

CSCC Final Recommendation Service and Emotional Support Animals

Background:

In Spring, 2017, the General Counsel, Thomas Mahoney, informed Steering that it wished to issue a policy on Service and Assistance Animals. Mr. Mahoney asked Steering to determine whether this policy required governance review. Steering considered the policy and felt that most aspects of the policy did not require governance review. However it determined that the issue of conflicting needs should be considered through governance. Accordingly, the Office of the General Counsel has issued this policy as an interim policy pending consideration of the issue of conflicting needs through governance.

Charge:

On September 20, 2017, the Steering Committee charged CSCC to determine whether the procedures for addressing conflicting needs of members of the campus community other than the member requesting the assistance animal are sufficiently addressed in the policy. CSCC was asked to focus on section IIIF of the policy, but it may also consider other sections for review.

In conducting this review, the CSCC worked with Janice Vermeychuk, Director of Student Health Services; Amanda Radosti, Environmental Program Specialist and Jordan Draper: Interim Dean of Students to review any recommended substantive policy changes. CSCC also sought input from the Office of General Counsel, the Office of Interim Vice President for Student Affairs, Associate Vice President/Chief Diversity Officer and the Office of Disability Support Services.

CSCC created and circulated a Qualtrics survey to the entire campus community in Spring 2018 and held open forum on 18 April 2018 to solicit input from the campus community.

Section:	V.3.47	
Title:	Service and Emotional Support Animals	
Effective Date:	July 20, 2017	
Approved By:	Vice President for Enrollment Management	
Responsible Unit:	Office of Enrollment Management; (609) 771-3080	
Related Documents:	Housing Accommodation Policy Housing Accommodation Application Assistance Animal Housing Contract	
History:		
<u>Version</u>	<u>Date</u>	<u>Notes</u>
1.0	07/20/2017	Interim policy

I. INTRODUCTION

The College of New Jersey (“TCNJ” or the “College”) recognizes the importance of “Service Animals” and the broader category of “Assistance Animals” that provide physical and/or emotional support to individuals with disabilities. The College 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 College’s programs and activities. The College is also committed to allowing Emotional Support Animals necessary to provide individuals with disabilities an equal opportunity to use and enjoy College housing. This policy provides the requirements applicable to an individual’s use of a Service Animal or Emotional Support Animal in College housing.

II. DEFINITIONS

Approved Animal – Either a Service Animal or Emotional Support Animal which has been approved by the College for the Owner to use the animal on campus and/or to bring the animal into College housing.

Emotional Support Animal (ESA): See Fair Housing Act (“FHA”) – An animal that provides necessary emotional support to an individual with a mental or psychiatric disability that alleviates one or more identified symptoms of an individual’s disability. 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. Emotional Support Animals are also often referred to as a comfort animal, companion animal, or therapy animal. Emotional Support

Animals are not considered Service Animals.

Owner – The individual (Faculty/ Staff/ Student) who has requested the accommodation and has received approval to use a service animal on campus or bring an Emotional Support Animal into College housing.

Service Animal: See the Americans with Disabilities Act Amendments Act (“ADAAA”) – An animal (generally a dog) individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals who are hearing impaired to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair or fetching dropped items.

III. POLICY

A. Service Animal

1. Requesting a Service Animal in College Housing

- i. Requesting to have a Service Animal in College housing follows the general procedures set forth in the Housing Accommodations policy.
- ii. Students requesting to have a Service Animal in College housing must be affiliated with Disability Support Services (“DSS”).
- iii. Service Animals cannot be brought to campus prior to approval being granted. Students must contact DSS as early as possible to permit time to gather and review all necessary documentation. Immediate Housing accommodations cannot be made.

2. Criteria for Approval of Service Animal

- i. DSS may inquire (1) if the animal is required because of a disability, and (2) what work or task the animal has been trained to perform, in determining whether to approve the request for a Service Animal on campus.

3. Access to College Facilities

- i. Subject to some limitations, a Service Animal is permitted to accompany its Owner at all times and in all places on campus

including classrooms. The Owner is responsible to attend to and be in full control of the Service Animal at all times. A Services Animal shall wear a leash, harness, or cape that identifies the animal as a Service Animal when on duty anywhere on campus.

