

## Animals on Campus - Policies and Procedures

As reflected in the WVSU Student Handbook, page 15, item II, C: dogs and other pets (except service animals and approved emotional support animals) are not permitted in Institution buildings or on Institution property. Students who have service animals or emotional support animals should adhere to the following policies and procedures regarding having their animals on campus.

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## Definitions

### Service Animal

Per the American's with Disabilities Act (ADA), "service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability." In addition to the provisions about service dogs, the Department's ADA regulations have a separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities. The ADA goes on to say "Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability."

Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties.

Service Animals are working animals, not pets. The work or task a Service Animal has been trained to provide must be directly related to the person's disability.

Dogs whose sole function is to provide comfort or emotional support do not qualify as Service Animals.

### Emotional Support Animal (ESA)

"Emotional Support Animals are

- (1) animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or
- (2) animals that provide emotional support which alleviates one or more identified symptoms or effects of a person's disability.

Some, but not all, animals that assist persons with disabilities are professionally trained. Other ESA's are trained by the owners. In some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed as a reasonable accommodation by the person with the disability. Unlike a Service Animal, an ESA does not actively assist a person with a disability with activities of daily living, nor does it accompany a person with a disability at all times.

ESA's may be considered for access to university housing, however, they are not generally permitted in other areas of the university (e.g. libraries, academic buildings, classrooms, labs, student center, etc.).

### Service Animal Policy

Service animals are the only animals which may accompany a person with a disability anywhere on campus that the student and the general public are allowed. Service animals are welcome in buildings on campus and may attend classes, meetings, or other events. If there are any questions as to whether an animal qualifies as a service animal, a determination can be made by the Accessibility Specialist or the ADA Coordinator.

If it is readily evident that an animal is providing a service related to a disability such as a dog who guides a person with visual impairments, no further inquiry is allowed. There currently are no certifications or identification methods, such as vests or ID cards, required or recognized under the laws for services animals. Conversely, if an animal is observed to be wearing a vest or other identification method indicating they are service animals, this is not in and of itself sufficient to

determine they are a service animal. In cases where it is not readily evident, the procedure outline in the following section should be utilized.

Allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals. When a valid reason does exist to consider exclusion of the service animal, the university must consider the situation carefully to determine when the animal may be excluded.

A person with a disability cannot be asked to remove his service animal from the premises unless:

- (1) the dog is out of control and the handler does not take effective action to control it or
- (2) the dog is not housebroken.

When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to participate or obtain goods/services without the animal's presence.

### Service Animal Procedure

Faculty and staff may use the following process to help determine if an animal is a service animal under the ADA:

1) Is the animal a dog or a miniature horse?

- If "yes," proceed to the next question.
- If "no," the animal is not a service animal but may be another type of ESA for which a reasonable accommodation is needed. Proceed to Part II below.

2) Is it readily apparent that the animal is trained to do work or perform tasks for the benefit of an individual with a disability?

- If "yes," further inquiries are unnecessary and inappropriate because the animal is a service animal.
  - It is readily apparent when the animal is observed doing tasks such as the following:
    - guiding an individual who is blind or has low vision
    - pulling a wheelchair
    - providing assistance with stability or balance to an individual with an observable mobility disability.

- If "no," proceed to the next question.

3) If it is not readily apparent the animal is trained, WVSU must limit its inquiries to the following two questions:

- ✓ Is the animal required because of a disability?
- ✓ What work or task has the animal been trained to perform?

No further inquiries are allowed. Employees of WVSU, including the Accessibility Specialist or ADA coordinator are NOT allowed to ask or request:

- the nature or extent of the person's disability

- for documentation
  - the animal perform the task identified.
- The animal qualifies as a service animal if the students answers are –
- for question (1) = “YES”
- AND
- for question (2) the work or a task is identified.
- If the answer to either question is “no” or “none,” the animal does not qualify as a service animal under federal law but may be a support animal or other type of ESA that needs to be accommodated. Guidance for this process is included in the section regarding animals in residence halls.

Performing “work or tasks” means that the animal is trained to take a specific action when needed to assist the person with a disability.

- If the individual identifies at least one action the animal is trained to take which is helpful to the disability other than emotional support, the animal should be considered a service animal and permitted on campus including in housing, public and common use areas. WVSU should not make further inquiries.
  - Emotional support, comfort, well-being, and companionship are not a specific work or task for purposes of analysis under the ADA.
- If no specific work or task is identified, the animal would not be considered a service animal but may be another type of animal for which a reasonable accommodation may be required.

4) Considering special circumstances when a service animal may be excluded from certain spaces/locations on campus.

The ADA does not require the institution to modify policies, practices, or procedures if it would –

- fundamentally alter the nature of the goods, services, programs, or activities provided.
- would pose a direct threat to health and safety of others
- overrule legitimate safety requirements

If admitting service animals would fundamentally alter the nature of a service or program, pose a direct threat or present a legitimate safety concern, service animals may be prohibited. In addition, if a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded.

- In most settings, the presence of a service animal will not result in a fundamental alteration. However, there are some exceptions. For example -
  - If the animal’s presence interferes with the experiment which would make the lesson and/or research impossible to conduct.
  - If the lab is a sterile environment or houses hazardous pathogens, the animal may be excluded.
- A decision to exclude a service animal cannot be based on the notion that an animal might threaten the safety of others. It also cannot be based on assumptions or bad experiences with other animals. Each service animal must be considered individually and each situation or location requires a Direct Threat or Needs Assessment.

