

DOCUMENTATION FOR ESA REQUESTS ON CAMPUS

USEFUL INFORMATION FOR THOSE CHARGED WITH DECISION-MAKING

This packet includes:

Foreword... And Some Important Caveats

A Tool, Not a Weapon

A Word of Caution

YOUR MISSION, SHOULD YOU CHOOSE TO ACCEPT IT...(Part 1)

Taking a Stand on ESA's

More About the ESA Form

ESA Form

YOUR MISSION, SHOULD YOU CHOOSE TO ACCEPT IT...(Part 2)

What the ESA Watch List Tells You

What To Say When You Find a Provider on the List

APPENDED:

ESA Form (WORD format)

ESA Watch List (WORD format)

This information was compiled by:

Jane Jarrow

Disability Access Information and Support (DAIS)

JaneJarrow@aol.com

The *ESA Watch List* was initially created in July, 2015, by:

Laurel Overby

Texas Christian University

(This document updated in January, 2017)

Foreword... And Some Important Caveats

The information contained in this packet is a compilation of materials that may be useful to folks working in the area of disability and higher education. It is specifically focused on the issues of students with disabilities in the college setting, and thus doesn't deal with employees, privately-owned housing, the Air Carriers Act, and so on. There may be utility for some of this information to other sectors, but you'll have to extrapolate on your own. We are discussing ONLY the issues that surround students with disabilities in higher education. There is discussion of Section 504, the ADA (Titles II and III), and the FHAA/HUD guidance regarding emotional support animals.

This packet doesn't purport to tell you everything you need to know about emotional support animal (ESA) issues. It deals with some specific concerns that seem to be arising regularly on campuses these days, and that have created particular problems for disability service providers and residence life folks. The information provided to you here focuses on the issues surrounding approval for ESAs. This has nothing directly to do with management of ESAs on campus, policies, rules, where they get to go, what happens when the student wants to take them out of the residence hall, or any of the rest. This is JUST about the process of documentation received and requested in conjunction with requests to have ESAs in residence, in campus housing.

A TOOL, NOT A WEAPON

It is NOT the intent of this packet of information, or the suggested course of action, to cut down or limit the number of students who get approved for an ESA in their campus residence. While the idea of ESAs in the dorm is a new (and sometimes, not very comfortable) concept for those of us in higher education, it doesn't mean that the idea, itself, is just trendy and will, or should, go away soon. The positive effects of pet therapy have been known for many years. This is a logical extension of that idea.

If you hope that by tightening up on the documentation of ESAs, *you'll be able to say "no" more easily or more often* to requests for ESAs, then you are approaching all this with the **WRONG** intent. Instead, I would suggest that if you tighten up on the documentation of ESAs, *you may have to say "no" for frequently*. There is no suggestion here that ESAs are inappropriate to the college campus, or that all students who request an ESA are trying to scam the system. The purpose of ESAs is not always well understood by the "lay" public, and they may be requesting an ESA for the wrong reason. Students may also believe that the bogus certification/letters that can be had for a price (and that are the targets of this packet) are legitimate and appropriate. They don't know the difference – we do! Don't fall into the trap of being skeptical of the student, even if you are skeptical of the paperwork they submit.

Even as this tool is made available for your use, we recognize that there is a very real chance that it could be misused. PLEASE DON'T DO THAT!

A WORD OF CAUTION...

I am NOT an attorney. This is NOT legal advice.

Following the path suggested in this packet is not for the faint of heart. * If your administration or legal counsel ask, "How do we know that the student won't file a complaint if we do this?" the answer is that you DON'T know that -- and if that is what worries them most, you should just accept what is provided and move on.

*If your administration or legal counsel ask, "on what basis are we saying that this paperwork is bogus," tell them that you are NOT saying that the paperwork is bogus, and you are NOT saying that the service provider is a charlatan. You are saying that the paperwork is not adequate for your purpose in evaluating the request for an ESA. (Wouldn't you ask for more/different info if you had requested verification of a learning disability and you got a prescription pad diagnosis from a GP?)

