

# Bemidji State University Policies

<b>Policy Name:</b> Emotional Support Animal Policy	<b>Effective Date:</b> 5/1/2021
<b>Policy Owner:</b> Advising and Accommodations Coordinator	<b>Last Review:</b> 3/1/2021
	<b>Next Review:</b> 9/1/2024

## Policy Statement

In compliance with the Fair Housing Act (FHAct), Section 504 of the Rehabilitation act of 1973 (Section 504) and the Americans with Disabilities Act (ADA), Bemidji State University (BSU/The University) is committed to allow emotional support animals determined to be necessary to provide individuals with mental or psychiatric disabilities an equal opportunity to use and enjoy University housing.

Although it is the policy of BSU that individuals are generally prohibited from having animals that are considered pets in University housing, BSU will consider a request by an individual with a disability for reasonable accommodation to allow an emotional support animal that is necessary because of a disability and is a reasonable accommodation.

Bemidji State University may not permit an emotional support animal when the animal poses a substantial and direct threat to health or safety or when the presence of the animal constitutes a fundamental alteration to the nature of the program or service. Bemidji State University will make those determinations on a case-by-case basis.

No emotional support animals may be kept in University housing at any time prior to the individual receiving approval as a reasonable accommodation pursuant to this Policy. Failure to adhere to this may require immediate removal of the animal.

## Scope and Purpose of Policy

Bemidji State University is committed to providing members of the BSU community with disabilities equal access to programs, services and physical facilities. It is acknowledged that some members of the housing community with mental health disabilities may require the use of an emotional support animal while at BSU. Below are guidelines concerning the appropriate use of and protocols associated with emotional support animals. BSU reserves the right to amend these guidelines as needed, with or without prior notice.

## Definitions

**Partner/Handler** is a person with a disability that a service animal assists or personal care attendant who handles the animal for a person with a disability.

**Emotional Support Animals** are a category of animals that provide therapeutic benefit, such as alleviating or mitigating some symptoms of the disability, to an individual with a mental or psychiatric disability. Emotional support animals are typically dogs and cats but may include other animals. In order to be prescribed an emotional support animal by a qualified medical professional, the person seeking such an animal must have a verifiable disability. To be afforded protection under United States federal law, a person must meet the federal definition of a disability and must have documentation from a qualified medical professional stating that the person has that disability and that the emotional support animal provides a benefit for the individual with the disability to utilize University housing.

## Procedures

The procedure for requesting emotional support animals follows the general procedures set forth in the 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 University Housing Reasonable Accommodation Policy, this policy shall control. All other Housing and Residential Life policies shall be observed and shall have primary control in all cases unless this policy needs application.

Requests for emotional support animals in University housing are governed by the following guidelines:

1. Requesting an Emotional Support Animal
  - a. An individual with a mental health disability must complete both the Accessibility Services Student Intake Form (Intake Form) and the Service Provider Form for Students Requesting Emotional Support Animals (ESA form). The ESA form requires completion by a reliable third party. If the individual requires assistance completing the forms due to a disability, Accessibility Services will provide assistance completing the forms.
    - i. A reliable third party is someone who is familiar with the individual's disability and the necessity for the requested accommodation. A reliable third-party includes, but is not limited to, a doctor or other mental professional. In general, the third party needs to be licensed in the State of MN or the state of residency of the individual.
  - b. The individual must make arrangements for a meeting with Accessibility Services to discuss the accommodation.
  - c. BSU will accept and consider requests for reasonable accommodations in University housing at any time. The individual making the request for accommodations should complete and provide the Intake Form and the ESA form as soon as practically possible before moving into University housing. However, if the request for accommodations is made fewer than

- 60 days before the individual intends to move into University housing, BSU cannot guarantee that it will be able to meet the individual's accommodation needs during the first semester or term of occupancy.
- d. If the need for the accommodation arises when an individual already resides in University housing, the student should contact Accessibility Services and complete both the Intake Form and the ESA form as soon as practically possible. BSU cannot guarantee that it will be able to meet the accommodation needs during the semester or term in which the request is received.
  - e. Absent exceptional circumstances, the University will attempt to provide a written response to an ESA request within 14 business days of receiving completed Intake and ESA forms.
  - f. If the third party returns the ESA form without sufficient information for Accessibility Services to determine whether an accommodation is necessary, Accessibility Services will inform the individual in writing of the verification's insufficiency and may request additional information, including speaking directly with the individual supplying the third-party verification within 14 business days of receiving the verification.
  - g. The individual making the request for an ESA must cooperate with Accessibility Services in a timely manner in providing all information needed to determine whether the requested accommodation is necessary.
2. BSU 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:
- a. The space needed for the animal is too large for available assigned housing space.
  - b. The animal's presence would force another individual from individual housing (e.g. serious allergies).
  - c. The animal's presence otherwise violates individual's right to peace and quiet enjoyment.
  - d. The animal is not housebroken or is unable to live with others in a reasonable manner.
  - e. The animal's vaccinations are not up to date.
  - f. The animal poses or has posed in the past a direct threat to the safety or health of the individual or others such as aggressive behavior towards or injuring the individual or others, or potential transmission of zoonotic diseases. Animals who exhibit aggressive behavior are not appropriate for University residences, regardless of whether they have actually injured someone. The University does not have to wait until someone is harmed; aggressive behavior is disqualifying.
  - g. The animal causes or has caused excessive damage to housing beyond reasonable wear and tear.
3. Approval of Accommodation
- a. If Accessibility Services determines a requested accommodation is necessary and is not unreasonable, it will contact the individual, in writing,

within seven (7) business days of its determination, to arrange a meeting to discuss the implementation of the accommodation.

