**Emotional Support Animal (ESA) Policy**
**Office for Student Access Services**

New Mexico Tech (NMT) recognizes, under the Fair Housing Amendments Act (FHAA), the importance of emotional support animals (ESAs) which provide emotional support for individuals with mental health disabilities. The FHAA assures that people with mental health disabilities be allowed to have an ESA in the residence with them if the animal is necessary for the individual to fully participate in the campus housing program. NMT reserves the right to amend this policy as circumstances require. This policy explains the specific requirements applicable to an individual's use of an ESA in campus housing. This policy pertains to ESA only, and not to service animals or pets. The college has developed a separate policy regarding the presence of service animals in campus housing.

Although it is the policy of New Mexico Tech that individuals are generally prohibited from having animals in campus housing, NMT will consider a request by an individual with a disability for reasonable accommodation from this prohibition to allow an ESA that is necessary and reasonable because of a disability that substantially limits one or more major life activity. However, no ESA may be kept in campus housing at any time prior to the individual receiving approval as a reasonable accommodation pursuant to this policy.

ESAs are a category of animals that provide necessary emotional support to an individual with a documented 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 Amendments Act of 2008 (ADAAA) and New Mexico Tech's Service Animal Policy. Some ESAs are professionally trained, but in other cases ESAs provide the necessary support to individuals with disabilities without any formal training or certification. Dogs and cats are commonly used as ESAs, but according to the Fair Housing Act (FHA), Section 504 of the Rehabilitation Act of 1973, "other animals" may also serve a person with a disability as an ESA. All animals are required to be vaccinated/immunized and licensed per their particular species. Dogs and cats must have verification of immunization along with the pet registration per local licensing requirements.

New Mexico Tech will accept and consider requests for reasonable accommodations in campus housing at any time. The individual making the request for an ESA should complete the application process as soon as practicably possible before moving into campus housing. The ESA must be necessary in order to afford the individual an equal opportunity to fully participate in campus housing by alleviating symptoms directly related to the individuals' mental health disability. However, if the request for accommodation is made fewer than 60 days before the individual intends to move into college housing, New Mexico Tech cannot guarantee that it will be able to meet the individual's request for ESA during the first semester or term of occupancy.



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**Section 1: <u>Definitions</u>**

A. **Emotional Support Animal** - An emotional support animal *(ESA)* is an animal that alleviates one or more identified symptoms or effects of a person's mental health disability. An ESA is prescribed to an individual with a mental health disability by a qualified, licensed healthcare professional that is familiar with the individual's disability and the necessity for the requested accommodation. An ESA does not assist a person with a mental health disability with activities of daily living, nor does it accompany a person with a mental health disability at all times. * *It is important to note that animals that may be needed because of a mental health disability may be identified by various names. For example, an individual may identify the animal as a companion animal, therapy animal, assistance animal or emotional support animal.*

B. **Pet**: A *pet* is defined as an animal kept for ordinary use and companionship.

C. **Owner**: The *owner (may be interchangeable with student in this document)* is the individual who has requested the accommodation for an ESA and has received approval to bring the animal into campus housing. There is a distinction made between an *owner* of an ESA and a *partner*, someone who has an identified service animal.

**Section 2: <u>Housing Policy and Access to NMT Facilities</u>**

A. Residential students are not permitted to keep pets in campus housing.
B. ESA's are approved for campus housing only and are not permitted in other university buildings (e.g. dining facilities, libraries, academic buildings, athletic buildings and facilities, classrooms, labs, etc.).
C. It is not appropriate to have an ESA in public areas of the residence, except for transporting the animal in and out of housing.
D. Where applicable, ESA's are permitted in designated outdoor spaces, primarily for natural relief and exercise.
E. The ESA 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 college housing.

**Section 3: <u>Criteria for Determining if Presence of the ESA is Reasonable:</u>**

Campus 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 most campus residences. To ensure that the presence of an ESA is not an undue administrative burden or fundamental alteration of campus housing, New Mexico Tech reserves the right to assign an individual with an ESA an alternate housing assignment.

A. For all requests for an ESA, the Office for Disability Services (ODS) shall make a determination on a case-by-case basis of whether the presence of an ESA is reasonable. A request for an ESA may be denied as unreasonable if the presence of the animal: 1) imposes an undue financial and/or administrative burden; 2) fundamentally alters campus 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 NMT property.