*If your administration and legal counsel don't want to take any chances, then DON'T DO IT! You cannot get in any trouble, from a legal prospective, from saying "yes" (no matter how ridiculous the claim). There is nothing to be ashamed of if the institution chooses to take the path of least resistance and tells you to "just say yes." Rather, it is very brave of the institution to be willing to say, "Stop!"

Is everyone clear on that? Then let's move on...

YOUR MISSION, SHOULD YOU CHOOSE TO ACCEPT IT...(Part 1)

The essay that follows is taken from my Friday blog postings (The Last Word for the Last Week). It sets the stage for the the information to follow AND it suggests a 4-step process for evaluating documentation in support of a request for an ESA. There is reference to a posting from the week before that dealt with psychiatric service animals. Here is the opening paragraph of that earlier post:

I am in the middle of teaching the professional development class called “Who Let The Dogs Out... er... IN!” for the third time in the last 12 months. This time is different. I am seeing and hearing a new level of frustration (desperation?) in the posts from members of the class as they grapple with issues of service animals and emotional support animals (ESAs) on campus. I have come to the conclusion that, whether we like it or want to admit it or not, there ARE escalating problems in this area. Not problems of our making, but problems left for us to help resolve. If disability service providers want to be acknowledged on campus for our expertise in issues that pertain to students with disabilities, we have to be ready to step up to the hard decisions when the time comes, too.

You do not need to have read the rest of that piece to understand this one, regarding ESAs.

The Last Word for JULY 10, 2015 TAKING A STAND ON ESA's

This is the second half of my new philosophy about service animals and emotional support animals (ESAs), garnered from class conversations over the past few weeks. This time, my focus is on the opening created (by accident, I would maintain) for the misuse of the concept of ESAs. I have come to the conclusion that it is time we spoke up and said, “Enough!”

Last Fall, an article appeared in the *New Yorker* that pretty well summed up the stupidity of the issues we are dealing with, and the confusion of the general public that is inadvertently making the whole thing worse. It is a long article. It is worth taking the time to read it, in part because you can't help but read it and become incensed. And that's good. It's time we got mad. (NOTE: Read it later; I'll tell you what you need to know now!)

<http://www.newyorker.com/magazine/2014/10/20/pets-allowed>

The two sentences that were enough to tell me it is time to stake a stand appear early in the piece:

No government agency keeps track of such figures, but in 2011 the National Service Animal Registry, a commercial enterprise that sells certificates, vests, and badges for helper animals, signed up twenty-four hundred emotional-support animals. Last year, it registered eleven thousand.

I say, again, “ENOUGH!” From what I am hearing from all of you, this explosion in numbers is happening on campuses across the country. I believe that part of the interest by the animal-loving public for having ESAs with them stems from a societal shift/phenomenon – we all love our pets and society, in general, is less stuffy about the idea of animals being out and about than it used to be. Maybe there WILL come a time when institutions make a conscious choice to become pet friendly and don’t mind one way or another if folks have their animals with them. Maybe you believe that would be a good idea. It doesn’t matter. That is NOT the case now – and people who scam the system to get something now that MIGHT be appropriate later should be held accountable in the same way that people who engage in clearly illegal or inappropriate actions should be held accountable.

Laurel Overby, from Texas Christian University, took me seriously when I suggested we start a list of some of the bogus sites that issue ESA certification letters and make that list available to DSS and Res Life staff. Laurel has put in hours of work, and the results are impressive. We are in the process of refining and reformatting, and I hope to share that tool with you soon. I was anxious to see it – and afraid to look! But having this kind of tool out there, widely disseminated, is one way of fighting the abuse. As an aside, I think someone SHOULD take these sites on legally and publicly and get them shut down. But that isn’t what I am urging you to do just now. If you choose to get involved in the broader fight, the rest of us will applaud your efforts and thank you. But while we are waiting for someone to take action on a larger scale, I think it is time for us to take action on an institutional level. We can’t control what goes on in the world, but we CAN (hopefully) control what happens on our campuses. So let’s do it!

