

# FLORIDA SOUTHWESTERN STATE COLLEGE Emotional Support Animal (ESA) POLICY AND AGREEMENT

Florida SouthWestern State College (FSW) 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. The College 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 College’s programs and activities. FSW is also committed to allowing ESAs necessary to provide individuals with mental health disabilities an equal opportunity to use and enjoy College housing. This policy explains the specific requirements applicable to an individual’s use of an ESA in College housing. FSW reserves the right to amend this policy at any time, as necessary. This policy applies solely to ESAs that may be necessary in College housing. It does not apply to “service animals” as defined by the ADAAA, and whose presence on campus is explained in the FSW [COP 01-0105 Service Animal Policy](#).

Although it is the policy of FSW that animals are prohibited, FSW will consider a request by an individual with a disability for an ESA that is reasonably necessary because of a mental health disability. However, no ESA may be kept in College housing at any time prior to the individual receiving approval as a reasonable accommodation pursuant to this policy.

“A person who falsifies information or written documentation, or knowingly provides fraudulent information or written documentation, for an ESA under f.s. [760.27](#), or otherwise knowingly and willfully misrepresents himself or herself, through his or her conduct of through a verbal or written notice, as having a disability or disability-related need for an ESA or being otherwise qualified to use an ESA, commits a misdemeanor of the second degree, punishable as provided in f.s. [775.082](#) or f.s. [775.083](#). In addition, within 6 months after a conviction under this section, a person must perform 30 hours of community services for an organization that serves persons with disabilities or for another entity or organization that the court determines is appropriate” (Florida Statutes Annotated, Civil Rights Chapter (760-765). Chapter 760. Discrimination in the Treatment of Persona; Minority Representation. Part I. Florida Civil Rights Act.

[https://www.animallaw.info/statute/fl-assistance-animal-floridas-assistance-animalguide-dog-laws#s760\\_27](https://www.animallaw.info/statute/fl-assistance-animal-floridas-assistance-animalguide-dog-laws#s760_27)). Such action may also render the student subject to sanctions under the College’s Code of Conduct.

## I. Definitions

### A. Emotional Support Animal (ESA)

1. An ESA (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 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 guidelines 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 animals serving as ESAs will be considered on a case-by-case basis.

2. The question in determining if an ESA will be allowed in College 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 College housing, and its presence in College housing is reasonable. However, even if the individual with a disability establishes necessity for an ESA and it is allowed in College housing, an animal approved as an ESA through this process not permitted in other areas of the College (e.g., dining facilities, libraries, academic buildings, athletic buildings and facilities, classrooms, labs, individual centers, etc.).

#### B. Owner

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

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## II. Procedures for Requesting ESAs in College Housing

- A. Contact [adaptiveservices@fsw.edu](mailto:adaptiveservices@fsw.edu) to request the link.
- B. Submit sufficient documentation. Information that May Be Requested for Housing-Related Reasonable Accommodation Requests
- C. OAS shall limit its requests for information to only the information necessary to verify whether the individual making the request has a disability and/or to evaluate if the reasonable accommodation is necessary to provide the individual an equal opportunity to use and enjoy College housing.

The College will require the individual to complete the Health Care Provider Request for Verification (ESA) Form for College Housing, which includes submission of sufficient documentation from a licensed health care provider or other professional (e.g., a physician, optometrist, psychiatrist, psychologist, physician's assistant, nurse practitioner, or nurse), who can verify that the individual has a disability and that the requested accommodation is necessary to provide the individual an equal opportunity to use and enjoy College housing.

In lieu of the Health Care Provider Request for Verification (ESA) Form for College Housing, a letter on official letterhead can be utilized but must address the following: state a disability is present, provides clarification of how the disability substantially limits one or more daily activities and how the presence of the ESA would mitigate symptoms of the individual's mental health disability, information about the timing and nature of the professionals interaction with the student, as well as indicating why the presence of the ESA is necessary to provide the individual an equal opportunity to use and enjoy College housing. The health care provider's name must be legible and include a signature along with the licensure number or official licensure stamp.

For the health and safety of all residences, when requesting an Emotional Support Animal as a reasonable accommodation, a clean bill of health from the animal's veterinarian is also required. A clean bill of health will need to state that all vaccinations, including rabies, are up to date and that the animal is free of parasites. The clean bill of health should also include a description of the animal regarding breed, color, size/weight, age, sex of the animal, and the name/signature of the veterinarian.

**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.**

Absent exceptional circumstances, within ten (10) business days of receiving the completed LightHouse Commons/ADaptive Services - Housing Accommodation Request Form and completed Health Care Provider Request for Verification (ESA) Form for College Housing or sufficient documentation from the health care provider or other professional, the OAS in collaboration with Housing & Residential Life will determine if the accommodation is necessary because of a disability to provide the individual an equal opportunity to use and enjoy College housing.

If the documentation submitted is not sufficient information to determine whether an accommodation is necessary, the Director of OAS/Designee will inform the individual in writing of the documentation's insufficiency and will request additional information within ten (10) business days of receiving the verification. OAS will request the individual to complete a consent of release form PRIOR to OAS contacting the individual supplying the third-party documentation.

The individual making the request for accommodation must cooperate with OAS in a timely manner by providing all information needed to determine whether the requested accommodation is necessary.

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

- A. College 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 College housing, FSW reserves the right to assign an individual with an ESA to a different room depending on availability.
- B. However, for all requests for ESAs, OAS shall nonetheless consult with 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 College 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 College property.