- When a person who is allergic to pet dander or has a fear of the animal and a person who uses a service animal must spend time in the same room or facility, for example, in a classroom or a dorm room/suite, both students should be engaged in an interactive process to determine how both may be accommodated. The Accessibility Specialist will be involved in the cases in which both parties are students. If one party is a student and the other is faculty or staff, both the Accessibility Specialist and the ADA Coordinator will be involved in determining how best to accommodate the parties. The accommodation may include assigning the parties, if possible, to different locations within the room or different rooms in the facility.

#### Requirements of service animals and their owners include:

- In accordance with local law, dogs should be licensed (through Kanawha County) and wear a current vaccination tag.
- Animals should be in good health.
- The owner must be in full control of the animal at all times.

Reasonable behavior is expected from service animals while on campus. The owners of disruptive and aggressive service animals may be asked to remove them from university facilities. If the improper behavior happens repeatedly, the owner may be told not to bring the service animal into any facility until they take significant steps to mitigate the behavior. Cleanliness of the service animal is mandatory. Consideration of others must be taken into account when providing maintenance and hygiene of service animals. The owner is expected to clean and dispose of all animal waste.

#### FREQUENTLY ASKED QUESTIONS

Q. What does "do work or perform tasks" mean?

A. The dog/miniature horse must be trained to take a specific action when needed to assist the person with a disability. The mere presence of an animal providing comfort to someone would not be considered a service animal under the ADA. Service animal examples would include, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind her to take her medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure.

Q. Who is responsible for the care and supervision of a service animal?

A. The handler is responsible for caring for and supervising the service animal, which includes toileting, feeding, and grooming and veterinary care. Covered entities are not obligated to supervise or otherwise care for a service animal.

## Animals in Residence Halls

The FHA requires housing providers, such as WVSU, to modify or make exceptions to policies governing animals when it may be necessary to permit persons with disabilities to utilize animals. Because WVSU is required to allow access for individuals who use service animals, housing providers should initially follow the analysis that DOJ has determined is used for assessing whether an animal is a service animal under the ADA. The Department of Justice's ADA regulations generally require state and local governments and public accommodations to permit the use of service animals by an individual with a disability. For support animals and other ESAs that may be necessary in housing, although the ADA does not provide for access, housing providers must comply with the FHA, which does provide for access.

Additionally, as WVSU is subject to Section 504 of the Rehabilitation Act of 1973, the Office of Civil Rights at the US Department of Education has indicated that such requests also should be considered through the interactive process outlined in the regulations. While Section 504 does not speak to animals - instead it addresses discrimination – it would require consideration of a modification to policy or procedure (such as a no-pet policy), if without the modification the person was denied access. The burden of proof is on the student to prove how a no pet policy denied them access (high burden of proof to show that the person will be denied access).

Overall questions that will be considered:

- Is the animal a service animal?
- If not, how is the requested accommodation of an animal in the residence hall reasonable and necessary to afford the student to have an equal opportunity to use and enjoy student housing at WVSU?

Students interested in requesting an emotional support animal on campus should follow this process:

- Submit a Request for Accommodations through Student Accessibility Resources
  - The request form is available online at <http://bit.ly/WVSU-SAR-Request>
- Participate in an Intake Interview with the Accessibility Specialist
  - Students can schedule an appointment at <https://wvsu-sar.youcanbook.me/>
- Submit documentation from a professional who is allowed to diagnose and treat mental health conditions.
  - The professional should reference the Disability Verification Form available online at <http://bit.ly/WVSU-ESA-Verification>

To be considered for fall semester, the request form should be submitted to the Accessibility Specialist by May 1<sup>st</sup>, and the documentation and intake interview must be completed by June 1<sup>st</sup>.

For consideration of the request for a given semester, you must adhere to the following dates:

- Fall semester – request form should be submitted by May 1<sup>st</sup> and the documentation and intake interview MUST be completed by June 1<sup>st</sup>.
- Spring semester – request form should be submitted by October 1<sup>st</sup> and the documentation and intake interview MUST be completed by November 1<sup>st</sup>.

With regards to emotional support animals (ESA's), the accommodations must be reasonable and HUD does not require housing providers to permit animals that:

- pose a direct threat to the health and safety of others (that cannot be reduced or eliminated by another reasonable accommodation);
- would cause substantial physical damage to the property of others (including campus housing);
- would pose an undue financial and administrative burden on the University; or
- would fundamentally alter the nature of the University's operations.

Emotional support animals can be allowed in the residence hall or campus apartment for which the individual with a disability is assigned by the Office of Residence Life and Services. An individual with a disability may be asked to remove an ESA from campus housing if the animal:

- is out of control and the individual does not take effective action to control it,
- poses a direct threat to the health and safety of others (that cannot be reduced or eliminated by another reasonable accommodation),
- causes substantial physical damage to the property of others (including University housing), or
- poses an undue financial and administrative burden to the University.

SAR and Residence Life may place reasonable conditions or restrictions on approved animals, depending on the nature and characteristics of the animal. This will be determined on a case-by-case basis using an interactive process involving the student and staff of the aforementioned offices.

If the accommodation is denied and the ESA is properly excluded when requested, the individual with a disability has the opportunity to use and enjoy campus housing without having the ESA on the premises.