Remember... you cannot put a stop to the abuse if the powers-that-be aren’t prepared to back you. You need to make sure that whatever plan of action you choose to adopt has been approved by the powers-that-be and they are prepared to defend those decisions. It is time that you talked to the folks from Res Life and, TOGETHER, decide what you are wanting and willing to do and how far you are ready to go. Then you need to go, TOGETHER, to those powers-that-be on campus and make your case. And what should that case be?

Last week, I gave you MY reading on a litmus test to use in determining whether the tasks that are offered as service animal tasks really ARE service animal tasks. Are they tasks that promote independence, safety, or dignity? I tried to figure out if there was a similar way of sorting out the real from the – made up? – when it comes to ESAs, and I have come to the conclusion that, in this case, we need to look at the documentation, not at the animal. Last Friday, I said,

As an aside, rejecting the documentation as unreliable is an uncomfortable thought for most DSS providers. We have been schooled, over time, to believe that it is not in our purview to question the legitimate professional determinations of disability (in other words, we don’t get to look at the same documentation the psychologist looked at and come to a different conclusion as to whether or not the student is LD). This is NOT the same situation. We are not questioning legitimate professional determinations. We are questioning illegitimate, unprofessional statements. There is a difference!

I think that may be the key. *It is time to question the documentation we receive.* Much as it pains us, I think we have to acknowledge that there are not just a few folks out there producing bogus paperwork while the rest are telling us true. A GREAT DEAL of the paperwork and requests that folks seem to be getting for ESAs in the dorm is questionable in one way or another. In some cases, the people producing the paperwork are charlatans. In some cases, legitimate practitioners are lulled into producing paperwork for a student because the student wants it, and they don't understand what harm it would do to provide it. While their actions are not unethical, they are still WRONG. (NOTE: We have to be careful **NOT** to reject them all – because some of those requests ARE real and the need IS real). So here is my 4-step plan (NOTE: Updated in January, 2017):

Step 1: I think the first thing folks need to start doing when they get paperwork supporting an ESA is to look at where the paperwork comes from. Check out the source. These days, it isn't hard to do a quick search on the internet and find out if the person who issued the letter is a "reliable source." If they aren't, say so. Tell the student that you cannot approve the request because it does not come from a reliable source. (Note – ESA Watch List provided here will make this step easier because it will shortcut the process of identifying some of the worst offenders.) Then skip to Step 3.

Step 2: If the credentials of the mental health provider who created the paperwork check out, then it is time to make an assessment as to whether the request is credible on its face (or not). Does the professional speak specifically to how severe the student's disability is, and what symptoms may be alleviated by the presence of the animal? Is this an animal specifically prescribed by THIS professional for this purpose? Is there a clear connection between the student's symptoms and what the animal can do? If so, you may be able to stop there and say, "Yep – this one is legit." If NOT – if the wording seems like it came from a template (whether it be from the Bazelon Center or the dogtor.com!), or there is reference to the animal helping to relieve the symptoms but no clear tie between the two provided, OR if there is a "fuzzy" statement as to how severe the disability, then move to Step 3.

Step 3: If you are faced with a student whose paperwork you rejected in Step 1, or whose paperwork you are not yet ready to accept in Step 2, then it is time to offer them the chance to get some more definitive paperwork. Attached, you will find a template, created with input from my class and from some trusted colleagues, that may just serve your purpose. I'll talk about that some more in just a minute.

Step 4: When (if?) you get that paperwork back, you look at it again to determine if the professional has now made a substantial case for why this ESA has been prescribed for this student. If the answer is "no" – THEN SAY NO!!! If the answer is yes, you may still want to have a chat with the student about whether they have thought through the responsibilities involved in having the animal in house. In other words, it still isn't too late to talk 'em out of it!

If the student's request survives all those steps, then it is probably time to start making arrangements to welcome Fido (let's hope it's a dog! GRIN) to campus.

A few words about the form (and why it reads as it does). The intent is to provide a form that you can ask be filled out by the professional, that asks some very specific and detailed questions – about severity of the disability, about the specific reason that the ESA is being prescribed, about how the animal will help to relieve the student's symptoms, about how long they have been seeing this patient – all things that the FHA says we are legally entitled to ask about. Woven throughout that paperwork are some not-so-subtle reminders that this is serious business and if it isn't really appropriate, it shouldn't be prescribed (and that professional ethics are being called into play). I won't bother you now with all the thinking that went into what questions to ask or how to word things. Just know that we had reasons for all of it.

