



POLICY TITLE: Emotional Support Animal Policy

POLICY PURPOSE: Fort Hays State University (FHSU or “University”) recognizes the importance of “Service Animals” as defined by the Americans with Disabilities Act Amendments Act (ADAAA) and the broader category of “Emotional Support Animals” under the Fair Housing Act that provide emotional support that alleviates one or more identified symptoms or effects of an individual’s disability. FHSU is committed to allowing individuals with disabilities the use of a Service Animal on campus to facilitate their full participation and equal access to the University’s programs and activities. FHSU is also 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. FHSU reserves the right to amend this Policy as circumstances require. This policy applies solely to “Emotional Support Animals” which may be applicable to University housing. It does not apply to “Service Animals” as defined by the ADAAA. Service animals are specialized/trained animals and meet a separate definition of purpose. For further information please contact Student Accessibility Services.

Although it is the policy of FHSU that individuals are generally prohibited from having animals of any type in University housing, FHSU will consider a request by an individual with a disability for reasonable accommodation from this prohibition to allow an Emotional Support Animal that is necessary because of a disability. However, no Emotional Support Animal may be kept in University housing at any time prior to the individual receiving approval as a reasonable accommodation pursuant to this Policy.

BACKGROUND:

APPLIES TO: Faculty, Staff and Students

DEFINITIONS: **Emotional Support Animal** - “Emotional Support Animals” are a category of animals that may provide necessary emotional support to an individual with a mental or psychiatric disability that alleviates one or more identified symptoms of the individual’s disability, but which are not considered Service Animals under the ADAAA and FHSU’s Service Animal Policy. Some Emotional Support Animals are professionally trained, but in other cases Emotional Support Animals provide the necessary support to

individuals with disabilities without any formal training or certification. Dogs are commonly used as Emotional Support Animals, but any animal may serve a person with a disability as an Emotional Support Animal.¹

The question in determining if an Emotional Support Animal will be allowed in University housing is whether or not the Emotional Support Animal is necessary because of the individual's disability to afford the individual an equal opportunity to use and enjoy University housing and its presence in University housing is reasonable. However, even if the individual with a disability establishes necessity for an Emotional Support Animal and it is allowed in University housing, an Emotional Support Animal is not permitted in other areas of the University (i.e., dining facilities, libraries, academic buildings, athletic building and facilities, classrooms, labs, individual centers).

Owner - The "Owner" is the individual who has requested the accommodation and has received approval to bring an Emotional Support Animal into University Housing.

¹ It is important to note that animals that may be needed because of a disability may be identified by various names. For example, an individual may identify the animal as a companion animal, assistance animal, therapy animal, or emotional support animal.

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POLICY STATEMENT:

Procedures for Requesting Emotional Support Animals in University Housing

The procedure for requesting Emotional Support Animals follows the general procedures set forth in the Reasonable Accommodation Policy for University housing ("Reasonable Accommodation Policy") and the requirements set forth below. However, to the extent the requirements and procedures in this Policy conflict with the Reasonable Accommodation Policy, this Policy shall control.

Criteria for Determining If Presence of the Emotional Support Animal is Reasonable

A. University housing 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, FHSU reserves the right to assign an individual with an Emotional Support Animal to a single room without a roommate.

B. However, for all requests for Emotional Support Animals, Accessibility Services shall nonetheless consult with Residential Life in making a determination on a case-by-case basis of whether the presence of an Emotional Support Animal is reasonable. A request for an Emotional Support Animal may be denied as unreasonable if the presence of the animal:

1. imposes an undue financial and/or administrative burden;

2. fundamentally alters University housing policies; and/or
3. poses a direct threat to the health and safety of others or would cause substantial property damage to the property of others, including University property.

C. FHSU may consider the following factors, among others, as evidence in determining whether the presence of the animal is reasonable or in the making of housing assignments for individuals with Emotional Support Animals:

1. The size of the animal is too large for available assigned housing space;
2. The animal's presence would force another individual from individual housing (i.e., serious allergies);
3. The animal's presence otherwise violates individuals' right to peace and quiet enjoyment;
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 in the past a direct threat to the individual or others such as aggressive behavior towards or injuring the individual or others; or
7. The animal causes or has caused excessive damage to housing beyond reasonable wear and tear.