An ESA is not required to have special training, certification or be licensed as an ESA; however the animal shall be under the control of the individual. An ESA shall have a harness, leash, other tether, or cage unless either the individual is unable because of a disability to use a harness, leash, other tether, or cage, or the use of a harness, leash, other tether or cage would interfere with the animal's safe, effective performance of assistance, in which case the animal must be otherwise under the individual's control (e.g., voice control, signals or other effective means).

The University is not responsible for the care or supervision of an ESA.

The University may ask about:

- the nature or extent of a person's disability that substantially limits a major life activity,
- if the ESA is necessary for the student to use or enjoy his/her residence, and
- the relationship between the student's disability and the relief that the animal provides.

The University may request veterinary verification of routine care of the animal, including vaccines.

The University will not charge the individual with a disability a surcharge, even if people accompanied by pets are required to pay fees. If the University normally charges individuals for damages caused by a pet, an individual with a disability may also be charged for damage caused by the ESA.

While the law requires that priority consideration be given to the specific methods requested by a student, it does not imply that a particular accommodation must be granted if it is deemed not reasonable or other suitable methods are available.

## Part I: Service Animals

### What is a service animal?

Faculty and staff may use the following process to help determine if an animal is a service animal under the ADA:

1) Is the animal a dog or a miniature horse?

If “yes,” proceed to the next question.

If “no,” the animal is not a service animal but may be another type of ESA for which a reasonable accommodation is needed. Proceed to Part II below.

2) Is it readily apparent that the animal is trained to do work or perform tasks for the benefit of an individual with a disability?

If “yes,” further inquiries are unnecessary and inappropriate because the animal is a service animal.

It is readily apparent when the animal is observed doing tasks such as the following:

- guiding an individual who is blind or has low vision
- pulling a wheelchair
- providing assistance with stability or balance to an individual with an observable mobility disability.

If “no,” proceed to the next question.

3) If it is not readily apparent the animal is trained, WVSU must limit its inquiries to the following two questions:

✓ Is the animal required because of a disability?

✓ What work or task has the animal been trained to perform?

No further inquiries are allowed. Employees of WVSU, including the Accessibility Specialist or ADA coordinator are NOT allowed to ask or request:

- the nature or extent of the person’s disability
- for documentation
- the animal perform the task identified.

The animal qualifies as a service animal if the students answers are –

for question (1) = “YES”

AND

for question (2) the work or a task is identified.

If the answer to either question is “no” or “none,” the animal does not qualify as a service animal under federal law but may be a support animal or other type of ESA that needs to be accommodated. Guidance for this process is included in the section regarding animals in residence halls.

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    - Emotional support, comfort, well-being, and companionship are not a specific work or task for purposes of analysis under the ADA.
  - If no specific work or task is identified, the animal would not be considered a service animal but may be another type of animal for which a reasonable accommodation may be required.
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The ADA does not require the institution to modify policies, practices, or procedures if it would –

- fundamentally alter the nature of the goods, services, programs, or activities provided.
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- overrule legitimate safety requirements

If admitting service animals would fundamentally alter the nature of a service or program, pose a direct threat or present a legitimate safety concern, service animals may be prohibited. In addition, if a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded.

## PART II: Analysis of reasonable accommodation requests for ESAs other than service animals (under FHA)

- 1) Has the individual requested a reasonable accommodation —that is, asked to get or keep an animal in connection with a physical or mental impairment or disability?

Note: The request for a reasonable accommodation with respect to an ESA may be oral or written.

- If “yes,” proceed to Part III.
- If “no,” WVSU is not required to grant a reasonable accommodation that has not been requested.

## PART III: Criteria for assessing whether to consider the requested accommodation

- 2) Does the person have an observable disability or does WVSU already have information giving us reason to believe that the person has a disability?

*Note: Observable and Non-Observable Disabilities*

*Under the FHA and section 504, a disability is a physical or mental impairment that substantially limits one or more major life activities. While some impairments may seem invisible, others can be readily observed. Observable impairments include blindness or low vision, deafness or being hard of hearing, mobility limitations, and other types of impairments with observable symptoms or effects, such as intellectual impairments (including some types of autism), neurological impairments (e.g., stroke, Parkinson’s disease, cerebral palsy, epilepsy, or brain injury), mental illness, or other diseases or conditions that affect major life activities or bodily functions.*

*Observable impairments generally tend to be obvious and would not be reasonably attributable to non-medical causes by a lay person.*

*Certain impairments, however, especially including impairments that may form the basis for a request for an emotional support animal, may not be observable. In those instances, WVSU may request information regarding both the disability and the disability-related need for the animal.*

- If “yes,” skip to question #4 to determine if there is a connection between the person’s disability and the animal.
- If “no,” continue to the next question.

- 3) Has the person requesting the accommodation provided information that reasonably supports that the person seeking the accommodation has a disability?
- 1) If “yes,” proceed to question #7. WVSU, at its discretion, may make the truth and accuracy of information provided during the process part of the representations made by the tenant under a lease or similar housing agreement to the extent that the lease or agreement requires the truth and accuracy of other material information.
  - 2) If “no,” WVSU is not required to grant the accommodation unless this information is provided but may not deny the accommodation on the grounds that the person requesting the accommodation has not provided this information until the requester has been provided a reasonable opportunity to do so. To assist the person requesting the accommodation to understand what information WVSU is seeking, WVSU provides a disability verification form with questions specific to an ESA.