4. Denial of Accommodation/Appeal

- a. If Accessibility Services determines a requested accommodation is necessary but unreasonable, or not necessary nor reasonable, Accessibility Services will contact the individual, in writing, within seven (7) business days of its determination and engage in an interactive process with the individual to determine if there are alternative accommodations that might effectively meet the individual's disability-related needs.
- b. If the individual is unwilling to accept any alternative accommodation offered by Accessibility Services or there are no alternative accommodations available, Accessibility Services will provide a verbal explanation and written notification to the individual of the denial, the reasons for the denial, the right to appeal the decision, and the procedures for that appeals process. The notification shall be in writing and made within seven (7) business days of the notification of the individual's unwillingness to accept any of the alternative accommodations offered or the determination that there are no alternative accommodations available.
- c. Students may also use the grievance procedure outlined in the University Student Complaints and Grievances Policy.

Animals that are approved under these procedures as ESAs are not permitted inside other campus buildings and facilities except where the animal has been approved as a reasonable accommodation for a disability in accord with the standard procedures for requesting academic accommodations.

Generally, the presence of only one ESA will be approved for a student, in order to fulfill the intent of the FHA requirements in providing support to the student with a mental health disability.

The University has determined that the residence hall setting, in most cases, is not an appropriate environment in which to raise young animals. Generally, all ESAs must be at least 10 months of age, be spayed or neutered, and have received their first rabies vaccination (if applicable) before they can live in residence in University housing.

An ESA must be contained within the owner's privately assigned individual living accommodations except to the extent the individual is taking the animal out for natural relief.

Notwithstanding the restrictions set forth herein, 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 University housing.

## General Responsibilities:

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

1. The handler 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 handler'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 license and vaccination certificate.
2. The handler is required to clean up after and properly dispose of the animal's waste in a safe and sanitary manner and when provided must use animal relief areas designated by BSU. The animal will not be bathed, or its cage/crate, or bedding cleaned using student housing or university facilities.
3. The handler 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 animal and/or discipline for the responsible individual.
4. BSU will not ask for or require an individual with a disability to pay a fee or surcharge for an approved ESA.
5. Bemidji State University will not ask for or require an individual with a disability to pay a fee or surcharge for an approved Emotional Support Animal, however, an individual with a disability may be charged for any damage caused by the animal beyond reasonable wear and tear to the same extent that it charges other individuals for damages beyond reasonable wear and tear. The handler's living accommodations may also be inspected for fleas, ticks, or other pests as necessary. 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 handler 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 handler's account for unmet obligations under this provision.
6. The handler must fully cooperate with University personnel with regard to meeting the terms of this policy and developing procedures for care of the animal.
7. Emotional Support Animals may not be left overnight in University housing to be cared for by any individual other than the handler. If the handler is to be absent from the residence hall overnight or longer, the animal must accompany the handler. The handler is responsible for ensuring that the animal is contained (caged or crated), as appropriate, when the handler is not present during the day while attending classes or other activities. Proper containment is not to be understood as roaming freely within the

individual's privately assigned living area. The University reserves the right to inspect the enclosure to be used in containing the animal.

8. The handler 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 handler's disability. The handler must notify Accessibility 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 handler's disability and the handler must follow the procedures set forth in this policy.
10. BSU personnel shall not be required to provide care or food for any ESA 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. The handler must provide the University with the name and contact information of someone who does not reside in University housing and who can take responsibility for the animal within 12 hours should the handler be unable or unavailable to care for it.
11. The individual must provide written consent for Accessibility Services to disclose information regarding the request for and presence of the ESA to those individuals who may be impacted by the presence of the animal including, but not limited to, Residential Life personal and potential roommate(s)/neighbor(s). Such information shall be limited to the animal and shall not include information directly related to the individual's disability.

#### Removal of an ESA

The University may require the handler 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 handler does not comply with the handler's expected responsibilities set forth in this policy
4. The animal or its presence creates an unmanageable disturbance or interference with the University community.

Should the ESA be removed from the premises for any reason, the handler is expected to fulfill the housing obligations for the remainder of the housing contract.

If an individual is notified of the need to remove the animal, the individual is expected to comply within 48 hours. Failure to comply will result in the university removing the animal to the nearest animal shelter. Additionally, failure to comply with the order for

removal may result in a referral to the Student Conduct Board for consideration of sanctions.

### **Rationale**

Bemidji State University is committed to providing members of the BSU community with disabilities equal access to programs, services, and physical facilities. It is acknowledged that some members of the community with disabilities may require the use of an emotional support animal while in residence at BSU. This policy is written to inform and provide guidance to students, staff, and faculty regarding emotional support animals.

### **Supporting References**

[Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs](#)

[USA v. University of Nebraska at Kearney: Case 4:11CV3209](#)