



**Policy Number: 323 – Animals on University Property**

**Effective Date: September 4, 2019**

**Revision Date: September 4, 2019**

**Approved By: Denis Otterness, Chief of Police**

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### **323.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish a means of maintaining standards of dealing with animals on campus to help ensure the health, safety, and protection of the University community. In addition, this policy shall establish guidelines necessary to ensure that the rights of individuals who use service animals to assist with disabilities are protected in accordance with Title II of the Americans with Disabilities Act (ADA).

### **323.2 POLICY**

Montana State University Billings does allow service animals, service animals in training, emotional support animals, and certain other animals on University property as described in this regulation. Service animals and other animals allowed on University property must be appropriately controlled (attended and restrained) by the animal's owner or handler at all times.

### **323.3 DEFINITIONS**

Definitions Related to this Policy:

**Attended and Restrained:**

“Attended and restrained” means in the immediate vicinity of a handler, and either on a harness, leash or other tether, or in a cage. However, in the case of a Service Animal, if such restraints would interfere with the animal's safe and effective performance of work or tasks, the service animal must be otherwise under the handler's control via verbal, nonverbal, or other appropriate means. For University research animals, “Attended and Restrained” means the animal is confined or controlled by a cage, barn or other structure, or other effective means. An animal left fastened to a stationary object is not considered to be appropriately attended. Animals found tethered to University property or at large on campus may be impounded and the owner cited in accordance with local and state laws.

**Disability:**

“Disability” means, with respect to an individual:

- a. Physical or mental impairment that substantially limits one (1) or more major life activities;

- b. A record of such an impairment; or
- c. Being regarded as having such an impairment, and as otherwise defined in the Americans with Disabilities Act.

**Domestic Animal:**

“Domestic animal” means those species of animals that normally and customarily share human habitat and are normally dependent on humans for food and shelter, such as dogs, cats, and other common domestic animals, but not including feral or wild animals.

**Handler:**

“Handler” means any person with a disability that a service animal assists, or a personal care attendant who handles the animal for the person with a disability, a person who owns a service animal, or a person who is training a service animal in accordance with Montana Code Annotated 49-4-214.

**Service Animal:**

“Service animal” means any dog\* 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, and which meets the definition of “service animal” under the Americans with Disabilities Act (ADA) regulations at 28 CFR 35.104. The work or tasks performed by a service animal must be directly related to the individual's disability. *\*Under particular circumstances set forth in the ADA regulations at 28 CFR 35.136(i), a miniature horse may qualify as a service animal.*

**Emotional Support Animal:**

“Emotional support animal” means an animal that provides therapeutic benefit(s) to their owner through emotional support, calming, stability and other kinds of assistance to help alleviate symptoms associated with a disability. Emotional support animals do not perform work or tasks that would qualify them as “service animals” under the Americans with Disabilities Act. Emotional support animals that are not service animals under the ADA may still be permitted, in certain circumstances, as outlined in this policy and in accordance with the Fair Housing Act.

**University Property:**

“University property” means property that is owned, operated, leased, occupied, or controlled by the University. For purposes of this policy, “property” includes buildings and structures, grounds, parking structures, enclosed bridges, walkways, sidewalks, and parking lots.

**University Residential Space:**

“University residential space” means any residential premises owned, operated, or controlled by the University.

### **323.4 ANIMALS ALLOWED ON UNIVERSITY PROPERTY**

The following animals are allowed on University property, subject to limitations provided in this policy:

- a. Service animals needed to perform a specific task for the benefit of a person with a disability;
- b. Any animal that is officially part of the University's teaching, research, extension, or clinical programs and used directly in support of the University's missions (only after approval by the Provost);
- c. Fish in containers of ten gallons or less, at the discretion of the Office of Housing and Residential Life;
- d. On-duty police dogs and horses;
- e. Approved emotional support animals, which are only permitted in University owned or controlled residential spaces following approval from Disability Support Services and are not permitted to enter other University buildings or structures; and
- f. Domestic animals in off-campus property per lease or housing agreement.

