

Emotional Support Animal Policy and Application

I. Policy Statement

It is the policy of the University of Montana Western to comply with the Americans with Disabilities Act as amended by the ADA Amendments Act of 2008 (ADAAA), the Fair Housing Act, and other applicable federal laws that prohibit discrimination on the basis of disability. In order to comply with federal laws, the University of Montana Western has established:

- a. A procedure for requesting and obtaining approval of Emotional Support Animals (ESAs) so as to provide individuals with disabilities an equal opportunity to use and enjoy University Housing
- b. A policy for allowing Emotional Support Animals (ESAs) to remain in University Housing once approved. This policy explains the specific requirements applicable to an individual's use of an Emotional Support Animal in University Housing. The University of Montana Western reserves the right to amend this policy as circumstances require. This policy applies solely to Emotional Support Animals which may be necessary in University Housing. It does not apply to "service animals" as defined by the ADAAA. Although it is the policy of the University of Montana Western that individuals are generally prohibited from having animals of any type (with the exception of fish in a 10-gallon tank maximum) in University Housing, this includes pets belonging to guests, pets will not be permitted to "visit" or be on the premises for any reason; UMW will consider a request by an individual with a disability for reasonable accommodation from this prohibition to allow an Emotional Support Animal that is necessary because of a disability and is reasonable. Each request will be evaluated on a case-by-case basis. No Emotional Support Animal may be kept in University Housing at any time prior to the individual receiving written approval as a reasonable accommodation pursuant to this policy. The University of Montana Western will not seek or require a fee or surcharge from an individual with a disability requesting the initial approval of an ESA or renewal of an Approved ESA.

II. Definitions

Emotional Support Animal (ESA): An Emotional Support Animal is defined as 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, but which are not considered Service Animals under the ADAAA. ESAs are not required to be trained to perform work or disability-related tasks. Their therapeutic support is a function of their presence and interaction with the person with a disability. ESAs are not pets, but they typically are animals commonly kept in households as pets. An ESA may be a dog (most common), cat, small bird, rabbit, hamster, gerbil, fish, turtle, or another small, domesticated animal that is traditionally kept in the home for pleasure. Under guidelines from the US Department of Housing and Urban Development, reptiles (other than turtles), barnyard animals, monkeys, and other non-domesticated animals are not considered common household animals. Exceptions to these

guidelines regarding animals serving as ESAs will be considered on a case-by-case basis. An ESA is only permitted in the Owner's assigned individual living accommodations (e.g., room, suite, apartment) at all times except to the extent the Owner is taking the animal out for natural relief.

Approved ESA: An Approved Emotional Support Animal is an animal that has been permitted in designated areas of residential communities as a reasonable accommodation under this policy.

Owner: The Owner is the individual who has requested the accommodation and has received approval to bring an ESA into University Housing.

University Housing: Any facility owned or operated by the University of Montana Western for the purpose of housing residential students, whether leased or owned by the University and regardless of location.

III. Procedures for requesting an Emotional Support Animal in University Housing

The procedure for requesting an ESA shall include the requirements set forth below:

- a. An individual with a disability must complete all forms in the University of Montana Western ESA Policy and Application, as outlined below. Copies of the University of Montana Western ESA Policy and Application are available through the University of Montana Western Bulldog Life Office within the Housing Portal, or you may contact our office at (406) 683-7565. The University of Montana Western ESA Application requires the following documentation:
 - i. Emotional Support Animal Application
 - ii. User/Owner Statement for Emotional Support Animal
 - iii. Acknowledgement and Release of Information Consent Form
 - iv. Request for Documentation Regarding Need for Emotional Support Animal from Medical Professional
 - v. Request for Emotional Support Animal Roommate Notification and Agreement
 - vi. Emotional Support Animal Vet Record with Vaccinations and Sterilization Procedure
 - vii. Emergency Contact Information Regarding Emotional Support Animal
- b. The University of Montana Western will accept and consider requests for ESAs in University Housing at any time. The animal is not permitted in university housing until the owner has received written notification that the ESA has been approved. The individual making the request for accommodation should complete the University of Montana Western ESA Application packet and submit it to the University of Montana Western Bulldog Life Office as soon as practically possible.
- c. The Bulldog Life Office will convene the Emotional Support Animal Committee and forward the completed applications to the committee members. A decision will be made within 2 weeks after **all** documentation has been submitted.