#### **Per HUD - Information About Disability May Include . . .**

- A determination of disability from a federal, state, or local government agency.
- Receipt of disability benefits or services (Social Security Disability Income (SSDI)), Medicare or Supplemental Security Income (SSI) for a person under age 65, veterans’ disability benefits, services from a vocational rehabilitation agency, or disability benefits or services from another federal, state, or local agency.
- Eligibility for housing assistance or a housing voucher received because of disability.
- Information confirming disability from an appropriate health care professional –e.g., physician, optometrist, psychiatrist, psychologist, physician’s assistant, nurse practitioner, or nurse.

Note that a determination that an individual does not qualify as having a disability for purposes of a benefit or other program does not necessarily mean the individual does not have a disability for purposes of the FHA, Section 504, or the ADA.

#### **Disability Determination**

Note that under DOJ’s regulations implementing the ADA Amendments Act of 2008, which HUD also considers instructive when determining whether a person has a disability under the FHA, some types of impairments will, in virtually all cases, be found to impose a substantial limitation on a major life activity resulting in a determination of a disability. Examples include deafness, blindness, intellectual disabilities, partially or completely missing limbs or mobility impairments requiring the use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, muscular dystrophy, multiple sclerosis, Human Immunodeficiency Virus (HIV) infection, major depressive disorder, bipolar disorder, post-traumatic stress disorder, traumatic brain injury, obsessive compulsive disorder, and schizophrenia. This does not mean that other conditions are not

disabilities. It simply means that in virtually all cases these conditions will be covered as disabilities.

While staff at WVSU will be unable to observe or identify some of these impairments, students sometimes voluntarily provide more details about their disability than WVSU actually needs to make decisions on accommodation requests. When this information is provided, WVSU should, and will consider it.

- 4) Has the person requesting the accommodation provided information which reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability?
- If "yes," proceed to Part IV. WVSU, at its discretion, may make the truth and accuracy of information provided during the process part of the representations made by the student under the housing agreement to the extent that the agreement requires the truth and accuracy of other material information.
  - If "no," WVSU is not required to grant the accommodation unless this information is provided but may not deny the accommodation on the grounds that the person requesting the accommodation has not provided this information until the requester has been provided a reasonable opportunity to do so. To assist the person requesting the accommodation to understand what information WVSU is seeking, WVSU is encouraged to direct the requester to the disability verification form for ESA's to ensure that WVSU receives the disability-related information that is actually needed to make a reasonable accommodation decision.

### Documentation Sources

In the WVSU interactive process, the student is the primary, but not the only, source of documentation. As such, the student will be a significant source of information. The following are assessed to guide the individualized assessment:

- 1) Nature and Degree of Impairment – Does the student have a disability (an impairment that substantially limits major life activities)?
- 2) Substantial Limitations – How is the student substantially limited? (how do the symptoms of the disability substantially limit a major life activity)?
- 3) Barriers - What barrier will/is the student experiencing that would make it difficult for them to live in the dorm and how is the barrier related to the student's disability?
- 4) Effect of ESA on Impairment and Barriers – What has been the student's experience with pets (dog or cat, etc.) in the past? Why does the student believe the ESA is a good idea? Is there anything specific that the animal does to help the student? What symptoms does the student anticipate or knows having an ESA will help control? How will/does the presence of the ESA mitigate or address that barrier?
- 5) Past History – Has the student lived in a communal residence such as dorm previously? If yes, how does the student describe the experience? Did they have an ESA in that setting? Why/Why not? If not, what has changed since the previous experience?
- 6) Responsibilities – What challenges does the student anticipate having in caring for an ESA on campus and how do they plan to address them?
- 7) Documentation from a professional – Is the documentation from a professional whose scope of practice allows them to diagnose and treat mental health disorders. The provider is

encouraged to reference the Disability Verification Form – Emotional Support Animal which has been developed in order to assist providers in providing the degree of information needed. There needs to be a clear connection between references to the animal assisting with relief and the symptoms related to the disability. The provider need not use the specific form, but all the information requested is necessary for the institution to have in order to consider the request for an ESA; the form is provided as a convenience. Generally, the institution will accept documentation from providers in the State of West Virginia or the student's home state who have personal knowledge of the student, consistent with their professional obligations.

The verification form includes the following:

- a) Nature and Degree of Impairment - The nature of the student's impairment and the degree to which the impairment impacts functioning
- b) Substantial Limitations - What major life activities is the student substantially limited and how they will present as difficulties in the residential life environments of the university
- c) Treatment - If the student required ongoing treatment as well as first and last meeting dates with the professional regarding the impairment
- d) Prescription - If the animal was specifically prescribed as part of treatment (and why) or a pet that will have a beneficial effect
- e) Impact of ESA - The ways in which the animal will help the student – which symptoms are mitigated by the presence of the ESA and if there is clear evidence that an ESA has helped this student with the impairments impact, currently or in past
- f) Well-being and Consequences - How the ESA will contribute to the student's well-being and how important is it to have the ESA in the residence on campus including the consequences in relation to the impairment if the accommodation is not improved
- g) Responsibilities - If the student shared the rules and restrictions for having an animal in university housing with the professional as well as if the professional discussed with the student the responsibilities associated with properly caring for an animal while engaged in typical college activities and residing in campus housing and if those duties would exacerbate the symptoms.

