**Emotional Support Animals** **SS/PPS No. 07.12**

 **Issue No. 1**

 **Effective Date: 09/02/2021**

 **Next Review Date: 07/01/2024 (E3Y)**

 **Sr. Reviewer: Director, Disability Services**

**POLICY STATEMENT**

*Texas State University is committed to providing reasonable accommodations for individuals with disabilities.*

**01. BACKGROUND INFORMATION**

* 1. Texas State University recognizes the importance of service animals that provide physical or emotional support to individuals with disabilities, as defined by the [Americans with Disabilities Act of 1990 (ADA), as amended](https://www.ada.gov/pubs/adastatute08.htm), and the broader category of assistance animals under the [Fair Housing Act](https://www.justice.gov/crt/fair-housing-act-2). The university is committed to allowing individuals with disabilities the use of a service animal on campus to facilitate the student’s full-participation and equal access to the university’s programs and activities. For the purposes of this policy, the term emotional support animal will be used in *lieu* of service animal.
	2. The university is committed to allowing emotional support animals necessary to provide individuals with disabilities an equal opportunity to use and enjoy university housing. This policy explains the specific requirements applicable to an individual’s use of an emotional support animal in university housing. The university reserves the right to amend this policy as circumstances require. This policy applies solely to emotional support animals which may be necessary in university housing. It does not apply to service animals, as defined by the [ADA](https://www.ada.gov/pubs/adastatute08.htm).
	3. Although university policy prohibits animals of any type in university housing, the university will consider requests submitted by a person with a disability and if the accommodation is reasonable. However, emotional support animal may not be kept in university housing without prior approval.

**02. DEFINITIONS**

02.01 [Americans with Disabilities Act of 1990, as amended](https://www.ada.gov/pubs/adastatute08.htm) (ADA) – Signed into law on July 26, 1990, the ADA prohibits discrimination on the basis of disability in employment, programs, and services provided by state and local governments, goods and services provided by private companies, and in commercial facilities.

02.02 [Fair Housing Act](https://www.justice.gov/crt/fair-housing-act-2) (FHA) – The FHA prohibits discrimination by direct providers of housing, such as landlords and real estate companies as well as other entities, such as municipalities, banks, other lending institutions, and homeowners insurance companies whose discriminatory practices make housing unavailable to persons because of race, color, religion, sex, handicap, familial status, or national origin.

02.03 Emotional Support Animal – a category of animals that provide necessary emotional support to an individual with a mental or psychiatric disability that alleviates one or more identified symptoms of an individual’s disability, but which are not considered service animals under the [ADA](https://www.ada.gov/pubs/adastatute08.htm). Some emotional support animals are professionally trained, but in other cases emotional support animals may not have any formal training or certification. Dogs are commonly used as emotional support animals, but other types of animals may serve a person with a disability as an emotional support animal.

1. It is important to note that emotional support animals may be identified by various names, such as a companion animal or comfort animal. For the purposes of this policy, the university will refer to these animals as emotional support animals.
2. Determining whether an animal will be labeled as an emotional support animal and will be allowed in university housing depends on whether or not the emotional support animal affords individuals with disabilities the opportunity to use and enjoy university housing and whether the presence of the emotional support animal is reasonable. Even if an animal is approved as an emotional support animal in university housing does not mean that the animal will be permitted in other areas of the university (e.g., dining facilities, libraries, academic buildings, athletic building and facilities, classrooms, labs, etc.).

02.04 Owner – the individual who has requested the accommodation and has received approval to bring an emotional support animal into university housing.

02.05 Office of Disability Services (ODS) – assists in providing accommodations and support services to students with disabilities.

02.06 Department of Housing and Residential Life (DHRL) – coordinates housing for students who live on campus.

02.07 Undue Burden – any adjustment that would pose a significant difficulty or expense to the university.

02.08 Fundamental Alteration – a change that is so significant that it alters the essential nature of the goods, services, facilities, privileges, advantages, or accommodations offered.

02.09 Direct Threat – a significant risk to others that cannot be eliminated or reduced to an acceptable level by reasonable modifications to the university’s policies, practices, or procedures or by the provision of appropriate auxiliary aids or services.

**03. PROCEDURES FOR REQUESTING EMOTIONAL SUPPORT ANIMALS IN UNIVERSITY HOUSING**

03.01 The procedure for requesting emotional support animals follows the general procedures set forth in [SS/PPS No. 07.13](https://policies.txstate.edu/division-policies/student-affairs/07-13.html), Housing Accommodations Based on Disability-Related Needs, and the requirements set forth below. However, to the extent the requirements and procedures in this policy conflict with the Housing Accommodation policy, this policy will prevail.