B. New Mexico Tech may consider the following factors, among others, as evidence in determining whether the presence of the ESA is reasonable or in the making of housing assignments for individuals with an ESA:

1. The size of the ESA is too large for available assigned housing space;
2. The ESA's presence would force another individual from individual housing (e.g. serious allergies);
3. The ESA's presence otherwise violates individuals' right to peace and quiet enjoyment;
4. The ESA is not housebroken or is unable to live with others in a reasonable manner;
5. The ESA's vaccinations are not up-to-date;
6. The ESA 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;
7. The ESA causes or has caused excessive damage to housing beyond reasonable wear and tear; or
8. Dangerous, poisonous, oversized, and/or illegal animals or species that may carry zoonotic diseases and thus pose health risks may not be permitted, as these could be considered an unreasonable accommodation in a community living environment.

C. New Mexico Tech will not limit room assignments for individuals with an ESA to any particular building or buildings because the individual needs an ESA or because of a disability.

**Section 4: <u>Responsibility and Expectations of Persons with Emotional Support Animals</u>**

A. **Permission for an ESA in Campus Housing:** ESA's may not reside in campus housing without expressed approval from the Office for Disability Services.

B. **Care and Supervision**: Care and supervision (custody) of the animal is the sole responsibility of the owner and must meet the following requirements:

1. An ESA must be contained in the owner's privately assigned individual living accommodations (room) except to the extent the student is taking the animal out for natural relief, exercise or transportation.

2. The owner is responsible for ensuring that the ESA is contained, as appropriate; when the owner is not present during the day, while attending classes or other activities. Crating of dogs and cats is required and all other animals must be in appropriate enclosures at all times the owner is not in the room. When transported outside of these environments, the animal must be on a leash or transported in a carrier. The University reserves the right to inspect the enclosure to be used for containing the animal.

3. The ESA must be properly housed and restrained or otherwise under the 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, confinement and immediate removal from college housing.

4. An ESA may not be left overnight in college housing to be cared for by any individual other than the o wner. If the owner is to be absent from his/her residence hall overnight or longer, the animal must accompany the owner.

5. The owner must provide contact information for an alternative caregiver/emergency contact who will take responsibility of the ESA and remove it from campus should the owner be unable to care for it (e.g. hospitalization, accident). The caregiver/emergency contact must reside off campus and must be available to remove the ESA in a timely manner appropriate for the animal species and needed care. All ESAs must be removed within 24 hours. NMT may have an ESA removed from campus housing if it is not removed in a timely manner, as specified in this policy.

6. The owner must notify the Director of Residential Life and the Office for Student Access Services of any emergency situation during which the owner is unable to care for the ESA. Notification of such a situation and removal of the ESA must occur in a timely manner appropriate for the animal species and needed care, but may not extend overnight in any case. Failure of timely removal of the animal may result in the animal being removed by local Animal Control.

7. In instances where it is determined the ESA needs are not being provided for, to ensure immediate health and well-being of the ESA, NMT reserves the right to have the animal removed from campus housing. NMT will make an attempt to board the animal with a local veterinarian, if not possible Animal Control will remove the animal. All expenses are the responsibility of the owner.

8. New Mexico Tech, NMT personnel and NMT students shall not be required to provide food, care or any additional space for any ESA. This includes, but is not limited to, removing the animal during an emergency evacuation for events such as a fire alarm. Emergency personnel will determine whether to remove the animal and will not be held responsible for the care, damage to, or loss of the animal.

9. The ESA is allowed in campus housing only as long as it is necessary because of the owner's mental health disability. The owner must notify the Office for Student Access Services in writing if the ESA is no longer needed or is no longer in residence. To replace an ESA, the new animal must be necessary because of the owner's disability and the owner must follow the procedures in this Policy as well as the Reasonable Accommodation Policy for Housing when requesting a different animal.

**C. Waste Management and Cleaning**:

1. The ESA must be housebroken and/or housed in species appropriate cages, crates, habitats, etc. Pee pads are not permitted for toileting.

2. The owner is responsible for managing all cleaning tasks associated with keeping and caring for their ESA, including hair/fur, waste management, litter and bedding. NMT housekeeping equipment, facilities and/or supplies may not be used for any ESA cleaning tasks.

3. The owner is responsible for properly cleaning up after, containing and disposing of all animal waste. Solid waste (such as cat litter, soiled bedding, etc.) must be placed in a sturdy plastic bag and tied securely before being disposed of in a designated outside trash can. Litter boxes should be placed on mats so that feces and urine are not tracked onto carpeted surfaces. The owner may not clean any animal products in any residential facility (kitchen or bathroom sink, shower, janitorial closet).

4. ESA odor and waste accumulation must not exceed reasonable standards. Litter boxes, cage, habitats, bedding, etc., must be maintained such that odors are not apparent.

5. For animals which must be toileted outside, animal waste/ feces, must be immediately cleaned up, contained (placed in a plastic bag and securely tied) and disposed of by the owner in an outside trash can. Improper waste disposal is grounds for the removal of the animal.