- d. If it is determined that the requested ESA accommodation is necessary and reasonable, the student will be contacted, in writing, within 5 business days of the determination to arrange a meeting to discuss the implementation.
- e. If it is determined that the requested ESA accommodation will be denied, the student will be contacted, in writing, within 5 business days of this determination. If desired, the student may use the grievance procedure provided under the Student Complaint Procedure located in the Student Handbook.
- f. An approval for an ESA is good only for the academic year for which it has been approved. A request for an ESA must be submitted for each academic year.

IV. Criteria for Determining If Presence of the ESA is Reasonable

- a. University Housing is unique in several aspects including the mandatory assignment of roommates for many individuals and the mandate that individuals must share a room, suite, or apartment in certain residential living situations. To ensure that the presence of an Approved ESA is not an undue administrative burden or fundamental alteration of University Housing, the University of Montana Western reserves the right to assign an individual with an Approved ESA to a single room without a roommate. In addition, only one ESA is approved for an individual, and generally only one animal is allowed in a single residence unit.
- b. For all requests for ESAs, Disability Services for Students will consult with Bulldog Life in making 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 University 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 University property.
- c. The University of Montana Western 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 Approved ESAs:
 - i. The animal is less than 6 months old and is not spayed or neutered
 - ii. The animal's presence would force another individual from individual housing (e.g. serious allergies)
 - iii. The animal's presence otherwise violates individuals' right to peace and quiet enjoyment
 - iv. The animal is not housebroken or is unable to live with others in a reasonable manner
 - v. The animal's vaccinations are not up-to-date
 - vi. 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
 - vii. The animal causes or has caused excessive damage to housing beyond reasonable wear and tear
 - viii. The animal's presence will substantially interfere with the essential tasks of the educational experience for the owner or others
 - ix. The animal burdens the student's financial capabilities

V. Criteria for Determining If Presence of the ESA is Necessary

The University of Montana Western may consider the following factors, among others, as evidence in determining whether the presence of the animal is necessary. Determinations are made on a case-by-case basis.

- a. The application is complete and thorough
- b. The response of the physician, psychiatrist, or mental health professional thoroughly answers all listed questions and gives sufficient evidence supporting the nexus between the prescription of an animal and the therapeutic benefit in alleviating one or more of the identified symptoms or effects of the student's mental health disability

VI. Access to University Facilities by Approved ESA

- a. An Approved ESA must be contained within the Owner's privately assigned individual living accommodations (e.g., room, suite, and apartment) except to the extent the individual is taking the animal out for natural relief. When an Approved ESA is outside the private individual living accommodations, it must be in an animal carrier or controlled by a leash or harness. Approved ESAs are not allowed in any University facilities other than the residence hall to which the Owner is assigned. Approved ESAs are not permitted on public furniture.
- b. Dominion and Control Notwithstanding the restrictions set forth herein, the Approved 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 approved animal to go loose or run at large. If an Approved ESA is found running at large, the animal is subject to capture and confinement and immediate removal from University Housing.

VII. Owner's Responsibilities for Approved ESA

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

- a. The Owner must abide by current city, county, state, and federal ordinances, laws, and/or regulations pertaining to licensing, vaccination, and other requirements for animals. It is the Owner'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 vaccination certificate. The University reserves the right to request documentation showing that the animal has been licensed.
- b. The Owner is required to clean up after and properly dispose of the animal's waste in a safe and sanitary manner.
- c. The Owner is required to ensure the animal is well cared for at all times. Any evidence of neglect, mistreatment, or abuse may result in immediate removal of the Approved ESA and/or discipline for the responsible individual. Any animals that must be taken outside to relieve themselves should not be left alone for long periods of time. Doing so may be considered neglect.
- d. An individual with a disability may be charged for any damage caused by his or her Approved ESA beyond reasonable wear and tear to the same extent that it charges other

individuals for damages beyond reasonable wear and tear. Any damage must be reported in a timely manner to the Director of Residence Life. If there is a need for additional cleaning beyond normal maintenance, the student will be asked to cover those costs. The Owner's living accommodations may also be inspected for fleas, ticks or other pests if necessary as part of the University's standard or routine inspections. If fleas, ticks or other pests are detected through inspection, the residence will be treated using approved methods by a University-approved pest control service. The Owner will be billed for the expense of any pest treatment above and beyond standard pest management in university housing. The University shall have the right to bill the Owner's account for unmet obligations under this provision.