B. Emotional Support Animal

1. Requesting an Emotional Support Animal

- i. Requesting an Emotional Support Animal follows the general procedures set forth in the Housing Accommodation policy and the requirements set forth below. To the extent the two policies conflict, this policy shall control.
- ii. Students requesting to have an Emotional Support Animal in College housing must be affiliated with Disability Support Services (“DSS”).
- iii. Emotional Support Animals cannot be brought to campus prior to approval being granted. Students must contact DSS as early as possible to permit time to gather and review all necessary documentation. Immediate Housing accommodations cannot be made.

2. Criteria for Approval of an Emotional Support Animal

- i. DSS shall consult with the Department of Residential Education and Housing (“Res Ed”) in determining on a case-by-case basis whether the presence of an Emotional Support Animal is reasonable. Due to the unique community living environments of a College campus, i.e., density of population, food preparation, and multi-use space, some types of animals may not be permitted. The College may consider the following factors, among others, in determining whether or not to approve the request for an Emotional Support Animal:
 - The size of the animal is too large for available assigned housing space;
 - The animal is less than 6 months of age.
 - The student has not had a relationship with the animal for at least 6 months.
 - The animal’s presence otherwise violates individuals’ right to quiet enjoyment;
 - The animal is not housebroken or is unable to live with others in a reasonable manner;
 - The animal’s vaccinations are not up-to-date;
 - 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
 - The animal causes, has caused, or poses an undue risk of

causing excessive damage to housing beyond wear and tear.

3. Access to College Facilities

- i. An Emotional Support Animal must be contained with the Owner's privately assigned individual living accommodations (e.g. room, suite, apartment) except to the extent the individual is taking the animal out for the animal's 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. In addition to 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 College housing.
- ii. The Owner is responsible for following all rules related to the restrictions of animals from buildings on campus.

C. Owner's Responsibilities for an Approved Animal

1. Regarding access to College buildings, the Owner is responsible for ensuring the approved animal is not entering restricted areas. Restricted areas may include, but are not limited to: research laboratories, areas where protective clothing is necessary, wood and metal shops, rooms with heavy machinery, public food preparation areas and any other location animals are not allowed in public buildings by state law.
2. If the College grants an Owner's request to live with an Approved Animal, the Owner is solely responsible for the custody, control, and care of the Approved Animal. DSS will issue an identification card for the Approved Animal which must be made available at all times if requested by College staff. Owners also must execute an On-Campus Approved Animal Agreement. The Agreement will state the following :
 - i. The Owner is responsible for caring for the Approved Animal. "Care" shall include appropriately feeding, watering and cleaning up after the Approved Animal. TCNJ is not responsible for the (daily or long-term) care of any Approved Animals. The Owner of an approved animal on campus is to be mindful of good housekeeping and keep their room free of allergens and offensive odors as much as possible. TCNJ is not responsible for cleaning student rooms.
 - ii. The Owner is responsible for the Approved Animal's proper care

and behavior while on campus. Owner is responsible for any actions of the approved animal while others are in the room. Loose animals will be reported to DSS and the room may not be serviced for repairs until the animal is contained. The Owner is responsible for storing approved animal cages away from HVAC units in student rooms in order to prevent health complaints. Tick, flea, or other infestation, excessive barking or other noise making and aggressiveness are examples of improper care and behaviors that will not be tolerated. If an Approved Animal displays such behaviors, disciplinary action may be taken against the Owner, and removal of the Approved Animal from campus may be requested.

- iii. If the Owner is not in his/her residence, and the Approved Animal is in the residence, the animal must be contained to prevent possible damage or destruction to the residence, in addition to preventing the Approved Animal from escaping the residence should a TCNJ employee need to enter the residence (e.g. repairs, Resident Assistant -inspections, fire alarms, etc.). The Owner is responsible for the cost of any Approved Animal related damages to the living space, or other College facilities, property, or other third part property. Owner is responsible for any actions of the approved animal while others are in the room. Loose animals will be reported to DSS and the room may not be serviced for repairs until the animal is contained. After the Owner and approved animal have moved out any room damages will be assessed at that time and reported to Res Ed for processing to the Owner.
 - iv. Approved Animals must leave campus with the Owner anytime the Owner leaves overnight and/or during College breaks.
 - v. The Owner is responsible for complying with local and state licensing laws for animal rights and owner responsibilities. Approved Animals must be up-to-date with all vaccinations.
 - vi. In the event of fire or other emergency, the Owner is solely responsible for the removal of the Approved Animal from the residence hall. To the extent possible, Owners will receive advance notification from DSS regarding any pre-planned or scheduled fire drills in the residence halls.
 - vii. The Owner is responsible for removing the Approved Animal's waste. Waste must be disposed in a sealed bag in the trash area outside the building.
3. The Owner is strongly encouraged to maintain liability insurance coverage for the Approved Animal, in order to protect the Owner from risk of significant legal and financial liability. The Owner will in all cases be held financially responsible for the actions of the Approved Animal, including in any incident where the Approved Animal causes bodily injury to another person, regardless of whether the Owner has obtained insurance coverage.

