

ASSISTANCE & SERVICE ANIMALS FOR TENANTS WHO ARE PERSONS WITH DISABILITIES

This article was developed by the Fair Housing Partners of Washington to educate tenants who are persons with disabilities about requesting reasonable accommodations for assistance animals, commonly known as service animals.

WHAT IS A REASONABLE ACCOMMODATION?

The Federal Fair Housing Act, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, the Washington State Law Against Discrimination, and local fair housing laws require that housing owners and managers provide reasonable accommodations for applicants and residents who have disabilities. Reasonable accommodations are changes in rules, policies, practices, or services that are necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling. Allowing residents who have disabilities to live with their service animals is a reasonable accommodation.

WHAT IS THE DEFINITION OF DISABILITY?

Under fair housing laws, a person is considered to be disabled if s/he has a sensory, mental or physical condition that substantially limits one or more major life activities (such as walking, seeing, hearing, working, etc.). The state law definition includes disabilities that are temporary or permanent, common or uncommon, mitigated or unmitigated. Some people have a disability-related need for service animals to assist them with the functional limitations caused by their disabilities.

WHAT IS THE DEFINITION OF AN ASSISTANCE ANIMAL?

Assistance animals: HUD compliance guidelines define assistive animals as “animals that serve as a reasonable accommodation for persons with disabilities by assisting those individuals in some identifiable way by making it possible for them to make more effective use of their housing.”

Under fair housing laws, the term “assistance animal” includes animals who may also be known as service animals, ‘support animals, assistance animals, therapy animals, and companion animals. While most assistance service animals are dogs, they may be other species, such as cats, birds or other domestic animals.

Assistance animals may be any breed, size or weight. Some, but not all, assistance animals wear special collars or harnesses. Assistance animals are not required to have special licenses, to be certified, or to have any visible identification.

Service animals: HUD regulations governing the Fair Housing Act do not provide a specific definition of the term “service animal.” But generally speaking, service animals are assistance animals that are “trained to perform certain services or tasks for persons

with disabilities. Examples include, but are not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing rescue assistance, pulling a wheelchair, or fetching items.”

Emotional support animals: An emotional support animal, often referred to as a companion animal, is defined as an assistance animal, “the presence of which ameliorates the effects of a mental or emotional disability.” According to HUD, “emotional support animals provide very private functions for persons with mental and emotional disabilities. Specifically, emotional support animals by their very nature, and without training, may relieve depression and anxiety, and help reduce stress-induced pain in persons with certain medical conditions affected by stress.”

HOW DO I REQUEST TO LIVE WITH AN ASSISTANCE ANIMAL?

If you need to live with an assistance animal because of your disability, make a request to your landlord or manager for a **reasonable accommodation**. It is best to submit such requests in writing, but verbal requests are acceptable. Sample letters can be found at the end of this article.

What about no-pets policies?

Under the federal Fair Housing Act, a person with a disability who needs an animal that provides disability-related assistance may request that a housing provider waive a “no pets” policy as a reasonable accommodation.

Can a housing provider verify that an assistance animal is necessary?

Yes. Housing providers are entitled to verify:

- the existence of the disability if it is not readily apparent, and
- the need for the accommodation if it is not readily apparent.

For example, if you are seeking a reasonable accommodation for an emotional support animal, you may be required to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal provides support that alleviates at least one of your disability symptoms or effects of the existing disability.

If your landlord or manager asks for this verification, you should obtain a signed letter from your doctor or other medical professional, or other qualified third party who, in their professional capacity, has knowledge about your disability and your need for a reasonable accommodation. ***You do not have to provide details about your disability or about the specific tasks the service animal performs.***

NOTE: A verification letter stating that the service animal would be “nice” or “helpful” is insufficient.

Can a housing provider require that a service assistance animal be trained?

It depends on the assistance's animal's purpose. According to HUD, "the Department's position has been that animals necessary as a reasonable accommodation do not necessarily need to have specialized training. Some animals perform tasks that require training, and others provide assistance that does not require training."

Does an emotional support or companion animal need to be trained?

No. According to HUD, "emotional support animals do not need training to ameliorate the effects of a person's mental and emotional disabilities. For example, there are animals that have an innate ability to detect that a person with a seizure disorder is about to have a seizure and can let the individual know ahead of time so that the person can prepare. This ability is not the result of training, and a person with a seizure disorder might need such an animal as a reasonable accommodation to her disability."

Can a housing provider require licensing?

Yes. A housing provider can require that your assistance animal be licensed, if required in your municipality.

Can a housing provider charge pet rent or fees, or require additional deposits, for assistance animals?

No. Owners of assistance animals should not be charged pet deposits or fees, and cannot require a tenant with an assistance animal to obtain extra insurance. General cleaning or damage deposits can be charged, if all residents are similarly charged. Please remember that a housing provider can hold a resident with an assistance animal liable for any damage the animal causes.

Can a housing provider limit the number of assistance animals?