There is nothing sacred about this form. You can use it as is, you can add questions or rephrase questions, or remove questions as you choose. You don't have to ask permission to adopt any part of this. It is just offered up as an idea. Truthfully, my guess is that most of the students who survive to Step 4 and bring you back this form, fully completed, will have a legitimate case for an ESA and should be approved. My HOPE is that using the form routinely will eliminate a lot of the bogus requests immediately (because the websites won't attempt to fill out the paperwork), and will cut down on the nuisance filings from legitimate providers because either the student won't ask that something this official be faked, or because the professional will decline to fake it!

It seems ironic that, as the field moves away from asking for more third party documentation for establishing that a student has a disability under the ADA (and I am a big believer in the new AHEAD guidance on documentation), I should be the one that is leading the charge for MORE third party documentation, and more stringent assessment of the paperwork presented, regarding ESAs. Remember, though, that this isn't about documentation about the student's disability under the ADA. This is about the legitimacy of accommodation requests under the FHA. Beyond that, I refuse to apologize.

It is time to take a stand.

Janie

My Dad used to have a sign over his desk with a picture of a very irritated-looking vulture on it. The sign read:

Patience, my ass. I'm going out and kill something.

MORE ABOUT THE ESA FORM:

The form to be sent out to the mental health provider, referred to in the essay above, appears on the next page, but is ALSO being sent as a separate attachment to this document. We have done that in order to make it easier for you to print or post the form for your own use. (The attachment was left in WORD format, rather than pdf, so that you could change and adapt it more easily, as well!) Here is a little more information about the intent/use of the form that may be helpful:

1) The idea of using this form is to help you gather reliable information that you can legitimately ask for (that is, doesn't violate FHA rules), that can help you in making a decision as to whether or not to approve an ESA request. **IT WAS NOT CREATED WITH THE INTENT OF THROWING UP BARRIERS TO THE APPROVAL OF AN ESA.** If you are provided all of the information requested here through paperwork volunteered by the student and/or through your interview with the student, ***don't ask them to have this form filled out*** "just to be consistent" or because you are hoping that you'll get answers that you can pick apart as an excuse to say "no." There are students who have legitimate need for an ESA, used in exactly the way the FHA intended when they created the category. *Remember, this is meant to be used a tool, not a weapon!!!*

2) Note this sentence in the paragraph explaining the purpose of the form: "We will accept documentation from providers in the State of (wherever you are) or the student's home state." It seems like an innocuous statement, but it could be VERY big. Most of the bogus letters for ESAs come from providers contacted over the internet, from someone very far away. You CAN say to someone who has brought such "over-the-net" documentation that you do not find their documentation to be from "a reliable source" because it is not legal to treat/prescribe across state lines (that is true in about 30 states). But this is a lot cleaner. Instead of having to reject the documentation they bring you from a bogus site, you can avoid having to evaluate (and reject) such documentation by simply saying, "It must come from someone in this state or from your home state." If they ask why, the answer is simple. "We want to make sure that the information is provided by someone who has seen you and worked with you over time."

3) While the DOJ limits the questions that can be asked when trying to verify the status of a service dog, the FHA puts no limits on the questions you can ask regarding requests for an ESA. **HOWEVER**, it is understood that the information you ask for may not be overly burdensome or intrusive. You should only ask the information that is relevant to your decision as to whether or not this is a person with a mental health disability who needs the ESA to insure that they have full benefit or enjoyment of the residence setting (in other words, that there is a logical nexus between the presence of the ESA and the individual's disability/symptoms). The FHA says that you can ask for verification from a "reliable source", and it uses the same definition of a person with a disability that is used in 504/ADA – someone with a "physical or mental impairment that substantially limits one or more major life activities."

