

## Concordia University, Nebraska

### Emotional Support Animal (ESA) Policy

#### Section I. Introduction and Background

Concordia University, Nebraska (“CUNE” or “University”) recognizes the importance of “Service Animals” as defined by the Americans with Disabilities Act Amendments Act (ADAAA), and of Emotional Support Animals (ESAs), supported by the Fair Housing Act. CUNE is committed to allowing individuals with disabilities the use of a Service Animal on campus to facilitate their full-participation and equal access to the University’s programs and activities. CUNE is also committed to allowing ESAs, necessary to provide individuals with mental health disabilities an equal opportunity to use and enjoy University housing. This Policy explains the specific requirements applicable to an individual’s use of an ESA in University housing. CUNE reserves the right to amend this Policy as circumstances require. This policy applies solely to ESAs that may be necessary in University housing. It does not apply to “service animals” as defined by the ADAAA, and whose presence on campus is explained in the CUNE Service Animal Policy ([Policy can be found here](#)).

Although it is the policy of CUNE that individuals are generally prohibited from having animals of any type in University housing, CUNE will consider a request by an individual with a disability for reasonable accommodation from this prohibition to allow an ESA that is reasonable and necessary because of a mental health disability. However, no ESA may be kept in University housing at any time prior to the individual receiving approval as a reasonable accommodation pursuant to this Policy. Any requests for animals in residence that are neither service animals nor ESAs should be directed to the Disability Services (DS) office.

#### **Definitions:**

##### **A. Emotional Support Animal (ESA)**

An Emotional Support Animal (ESA) is an animal that provides therapeutic emotional support for an individual with a diagnosed mental health disability. Unlike service animals that are trained to perform specific tasks that are important to the independence or safety of their disabled handler, ESAs are generally not trained to perform disability-specific tasks. Their therapeutic support is a function of their presence and interaction with the person with a mental health disability. ESAs are not pets, but they typically are animals commonly kept in households as pets. An ESA may be a dog (most common), cat, small bird, rabbit, hamster, gerbil, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure. Under recent guidance from HUD, reptiles (other than turtles), barnyard animals, monkeys, and other non-domesticated animals are not considered common household animals. Exceptions to these guidelines regarding an animal serving as an ESA will be considered on a case-by-case basis.

The question in determining if an ESA will be allowed in University housing is whether

or not the ESA is necessary, because of the individual's disability, to afford the individual an equal opportunity to use and enjoy University housing, and its presence in University housing is reasonable. However, even if the individual with a disability establishes necessity for an ESA and it is allowed in University housing, animals approved as ESAs are not permitted in other areas of the University (e.g. dining facilities, libraries, academic buildings, athletic buildings and facilities, classrooms, labs, individual centers, etc.).

### **B. Owner**

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

### **C. Disability Services (DS)**

The Disability Services office (DS) collaborates with individuals, faculty, and staff to ensure that individuals with disabilities have equal access to all CUNE programs and activities.

## **Section II. Procedures For Requesting an ESA in University Housing**

The procedure for requesting an ESA follows the general procedures set forth in CUNE's Housing Accommodation Request Policy and the requirements set forth below. However, to the extent the requirements and procedures in this Policy conflict with the Housing Accommodation Request Policy, this Policy shall control.

## **Section III. Criteria for Determining If Presence of the ESA is Reasonable**

- A. University housing is unique in several aspects including the mandatory assignment of roommates for many individuals and the mandate that individuals must share a room or suite in certain residence halls. To ensure that the presence of an ESA is not an undue administrative burden or fundamental alteration of University housing, CUNE reserves the right to alter room assignments as necessary.
- B. However, for all requests for an ESA, the DSS office shall nonetheless consult with the Student Life Office in making a determination on a case-by-case basis of whether the presence of an ESA is reasonable. A request for an ESA may be denied as unreasonable if the presence of the animal: (1) imposes an undue financial and/or administrative burden; (2) fundamentally alters University housing policies; and/or (3) poses a direct threat to the health and safety of others or would cause substantial property damage to the property of others, including University property.
- C. CUNE may consider the following factors, among others, as evidence in determining whether the presence of the animal is reasonable or in the making of housing assignments for individuals with an ESA:

1. The space needed for the cage/crate in which the animal will be housed is too large for the available assigned housing space;
2. The animal's presence would force another individual from individual housing (e.g. serious allergies);
3. The animal's presence otherwise violates individuals' right to peace and quiet enjoyment;
4. The animal is not housebroken or is unable to live with others in a reasonable manner;
5. The animal poses health risks from zoonotic diseases or safety concerns regarding containment that cannot be sufficiently mitigated for inclusion in the communal living setting;
6. The animal's vaccinations are not up-to-date;
7. 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; or
8. The animal causes or has caused excessive damage to housing beyond reasonable wear and tear.
9. Generally, dogs must be at least 10 months of age before being brought into the residence hall, and cats must be at least 6 months of age.

CUNE will not limit room assignments for individuals with an ESA to any particular building or buildings because the individual needs an ESA because of a disability.

