Overview of New Policy 3.06: Assistive, Service and Companion Animals on University Premises

On December 13, 2013, the Board of Regents approved Policy 3.06, which supersedes prior general (Policy 3.80) and Housing pet policies incorporated into licensing agreements. The policy is re-numbered as Policy 3.06 and titled, "Assistive, Service and Companion Animals on University Premises". It was developed based on substantial peer and legal research, and with input from the following: Director of Housing and Campus Life, Director of Student Accessibility Services, Director of the Office of Institutional Equity; Director of the Counseling Center; faculty from the Department of Range and Animal Sciences; NMSU Police; the former and current chair of the IACUC (Institutional Animal Care and Use Committee); and the President and Vice President of the Employee Council. This Overview is numbered in the same outline format as the policy, for easy cross reference:

A. Purpose: The purpose is to assist the university in complying with federal and state mandates relating to public access, and to provide sufficient guidance for students, faculty, staff and visitors who may question the presence of a companion, service or other assistive animal on campus or wish to register a concern relating to animals on campus.

B. Scope: This policy will apply throughout the NMSU system; it does not, however, apply to animals used in teaching or research. Cross references to the policies and federal regulations administered by the IACUC (Institutional Animal Care and Use Committee) are given within the policy.

C. Policy Administrators: Due to the subject matter, there are several different policy administrators, who typically need to consult each other or convene as a group to resolve a common fact scenario. They are: the NMSU Police Chief; the Director of Housing and Campus Life; the Director of the Office of Institutional Equity; the Director of the Office of Student Accessibility Services; each Community College Vice President for Student Services or their Designee; and each department head, director or equivalent administrator who uses a working assistive animal.

D. Definitions: This policy defines the terms as they will be used at NMSU. There is a lack of consistency in the terminology used to describe these types of animals. For example, "service animals" (federal terminology) were referred to under NM law as "qualified assistance animals" until recent amendments (now "qualified service animals"); emotional support animals are elsewhere referred to as "comfort animals" or "therapy animals".

E. Policy Statements: The bulk of the policy material is located in Section E., which is divided into ten subsections:

E. 1. Animals that Visit Campus or Reside in University Housing: This section addresses generally owner/handler responsibilities for the care and control of their animal, university facility restrictions, circumstances justifying exclusion of an animal, University Housing animal restrictions, and unsupervised animals.

E. 2. Service Animals; Service Animals in Training: This section provides guidance about how to interact with a person utilizing what appears to be a service animal (2 permissible questions). It clarifies the requirement that service animals in training must be granted the same right of public access as trained service animals. No special ID vest is required, nor is a person with a disability required to register themselves or their animal with the Student Accessibility Office in order to bring their dog into class or other public area. Service animals may be denied access only on rare occasion, for significant health and safety issues; they may also be asked to be removed in the event the animal causes significant disruption or damage. Contact information is provided so that issues may be resolved by the correct personnel, promptly.

E. 3. Emotional Support Animals (ESA's) Permitted in Restricted Areas: Under Section 504, the ADAAA and the federal Fair Housing Act, a person with a psychiatric disability may have the right to be
accompanied by an ESA, if requested and determined to be reasonable by either the Office of Student Accessibility (for students) or the Office of Institutional Equity (for employees and visitors). A waiver of University Housing's usual "No Pets" policy, to allow an ESA to reside with its owner is an example of an accommodation that might be able to be granted.

E. 4. **Working Assistive Animals:** Working assistive animals receive special training and certification in order to assist with professional work duties at the direction of the handler. Examples of these regularly used at NMSU are therapy dogs (Counseling Center) and police canines (NMSU Police Department).

E. 5. **General Animal Welfare Requirements:** This section was included to ensure the physical, mental and emotional well being of animals on campus within the scope of this policy; this section also incorporates by reference applicable county and state law. This section of the policy lists basic animal welfare principles, adapted from the *Farm Animal Welfare Council's Five Freedoms*.

E. 6. **Establishment of Companion and Assistive Animals Committee:** The formal creation of this committee will provide an advisory body that will serve each of the policy administrators; it will also assist the university with dispute resolution regarding issues arising under this policy. Its authority is limited and does not extend to areas within the jurisdiction of any other official university board or office.

E. 7. **Dispute/Complaint Resolution:** This section provides an informal process by which concerns and complaints relating to an animal on campus is outlined in this section. It is contemplated that by providing a framework and timeline for resolving these issues, that attention will be given to them in a focused and expeditious manner. The Companion and Assistive Animals Committee will have authority to render a decision when no other university board of office has the authority. Upon request from such other board or office, the committee may be used as an advisory body to give its recommended disposition.

E. 8. **Education of University Community:** This section emphasizes the need for education of the university community, and requires the policy administrators to work with the offices for student and employee public accessibility to coordinate regarding same.

E. 9. **Misrepresentation of an Animal as an Authorized Animal:** This section was recently added, in light of a trend that is hitting campus: people falsely misrepresenting their animals as either service animals or emotional support animals, thus gaining access to areas not otherwise open to companion animals. This section states that such misrepresentation will be taken seriously, investigated, and action taken as may be warranted under applicable university policies. This stance is consistent with recently amended state law, which makes it a crime to present an animal as a service animal, when the animal does not meet the definition of a service animal.

E. 10. **Conflicts Involving Assistive and Companion Animals:** This section provides guidance for those situations where animals conflict, where people and animals conflict. It clarifies the general rule that the public access rights of service animals and their handlers will be given deference during the resolution process.

F. **Related Procedures and Forms:** This section links to additional protocols, guidelines and forms as they may exist now, or be developed by the policy administrators in the future, with approval from the appropriate vice president.