

Service Animals and Emotional Support Animals, Marian University Policy

1. Procedure Summary

- 1.1. Marian University, through policy and practice, is committed to providing equitable curricular and co-curricular access for all students. In the Catholic Franciscan tradition, we celebrate the dignity of each individual to ensure all students, including those with disabilities, have equal access and opportunities as Marian Knights. This includes complying with the American 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.
- 1.2. This procedure establishes the protocol for the presence of service and emotional support animals, as well as other animals on Marian University campuses. This procedure has been developed to provide guidance and instructions for those who bring or who may encounter such animals on campus.

2. Definitions

- 2.1. **Individual with a Disability:** A person with a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.
- 2.2. **Service Animal:** A dog that is individually trained to do work or perform tasks for an individual with a disability. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, and alerting/protecting a person who is having a seizure. The provision of emotional support, well-being, comfort, or companionship does not constitute work or tasks for the purposes of defining a service animal. Under certain circumstances, miniature horses may also be trained as a service animal and be permitted within university buildings, where reasonable.
- 2.3. **Service Animal in Training:** A dog undergoing training by a trainer and/or their handlers. Under certain circumstances, miniature horses may also be trained as a service animal. For the purpose of this procedure, Service Animals in Training have the same rights and responsibilities as Service Animals.
- 2.4. **Emotional Support Animal (ESA):** 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 individual with a disability. ESAs are not pets. An ESA may be a dog, 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.
- 2.5. **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.
- 2.6. **Owner/Handler:** The Owner/Handler is the individual who has requested the accommodation and has received approval to bring an ESA into University Housing.

- 2.7. University Housing:** Any facility owned or operated by Marian University for the purpose of housing residential students, whether leased or owned by the University and regardless of location.

3. Policy Statement for Service Animals

- 3.1.** A service animal is permitted on campus grounds and within all Marian University buildings, including classrooms, communal spaces, etc., with limited exceptions and restrictions. This practice follows the Americans with Disabilities Act (ADA), as amended.
- 3.1.1.** The animal must have been trained as a service animal in the specific work or tasks directly related to the individual's disability.
- 3.2.** The Office of General Counsel, in coordination with the Director of the Personalized Learning Center, will review and address requests to prohibit service animal access due to health and/or safety concerns on a case-by-case basis.
- 3.2.1.** If a service animal is prohibited according to this procedure, Marian University shall give the owner the opportunity to obtain goods and services or perform tasks without having the service animal on the premises.
- 3.3.** Marian University employees are not allowed to request any documentation for the service animal, require that the service animal demonstrate its work or task, or inquire about the nature of the individual's disability. Only the following two (2) questions may be asked of the owner:
- a)** Is this a service animal required because of a disability?
 - b)** What work or task has this service animal been trained to perform?
- 3.4.** The service animal is not required to wear any type of service animal identification symbol while in public (e.g., vest, collar, or other representative attire).
- 3.5.** Students requiring the use of a service animal within University controlled on-campus housing are strongly encouraged to notify the Office Residential and Commuter Life of their intent to live with their service animal in on-campus housing.
- 3.6.** A voluntary registry for service animals at Marian University is available through the Personalized Learning Center. While not required, service animal handlers can engage with the Personalized Learning Center and voluntary registry to help support communication between faculty, campus operations, campus staff, including Residential Life, and campus safety. This communication can help support the student and animal as they engage in the Marian University community.
- 3.7.** Service animals must be able to perform their duties/tasks in the presence or within the vicinity of another animal. If a nonaggressive animal is in the vicinity of a service animal, this should not constitute interference with a service dog.

4. Policy Statement for Emotional Support Animals

4.1. In accordance with federal and state laws, emotional support animals (ESAs) are permitted within University controlled on-campus housing for approved students with disabilities 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. Students seeking accommodation approval for the use of an ESA within University controlled on-campus housing will be required to submit the following information to the Marian University Personalized Learning Center:

- a) Accommodation Request Form (ARF)
- b) Verification of Disability Form, completed by appropriate Health Care Provider*
- c) Complete Vaccination Record
- d) ESA Rights and Responsibilities Agreement

Vests, Certificates, ID cards, letters, or other information purchased online do not establish a disability related need and will not be considered as documentation regarding an ESA accommodation request.

*Under Indiana Code 22-9-7-12, misrepresentation of animal as an emotional support animal is a Class A infraction. This includes the individual with a disability and/or the health care provider who verifies the individual's disability status.

4.2. 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 room, suite, house, or apartment to which the owner is assigned.

4.3. Marian University will accept and consider requests for ESAs in University Housing at any time. However, if the request for accommodation is made after the dates listed below a complete review of the request during the current semester may not be possible. If the completed application packet is received by the dates below Marian University will consider the application and make a determination before the start of the requested semester:

- a) **August 1** for fall semester
- b) **December 1** for spring semester

4.4. If a requested ESA accommodation is determined to be reasonable and appropriate, the student will be contacted, in writing, within **7 business days** of the decision to arrange a meeting to discuss the implementation.

4.4.1. If it is determined that additional information is required to make the determination of whether or not the requested ESA accommodation is necessary and reasonable, the student will be contacted, in writing within **7 business days** of this determination with a request for more information.

4.4.2. If it is determined that the requested ESA accommodation will be denied, the student will be contacted, in writing, within **7 business days** of this determination.