In some cases, a tenant with a disability may need assistance animals for different purposes. In some cases, more than one household member may be a person with a disability who needs an assistance animal. However, a resident with a disability must demonstrate a connection between the disability and the function each assistance animal provides. If a resident with a disability demonstrates that she needs one assistance animal to limit the effects of a mental or emotional disability and another to pull her wheelchair, approving two assistance animals would constitute a reasonable accommodation.

It is not necessary for a tenant with a disability to utilize more than one animal for the same function unless a new assistance animal is being trained to replace an older, retiring animal.

What if my housing provider only allows pets under 30 pounds?

Assistance animals, including service animals and companion animals, are NOT pets. Because assistance animals may be any breed, size, or weight, housing providers should reasonably accommodate a tenant with a disability-related need for an assistance animal by waiving any size or weight limitations that might otherwise apply to pets.

When can a housing provider deny an assistance animal?

Housing providers are not required to provide a reasonable accommodation that is unnecessary or that would pose a direct threat to the health or safety of others. Thus, if the particular animal requested by the individual with a disability has a history of dangerous behavior, the housing provider does not have to accept the animal into the housing.

ANIMAL CARE AND SUPERVISION

You are responsible for the care of your service animal. You must supervise your animal and retain full control of it at all times. This means that while the animal is in common areas, it is on a leash, in a carrier, or otherwise in your direct control. When in the presence of others, the animal is expected to be well behaved (not jumping on or nipping at people, not snarling or barking, etc.).

You are responsible for the proper disposal of animal waste –

- Carry equipment to clean up your service animal's feces whenever the animal is in the common areas.
- Properly dispose of waste and/or litter.
- If you need assistance with cleanup, arrange for such help through family, friends or advocates.

REMOVAL OF A SERVICE ANIMAL

If a service animal is unruly or disruptive (aggressively jumping, nipping, etc.), the manager may ask the resident remove the animal from a common area. If the animal's inappropriate behavior happens repeatedly, the manager may request that the resident not bring the animal into common areas until steps have been taken to mitigate the behavior (such as refresher training), or ask that the animal be removed from the residential premises.

WHAT ABOUT OTHERS WHO ARE AFRAID OF OR ALLERGIC TO ANIMALS?

A fear of or minor allergy to dogs or other animals is not a disability, so management does not need to "accommodate" others in those situations. In rare cases, a person's allergy may be so severe that animal contact may cause respiratory distress. In those

situations, the allergic person may also request an accommodation, such as keeping the animal and the allergic person separate, as much as is possible.

LOCAL ORDINANCES THAT BAN SPECIFIC BREEDS

A few cities have adopted ordinances that completely ban the ownership of particular breeds including pit bulls, wolf-hybrids, and others. Because prohibiting specific breeds could be considered too limiting for people with disabilities, local governments should be able to show that the breed has some unique traits and characteristics that pose a greater threat of serious injury or death to humans than other breeds. Breed-specific ordinances must also clearly define the particular breed being regulated so that owners or potential owners are given sufficient notice of requirements and violations. Housing providers should consider working with a tenant to seek a reasonable accommodation exception from a prohibited breed ordinance.

Canine Good Citizen Certificate Exemption – Some cities, such as Pasco and Oak Harbor, provide exemptions for potentially dangerous and breed-specific dogs that receive a certificate from passing the American Kennel Club's Canine Good Citizen Program.

Service Dog Exemption – The Washington State Human Rights Commission recommends that language be included in breed-specific dangerous dog ordinances that provides exceptions, exemptions, or waivers for trained guide dogs or service dogs used by people with disabilities (see RCW 49.60.215). A trained guide dog or service animal must be safe and under the control of the user. Prohibiting specific breeds could be considered too limiting for people with disabilities. See WSHRC's Service Animal Questions page, www.hum.wa.gov/employer/faq_servanim.htm.

INSURANCE ISSUES

Some insurance carriers refuse to cover a rental property, substantially increase the cost of coverage, or adversely change the terms of their policies if a person with a disability resides in the rental dwelling with an assistance animal that is a breed of dog that the carrier considers dangerous.

HUD and the U.S. Department of Justice have issued a joint statement on "Reasonable Accommodations Under the Fair Housing Act". This statement notes that an accommodation is unreasonable if it imposes an undue financial and administrative burden on a housing provider's operations. If an insurance carrier would cancel, increase policy costs, or adversely change policy terms because of the presence of a certain breed of dog or a certain animal, HUD states that this imposes an undue financial and administrative burden on the housing provider.

A housing provider should substantiate any claim regarding the potential loss of or adverse change to the insurance coverage by verifying such a claim with the insurance company directly and considering whether comparable insurance, without the restriction, is available in the market. If there is evidence that an insurance provider has

a policy of refusing to insure any housing that has animals, without exception for assistance animals, the insurance provider may be violating federal civil rights laws prohibiting discrimination based upon disability.