6. It is expected that the owner of a cat or a dog will follow veterinary recommendations for preventative treatment of fleas and ticks.

**D. Health and Well Being:**

1. The owner must abide by current city, county and state ordinances, laws and/or regulations pertaining to licensing, vaccination, noise, restraint, at-large animals,

dangerous animals and other requirements for animals. It is the owner's responsibility to know and understand these ordinances, laws and regulations. NMT has the right to require documentation of compliance with such ordinances, laws and/or regulations, which may include a vaccination certificate.

2. The ESA must be immunized against disease common to that type of animal.
   a. Dogs and cats must have proof of current rabies and distemper vaccination. A copy of the current licensing documentation for the animal will be kept on file and must be kept current.
   b. Dogs and cats must wear a licensing tag and a current rabies vaccination tag, per Socorro Local Ordinance § *108-16*.
   c. Dogs and cats less than 1 year of age must have completed their full rounds of required vaccinations.

3. ESA housed in campus housing must have an annual clean bill of health from a licensed veterinarian.

4. NMT reserves the right to mandate that the ESA receive veterinary attention, or be removed from campus property.

5. The owner is required to ensure the ESA is well cared for at all times. Any suspected or observed issues related to mistreatment or abuse of the ESA will be reported to the proper investigatory authorities, may result in immediate removal of the ESA, and may subject the responsible individual to NMT disciplinary action.

6. Dogs and cats must be spayed/neutered.

E. **ESA Behavior**:

1. The owner is required to maintain control of the ESA at all times. ESA's must be harnessed, leashed or in a carrier at all times. No owner shall permit the animal to go loose or run at large.

2. The ESA may not pose a direct threat to the health and safety of persons on campus, cause physical damage to property, or fundamentally alter the nature of NMT operations. Local and state ordinances and laws regarding animals apply.

3. The ESA's behavior and/or noise must not exceed reasonable standards for a well-behaved animal. These factors should not create unreasonable disruptions for other residents. If the noise is excessive as judged by Residential Life staff, it is grounds to remove the ESA from campus. The ESA may be excluded from the college campus if the ESA behaves in an unacceptable way and/or the student does not control the ESA. Uncontrolled barking, jumping on people, biting, growling, or running away from the owner are some examples of unacceptable behavior for an ESA.

4. The owner, not NMT, is responsible for the actions of the ESA including bodily injury or property damage. The owner of an ESA will be charged if additional cleaning or damage occurs as a result of having the ESA in college housing. The owner is expected to pay these costs upon repair or cleaning. In addition, NMT retains the right to remove the ESA, at the owner's expense, should the ESA become a direct threat to the health and safety of others or violates these requirements in any way.

**F. Financial Responsibility:**

1. New Mexico Tech will not ask for or require an individual with a disability to pay a fee or surcharge for an approved ESA.

2. An individual with a disability will be charged for any damage caused by their ESA beyond reasonable wear and tear to the same extent that it 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 NMT'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 University-approved pest control service. The owner will be billed for the expense of any pest treatment above and beyond standard pest management in campus housing. NMT has the right to bill the owner's account for unmet obligations under this provision. The owner will be required to treat their ESA for any such infestation at their expense.

3. Any cost for the actions of the ESA, including bodily injury, property damage, and/or non-standard cleaning, must be met by the owner. NMT reserves the right to bill the student's account for charges related to the ESA.

**G. General Responsibilities:**

1. The owner is responsible for feeding and watering the ESA within the confines of their personal room. Bowls of food and water should be placed on mats so that water and food do not get on the carpet/floor. If food or water is spilled, the owner is responsible for cleaning the floor of their residence immediately.

2. Food for the ESA will be kept in a sealed container within the confines of the owner's room. Open bags of food are not permissible, as they attract bugs.

3. If the ESA becomes sick and vomits and/or becomes incontinent, it is the responsibility of the owner to clean immediately.

4. The ESA should be kept clean and free from odor; the owner may not use hall or apartment showers, sinks or baths to clean the ESA. Local groomers may be an option.

5. 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. Behavior, noise, and odor must not exceed reasonable standards for a well-behaved animal and these factors must not create unreasonable disruptions for other residents.

**Section 6: <u>Conflicting Disabilities</u>**

Should there be conflicting considerations between the student approved for an ESA and the needs of roommate(s), apartment mate(s), or housemate(s), such as health/allergy conditions, either the student requesting the emotional support animal or the non-approving roommate(s), apartment mate(s), or housemate(s) may be moved to a different location based on space availability. Students with medical condition(s) that are affected by animals (respiratory diseases, asthma, severe allergies) should contact Residential Life and the Office for Disability Services if they have a health or safety related concern about exposure to an ESA. The individual will be asked to provide medical documentation that identifies the condition(s), and will allow determination to be made as to whether the condition is disabling and whether there is a need for an accommodation. Student Access Services will respond in a timely manner and will carefully consider options for all involved.