In addition, exemptions may be granted for events involving animals under the condition that the event first has the approval from the Director of the Center for Engagement and then obtains general liability insurance coverage.

As the University is part of the surrounding neighborhoods and community, privately owned domestic animals under proper restraint of their owner are allowed on University property, but may not enter buildings or structures.

The handler of any animal permitted on campus under any of these provisions must clean up all animal waste and may be asked to remove an animal from University property if it is disruptive (e.g. barking, wandering, displaying aggressive behavior), not housebroken, ill, unhygienic, or unsanitary.

### **323.5 ROLES AND RESPONSIBILITIES FOR UNIVERSITY AGENCIES**

**Chief of University Police:** The Chief of Police, or their designee, will be responsible for updating this policy as required, enforce this policy and other relevant Federal, State, and local laws to include Billings Municipal Code, Chapter 4 – Animals, Article 4-400, Section 4-401 through 4-410, and issue citations as required.

**Director for Disability Support Services (DSS) Roles and Responsibilities:** The Director for DSS will support students with disabilities (to include those with service animals) and regulate access of emotional support animals in housing.

**Provost:** The Provost will regulate use of animals for teaching/research.

**Director for the Center for Engagement:** The Director for the Center for Engagement will regulate use of animals requested for use during University Events.

Director of Human Resources: The Director of Human Resources will ensure faculty and staff members are aware of relevant policies, regulate approval of faculty or staff members wishing to train service animals, and if required, document any violations of this policy by faculty or staff that adversely affects execution of the University's mission.

### **323.6 POLICY AND PROCEDURES FOR SERVICE ANIMALS**

#### **323.6.1 Responsibilities of Service Animal Handlers:**

- a. The handler of a service animal must comply with all State laws, local licensure and vaccination requirements, and University regulations.
- b. The care and supervision of a service animal is the responsibility of the handler. A service animal must have a harness, leash, or other tether. If the use of a jacket, harness, leash or tether interferes with the service animal's safe, effective performance of the service animal's work or task, the animal must be otherwise under the handler's control via verbal, nonverbal, or other appropriate means.
- c. If a handler is residing in the University's residence halls, they are required to appropriately dispose of waste, maintaining a clean and healthy living environment, and are not allowed to bath the dog in the residence hall.

#### **323.6.2 Restricted Areas**

- a. The University may prohibit the use of service animals or animals in training in certain locations due to health or safety restrictions or where their use may compromise the integrity of research or cause health issues.
- b. Restricted locations may include, but are not limited to: sterile environments (sterile research laboratories), medical surgical areas, nuclear research areas (x-ray areas), and food preparation areas.
- c. Disability Support Services (DSS) will assist handlers in identifying restricted areas.

### **323.7 Interacting with Service Animals**

Service animals work and perform tasks to assist persons with disabilities and are not pets. Service animal handlers should, as much as possible, ensure the service animal does not approach or sniff other individuals, dining tables, or the personal belongings of others. Members of the University community must not:

- a. Touch or feed a service animal unless invited to do so;
- b. Deliberately distract or startle a service animal;
- c. Separate or attempt to separate a service animal from the person using the animal's service;
- d. Ask for demonstration of the animal's abilities.

Faculty, staff, and students with a disability who utilize a service animal are not required to register the animal with any University office, but may be asked what services the animal has been trained to perform. Students may voluntarily inform Disability Support Services that they

have a service animal to allow the staff to assist them with any access needs they have (e.g. notifying facilities of access paths for priority snow removal efforts).

Visitor's service animals accompanying individuals with disabilities are welcome in all areas of campus that are open to the public (except in situations determined to apply under the Section 323.6.2 above). Specific questions related to the use of service animals at the University by visitors should be directed to Disability Support Services.

Any damage to University property that occurs as a result of the service animal's behavior will be the financial responsibility of the animal's handler. If the service animal is aggressive or if there is damage done to college facilities by the service animal, the service animal will need to be removed from the premises.

