

SHW-DRC Procedure #1

Service and Emotional Support Animals (ESA) On-Campus



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Texas A&M University—Kingsville (TAMUK) will comply with applicable federal and state laws regarding the provision of reasonable accommodations for students with disabilities and members of the public with disabilities with regard to the use of service or emotional support animals on campus.

This procedure establishes the protocol for the presence of service and emotional support animals (ESA) on the TAMUK campus. This procedure has been developed to provide guidance and clear instructions for students who use a service animal or emotional support animal or who come into contact with such animals on campus.

Procedures and Responsibilities

1. SERVICE ANIMALS

- 1.1 A service animal is permitted on campus grounds and within TAMUK buildings with limited exceptions and restrictions. This practice follows provisions within the Americans with Disabilities Act (ADA) as amended.
 - 1.1.1. The service animal must have been trained as a service animal in the specific work or tasks directly related to the person's disability.
 - 1.1.2. The service animal shall be immunized as applicable and in accordance with the laws, regulations, and ordinances of the State of Texas and county and city authorities.
 - 1.1.3. Vaccination Records – The service animal must have updated vaccinations, including but not limited to the general maintenance vaccine series and any vaccinations deemed necessary by a licensed veterinarian.
 - 1.1.4. Licensing – All City of Kingsville licensing laws and tag laws must be followed.
- 1.2. TAMUK may require an individual with a disability to remove their service animal from the premises under the following circumstances:
 - (a) The animal is out of control and the animal's owner does not take effective action to control it.
 - (b) The animal is not housebroken.
 - (c) The animal poses a direct threat to the safety of others.

- (d) Service animals can only be restricted from areas where facial masks and foot protection are required in order to enter.
- 1.3. If a service animal is prohibited according to this procedure, TAMUK shall give the owner the opportunity to obtain goods and services to perform tasks without having the service animal on the premises.
- 1.4. The university is not allowed to request any documentation for the service animal, require that the service animal demonstrate its work or task, or inquire about the nature of the person's disability. Under Titles II and III of ADA (public access), when it is not obvious what work or task an animal provides, only the following two (2) questions may be asked of the owner:
 - (a) Is this a service animal required because of a disability?
 - (b) What work or task has the service animal been trained to perform?
- 1.5. The service animal is not required to wear any type of service animal identification symbol while in public (e.g., vest, collar, or other representative attire).
- 1.6. The owner of the animal is responsible for the care and supervision of the animal, as well as for loss of services or any damage or injury caused by the animal while on university property. The owner may be billed for the expense of any damage to TAMUK buildings, furnishings, and/or grounds caused by the animal.
- 1.7. A student with a service animal is not required to submit an accommodation request to bring a service animal into a university building, he or she may seek further advice from the Disability Resource Center (DRC) on services the university can provide to students with disabilities.
 - 1.7.1. In regards to a service animal in the university housing building, the student must contact the University Housing and Residence Life regarding procedures for a housing accommodation. Individuals living in university housing will be permitted to have no more than one service animal; however, if additional service animal is requested, it will be reviewed on a case-by-case basis by the University Housing and Residence Life.
- 1.8. Employees need to contact Human Resources (HR) for service animal and emotional support animal requirements and guidelines.

2. SERVICE ANIMAL IN TRAINING

A service animal in training shall not be denied admittance to any public facility when accompanied by an approved trainer.

- 2.1. An individual with a service animal in training may enter university buildings with the animal, provided:
 - (a) The individual is an approved trainer who is an agent of an organization recognized as reputable and competent to provide such training.
 - (b) The individual submits proof upon request to the university ADA Coordinator or University Police Department (UPD) that he or she is an approved trainer as required in Texas Human Resources Code Sec. 121.003.

- (c) The service animal is in training and is accompanied and controlled by an approved trainer as per Sec. 437.023 of the Texas Human Resources Code.

3. EMOTIONAL SUPPORT ANIMALS IN UNIVERSITY HOUSING

- 3.1. In accordance with federal and state law (Fair Housing Act), emotional support animals (assistance animals) are permitted within on-campus housing and areas immediately surrounding the residential facilities for approved students with disabilities on a case-by-case basis. Students seeking approval for the use of an emotional support animal within on-campus housing will be required to submit an application and/or verification form and other supporting documentation to the DRC for a determination of eligibility.
- 3.2. Individuals with a disability may be entitled to keep an emotional support animal as reasonable accommodation in housing facilities that otherwise impose restrictions or prohibitions on animals. In order to qualify for such an accommodation, the emotional support animal must be necessary to afford the individual an equal opportunity to use and enjoy a dwelling or to participate in the housing service or program. Further, there must be a relationship, or nexus, between the individual's disability and the assistance the animal provides.
- 3.3. Emotional support animals are not considered to be service animals and improperly representing an emotional support animal as a service animal is in violation of State of Texas Human Resource Code Sec. 121.006(a), and is a violation of the TAMUK Student Code of Conduct.
- 3.4. Criteria for Emotional Support Animals in University Housing:
 - (a) Typically, an emotional support animal is prescribed to an individual with a disability by a healthcare or mental health professional and is an integral part of a person's treatment process (**not a pet**).
 - (b) Emotional support animals should have basic obedience and socialization training.
 - (c) Individuals living in university housing will be permitted to have no more than one emotional support animal.
 - (d) Emotional support animals must be in compliance with the Code of Ordinances of the City of Kingsville, Texas Article 3. Any animal that is not allowed within a community due to city ordinances is not eligible as an emotional support animal.