### *Documentation from the Internet*

Some websites sell certificates, registrations, and licensing documents for ESAs to anyone who answers certain questions or participates in a short interview and pays a fee. Under the Fair Housing Act, WVSU may request reliable documentation and the documentation from the internet is not, by itself, sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an ESA. Letters purchased from the internet for a set price rarely provide the information necessary to support an ESA request.

By contrast, many legitimate, licensed health care professionals deliver services remotely, including over the internet. One reliable form of documentation is a note from a person's health care professional that confirms a person's disability and/or need for an animal when the provider has personal knowledge of the individual.

*NOTE: The Federal Trade Commission (FTC) has been asked to investigate websites that purport to provide documentation from a health care provider in support of requests for an ESA. The websites in question offer for sale documentation that is not reliable for purposes of determining whether an individual has a disability or disability-related need for an ESA because the website operators and health care professionals who consult with them lack the personal knowledge that is necessary to make such determinations.*

*An unofficial list of questionable providers is maintained by Laurel Overby at Texas Christian University and is available online at - <https://dssbackyardfence.files.wordpress.com>. Additional information about the ESA determination process (including the questions on which the disability verification form is based) is available from Jane Jarrow with Disability Access Information and Support – [www.daisclasses.com](http://www.daisclasses.com).*

## Part IV: Type of Animal

5) Is the animal commonly kept in households?

- If “yes,” the reasonable accommodation should be provided under the FHA unless the general exceptions described below exist.
- If “no,” a reasonable accommodation need not be provided, but note the very rare circumstances described below.

Animals commonly kept in households. If the animal is a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes, then the reasonable accommodation should be granted because the requestor has provided information confirming that there is a disability-related need for the animal. For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

Unique animals. If the individual is requesting to keep a unique type of animal that is not commonly kept in households as described above, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. The individual is encouraged to submit documentation from a health care professional confirming the need for this animal. The lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation. If WVSU enforces a “no pets” policy or a policy prohibiting the type of animal the individual seeks to have, WVSU may take reasonable steps to enforce the policy if the requestor obtains the animal before submitting reliable documentation from a health care provider that reasonably supports the requestor’s disability-related need for the animal.

### **Reasonable accommodations may be necessary when the need for a unique animal involves unique circumstances ...**

Examples:

- The animal is individually trained to do work or perform tasks that cannot be performed by a dog.
- Information from a health care professional confirms that:
  - Allergies prevent the person from using a dog; or
  - Without the animal, the symptoms or effects of the person’s disability will be significantly increased.
- The individual seeks to keep the animal outdoors at a house with a fenced yard where the animal can be appropriately maintained.

### **Example: A Unique Type of Support Animal**

An individually trained capuchin monkey performs tasks for a person with paralysis caused by a spinal cord injury. The monkey has been trained to retrieve a bottle of water from the refrigerator,

unscrew the cap, insert a straw, and place the bottle in a holder so the individual can get a drink of water. The monkey is also trained to switch lights on and off and retrieve requested items from inside cabinets. The individual has a disability-related need for this specific type of animal because the monkey can use its hands to perform manual tasks that a service dog cannot perform.

## Part V: Criteria for determining if the presence of the emotional support animal is reasonable

Once the student has met with the Accessibility Specialist for the intake interview and submitted appropriate documentation, an initial determination will be made regarding further consideration of the ESA. This determination will include if the student has a disability with substantial limitations for which having an ESA may be of assistance. If the request merits further consideration it will be further considered by the Special Housing Committee that consists of the Accessibility Specialist, the Director of Counseling and Accessibility Services and the Director of Housing and Residence 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.

WVSU will consider the following factors, among others, in determining whether the presence of the animal is reasonable or in the making of housing assignments for individuals with an ESA. WVSU will consider whether:

1. Undue Financial and/or Administrative Burdens
  - a. The animal's presence would interfere with another individual's use and enjoyment of housing
    - i. The animal's presence otherwise violates other individuals' right to peace and quiet;
    - ii. The animal's presence would force another individual from individual housing such as for serious allergies or intense fear;
2. Fundamental Alteration of University Housing Policies
  - a. The size of the animal is too large for available assigned housing space
  - b. The animal would make physical modification of the dwelling unit necessary or require WVSU Housing to provide services that are not part of its usual services in order to accommodate it.
3. Poses a Direct Threat
  - a. The animal is not housebroken or is unable to live with others in a reasonable manner;
  - b. 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
  - c. The animal causes or has caused excessive damage to a leased space beyond reasonable wear and tear.

WVSU will not limit room assignments for individuals with ESA to any particular building or buildings. However, University housing is unique in several aspects including the assignment of roommates for individuals and the mandate that individuals must share a room or suite in certain residence hall types. To ensure that the presence of an ESA is not an undue administrative burden or fundamental

alteration of University housing, WVSU reserves the right to assign a single occupancy room and/or relocate an individual with an ESA as necessary.

## Part VI: Approval

Once the Special Housing Committee determines the accommodation request is reasonable and is approved, the following will occur:

- The Accessibility Specialist will notify the student the request has been approved.
- The Residence Life staff will notify the student's roommate(s) or suitemate(s) (if applicable) for their acknowledgement of the presence of an animal housed in their living environment.
- Residence Life staff will work with the student in order to complete all further necessary forms.

The animal may not reside in campus housing until the following forms have been completed and submitted:

- 1) Owner's Responsibilities for Emotional Support Animal (ESA) agreement form
- 2) Emotional Support Animal Registration Form
- 3) Required veterinary records
- 4) Roommate/Suitemate Acknowledgement Form (if applicable).