4. Residential Education and DSS will keep an open line of communication with Owners regarding the Approved Animal and its transition to and ongoing residency on the campus of TCNJ.

D. Animal Health and Well-being

1. Vaccination

- i. In accordance with local law, the animal must be immunized against diseases common to that type of animal. Dogs must have current vaccinations against rabies and wear a rabies vaccination tag.

2. Health

- i. Approved Animals must be in good health and up-to-date on immunizations as appropriate for that type of animal. The Owner should be prepared to provide documentation, such as a vaccination certificate or a licensed veterinarian's statement regarding the animal's health. The College reserves the right to direct that the animal receive veterinary attention. The Owner is responsible for any costs associated with seeking veterinary attention for the animal.

3. Licensing

- i. The College reserves the right to request documentation showing that the animal has been licensed in accordance with licensing requirements of New Jersey's Office of Animal Welfare.

E. Removal of an Approved Animal

1. The College maintains the right to require the removal of an Approved Animal from College facilities under the following circumstances:
 - i. The animal poses a direct threat to the health or safety of others or causes substantial property damage to the property of others.
 - ii. The animal is excessively unclean (e.g., repeating soiling of facilities, flea-infested, foul-smelling and/or shedding excessively).
 - iii. The animal's presence results in a fundamental alteration of a

College program.

- iv. The Owner does not comply with the Owner's responsibilities set forth in this policy and on the Campus Assistance Animal Agreement.
 - v. The animal or its presence creates an unmanageable disturbance or interference with the College community.
2. If an Approved Animal is found running at large, exhibiting aggressive behavior (including but not limited to biting another individual), or is the subject of a noise complaint that the Owner cannot immediately control, the animal is subject to capture and confinement and immediate removal from College housing.
 3. Determinations of removal will be based upon the consideration of the undue nature and behavior of the particular animal at issue. Any decision to remove an Approved Animal will be made by DSS in consultation with Res Ed or any other applicable office on campus. DSS will notify the student of his/her right to appeal the decision and inform the student of the procedures for that appeal process
 4. Should an Approved Animal be permanently removed from the campus for any reason, the Owner is expected to fulfill his/her housing obligations for the remainder of the housing contract.

F. Community Considerations and Conflicting Disabilities

1. The use of Service and Assistance Animals may negatively affect others with allergies, respiratory impairments, and other relevant disability conditions. Individuals with conditions that are negatively affected by an approved animal should contact DSS. The individual with the affected condition who is raising the concern about the Approved Animal may be asked to provide medical documentation that identifies the condition(s) as a disability and register with DSS; a determination will be made on whether there is a need for an accommodation. Any accommodations made will consider the needs of both individuals to resolve the conflict as efficiently and expeditiously as possible. Concerns of this nature will be evaluated on a case-by-case basis.
2. DSS will work in conjunction with Residential Education to alert potential roommates/suitemates that an Approved Animal will be present in an effort to address concerns, including those related to allergies and objections or fears related to certain types of animals, as early as possible in the housing assignment process. Issues or concerns that may arise during the academic year should be reported as quickly as possible to DSS.

3. Campus community members should contact DSS to discuss any special situations (regarding Approved Animals) that are not covered by this Policy, as well as any exceptions to this Policy that might be requested.

G. Confidentiality and Recordkeeping

1. In processing requests for reasonable accommodations, the College will take all reasonable steps necessary to protect the confidentiality of any information or documentation disclosed in connection with the requests.