D. FHSU will not limit room assignments for individuals with Emotional Support Animals to any particular building or buildings because the individual needs an Emotional Support Animal due to a disability. FHSU may limit room assignments for individuals with Emotional Support Animals to specific floors, houses, cubes, or wings in order to separate any animals from students with known allergies.

Access to University Facilities by Emotional Support Animals

A. Emotional Support Animals

An Emotional Support Animal must be contained within the privately assigned individual living accommodations (e.g., room, suite, apartment) except to the extent the individual is taking the animal out for natural relief. When an Emotional Support Animal is outside the private individual living 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 University residence halls (i.e., dormitories, suites, apartments) to which the individual is assigned.

B. Dominion and Control

Notwithstanding the restrictions set forth herein, the Emotional Support Animal must be properly housed and restrained or otherwise under the dominion and control of the Owner at all times. 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.

Individual's Responsibilities for Emotional Support Animal

If the University grants an individual's request to live with an Emotional Support Animal, the individual is solely responsible for the custody and care of the Emotional Support Animal and must meet the following requirements:

A. General Responsibilities

1. The Owner must abide by current city, county, and state ordinances, laws, and/or regulations pertaining to licensing, vaccination, and other requirements for animals. It is the individual's responsibility to know and understand these ordinances, laws, and regulations. The University has the right to require documentation of compliance with such ordinances, laws, and/or regulations, which may include a vaccination certificate. The University reserves the right to request documentation showing that the animal has been licensed.
2. The Owner is required to clean up after and properly dispose of the animal's waste in a safe and sanitary manner in a timely fashion and, when provided, must use animal relief areas designated by FHSU.
3. The Owner is required to ensure the animal is well cared for at all times. Any evidence of mistreatment or abuse may result in immediate removal of the Emotional Support Animal and/or discipline for the individual.
4. FHSU will not ask for or require an individual with a disability to pay a fee or surcharge for an approved Emotional Support Animal.
5. An individual with a disability may be charged for any damage caused by his or her 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's living accommodations may also be

inspected for fleas, ticks or other pests if necessary 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 regard to meeting the terms of this Policy and developing and following procedures for care of the animal (i.e., cleaning the animal, feeding/watering the animal, designating an outdoor relief area, disposing of feces).

7. Emotional Support Animals may not be left overnight in University Housing to be cared for by any individual other than the Owner. If the Owner is to be absent from his/her residence hall overnight or longer, the animal must accompany the Owner. 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 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.

9. The animal is allowed in University housing only as long as it is necessary because of the Owner's disability. The Owner must notify The Kelly Center 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 and the Reasonable Accommodation Policy when requesting a different animal.

10. FHSU personnel shall not be 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.

11. The individual must provide written consent for The Kelly Center 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 including, but not limited to, Residential Life personnel and potential and/or actual roommate(s)/neighbor(s). Such information shall be limited to information related to the animal and shall not include information related to the individual's disability.

Removal of Emotional Support Animal

The University may require the individual to remove the 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 above; or
- 4) the animal or its presence creates an unmanageable disturbance or interference with the University community.

The University will base such determinations upon the consideration of the behavior of the particular 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 The Kelly Center Director and may be appealed following the procedure set forth in Paragraph 5 of the Reasonable Accommodation Policy. The Owner will be afforded all rights of due process and appeal as outlined in that process.

Should the Emotional Support Animal be removed from the premises for any reason, the Owner is expected to fulfill his/her housing obligations for the remainder of the housing contract.

Non-retaliation Provision

FHSU will not retaliate against any person because that individual has requested or received a reasonable accommodation in University housing, including a request for an Emotional Support Animal.

**EXCLUSIONS OR
SPECIAL
CIRCUMSTANCES:**

**RELATED
DOCUMENTS:**

Policies:

Forms:

Other:

KEYWORDS: Emotional support animal, university housing, owner,
RESPONSIBLE OFFICE: Kelly Center
RESPONSIBLE UNIVERSITY OFFICIAL: Director
ORIGINATION DATE: 10/1/2017
REVIEW CYCLE: Every 3 years

POLICY ADDRESS:

LAST APPROVED ON: Adopted by Cabinet 2/28/2018

REVIEW/CHANGE HISTORY:

NEXT REVIEW DATE: 2/2021