3.5 Improper Use of Assistance Animals

A person who uses a service animal with a harness or leash of the type commonly used by persons with disabilities who use trained animals, in order to represent that his or her animal is a specially trained service animal when training has not in fact been provided, is guilty of a misdemeanor and on conviction shall be punished by:

- (a) UPD will issue a citation to the individual.

- (b) A fine of not more than \$300; and
- (c) 30 hours of community service to be performed for a governmental entity or nonprofit organization that primarily serves persons with visual impairments or other disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than one year.
- (d) A person who habitually abuses or neglects to feed or otherwise neglects to properly care for his or her assistance animal is subject to seizure of the animal under Subchapter B, of the Texas Health and Safety Code.

4. PROCEDURES FOR OBTAINING APPROVAL FOR THE USE OF AN EMOTIONAL SUPPORT ANIMAL WITHIN UNIVERSITY HOUSING

- 4.1. The student contacts the University Housing and Residence Life department regarding the request to have an emotional support animal in their resident room for the academic semester.
- 4.2. The student applies via Accessible Information Management (AIM) with the DRC and obtain the Emotional Support Animal Housing Accommodations Request from the DRC webpage. The form must be completed in its entirety by a qualified healthcare provider and/or a licensed clinical professional. TAMUK expects any licensed clinical professional to be licensed in the state of Texas. No out of state telehealth, documentation will be accepted. The student submits the form and supporting documentation from the qualified provider and/or a licensed clinical professional for the request. The DRC reviews the documentation and determines if the student is eligible to have a housing accommodation for the academic semester.
- 4.3. Documentation from an online organization is not acceptable and not recognized by TAMUK as valid.
- 4.4. Notification of approval or denial of emotional support animal.
 - (a) Approval: The student will receive a email informing them of the approval from the DRC. The student will schedule an intake appointment to review and obtain the housing accommodation letter which will be submitted to University housing & Residence Life by the student.
 - (b) Denial: The student will receive a denial notification email from the DRC. The student will have an opportunity to meet with the DRC staff to discuss the denial in detail. The student can appeal in writing to the ADA Coordinator whose decision on the appeal is final. University housing will be notified if the student's ESA has been denied.

5. GUIDANCE COMMON TO BOTH SERVICE ANIMALS AND EMOTIONAL SUPPORT ANIMALS

- 5.1. The service/emotional support animal shall be under the control of its owner at all times (e.g., voice control, signals, or other effective means). The animal must have a harness, leash, or other tether, unless:

- (a) The owner is unable to use the harness, leash, or other tether because of a disability; or
 - (b) The use of a harness, leash, or other tether would interfere with the animal's safety and/or effective performance of work or tasks.
 - (c) The service/emotional support animal must be in good health and care. The care and supervision of the animal is solely the responsibility of its owner. Animals that are ill must not be taken into public areas. An owner with an ill animal may be asked to remove the animal from the TAMUK premises.
- 5.2. TAMUK requires that the owner clean up after the service/emotional support animal relieves itself. The owner shall take the animal to the nearest grassy area outdoors for this purpose. An owner with a disability who physically cannot clean up after their animal shall make all necessary arrangements for assistance.

6. COMPLAINT PROCEDURE

- 6.1. Individuals wishing to file a complaint concerning a service/emotional support animal residing in on-campus housing should contact the Department of Housing & Residence Life, Lucio Hall, room 119.
- 6.2. Individuals wishing to file a complaint regarding animals in campus building/grounds, including service animals and/or their owner, should be directed to the University Police Department (UPD).
- 6.3. Upon receiving a complaint, UPD will review the matter and make a determination as to whether the alleged behavior merits the immediate removal of the animal from the premises, or rises to the level of public safety issue. If so, UPD personnel will have the animal's owner remove the animal from the premises and shall direct a report of the incident to the Office of Compliance and Risk Management.