**Section 7: <u>Removal of ESA</u>**

New Mexico Tech may require the owner of an ESA to remove the animal from NMT property if:

a. The ESA poses a direct threat to the health or safety of others or causes substantial property damage to the property of others.
b. The behavior of the ESA is unruly or disruptive (e.g., barking, growling, running around, and/or displaying aggressive behavior). If such behavior persists, the owner may be prohibited from bringing the animal on campus until the owner takes significant and effective remedial steps to correct the animal's behavioral problems.
c. The ESA is ill. Animals that are ill or in poor health must not be taken into public areas.
d. The owner fails to properly clean up and dispose of the animal waste.
e. The ESA is otherwise unclean or unkempt.
f. The animal or its presence creates an unmanageable disturbance or interference with the university community.
g. There is evidence of abuse or neglect of the animal by the owner.
h. The animal's presence results in a fundamental alteration of a university program.
i. The owner does not comply with this policy.

When it is determined an ESA must be removed from campus housing, the owner will be notified in person. The ESA must be removed from campus within 24 hours of notification. Should the ESA be removed for any reason, the owner is expected to fulfill their housing obligations for the remainder of

the housing contract.

**Section 8: Non-retaliation Provision**

New Mexico Tech will not retaliate against any individual because that individual has requested or received are reasonable accommodation in campus housing, including a request for an ESA.

**Section 9: Denial/ Appeal Process**

1. **Denial of Accommodation/Appeal**:
   a. If the Office for Disability Services determines the request for an ESA accommodation is denied, Student Access Services will notify the student during a follow-up meeting or contact the student in writing, within seven (7) business days of its determination.

   b. Student Access Services will provide written notification to the individual of the denial, the reasons for the denial, and the right to appeal the decision, and the procedures for that appeal. If the individual is unwilling to accept the denial, they may appeal their request to the Affirmative Action Officer at New Mexico Tech. The appeal must be filed, in writing, fourteen (14) calendar days from the date of notification denying accommodation. If the appeal is denied, the Affirmative Action and Compliance Officer at NMT shall provide written notification of the denial to the individual and a written explanation with all the reasons for the denial.

**REVIEW**

The Vice President for Student Life or designee is responsible for the review of this policy and operating procedures by July 31st of each year.

**AMENDMENTS**

Subject to applicable amendments to law and as otherwise provided herein, this policy may be amended, modified and supplemented in any and all respects, by action taken by the designated authority of New Mexico Tech.

**Emotional Support Animal (ESA) Residential Agreement**
**Acknowledgement and Release of Information Consent Form**

I, the owner, have read and understand the Emotional Support Animal Policy and agree to abide by the requirements outlined therein. I understand that if I fail to meet the requirements set forth in the Emotional Support Animal Policy, New Mexico Tech has the right to remove the ESA and I will be, nonetheless, required to fulfill my housing, academic, and all other obligations for the remainder of the housing contract.

I furthermore give permission to the Office for Disability Services to disclose to others impacted by the presence of my Emotional Support Animal (e.g., Residential Life staff, Facilities, potential and/or actual roommate(s)/neighbor(s) that I will be living with an animal as an accommodation. I understand that this information will be shared with the intent of preparing for the presence of the ESA and/or resolving any potential issues associated with the presence of the ESA.

I further recognize that the presence of the ESA may be noticed by others visiting or residing in campus housing and agree that staff may acknowledge the presence of the animal, and explain that, under certain circumstances, ESAs are permitted for persons with mental health disabilities.

I was offered the opportunity to ask questions regarding ESAs at NMT and have had my questions answered.

**Emergency contact for emergency care needs for the ESA, The emergency contact must reside off campus and must be available to remove the ESA in a timely manner appropriate for the animal species and needed care, no more than 24 hours.**

_____

First Name Last Name Street Address City State Zip Code

_____

Phone number Email

**I have provided required health/vaccine/spay/neuter documentation for** _____

Name of ESA Owner's Initials Date

**By my signature below, I verify that I have read, understood and will abide by the requirements outlined here and I agree to provide any additional information required to complete my Request for a Reasonable Accommodation under NMT's Emotional Support Animal Policy.**

_____

Owner's Signature Date

_____

Student Access Services Staff Signature Date

Please contact the Office for Student Access Services with any questions or concerns: 575-835-6209 or disability@nmt.eud