Should there be conflicting considerations between the student approved for an emotional support animal and the needs of roommate(s) or apartment mate(s) such as health/allergy conditions or fear of the animal, the University will engage with all parties involved. The Accessibility Specialist will conduct an interactive process with the student who has health/allergy conditions or fear of animals that rise to the level of a disability. For those who do not meet this threshold, the Director of Residence Life and any administrators in the affected area will be involved. In either case, the university will come to a resolution that protects the rights of the student with a disability as well as takes into consideration the needs and rights of the other parties involved.

Options to be considered may include either the student requesting the ESA or the non-approving roommate(s) or apartment mate(s) being moved to a different location based on space availability.

## Part VII: Removal of Emotional Support Animal from Campus Housing

The university may require the individual to remove the animal from university housing if:

- 1) the animal poses a direct threat to the health or safety of others or causes property damage to the property of others;
- 2) the animal's presence results in a fundamental alteration of a university program;
- 3) the owner does not comply with the owner's Responsibilities set forth above; or
- 4) 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 an animal may cause. Any removal of the animal will be done in consultation with the Accessibility Specialist with Student Accessibility Resources. The owner has the right to appeal by following the Disability Discrimination grievance process. The owner will be afforded all rights of due process and appeal as outlined in that process.

Unless exigent circumstances require otherwise, the owner will have 48-72 hours to remove the animal from the residence hall. If university housing cannot contact the owner to remove the animal, housing will contact the alternative caregiver listed on the Emotional Support Animal Registration Form. If the alternative caregiver is not available, Physical Facilities staff and the WVSU Police

Department will be notified to remove the animal off the premise and taken to the local animal control facility, the Kanawha-Charleston Humane Society. Should the 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.

## Owner's Responsibilities for Emotional Support Animal (ESA)

All emotional support animals approved to live with the owner in University Housing must meet the following requirements:

- 1) WVSU will not ask or require a student with a disability, hereinafter referred to as owner, to pay a deposit for an approved ESA.
- 2) The owner is solely responsible for the custody and care of the ESA.
- 3) Prior to the arrival of the animal on campus, the owner must abide by current county (Kanawha), state (West Virginia) and federal ordinances, laws, and/or regulations pertaining to licensing, vaccination, and other requirements for animals.
  - a) It is the owner's responsibility to know and understand these ordinances, laws, and regulations.
  - b) The university has the right to require documentation of compliance with such ordinances, laws, and/or regulations, which may include a vaccination certificate and proof of licensure. The university reserves the right to request an updated verification at any time during the animal's residency.
- 4) The animal must have identification, such as a collar and tag, at all times. For small animals which may not tolerate collars and tags, microchip identification is sufficient. An exception can be made for animals that are primarily caged and confined to the residence.
  - a) The owner does not need a vest, identification card or other such means of identification as there are currently no recognized registries, certifications or other identification methods recognized under the law.
- 5) The animal is allowed in university housing only as long as it is necessary because of the owner's disability. The owner must notify the Accessibility Specialist with SAR and the Director of Residence Life if the animal is no longer required, the animal is no longer in the residence or the owner is requesting that the approved animal be replaced by another emotional support animal.
- 6) The owner must register with the Accessibility Specialist each semester as well as provide an update from the mental health provider yearly, regarding the continuing need for the emotional support animal as a reasonable accommodation.
- 7) The owner is required to ensure the animal is well cared for at all time. WVSU personnel shall not be required to provide care or food for any animal. Any evidence of mistreatment or abuse may result in immediate removal of the ESA and discipline for the owner or responsible individual.
- 8) WVSU personnel shall not be required to remove an animal during emergency evacuation for events such as a fire alarm, nor will roommates be held responsible for the same. In cases of emergency, emergency personnel will determine whether to remove the animal. Neither the university nor first responders may be held responsible for the care, damage to, or loss of the animal.
- 9) ESA's are permitted within campus housing. The animal should not accompany the student to class, the library, dining service areas, the fitness center, classrooms or other areas of campus. If a student believes they may need the animal in these areas as an accommodation, they must request consideration of this accommodation through Student Accessibility Resources.
- 10) An ESA must be contained within the owner's privately assigned individual living accommodations (e.g., room, suite, apartment) except to the extent the individual is taking the animal out for natural relief or exercise. When an ESA is outside the private individual living accommodations, it must be in an animal carrier or controlled by a leash or harness. When using

a leash, the leash must be 6' in length or less. The restraint applies unless (1) the student is unable to use a leash, harness, tether or other restraint due to disability or (2) use of such a restraint would impede the animal's safe and effective performance of its work or task. The animal is only allowed outside the student's residence for the following:

- a) Toileting (within areas approved by University)
  - b) Purposes of reaching the nearest transit stop or the student's vehicle to travel off campus
  - c) Exercising the animal (within areas approved by the University)
- 11) An ESA may not be left unattended other than reasonable periods of time based on the type of animal. What is reasonable will vary from species to species and animal to animal and should be determined on a case by case basis in consultation with Residence Life staff.
- a) The owner is responsible for ensuring that the ESA is contained via crate, cage, or other manner, as appropriate, when the owner is not present during the day such as while attending classes or other activities.
  - b) For those animals which require daily care, the animal should not be unattended 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 longer, the owner must make arrangements for care in the owner's absence.
  - c) The University may take reasonable efforts to gain access to an animal confined in the residence hall when the animal appears to be in distress or there is danger to the animal as indicated by smells, sounds or other signs which a Residence Life or other University staff member determines may be a sign of such.
- 12) It is the owner's personal responsibility to immediately clean up and properly dispose of the animal's waste in a safe and sanitary manner, or to solicit the proper assistance, if their ESA defecates routinely, or becomes ill and either vomits and/or becomes incontinent. The owner should contact the staff from the Residence Life in order to identify an appropriate location for elimination of waste.
- 13) The owner must fully cooperate with university personnel with regard to meeting the terms of these procedures for care of the animal (e.g., cleaning the animal, feeding/watering the animal, outdoor grass relief area, disposing of feces, etc.).
- 14) The student must take appropriate precautions to prevent property damage or injury. The student is financially responsible for the actions of the animal including bodily injury or property damage, including but not limited to any medical expenses, replacement of furniture, carpet, drapes or wall covering, etc.
- 15) An individual with a disability may be charged for any damage caused by their ESA beyond reasonable wear and tear or for cleaning which is above and beyond normal cleaning to the same extent that other individuals are charged for damages beyond reasonable wear and tear or additional cleaning. This may include removal of odors caused by the animal and for repairs to University property. The university shall have the right to bill the owner's account for unmet obligations under this provision. Potential costs include those incurred while the student occupies the residence and those assessed when the student vacates the residence.
- 16) The owner's residence may be inspected for fleas, ticks or other pests once per semester or as needed. The Residence Life staff will conduct health and safety inspections. If fleas, ticks or other pests are detected through inspection or preventative maintenance, the residence will be treated using approved fumigation methods by a university-approved pest control vendor. The owner will be billed for the expense of any pest treatment above and beyond normally required pest management.

- 17) The owner may be requested to utilize certain pieces of equipment in common areas such as laundering machines to eliminate risk of contamination for those who may be sensitive or allergic to pet dander.
- 18) The owner must provide consent for Student Accessibility Resources to disclose information regarding the request for and presence of the ESA to those individuals who may be impacted by the presence of the animal including, but not limited to, Residence Life personnel, First Responders, 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.
- 19) 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 university or cause difficulties for individuals who reside there.
- 20) Any violation of the above rules will be reviewed by staff with Residence Life and Student Accessibility Resources. The owner will be afforded all rights of due process and appeal as outlined in the grievance process.
- 21) The owner is responsible for adhering to the procedures detailed in this ESA Agreement.
- 22) The owner should submit requested information regarding their ESA (e.g., veterinary verification of routine care) to:

**Office of Residence Life & Services**  
**Judge Damon J. Keith**  
 Scholars Hall S114  
 (304) 766-3037  
 (800) 987-2112, ext 3037  
 Fax: (304) 766-5174  
[reslife@wvstateu.edu](mailto:reslife@wvstateu.edu)

- 23) These guidelines will be reassessed annually.

By my signature below, I verify that I have read, understand and will abide by the agreement outlined here.



Accessibility Specialist Signature

Date

Director of Residence Life Signature

Date

Student Signature

Date



# WEST VIRGINIA STATE UNIVERSITY

Dear Mental Health Provider,

A student who attends our university has indicated they are a patient/client of yours. They have requested that documentation be sent to this office to be utilized in the evaluation for, and approval of adjustments/accommodations in our residence hall. Adjustments/ accommodations are provided to students with disabilities in the post-secondary setting to ensure these students have equal access to the environment and educational opportunities of the university. The Accessibility Specialist with Student Accessibility Resources (SAR) has been vested by the institution with authority to evaluate and approve these adjustments/ accommodations for students with diagnosed and documented disabilities. The specific request of the student is that you have suggested that having an Emotional Support Animal (ESA) in the residence hall will have therapeutic benefit in alleviating one or more of the identified symptoms or effects of the student's disability.

Generally, we accept documentation from providers in the State of West Virginia or the student's home state who have personal knowledge of the student, consistent with their professional obligations. Letters purchased from the internet for a set price\* rarely provide the information

*\* The Federal Trade Commission (FTC) has been asked to investigate websites that purport to provide documentation from a health care provider in support of requests for an ESA. The websites in question offer for sale documentation that is not reliable for purposes of determining whether an individual has a disability or disability-related need for an ESA because the website operators and health care professionals who consult with them lack the personal knowledge that is necessary to make such determinations.*

necessary to support an ESA request.

We have developed this form to assist providers in providing the degree of information needed. There needs to be a clear connection between references to the animal assisting with relief and the symptoms related to the disability. The provider need not use this specific form, but all the information requested here is necessary for the institution to have in order to consider the request for an ESA; the form is provided as a convenience. This form and any records can be submitted via mail, email or fax.

Mailing address: WVSU - Student Accessibility Resources  
Sullivan Hall East  
PO Box 1000  
Institute, WV 25112

Email: [sar@wvstateu.edu](mailto:sar@wvstateu.edu)

Fax: 304-766-4168

Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Michael Casey". The signature is written in a cursive, flowing style.

Michael Casey, MS, CRC, AADC, LCAS, CDF  
Accessibility Specialist

# STUDENT ACCESSIBILITY RESOURCES

## Disability Verification Form – Emotional Support Animal

This form assists the Accessibility Specialist with SAR in obtaining the specific information from the diagnosing and treating healthcare professional required to evaluate a student's eligibility for the accommodation of an emotional support animal in university housing. The provider need not use this specific form, but all the information requested here is necessary for the institution to have in order to consider the request for an ESA; the form is provided as a convenience. The provider can provide a letter and include any reports which provide all of the requested information in lieu of this form. In addition, please attach any other information you think would be relevant to the student's adjustment to the university housing environment.