7. PROHIBITED ANIMALS

In accordance with the Code of Ordinances of the City of Kingsville, Texas Article 3, the university prohibits any of the following:

- 7.1. Any venomous or poisonous amphibian or reptile or potentially dangerous reptile because of its size such as, but not limited to, boas, pythons, anacondas, monitor lizards and crocodilians.
- 7.2. Any member of the class Aves that is protected from human possession by federal law and any of the large flightless birds such as, but not limited to, ostriches, rhea, emus and cassowaries.
- 7.3. Any of the class Mammalia that is not normally born and raised in captivity, such as, but not limited to, cheetah, lion, tiger, bobcat, jaguar, leopard, cougar, wolves, dingos, coyotes, jackals, weasels, skunks, mink, badgers, bears, kangaroos, opossums, bats, sloths, anteaters, armadillos, elephants, monkeys, raccoons, chimpanzees, gorillas, porcupines, antelope, deer, bison, camels, peccaries (javelinas).
- 7.4. Only cats and dogs will be allowed in university housing.

- 7.5. No animal will be permitted in University Housing & Residence Life halls that is not approved by the DRC and University Housing Residence Life. Animals that poses a direct threat to the health or safety of others, would cause substantial physical damage to university property and other residents, would pose an undue financial and administrative burden to the university and would fundamentally alter the nature of the university's housing operations are not allowed.
- 7.6. Service and Emotional Support Animals in community living units and confined spaces (residence halls) should be limited to those that can be vaccinated and certified as disease free from transmitting any type of zoonotic disease.

8. EXCLUDED ANIMALS

This procedure does not apply to the following animals:

- (a) Animals involved in authorized research;
- (b) K-9 animals (police dogs);
- (c) Fish contained in aquariums under 20 gallons;
- (d) Animals used for performance, education, or display on the TAMUK or involved in a university sponsored or hosted activity.

9. HOUSING ACCOMODATIONS

Requests for ESA housing accommodations for students with disabilities must be made through the Disability Resource Center (361) 593-3024 or www.tamuk.edu/drc/.

Related Statutes, Policies, Rules or Requirements

Texas A&M University – Kingsville Disability Resource Center:
www.tamuk.edu/drc

Texas A&M University – Kingsville Student Handbook:
http://www.tamuk.edu/dean/dean_files/studenthandbook.pdf

The Americans with Disabilities Act of 1990, as amended:
<https://www.ada.gov/pubs/ada.htm>

Texas Human Resources Code Ch. 121:
<https://statutes.capitol.texas.gov/Docs/HR/htm/HR.121.htm>

Texas Health and Safety Code Ch. 821, Treatment and Disposition of Animals:
<https://statutes.capitol.texas.gov/Docs/HS/htm/HS.821.htm>

Department of Justice’s Q&A on Service Animals and the ADA:
http://www.ada.gov/regs2010/service_animal_qa.pdf

State of Texas Statute on Service Animals:
<http://www.twc.state.tx.us/jobseekers/tips-tools-about-service-animals>

Code of Ordinances of the City of Kingsville, Texas, Article 3, Animals

https://library.municode.com/tx/kingsville/codes/code_of_ordinances?nodeId=PT2COOR_CHIX_GERE_ART3AN

Kingsville-Kleberg Animal Control Division:

<http://www.cityofkingsville.com/departments/health-and-social-services/kingsville-kleberg-animal-control/>

Definitions

Service Animal: A dog that is individually trained to do work or perform tasks for a person with a disability. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, and alerting/protecting a person who is having a seizure. The provision of emotional support, well-being, comfort, or companionship does not constitute work or tasks for the purposes of defining a service animal. Under certain circumstances, miniature horses may also be trained as a service animal and be permitted within university buildings, where reasonable.

Service Animal in Training: A dog undergoing training by an approved trainer who is an agent of an organization generally recognized by agencies involved in the rehabilitation of persons who are disabled as reputable and competent to provide training for assistance animals, and/or their handlers.

Approved Trainer: recognized by Texas A& M University-Kingsville is an individual who has been certified by an organization whose primary mission is to train service animals for people with disabilities. If the individual is not an approved trainer, the individual must provide proof an approved trainer will be with the individual and the dog while in campus buildings.

Emotional Support Animals: An animal which provides comfort to an individual in some fashion; often used as part of a medical treatment plan and can be prescribed by a doctor. An emotional support animal is **not a pet and not** considered a service animal as defined in ADA guidelines.

Person with a Disability: A person with a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

Zoonotic Disease: This type of disease passes from an animal or insect to a human. Some don't make the animal sick but will sicken a human. **Zoonotic** diseases range from minor short-term illness to a major life-changing illness.

Student: includes anyone taking courses at or from the university, both full-and part-time, and between terms.

Appendix

Emotional Support Animal Housing Accommodation Request:
<http://www.tamuk.edu/drc/New-ESA-form-8.5.19.pdf>

Contact Office

- Students
 - Disability Resource Center (361) 593-3024
- Faculty and Staff
 - Human Resources (361) 593-3705
- Office of Compliance and Risk Management (361) 593-4758