### **323.8 Service Animals-in-Training**

The Americans with Disabilities Act (ADA) assures people with disabilities who are accompanied by service animals that they will not be excluded from public places or activities, nor charged any additional fees, because they are accompanied by their service dog. However, the ADA does not provide the same protection to service animals in training (that is, the ADA assures access for the handler/partner only if the dog is fully trained to give some disability-related service).

Montana Code Annotated (§49-4-214) states "a person who is training a service animal is entitled to the same rights and assumes the same responsibilities granted to a person with a disability in this section." Additionally, it states "a service animal in training that is a dog shall wear a leash, collar, cape, harness, or backpack that identifies in writing that the dog is a service animal in training" and that "the written identification for service animals in training must be visible and legible from a distance of at least 20 feet."

Because Montana State law does not clarify further its use of the term "in training" Montana State University Billings has established policy, based on accepted practices suggested by Assistance Dogs International (ADI). A service-dog-in-training is a dog, accompanied by its trainer, that is undergoing individual training to provide specific disability-related work or service for an individual with a disability. This does not include obedience training or socialization of puppies who may later become service animals (generally 15-18 months). Thus, adult dogs are recognized as being "in training" to provide disability-specific assistance only after they have completed an earlier period of socialization, obedience training, are house broken, and are acclimated to public places and every day activities.

Employees (faculty, staff, or student employees) who wish to train service animals must request prior approval by the appropriate Cabinet Level administrator/supervisor via the Director of Human Resources. If approved, the training must not conflict with hours of scheduled work at the University or job responsibilities.

### **323.9 General Requirements**

Before bringing an emotional support animal on campus, the student making the request must apply to the Disability Support Services for permission to do so. The student must provide a letter from a licensed professional who has been treating the student. The letter must indicate a therapeutic or medical need for the emotional support animal.

The student may be required to provide proof that the emotional support animal is vaccinated and housebroken.

Because of the confines of University residential spaces, the student may not request an animal that would pose a direct threat to the health or safety of others, or that would cause substantial physical damage to the property or others. Approval of a specific animal may be subject to a number of considerations including the age of the animal, the space needed to house the animal, the care/feeding requirements, and the risk of transmission of disease. Approval of allowed emotional support animals will be determined by Disability Support Services.

Emotional support animals must be confined to the student's immediate living space only and are not allowed in common areas throughout the residence hall. An emotional support animal must be under the handler's care or control in the form of a harness, leash, or other tether if being taken outside for reasonable exercise. Emotional support animals are not permitted in any University building or structure aside from University residential spaces.

The care and supervision of an emotional support animal is the responsibility of the handler. Emotional support animals may not be left in the care of other residents. If the student leaves campus overnight, the emotional support animal must be taken along.

Emotional support animals cannot be bathed in the residence hall nor can cages be cleaned in residence hall facilities. Additionally, emotional support animals must be fully potty-trained and have all appropriate vaccinations.

Any damage to University property that occurs as a result of the emotional support animal's behavior will be the financial responsibility of the animal's handler. If the emotional support animal is disruptive to the living environment for others (for example, barking or other loud noises, significant odor, aggressive or threatening towards other animals or human beings), or if there is damage done to University facilities, the emotional support animal will need to be removed from the premises within 48 hours of notice being given.

### **323.10 Violations of the Policy**

Violations of this policy will be addressed through corrective action under the Code of Student Conduct, Human Resources Policies and Procedures, or other applicable University regulations or policies. Visitors refusing to comply may be reported to the University Police. Possible corrective actions for individual students resulting from violations of the University student conduct process range from a warning to removal of animal from University property. Any

appeals related to the removal of animal should be submitted to the Office of Institutional Equity and Equal Opportunity within 7 business days of receiving the corrective action.

### **323.11 Exceptions to this Policy**

Exceptions to this policy may be granted on a case-by-case basis by the Vice Chancellor of Student Access and Success or their designee, as appropriate, in consultation with appropriate University officials.