

Marywood University

Policies and Procedures Manual

Section(s): University-Wide, Academic Affairs, Business Affairs, Student Life

Emotional Support Animals (ESA) in University Housing Policy

Policy Statement:

Marywood University (Marywood) is committed to compliance 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 a disability. Marywood prohibits pets and other animals from living in University Housing with the exception of fish kept in a tank no larger than ten (10) gallons. Marywood will consider an exception to this prohibition, however, if the request is reasonable and necessary due to a documented disability.

In order for a student to qualify to have a pet or animal live with them in University Housing, the student must demonstrate that:

1. The animal is necessary to afford the student an equal opportunity to use and enjoy a dwelling or participate in University Housing; and
2. There exists a relationship, or nexus, between the student’s disability and the assistance the animal provides.

If both requirements are met, the University will consider a reasonable accommodation, on a case-by-case basis, to the “no pet” policy in University Housing unless doing so would impose an undue financial or administrative burden or would fundamentally alter the housing program.

No Emotional Support Animal may be kept in Marywood housing at any time prior to the individual student receiving written approval as a reasonable accommodation pursuant to this Policy.

Marywood reserves the right to amend this Policy as it deems necessary, with or without prior notice.

This Policy applies to all approved disability-related emotional support animals and their owners who live in the University Housing unless the nature of the documented disability of the owner precludes adherence to these guidelines and permission for variance from the guidelines has been granted.

This Policy applies only to ESAs; it does not apply to Service Animals as defined by the ADAAA.

Definitions:

- a) **Disability:** As defined by the ADA, a disability is a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.
- b) **Emotional Support Animal (ESA):** An animal that provides emotional support that alleviates/ameliorates one or more identified symptoms or effects of a person's disability and/or provides emotional support to an individual with a disability-related need for such support. An identifiable and medically indicated relationship must exist between the individual's disability and the emotional support that the animal provides.
- c) **University Housing:** Any facility owned or operated by Marywood University for the purpose of housing residential students.
- d) **Owner:** The individual student who requested the accommodation and received written approval to bring the ESA into University Housing.

The Office of Student Disability Services (SDS): Collaborates with academia and non-academic departments, faculty members, and staff to ensure that students with disabilities have equal access to all University Housing, Programs and activities.

Procedures:**Procedures for Requesting Emotional Support Animal in University Housing**

The procedure for requesting an Emotional Support Animal follows the general procedures set forth in the University Housing Reasonable Accommodation Policy and the requirements set forth below. To the extent the requirements and procedures in this Policy conflict with the University Housing Reasonable Accommodation Policy, this Policy shall control.

Criteria for Determining If Presence of the Emotional Support Animal is Reasonable

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 or suite in certain residence halls. To ensure that the presence of an Emotional Support Animal is not an undue administrative burden or fundamental alteration of University Housing, Marywood reserves the right to assign an individual with an Emotional Support Animal to a single room without a roommate.

For all requests for an Emotional Support Animal, Student Disability Services shall nonetheless consult with Housing and Residence Life in making a determination on a case-by-case basis of whether the presence of an emotional support animal is reasonable. A request for an emotional support animal may be denied as unreasonable if the presence of the animal:

- a) imposes an undue financial and/or administrative burden on the University;
- b) fundamentally alters University Housing policies; and/or

- c) 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.

Marywood may consider the following factors, among others, as evidence in determining whether the presence of the animal is reasonable or in making housing assignments for individuals with Emotional Support Animals:

- a) The size of the animal is too large for available assigned housing space;
- b) The animal's presence would force another individual from individual housing (e.g. a student who suffers from serious allergies);
- c) The animal's presence otherwise violates an 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 complete and/or current;
- f) The animal poses or has posed in the past a direct threat to the individual or others such as exhibiting aggressive behavior towards or injuring the individual or others; or
- g) The animal causes or has caused excessive damage to Housing beyond reasonable wear and tear.

Marywood will not limit room assignments for individuals with Emotional Support Animals to any particular building or buildings because the individual needs an Emotional Support Animal due to a disability.

Access to University Facilities by Emotional Support Animals

Emotional Support Animals must be contained within the privately assigned individual living accommodations (e.g. room, suite, townhouse and/or apartment) except to the extent the individual is taking the animal out for 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. Emotional Support Animals are not allowed in any University facilities other than University residence halls (e.g. dormitories, suites, townhouses, apartments, etc.) to which the individual is assigned.

Notwithstanding 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/Student at all times. No Owner shall permit the animal to be off leash or harness, not in a carrier, or running at large. If an animal is found running at large, the animal is subject to capture, confinement, and immediate removal from University Housing.