Generally, only one animal is approved per housing unit. If more than one resident in the same unit has need for an ESA or a service animal, the University reserves the right to arrange for alternative housing for one of the residents.

#### **Section IV. Access to University Facilities By an ESA**

##### **A. Emotional Support Animals (ESAs)**

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. When an ESA is outside the private individual living accommodations, it must be in an animal carrier or controlled by a leash or harness. ESAs are not allowed in any University facilities other than University residence halls (e.g. dormitories, suites, apartments, etc.) to which the individual is assigned.

##### **B. Dominion and Control**

Notwithstanding the restrictions set forth herein, the ESA must be properly housed and restrained or otherwise under the dominion and control of the Owner

at all times. No Owner shall permit the animal to go loose or run at large. If an animal is found running at large, the animal is subject to capture and confinement and immediate removal from University housing.

### **Section V. Owner's Responsibilities for an ESA**

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

1. The Owner must abide by current city, county, and state ordinances, laws, and/or regulations pertaining to licensing, vaccination, and other requirements for animals. It is the Owner's responsibility to know and understand these ordinances, laws, and regulations. The University has the right to require documentation of compliance with such ordinances, laws, and/or regulations, which may include a vaccination certificate. The University reserves the right to request documentation showing that the animal has been licensed.
2. The Owner is required to clean up after and properly dispose of the animal's waste in a safe and sanitary manner and, when provided, must use animal relief areas designated by CUNE.
3. The Owner is required to ensure the animal is well cared for at all times. Any evidence of mistreatment or abuse may result in immediate removal of the ESA and/or discipline for the responsible individual.
4. CUNE will not ask for or require an individual with a disability to pay a fee or surcharge for an approved ESA.
5. An individual with a disability may be charged for any damage caused by his or her ESA beyond reasonable wear and tear to the same extent that it charges other individuals for damages beyond reasonable wear and tear. The Owner's living accommodations may also be inspected for fleas, ticks or other pests if necessary as part of the University's standard or routine inspections. If fleas, ticks or other pests are detected through inspection, the residence will be treated using approved 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 Owner's account for unmet obligations under this provision.
6. The Owner must fully cooperate with University personnel with regard to meeting the terms of this Policy and developing procedures for care of the animal (e.g., cleaning the animal, feeding/watering the animal, designating an outdoor relief area, disposing of feces, etc.). Neither the animal nor the cage/crate and accessories can be washed in communal bathroom facilities.

7. ESAs may not be left overnight in University Housing to be cared for by any individual other than the Owner. If the Owner is to be absent from his/her residence hall overnight or longer, the animal must accompany the Owner. The Owner is responsible for ensuring that the ESA is contained, as appropriate, when the Owner is not present during the day while attending classes or other activities. The owner will provide the name and contact information of someone who does not reside in college housing but is in close enough proximity (within a 2-hour radius) to take responsibility for the animal within 8 hours if the student is unable to provide care.
8. The Owner agrees to abide by all equally applicable residential policies that are unrelated to the individual's disability such as assuring that the animal does not unduly interfere with the routine activities of the residence or cause difficulties for individuals who reside there.
9. 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 DS office in writing if the ESA is no longer needed or is no longer in residence. To replace an ESA, the new animal must be necessary because of the Owner's disability and the Owner must follow the procedures in this Policy and the Housing Accommodation Policy when requesting a different animal.
10. CUNE personnel shall not be required to provide care or food for any ESA including, but not limited to, removing the animal during emergency evacuation for events such as a fire alarm. Emergency personnel will determine whether to remove the animal and may not be held responsible for the care, damage to, or loss of the animal.
11. The individual must provide written consent for Disability Services 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, Student Life personnel, potential and/or actual roommate(s)/neighbor(s), and Buildings and Grounds. Such information shall be limited to information related to the animal and shall not include information related to the individual's disability.

## **Section VI. Removal of ESA**

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 substantial 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;
- 4) the animal or its presence creates an unmanageable disturbance or interference with the University community; or
- 5) the animal is not housebroken or is unable to live with others in a reasonable manner.

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. If it is determined that an animal should be removed and notice is given, failure to respond within a given time limit (72 hours) to remove the animal may result in a referral to Student Conduct. If an individual refuses after the University has provided written notice, the University may contact local law enforcement and have law enforcement assist with the removal. Any removal of the animal will be done in consultation with the Disability Services Coordinator and may be appealed to the University's ADA/Section 504 Compliance Officer following the procedure set forth in Section II, number 5 of the Housing Accommodation Request Policy. The Owner will be afforded all rights of due process and appeal as outlined in that process.

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.

### **Section VII. Non-retaliation Provision**

CUNE will not retaliate against any person because that individual has requested or received a reasonable accommodation in University housing, including a request for an ESA.

### **Section VIII. Student Complaint Procedure**

Concordia University believes that all students should be treated with respect and dignity and should receive the best quality of services possible. Additionally, as Christians, we strive to respond to conflict biblically through use of Matthew 18 by encouraging both parties to listen to each other, think about the concerns expressed and be open to resolving the issue. Resources are available for students to submit a concern or complaint regarding the conduct of students, faculty and staff.

[Procedures for filing a complaint can be found here.](#)