The healthcare professional conducting the assessment and making the diagnosis must be qualified to do so, i.e., trained / certified / licensed to diagnosis and treat mental health conditions.

The information you provide will be kept in the student's file. The content of the form may be shared with the student at his/her request.

If you have questions regarding this form, please call our office at 681-533-0850.

Thank you for your assistance as we evaluate this student's request.

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### STUDENT INFORMATION

*Student should complete this section prior to it be given to the provider. Write legibly or type.*

Student's Full Name: \_\_\_\_\_

Student ID# \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Status (check one)  Incoming Student  Current Student  Transfer Student

### **STUDENT (sign this form before providing it to your mental health provider to complete):**

By signing below, I consent to allowing my health care provider to share any information relevant to my need for an ESA as an accommodation, as shown on this form with personnel with Student Accessibility Resources at West Virginia State University for 60 days from the date signed.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

# DIAGNOSTIC VERIFICATION FORM – EMOTIONAL SUPPORT ANIMAL

*PLEASE WRITE LEGIBLY OR TYPE.*

All parts of the following sections should be completed by the healthcare professional in detail regarding –

- how the impairment results in a significant limitation to the student's current or future functioning and major life activities including the current substantial functional impacts
- the relationship between the student's disability and the relief the emotional support animal (ESA) provides – a clear connection between the symptoms and what the animal can do
  - the necessity of the ESA for the individual to use or enjoy campus housing

## Information About the Student's Disability

Federal law defines a person with a disability as someone who has a physical or mental impairment that substantially limits one or more major life activities. That suggests that a diagnosis (label) does not necessarily equate with a disability (substantial limitation).

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

2) Describe the degree to which the impairment impacts functioning.

3) How is the student substantially limited, in what major life activities are these limitations and how will they present as difficulties in the residential life environments of the university?

4) Does the student require ongoing treatment?  Yes  No

5) When did you first meet with the student regarding this mental health diagnosis?

6) When did you last meet with the student regarding this mental health diagnosis?

## Information About the Proposed ESA

Please note that there are some restrictions on the kind of animal that can be approved for the residence hall; it is possible the student may be approved for an ESA, based on the information you provide here, but may not be allowed to bring a specific animal, if named.

7) 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?

8) Why is it being prescribed or recommended at this time?

9) What specific symptoms will be reduced?

10) How will those symptoms be mitigated by the presence of the ESA?

11) Is there clear evidence that an ESA has helped this student with their impairments impact, currently or in past?

Yes

No

## Importance of ESA to Student's Well-Being

- 12) In your opinion, how will the ESA contribute to the student's well-being AND how important is it to have the ESA in the residence on campus?
- 13) What consequences, in terms of impairment symptomology, may result if the accommodation is not approved?
- 14) This student was provided with a copy of the rules and restrictions around the presence of an animal in residence in the University housing. Has the student shared those restrictions with you?  
 Yes                       No
- 15) Have you discussed the responsibilities associated with properly caring for an animal while engaged in typical college activities and residing in campus housing?  
 Yes                       No
- 16) 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.)  
 Yes                       No

Thank you for taking the time to complete this form. If we need additional information, we may contact you at a later date. The named student has signed this form indicating written permission to share additional information with us in support of the request.

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.

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## HEALTHCARE PROVIDER INFORMATION

(Please sign and date below and completely fill in all other fields using PRINT/TYPE/STAMP)

<b>Provider Signature:</b>		<b>Date:</b>	
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<b>License/certification type:</b>		<b>License/certification #:</b>	
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<b>Provider name (print):</b>			
<b>Title:</b>			
<b>Address</b>			
<b>Phone #:</b>		<b>Fax #:</b>	
<b>Email</b>			

This form, a letter and any records or other documentation can be submitted via mail, email or fax.

Mail – WVSU - Student Accessibility Resources  
Sullivan Hall East - 117  
PO Box 1000  
Institute, WV 25112

Email – [sar@wvstateu.edu](mailto:sar@wvstateu.edu)

Fax – 304-766-4168

# Animal Registration for University Housing

*Attach copies of vaccination and licensure records to keep on file.*

Student Name:

Student Signature:

Student ID#:

Residence Building:

Apt./Room #:

Service animal (type of animal: ):

Emotional Support Animal (type of animal):

Species/Breed:

Sex:

Color:

Age:

Description of Animal:

Name of Animal:

Vaccinations Dated:

# **Service Animal / Emotional Support Animal Roommate/Apartment Mate Acknowledgement Form**

By my signature below, I understand that I may share the common areas of my assigned residential space with the animal approved by the University for this student. Should I have any concerns regarding the approved animal, I will discuss my concerns with the approved animal's owner and the Director of the Residence Life.

Resident's Name	Student ID #	Date
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Resident's Name	Student ID #	Date
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Resident's Name	Student ID #	Date
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Resident's Name	Student ID #	Date
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Resident's Name	Student ID #	Date
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Resident's Name	Student ID #	Date
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Resident's Name	Student ID #	Date
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Resident's Name	Student ID #	Date
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Resident's Name	Student ID #	Date
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Resident's Name	Student ID #	Date
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