Individual's Responsibilities for Emotional Support Animal

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

- a) The Owner must abide by any and all city, county, and state ordinances, laws, and/or regulations pertaining to licensing, vaccination, and other requirements for animals. It is the individual's responsibility to know and understand and to comply with 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 and, if provided, must use animal relief areas designated by Marywood.
- c) The Owner is required to ensure the ESA is well cared for at all times. Any evidence of mistreatment or abuse may result in immediate removal of the Emotional Support Animal and/or discipline for the individual.
- d) Marywood will not ask nor require an individual with a disability to pay a fee or surcharge for an approved Emotional Support Animal.
- e) An individual with a disability may be charged for any damage caused by his/her Emotional Support Animal beyond reasonable wear and tear to the same extent that Marywood charges other individuals for damages beyond reasonable wear and tear.
- f) An Owner's living accommodations may be inspected for fleas, ticks or other pests. If fleas, ticks or other pests are detected, the residence will be treated using approved fumigation 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 the residence halls. The University shall have the right to bill the individual's account for unmet obligations under this provision.
- g) The Owner must fully cooperate with University personnel with regard to meeting the terms of this Policy and developing procedures for care of the ESA (e.g., cleaning the animal, feeding/watering the animal, designating an outdoor relief area, disposing of feces, etc.).
- h) Emotional Support Animals 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 residence hall overnight or for a longer period of time, the Owner must take the Emotional Support Animal with him/her.
- i) The Owner is responsible for ensuring that the Emotional Support Animal is contained, as appropriate, when the Owner is not present in the residence.
- j) 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 other individuals residing in the residence.

- k) The animal is allowed in University Housing only as long as necessary due to the Owner's disability. The Owner must notify the Office of Student Disability Services in writing if the Emotional Support Animal is no longer needed or is no longer living in the residence. To replace an Emotional Support Animal, the new animal must be necessary because of the Owner's disability and the Owner must follow the procedures in this Policy and the Reasonable Accommodation Policy when requesting a different animal.
- l) Marywood personnel shall **not** be required to provide care or food for any Emotional Support Animal including, but not limited to, removing the animal during emergency evacuation for events such as a fire alarm. Emergency personnel will determine whether an animal shall be removed. The individual/student waives any liability on the part of emergency personnel with respect to the care of, injury to, or loss of the animal.
- m) The individual must provide written consent for Student Disability Services to disclose information regarding the request for and presence of the Emotional Support Animal 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.

Removal of Emotional Support Animal

Marywood may require the individual to remove an ESA from University housing if:

- a.** the animal poses a direct threat to the health or safety of others or causes substantial property damage to the property of others;
- 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; or
- d.** the animal or its presence creates an unmanageable disturbance or interference with the University community.

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 such animal may cause. Removal of an ESA will be done in consultation with the Student Disability Services Director. The decision to remove an ESA may be appealed to Marywood University's ADA/Section 504 Compliance Officer following the procedure set forth in the Reasonable Accommodation Policy. The Owner will be afforded all rights of due process and appeal as outlined in that process.

Should the Emotional Support Animal be removed from the premises for any reason, the Owner /Student shall fulfill his/her housing obligations for the remainder of the University Housing contract.

Non-retaliation Provision

Marywood will not retaliate against any person because that individual/student has requested or received a reasonable accommodation in University Housing, including a request for an Emotional Support Animal.

History:

10/31/19 – The establishment of the Emotional Support Animals (ESA) in University Housing Policy was approved by the President of the University as recommended by the Policy Committee of the University at its October 24, 2019 meeting.

Related Policies:

N/A

Also appears in the following handbook(s)/section(s):

Faculty Handbook

- 1 – Organization and Governance
- 2 – Faculty Policies
- 3 – Academic Policies and Practices
- 4 – Administrative and Financial Policies and Practices
- 5 – Student Life Information
- 6 – University Advancement Information
- Does not appear in the Faculty Handbook

Personnel Handbook

- 1 – Organization and Governance
- 2 – Recruitment and Hiring
- 3 – Employment Policies and Practices
- 4 – Compensation and Salary Administration
- 5 – Employee Benefits and Programs
- 6 – Employee Training
- 7 – Employee Health and Safety
- 8 – Other Pertinent Information
- Does not appear in the Personnel Handbook

Student Handbook

- Yes
- No

Board of Trustees Handbook

- Yes

No

Committee responsible for oversight of this policy proposal:

- Policy Committee of the University**
- Employee Benefits Committee**
- Academic Council**

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**Mary Theresa Gardier Paterson, Esquire
Secretary of the University and General Counsel**