4) Because the FHA uses the same definition of disability, questions about whether the condition is substantially limiting are fair game, so long as you don't start quibbling with any statement to that effect given by a legitimate service provider (more about who IS and ISN'T legitimate will come later!). Experience suggests that some physicians are willing to write a letter saying, "Johnny is depressed and the dog would help", but will balk at being asked to put their signature and license number on something that says, "Johnny is substantially limited by his depression." For those of us who put this form together, it's OK if the request falls apart because the professional isn't ready to say that the student is significantly limited if he really isn't. If you are uncomfortable with focusing

on that distinction, then you may want to review/massage the first couple of questions on the form that ask about the student's disability.

5) The three questions under "Information About the Proposed ESA" are not meant to be definitive in your decision-making one way or another. That is, there isn't a right or wrong answer to these questions that will say, "approve/don't approve" on the basis of that answer. If the animal has been prescribed BY this professional, it certainly lends credence to the idea that the professional believes the ESA is important for this student. But the third question (re: whether an ESA has helped the student in the past) is looking for just the opposite – some indication that there is supporting evidence that this will work for the student (rather than it just being prescribed now). Either piece of information would be helpful to have if you are trying to figure out how important the ESA is for the student. *In other words, you are looking for information that will SUPPORT the student's request for the ESA, not that will disprove the need.*

6) The last two questions are really there to push the provider not to make the recommendation for an ESA if it isn't really appropriate. If the answer to the question of "how significant is the ESA's presence" is, "this could make a significant difference for the student" I would accept that with no question. If, on the other hand, the answer is "Jill is really anxious about being away from home for the first time and I think she'd be happier if she had her pussycat with her," then I think you have legitimate cause to question whether there is a logical nexus between animal and disability that makes it NECESSARY to have the ESA in order to have full benefit or enjoyment of the facility.

REQUEST FOR INFORMATION Re: Emotional Support Animal

Student's Name: _____

Re: Proposed ESA:
Name: _____

Type of animal: _____

Age of animal: _____

The above-named student has indicated that you are the (physician, psychiatrist, mental health worker) who has suggested that having an Emotional Support Animal (ESA) in the residence hall will be helpful in alleviating one or more of the identified symptoms or effects of the student's disability. We will accept documentation from providers in the State of ----- or the students' home state. So that we may better evaluate the request for this accommodation, please answer the following questions:

Information About the Student's Disability

(A person with a disability is defined as someone who has "a physical or mental impairment that substantially limits one or more major life activities.")

What is the nature of the student's mental health impairment (that is, how is the student substantially limited?)

Does the student require ongoing treatment?

How long have you been working with the student regarding this mental health diagnosis?

Information About the Proposed ESA

Is this an animal that you specifically prescribed as part of treatment for the student, or is it a pet that you believe will have a beneficial effect for the student while in residence on campus?

What symptoms will be reduced by having the ESA?

Is there evidence that an ESA has helped this student in the past or currently?

Importance of ESA to Student's Well-Being

In your opinion, how important is it for the student's well-being that the ESA be in residence on campus? What consequences, in terms of disability symptomology, may result if the accommodation is not approved?

Have you discussed the responsibilities associated with properly caring for an animal while engaged in typical college activities and residing in campus housing? Do you believe those responsibilities might exacerbate the student's symptoms in any way? (If you have not had this conversation with the student, we will discuss with the student at a later date.)

Thank you for taking the time to complete this form. If we need additional information, we may contact you at a later date. We recognize that having an ESA in the residence hall can be a real benefit for someone with a significant mental health disorder, but the practical limitations of our housing arrangements make it necessary to carefully consider the impact of the request for an ESA on both the student and the campus community.

Please provide contact information, sign and date this questionnaire (below), and return it to *(institutional contact info)*.

Contact information:

Address:

Telephone:

FAX and/or Email address:

Professional Signature:

License #:

Date:

(This form was developed as a class exercise in the **DAIS** Professional Development class entitled "Who Let the Dogs Out...*IN*???" Permission is freely granted to use or adapt the form and the questions for use on your campus.)