- e. The Owner is liable for injury caused by an Approved ESA to another person or animal. Any injury must be reported in a timely manner to the Director of Residence Life.
- f. The Owner must fully cooperate with University personnel with regard to meeting the terms of this Policy and developing procedures for care of the Approved ESA (e.g., cleaning the animal, feeding/watering the animal, designating an outdoor relief area, disposing of feces, etc.). The University shall be empowered, with cause, to direct the ESA Owner to cause the ESA to receive veterinary attention.
- g. Approved ESAs may not be left overnight in University Housing to be cared for by any individual other than the Owner. If the Owner is to be absent from his/her university housing overnight or longer, the animal must accompany the Owner. The Owner is responsible for ensuring that the Approved ESA is contained, as appropriate, when the Owner is not present while attending classes or other activities. At such times, the Approved ESA must be kept in a cage, crate, carrier or kennel.
- h. 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.
- i. The ESA Committee must approve the new animal as reasonable before the animal is brought to campus. The University of Montana Western personnel shall not be required to provide care or food for any Approved 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.
- j. To replace an Approved ESA, the Owner must complete a new request complete with all the paperwork listed above.
- k. The Owner must complete renewal paperwork every semester with the Bulldog Life Office.
- l. The Owner must provide written consent for the University of Montana Western personnel to disclose information regarding the request for and presence of the Approved ESA to those individuals who may be impacted by the presence of the animal including, but not limited to, Residence Life personnel and potential and/or actual roommate(s)/neighbor(s). Such information shall be limited to information related to the animal and shall not include information related to the individual's disability.
- m. Before bringing an ESA to campus, the student requesting an ESA must provide the name and contact number for two individuals who can immediately remove the animal from

campus in the event of an emergency. The individual may not be another student who intends to take the animal to another University Housing location. The animal must be evacuated to an off-campus location.

- n. For students with roommates: All roommates of the Approved ESA Owner in the University Housing location (room, suite, or apartment) must sign an agreement allowing the Approved ESA to be in residence with them. In the event that one or more roommates do not approve, either the Owner and Approved ESA or the non-approving roommate(s) may be moved to a more suitable location, as determined by Residence Life staff.

VIII. Removal of Approved ESA

The University of Montana Western may require the individual to remove the Approved ESA from University Housing if any of the following are true:

- a. The animal poses a direct threat to the health or safety of others or causes substantial damage to the property of others, including University property
- b. The animal's presence results in a fundamental alteration of a University program
- c. The Owner does not comply with the Owner's Responsibilities set forth above
- d. The animal or its presence creates an unmanageable disturbance or interference with the University community
- e. The owner is too ill or unable to care for the animal.

The University will base such determinations upon the consideration of the behavior of the particular animal at issue, and not on speculation or fear about the harm or damages an animal may cause. Any removal of an Approved ESA will be done in consultation with the Director of Disability Services for Students and/or Student Life, depending on the reason for the removal. If desired, the student may use the grievance procedure provided under the Student Complaint Procedure located in the Student Handbook. If the Owner is told to remove the Approved ESA from campus and has not done so within 48 hours of notification, the university reserves the right to remove the animal and take it to the nearest humane society location or other appropriate location. The student will then be reported to Student Life for violation of the student code of conduct. The university reserves the right to immediately remove any animal that poses a direct threat to the health or safety of others.

Should the Approved ESA be removed from the premises for any reason, the Owner is expected to fulfill his/her housing obligations for the remainder of the housing contract.

IX. Non-retaliation Provision

The University of Montana Western shall not discriminate or retaliate in any manner whatsoever against any person because that individual has requested or received a reasonable accommodation in University Housing, including a request for an ESA.