To learn more about reasonable accommodation principles, including guidance about the denial of a reasonable accommodation because of a “direct threat” or insurance restrictions, see

- *“Insurance Policy Restrictions as a Defense for Refusals to Make a Reasonable Accommodation”*, www.fairhousing.com/include/media/pdf/insuranceguidance.pdf
- *“Joint Statement of the Department of Housing and Urban Development and the Department of Justice: Reasonable Accommodations Under the Fair Housing Act,”* www.hud.gov/offices/ftheo/library/huddojstatement.pdf

RESOURCES & QUESTIONS

If you have any questions regarding your rights and responsibilities under the fair housing laws, contact a fair housing agency. The agencies include:

- U.S. Department of Housing and Urban Development
- Washington State Human Rights Commission
- King County Office of Civil Rights
- Seattle Office for Civil Rights
- Tacoma Human Rights and Human Services Department
- Fair Housing Center of Washington
- Northwest Fair Housing Alliance

Additional resources:

Americans with Disabilities Act (ADA) Information Line

U.S. Department of Justice
800-514-0301, TTY 800-514-0383
www.ada.gov

Delta Society National Service Dog Center

Provides education, referral, research assistance, and other information regarding service dogs

Delta Society
875 124th Ave NE, Ste 101
Bellevue, WA 98005-2531
425-679-5500, deltasociety.org

SAMPLE LETTER

REQUEST FOR REASONABLE ACCOMMODATION

Applicants or residents may use a letter with this type of language when requesting to live with a service animal as a reasonable accommodation. Use of this form is not required, but it is recommended that you document accommodation requests in writing.

Date: _____

To: {Name and address of landlord or manager}

I have a disability as defined by the fair housing laws. I use a service animal to assist me with the functional limitations related to my disability. My service animal enhances my ability to live independently, and to use and enjoy my dwelling fully.

Type of service animal (dog, cat, etc.): _____

As an accommodation for my disability, I request that you:

- waive your "no-pet" policy
- waive your pet weight / height restrictions
- waive your pet deposit or fees
- other: _____

I have attached a letter from my doctor or other medical professional, or other qualified third party who, in their professional capacity, has knowledge about my disability and my need for a reasonable accommodation. The letter verifies that I have a disability as defined in the fair housing laws, and that I have a disability-related need for a service animal.

Please advise me of your response to my request for an accommodation by {date}.

(sign letter)

Print your name, address and telephone number

Guidance for Health Care and Qualified Professionals: Verifying Reasonable Accommodation and Modification Requests

Dear Health Care Provider or Qualified Individual:

Fair housing laws allow an individual who has a physical, mental or sensory disability to request that a housing provider grant him/her a reasonable accommodation or modification (a change in rules, policies, or practices; or a facility modification). Once a person has made a request, a housing provider may request verification from a qualified expert (a doctor, medical professional, or other qualified third party who, in their professional capacity, has knowledge about the person's disability). The verification should state that the person is disabled, that the request is necessary, and related to the disability.

For the purposes of requesting a reasonable accommodation/modification in housing in Washington state, disability is defined as **“the presence of a sensory, mental, or physical impairment that: (i) is medically cognizable or diagnosable or (ii) exists as a record or history or (iii) is perceived to exist whether or not it exists in fact.”** Additionally, “a disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated ... or whether or not it limits any other activity....”

The verification should include the following items:

- I. **Qualification of person** writing the verification letter.
- II. **Nature of contact** the professional has had with the person making the request.
- III. **Statement** that the client has an impairment that meets the state definition of disability.

Important Note: Revealing a diagnosis puts your client at risk of additional discrimination. Before naming a specific diagnosis, you need your client's informed consent. If a client wants the diagnosis kept confidential, it is advisable to use a general description such as “mental condition” without naming the specific diagnosis.

IV. **Effects of Impairment.** Please describe how the impairment affects one or more major life activities. “Impairments” include physiological, mental, psychological or physical diseases, disorders or conditions. Examples of major life activities are self-care, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and communication.

V. **Describe how the accommodation/modification requested is necessary** to afford the person the opportunity to access housing, maintain housing, or for full use and enjoyment of the housing. Be sure to use words like: “necessary,” “essential,” “prescribed”; when describing why the condition creates a need for the accommodation or modification, because housing providers must make only those accommodations or modifications that are necessary. The role of the verifier is to establish that the need derives from the disability.

Sample Verification for Reasonable Accommodation / Modification

Re: John Smith's request for a reserved accessible parking space adjacent to his apartment.

Please accept this correspondence as verification that:

- I. I am a _____ licensed medical doctor _____.
- II. I have treated John Smith since May of 2005 for a physical condition. I have evaluated and/or treated him/her five times in the last twelve months.
- III. John Smith is a person with a disability as defined by the Washington Law Against Discrimination (RCW 49.60).
- IV. His disability affects his ability to walk.
- V. Designating a reserved accessible parking space adjacent to his apartment is necessary to afford Mr. Smith the opportunity to access and fully use and enjoy his home.

Please approve John Smith's request for _____ a reserved accessible parking space adjacent to his apartment.

Signature: _____ *Dr. Leon Jones* _____

Printed Name: _____ Dr. Leon Jones _____

Professional Title: _____ Medical Doctor _____

Name of Clinic, Hospital, etc.: _____ Seattle Hospital _____

Address: _____ 500 First Avenue, Seattle, WA 98101 _____

Phone Number: _____ 206-555-1212 _____

Fax Number: _____ 206-555-1234 _____

Date: _____ May 1, 2010 _____