may be excluded from any and all areas of the campus (except designated dormitory areas) as otherwise provided in this AGP&P 80-21 and State law. See NMSA, 1978, § 28-11-2(B).
- 12. Student Housing.** ENMU student housing, including student family housing is subject to the federal Fair Housing Act which extends accommodations to Assistance Animals as well as Service Animals. A student seeking to reside in ENMU student housing with a Service Animal or Assistance Animal not otherwise permitted under the ENMU Student Housing no-pets policy must meet the following criteria:
- A. The student has a disability under federal law and the University is made aware of the disability;
  - B. The Service or Assistance Animal is necessary to afford the student an equal opportunity to use ENMU student housing;
  - C. There is a direct relationship between the student's disability and the assistance the Service or Assistance Animal provides; and
  - D. The request to have the Service or Assistance Animal is reasonable.
  - E. The campus may require a student seeking permission to keep an Assistance Animal in his or her dormitory room to provide documentation from a physician, psychiatrist, counselor or other mental healthcare professional to verify that the student has a disability and that the animal in fact mitigates some aspect of that disability
- 13. Approval for Student Housing.** In order to receive approval to reside in ENMU student housing with a Service or Assistance Animal under this policy, a student is required to complete the following before the Service or Assistance Animal may enter campus residence halls:
- A. The student as an individual must register with the Office of Disabilities Services and follow the procedure established by that office for obtaining reasonable academic accommodations.

- B. Register with and receive written approval from the Officer of Housing and Residence Life. A student who is permitted to have an Assistance Animal in ENMU housing is responsible for the care and supervision of the Assistance Animal. Additionally, an Assistance Animal may be removed from ENMU housing if it is out of control and effective action is not taken to control it, it not housebroken, its hygiene is not maintained or it poses a direct threat to the health or safety of others.
- 14. Exemptions.** This policy and subsequent procedures do not apply to ENMU approved mascots, rodeo livestock, academic agricultural projects, academic museums / historical preservations, police service dogs or military service dogs. This provision should not be construed to exempt these entities from compliance with local, state or federal laws and/or proper permitting associated with the New Mexico Livestock Board, New Mexico Department of Game and Fish, or United States Fish and Wildlife Service. Nor should it be construed to allow these entities to circumvent safe and best practices related to the handling of animals or livestock.
- 15. Prohibited Activity.** In short, it is a criminal offense in the State of New Mexico to allow an unrestrained animal on public property interfere with the use of a Service Animal by harassing or obstructing its handler or the animal, or falsely represent an animal as a qualified service animal. Assistance Animals do not meet the definition of Service Animals and shall not be represented as such.
- 16. Enforcement.** The enforcement of this policy shall be a combined effort of all departments or academic organizations on campus. Potential policy violations involving System employees shall be forwarded to the Office of Human Resources for review and disposition. Potential policy violations involving System students shall be forwarded to the appropriate campus vice president of Student Affairs for review and disposition. Violations of any applicable law shall be forwarded to the ENMU Department of Public Safety or its departmental equivalent at the branch community colleges. for review and disposition.
- 17. Resources.** Additional guidance for assisting individuals with Service Animals or Assistance Animals can be obtained from the Office of Accessibility Resources (in Portales) or office for Disability Services (Ruidoso) or Student Services (Roswell). Any person dissatisfied with a decision concerning a Service Animal or Assistance Animal can contact a representative at the Office of Human Resources to address grievances or concerns.

Approved by the Board of Regents, May 12, 2017.

Amendments approved by Board of Regents, March 13, 2020