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- 4.5.** Marian University may consider the following factors, among others, as evidence in determining whether the presence of the animal is necessary for equal access within University controlled on-campus housing:
- 4.5.1.** The information submitted through the Accommodation Request Form and Verification of Disability document qualifies the student as an individual with a disability, based on federal definitions.
 - 4.5.2.** The information submitted through the Accommodation Request Form and Verification of Disability document 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 individual's mental health disability.
- 4.6.** Marian University may consider the following factors, among others, as evidence in determining whether the presence of a specific animal is unreasonable for a student with an approved emotional support animal accommodation:
- 4.6.1.** The requested animal is less than 4 months (16 weeks old).
 - 4.6.2.** The animal is not housebroken.
 - 4.6.3.** The animal's vaccinations requirement is not up-to-date OR the animal does not have all required federal, state, county, and city vaccinations.
 - 4.6.4.** The animal poses or has posed in the past a direct threat to the owner or others.
 - 4.6.5.** The animal causes or has caused excessive damage to housing beyond reasonable wear and tear.
 - 4.6.6.** The animal's presence violates an individual's rights to a peaceful and enjoyable environment.
- 4.7.** An Approved ESA must be properly housed and restrained or otherwise under the 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.
- 4.8.** An Emotional Support Animal is allowed in University housing only if it is necessary because of the Owner's disability. The Owner must notify the Personalized Learning Center in writing within 7 business days if the ESA is no longer needed or is no longer in 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 within this policy to request a different animal.
- 4.8.1.** The owner of an approved Emotional support animal must reengage with the Personalized Learning Center before the beginning of each new school year to provide updated veterinary records and complete an updated Rights and Responsibilities Agreement.

5. Animals within College of Osteopathic Medicine Rotation Assignments

- 5.1. Pets are not allowed within any rotation housing assignment that the university procures.
- 5.2. Students seeking accommodation approval for the use of an ESA within medical rotation housing will be required to submit the following information to the Marian University Personalized Learning Center and complete the above-mentioned ESA process:
- e) Accommodation Request Form (ARF)
 - f) Verification of Disability Form, completed by appropriate Health Care Provider*
 - g) Complete Vaccination Record
 - h) ESA Rights and Responsibilities Agreement

Vests, Certificates, ID cards, letters, or other information purchased online do not establish a disability related need and will not be considered as documentation regarding an ESA accommodation request.

*Under Indiana Code 22-9-7-12, misrepresentation of animal as an emotional support animal is a Class A infraction. This includes the individual with a disability and/or the health care provider who verifies the individual's disability status.

- 5.2.1. If a requested ESA accommodation is determined to be reasonable and appropriate, a representative from the Personalized Learning Center will engage with the appropriate partner/s from Marian University College of Osteopathic Medicine regarding the placement and housing design for the student and the ESA.
- 5.2.2. The PLC and appropriate partners within COM will collaborate to determine the best placement design to support the student's access regarding their Emotional Support Animal. At times this may include engaging with individual rotation sites responsible for housing, or reevaluating rotation location to determine if another location may offer more reasonable access.
- 5.2.3. Once details of the housing assignment have been finalized, the student will be contacted, in writing, within **7 business days** of the decision. There may be times in which a meeting to discuss the implementation may be required.
- 5.2.4. If it is determined that additional information is required to make the determination of whether or not the requested ESA accommodation is necessary and reasonable, the student will be contacted, in writing within **7 business days** of this determination with a request for more information.
- 5.2.5. If it is determined that the requested ESA accommodation will be denied, the student will be contacted, in writing, within **7 business days** of this determination.

6. Owner Responsibilities, Animal Behavior, and University Housing (Service Animals and ESAs)

- 6.1. Animals must be under the control of their owner at all times (e.g., voice control, signals, or other effective means). The animal shall have a harness, leash, or other tether. Exemptions may include:
 - 6.1.1. When the owner is unable to use the harness, leash, or other tether because of a disability; OR the use of a harness, leash, or other tether would interfere with the animal's safety and/or effective performance of work or tasks for the disabled owner.
- 6.2. Individuals and animals must not impede or interfere with a service animal's performance of its duties or place an individual with a disability who is using a service animal or a trainer who is training a service animal in danger of injury.
- 6.3. The owner is responsible for ensuring the animal is licensed, registered, and immunized as applicable and in accordance with the laws, regulations, and ordinances of the State of Indiana and county and city authorities.
- 6.4. The owner of the animal is responsible for the care and supervision of the animal and may not leave the animal in another's care while on University property.
- 6.5. Marian University may require an individual to remove their animal from the premises under the following circumstances:
 - 6.5.1. The animal is out of control and the animal's owner does not take effective action to control it.
 - 6.5.2. The animal is not housebroken.
 - 6.5.3. The animal poses a direct threat to the safety of others.
- 6.6. The animal must be in good health and care. Animals that are ill must not be taken into public areas. An owner of an ill animal may be asked to remove the animal from Marian University premises.
- 6.7. Marian University requires that the owner clean up after the animal relieves itself. An individual with a disability who physically cannot clean up after their animal shall make all necessary arrangements for assistance.
- 6.8. The owner will be held responsible for any loss of services or any damage or injury caused by the animal while on University property. The owner may be billed for the expense of any damage to Marian University buildings, furnishings, and/or grounds caused by the animal.
- 6.9. A student living within University housing who has a Service or Emotional Support Animal may have their housing assignment adjusted or changed if there is a need to accommodate another student because of a conflicting disability or concern.
- 6.10. An animal left unattended in a vehicle or other area and is perceived to be in distress is to be reported to the Marian University Police Department (MUPD) for appropriate response. A person who leaves an animal unattended may be reported to MUPD. Any animal found unattended in, or on, any campus facility may be impounded. Owners of an impounded animal will be held responsible for payment of any impoundment and/or license fees required to secure the release of their animal.