03.02 Students with disabilities who reside or intend to reside in university housing and believe they need an emotional support animal as a reasonable accommodation must register with ODS and request the animal as an accommodation. If the student requires assistance in completing the registration process due to their disability, ODS will provide assistance. Students will need to schedule a meeting with ODS to complete the registration process. The accommodations will not be determined until the student has successfully completed the registration process.

03.03 Students requesting an emotional support animal must submit the following to ODS:

1. an [Emotional Support Animal Information form](https://gato-docs.its.txstate.edu/jcr%3A21ad9de8-b019-47ea-b46c-e6ff69e0b00b/ODS%20Emotional%20Support%20Animal%20Information%20Form.pdf); and
2. veterinary records indicating the animal is in good health and is up to date on its vaccinations. Requests for exotic animals that cannot be vaccinated are likely to be denied since the animal may pose health and safety risks.

03.04 With rare exception, students are allowed only one emotional support animal in university housing.

03.05 When a request for an emotional support animal is determined to be reasonable, ODS will share the decision approving the request with the owner and DHRL. If the request is found to be unreasonable, the owner may appeal this decision through the ODS dispute resolution procedure.

03.06 In the rare instance where a student with a disability is living in the residence halls beyond the one-year requirement and is the owner of an emotional support animal, the student must contact ODS to report that the emotional support animal will continue residing in university housing.

**04. CRITERIA FOR DETERMINING IF THE PRESENCE OF AN EMOTIONAL SUPPORT ANIMAL IS REASONABLE**

04.01 DHRL is unique in several aspects, including the mandatory assignment of roommates for many individuals and the mandate that individuals must share a room or suite in certain residence halls. To ensure that the presence of emotional support animals is not an undue administrative burden or fundamental alteration of university housing, the university reserves the right to assign owners of emotional support animals to single rooms without a roommate.

04.02 ODS will consult with university housing on all request for emotional support animals in order to determine if the presence of the emotional support animal is reasonable. Requests may be denied and labeled unreasonable if the presence of the animal:

1. imposes an undue financial or administrative burden;
2. fundamentally alters university housing policies;
3. poses a direct threat to the health or safety of others; or
4. causes substantial property damage to the property of others, including university property.

04.03 The university may consider the following factors, among others, as evidence in determining whether the presence of an emotional support animal is unreasonable or in the making of housing assignments for an owner:

1. the size of the animal is too large for available assigned housing space;
2. the animal’s presence would create discomfort to a housemate or will create the need to reassign housemates to another assigned housing space (e.g., serious allergies);
3. the animal’s presence otherwise violates individual’s right to peace and quiet enjoyment of the environment;
4. the animal is not housebroken or is unable to live with others in a reasonable manner;
5. the animal's vaccinations are not up to date;
6. the animal poses or has posed a direct threat to others, such as aggressive behavior towards or injuring others; or
7. the animal causes or has caused excessive damage to housing beyond reasonable wear and tear.

04.04 The university will not limit room assignments for students with emotional support animals to any particular building or buildings.

04.05 When a request for an emotional support animal is determined to be reasonable, ODS will share this decision with the owner and university housing. The owner of the emotional support animal is responsible for discussing the presence of the animal with their roommates or suitemates.

04.06 If roommates or suitemates have concerns about sharing their living quarters with an emotional support animal, university housing will mediate the situation to determine which student may need to shift to an alternative living arrangement. Such decisions will be made on a case-by-case basis.

**05. ACCESS TO UNIVERSITY FACILITIES BY EMOTIONAL SUPPORT ANIMALS**

05.01 An emotional support animal must be contained within the privately assigned individual sleeping accommodations (e.g., room, suite, apartment) except to the extent the individual is taking the animal out for natural relief. The emotional support animal is not permitted in residence hall common spaces (e.g., living rooms, laundry facilities, study lounges, etc.), academic or administrative buildings, recreational facilities, dining halls, or any other campus buildings. When an emotional support animal is outside the private individual sleeping accommodations, it must be in an animal carrier or controlled by a leash or harness. Emotional support animals are not allowed in any university facilities other than the university residence hall to which the owner is assigned.

05.02 Notwithstanding the restrictions set forth herein, the emotional support animal must always be properly housed and restrained or otherwise under the dominion and control of the owner. No owner shall permit the animal 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.