YOUR MISSION, SHOULD YOU CHOOSE TO ACCEPT IT...(Part 2)

Perhaps the most important part of this packet of materials is the **ESA Watch List** that is appended. It has been left in WORD format because the hope was it would be easier to run a search for critical information if it was in WORD. In other words, you can run a search for a phone number, name, url, etc., in relation to paperwork provided to you in support of an ESA request. Note that it has proved more difficult than expected to keep the ESA Watch List up-to-date. First, the marketplace is constantly changing (for example, two of the larger entities in 2015 have COMBINED their “services” in 2017 under the title of the United States Dog Registry (usdogregistry.org). Also, some of the websites have begun “franchising” the writing of ESA letters (the name of credentials of the professional writing the letter don’t appear on the list, but they were reached by applying for certification through one of the bogus websites that IS on the list). We will try to keep updating the *ESA Watch List* periodically, and you are invited to send sites that you stumble across that you think should be reviewed and/or included on the list. But the fact that the name/website does not appear on the ESA Watch List should not discourage you from looking further.

WHAT THE ESA WATCH LIST TELLS YOU

Please keep in mind that this list was created simply as an aid for disability service providers and Res Life folks to use. It is not “official” in any way, and there may be times when the information provided is incomplete – and over time some may become outdated. All of this information was pulled from research done on the internet about these websites/providers, so it is publicly available information.

For each of the websites identified, the following elements are noted (if available):

NAME – the name of the website URL – the website address

ASSESSMENT – if there is an “assessment” of someone to determine their status as a person with a disability in need of an ESA, the form of that assessment is noted

LETTERS – this tells you whether the site is offering to supply letters that can be used to support a request for an ESA. Note that there is often reference to “housing” and “travel”. The Air Carriers Act also recognizes ESAs, so many of these sites will provide documentation that someone can use to get their Fido on an airplane with them – free of charge. (If the site is also offering letters or certification for service animals, that may be noted as well.)

COST – How much is charged for services (letters, “assessment”)

LOCATION/STATE – this may be an important piece to note in being able to say “no” to the documentation received from the site, as it is illegal, in most states, to practice medicine across state lines. If you are not in the same state as the provider (who is

assessing a mental health disorder and prescribing an ESA), you can certainly make a case for saying that the provider is not a “reliable source.” Even if you are in a state where this is not expressly prohibited, the fact that this provider DOES prescribe across state lines in places where it is not legal suggests that this is not a “reliable source.”
STORE: Some of these sites sell vests, certification cards, and other merchandise related to ESAs.

MONEY-BACK GUARANTEE: Self-explanatory; the information was included here because it seems to speak to the less-than-professional nature of the services being provided. (When was the last time your doctor offered you a money-back guarantee that the meds prescribed would fix you right up?!?)

PROVIDER QUALIFICATIONS: Self-explanatory

LETTER LONGEVITY: Self-explanatory PHONE: Self-explanatory

NOTES: If there was anything that jumped out as odd, unusual, particularly questionable (or particularly offensive!), you may find it noted here.

WHAT TO SAY WHEN YOU FIND THE PROVIDER ON THIS LIST

A student presents a letter of support for the ESA request that strikes you as “iffy.” You check it out with the *ESA Watch List* and find that, indeed, the letter was issued by one of the sites noted there. Now what do you do?

You may want to back and read the four steps shown in the essay included in this packet (*Take A Stand on ESAs*). If you find that the documentation supplied to you comes from one of these sites, *it means there is a good chance that the documentation is bogus*. It does **not** mean that the student is trying to scam the system. It does **not** mean that the student doesn’t need or shouldn’t have an ESA. It simply means that the documentation they are providing is not from a “reliable source.”

If you choose to take a stand (with full knowledge and backing from your administration), then if you find the provider’s name on the *ESA Watch List*, it would be appropriate to say something along the lines of,

“This documentation will not satisfy our need for information to evaluate in support of your request. We need to have some further questions answered by your mental health provider. Here is the form we use to gather that information. Why don’t you ask your doctor or counselor to fill this out as much as possible and return it to us so that we can review your request for this ESA.” (*Then you hand ‘em the ESA form found earlier in this packet.*)

You are NOT saying that the service provider is a fraud (even if we believe that!). And you are not accusing the student of anything because they presented you information from this iffy source. You are simply saying, “This doesn’t give us the information we need to give proper attention to your request.”

GOOD LUCK!