- C. FSW 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 ESAs:
1. The space needed for the cage/crate in which the animal will be housed is too large for 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 poses health risks from zoonotic diseases or safety concerns regarding containment that cannot be sufficiently mitigated for inclusion in the communal living setting;
  5. The animal is not housebroken or is unable to live with others in a reasonable manner;
  6. The animal's vaccinations, including rabies, 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.
- D. FSW will not limit room assignments for individuals with ESAs to any particular building or buildings because the individual needs an ESA because of a disability.

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## **IV. Access to College Facilities by ESA**

### **A. Emotional Support Animals**

1. An ESA must be contained within the Owner's privately assigned individual living accommodations (e.g., room, suite) 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 College facilities other than College residence halls (e.g., dormitories, suites, apartments, etc.) to which the individual is assigned.

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

1. 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, confinement, and immediate removal from College housing.

## V. Owner's Responsibilities for ESA

If the College 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:

### A. General 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 the animal. It is the Owner's responsibility to know and understand these ordinances, laws, and regulations. The College has the right to require documentation of compliance with such ordinances, laws, and/or regulations, which may include a vaccination certificate. This includes animals from other countries as long as they meet any customs/federal regulations concerning animals entering the U.S. The College 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 FSW.
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. FSW 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 will 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.
6. The Owner's living accommodations may also be inspected for fleas, ticks or other pests, if necessary, as part of the College'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 College-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 College shall have the right to bill the Owner's account for unmet obligations under this provision.
7. The Owner must fully cooperate with College personnel with regard to meeting the terms of this policy and developing procedures for the care of the animal (e.g., cleaning the animal, feeding/watering the animal, designating an outdoor relief area, disposing of feces, etc.).
8. Generally, for ESA dog requests, the dog must be at one (1) year old. For ESA cat requests, the cat must be at least six (6) months old.

9. ESAs may not be left overnight in College 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.
10. 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.
11. 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.
12. The animal is allowed in College housing only as long as it is necessary because of the Owner's disability. The Owner must notify the OAS 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 Reasonable Accommodation Policy when requesting a different animal.
13. FSW 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.
14. The individual must provide written consent for OAS 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 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.
15. Students approved for an ESA animal must communicate information to their suitemates. If students are not comfortable communicating with their suitemates regarding their ESA, the student will contact the Office of Housing & Residence Life for assistance. Once communicated, a Suitemate Approved Animal Acknowledgement form must be signed by the ESA owner and all suitemates.
16. In case of emergency to include but not be limited to hospitalization, natural disaster, building closure, etc. an ESA pet emergency contact form must be completed annually to ensure FSW staff know whom to contact in these situations if the ESA owner is unable to care for their animal during these types of situations.

## B. Removal of ESA

The College may require the individual to remove the animal from College 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 College 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 College community.

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## **VI. Code of Conduct Process for ESA Animal Violations to College and/or Housing policy**

- A. A student, staff, and/or faculty member reports violation/s through the FSW reporting system.
- B. Letters are sent, through Maxient software, to ESA Owner via their FSW BUCS email account, outlining the violations and requirements to set up a meeting time to discuss by the Assistant Director of Community Standards and Residence Education or his/her designee.
- C. Student meets with Assistant Director of Community Standards and Residence Education or his/her designee to discuss violations, and post-meeting sanctions, if found responsible are issued to Owner of the ESA.
  1. If responsible, sanctioned outcomes could include but are not limited to disciplinary probation, housing probation, community service, essays, removal of ESA from housing.
    - a. If a student is sanctioned to remove their animal from LightHouse Commons, they will have 48 hours to do so from the time of notification.
- D. Appeal Process
  1. Students are eligible to appeal any sanction received within the timeline provided in their letter received outlining their sanctions.
    - a. A student's first appeal will be to the Associate Director of Residence Life. The Associate Director of Residence Life, after meeting with the student, will make a determination to either uphold the original sanctions or reduce/remove some or all of the sanctions originally levied.

If upheld and the student still finds the outcome to be unfair, the student's final appeal would be with the Assistant Vice President for Student Life. The Assistant Vice President for Student Life will make the final determination on upholding the original or reduced sanctions or removing them completely.

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.

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## VII. Non-retaliation Provision

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

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## VIII. Acknowledgment and Release of Information Consent Form

By my signature below, I verify that I have read, understand, and will abide by the requirements outlined here, and I agree to provide the additional information required to complete my Request for a Reasonable Accommodation under the College's ESA Policy for College Housing.

I have read and understand the ESA Policy and Agreement, and I agree to abide by the requirements applicable to ESAs. I understand that if I fail to meet the requirements set forth in the Policy, FSW has the right to remove the ESA, and I will be nonetheless required to fulfill my housing, academic, and all other obligations for the remainder of the housing contract.

I furthermore give permission to the Office of ADaptive Services to disclose to others impacted by the presence of my ESA (e.g., Residence Life staff, potential and/or actual roommate(s)/neighbor(s)) that I will be living with an animal as an accommodation. I understand that this information will be shared with the intent of preparing for the presence of the ESA and/or resolving any potential issues associated with the presence of the ESA.

I further recognize that the presence of the ESA may be noticed by others visiting or residing in College Housing. I agree that staff may acknowledge the presence of the animal and explain that ESAs are permitted for persons with disabilities.

Owner's Signature

\_\_\_\_\_ Date: \_\_\_\_\_

OAS Team Member Signature

\_\_\_\_\_ Date: \_\_\_\_\_

LightHouse Commons Team Member Signature

\_\_\_\_\_ Date: \_\_\_\_\_

### Disclaimer:

The information contained in this policy is accurate as of March 23, 2022, but may be subject to change. The College reserves the right to amend, modify, or cancel the policy, terms and conditions, and other material as published in this policy in accordance with any revisions to Federal and Florida state laws, regulations, and statutes. We reserve the right to change this policy at any time, as necessary. The College will endeavor to inform all necessary parties of any such changes with reasonable notice.