**06. OWNER’S RESPONSIBILITIES FOR EMOTIONAL SUPPORT ANIMALS**

06.01 If the university grants an owner’s request to live with an emotional support animal, the owner is solely responsible for the custody and care of the emotional support animal and must meet the following requirements:

1. The owner must be knowledgeable, understand, and abide by current city, county, and state ordinances, laws, and regulations pertaining to licensing, vaccination, and other requirements for animals. The university has the right to require and request documentation of compliance with such ordinances, laws, and regulations, which may include a vaccination certificate administered by a licensed veterinarian.
2. The owner is required to clean up after and properly dispose of the animal’s waste in a safe and sanitary manner. The animal's waste must also be disposed in a timely manner to prevent odor issues.
3. The owner is required to ensure the animal is always cared for. Any evidence of mistreatment, abuse, or neglect may result in immediate removal of the emotional support animal and discipline for the owner.
4. The university will not ask for or require an owner to pay a fee or surcharge for an approved emotional support animal.
5. An owner may be charged for any damage caused by their emotional support animal beyond reasonable wear and tear to the same extent that the university charges other individuals for damages beyond reasonable wear and tear. The owner must also take the necessary actions to address odor issues that may arise from the animal. The owner's living accommodations may also be inspected for fleas, ticks, or other pests, as part of the university’s standard or routine inspections. 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. The owner will be billed for the expense of any pest treatment above and beyond standard pest management in the residence halls. The university shall have the right to bill the individual’s account for unmet obligations under this provision.
6. The owner must fully cooperate with university personnel with regards to meeting the terms of this policy and developing procedures for care of the animal (e.g., cleaning the animal, feeding and providing water for the animal, disposing of feces, etc.).
7. Emotional support animals may not be left in university housing overnight if the owner is not present. Emotional support animal must accompany the owner in all overnight trips. The owner is responsible for ensuring that the emotional support animal is contained, as appropriate, when the owner is not present during the day while attending classes or other activities.
8. The owner shall provide the university with emergency contact information in case the owner is unable to care for the emotional support animal at any time. Current students or university personnel may not be selected as an emergency contact. In the event that the university cannot reach the emergency contact, then the university will collaborate with the San Marcos Regional Animal Shelter to care for the animal until the owner is able to resume these responsibilities. The owner will be responsible for incurring all costs associated with this temporary care.
9. The owner agrees to abide by all equally applicable residential policies that are unrelated to the individual’s disability such as assuring that the animal does not unduly interfere with the routine activities of the residence or cause difficulties for individuals who reside there.
10. The animal is allowed in university housing only as long as it is necessary because of the owner’s disability. The owner must notify ODS in writing if the emotional support animal is no longer needed or is no longer residing in university housing. 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.
11. University personnel shall notbe required to provide care or food for any emotional support animal including, but not limited to, removing the animal during emergency evacuation for events such as a fire alarm. Emergency personnel will determine whether to remove the animal and may not be held responsible for the care, damage to, or loss of the animal.
12. In accordance with the [Family Educational Rights and Privacy Act](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title20-section1232g&num=0&edition=prelim), university staff members can share the fact the owner has an emotional support animal with other university personnel who have either a need to know or a legitimate educational interest.

**07. REMOVAL OF EMOTIONAL SUPPORT ANIMALS**

07.01 The university may require the owner to remove the emotional support animal from university housing if:

1. the animal poses a direct threat to the health or safety of others or causes substantial property damage to the property of others;
2. the animal’s presence results in a fundamental alteration of a university program;
3. the owner does not comply with the owner’s responsibilities set forth within this policy; or
4. the animal or its presence creates an unmanageable disturbance or interference with the university community.

07.02 The university will base such determinations upon the consideration of the behavior of the emotional support animal at issue, and not on speculation or fear about the harm or damages an animal may cause. Any removal of the animal will be done in consultation with ODS and may be appealed to the Chief Compliance Officer. The owner will be afforded all rights of due process and appeal as outlined in that process.

07.03 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 housing contract.

07.04 If university personnel determines that the emotional support animal will be removed, and the owner does not take immediate possession of it, the university will follow the processes outlined in Section 06.01 h. and Section 06.01 k. of this policy.

07.05 The university must provide the owner with the location of their animal within 24 hours of their removal. The owner will be responsible for any cost associated with their emotional support animal’s removal, including but not limited to, its temporary care.

**08. REVIEWERS OF THIS PPS**

08.01 Reviewers of this PPS include the following:

Position Date

Director, Office of Disability Services July 1 E3Y

Director, Department of Housing and July 1 E3Y

Residential Life

 Director, Environmental Health, July 1 E3Y

 Safety, Risk, and Emergency

 Management

ADA Compliance Coordinator, July 1 E3Y

Institutional Compliance and Ethics

**09. CERTIFICATION STATEMENT**

This PPS has been approved by the following individuals in their official capacities and represents Texas State policy and procedure from the date of this document until superseded.

Director, Office of Disability Services; senior reviewer of this PPS

Vice President for Student Success