



Commonly Asked Questions About Service Animals in Housing by Jo Becker

The federal Fair Housing Act (the “Act”) prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status and disability. One effect of prohibited disability discrimination is the issue of reasonable modifications (changes to the structure, as a ramp) or reasonable accommodations (changes in rules or policies) when such may be necessary to afford a person with a disability the equal opportunity to full use and enjoyment of a dwelling.

We at the Fair Housing Council (FHCO) get a lot of questions, receive many complaints and hear a great deal of confusion around the issue of reasonable accommodations to persons with disabilities, especially with regard to service animals. You should know that there is no formal training or certification requirement for an assistance animal. For Fair Housing purposes, the terms “assistance animal”, “therapy animal”, “service animal” and “companion animal” are interchangeable and none of which should ever be considered a “pet.”

The following is offered as a primer on what you should know about your rights and responsibilities with regard to this part of the law. If you have further questions or a specific situation, please call the Fair Housing Hotline at 800-424-3247.

What is a Service Animal?

The Americans with Disabilities Act (ADA) defines a service animal as any guide dog, signal dog or other individual animal individually trained to provide assistance to an individual with a disability. If they meet this definition, animals are considered service animals under the ADA regardless of whether they have been licensed or certified by a state or local government.

Service animals perform some of the functions and tasks that the individual with a disability cannot perform for him or herself. “Seeing eye dogs” are one type of service animal, used by some who are blind. Many of us are familiar with this type of service animal, but there are other examples as well:

- Alerting persons with hearing impairments to sounds.
- Pulling wheelchairs or carrying and picking up things for persons with mobility impairments.
- Assisting persons with mobility impairments with balance.
- Alerting persons of an oncoming seizure.
- Providing emotional support for those with clinical depression.

There are many, many more examples. In fact, one of our favorite stories to tell while giving Fair Housing classes is of an assistance iguana that woke his owner when his breathing pattern changed at night. This gentleman had sleep-apnea but was unable to use the machinery often prescribed for his condition. As unconventional as it sounds, this arrangement worked for him and his request for an accommodation to his landlord's "no pet" policy was reasonable.

What It Is

Under our understanding of federal, state and local Fair Housing laws, any animal – regardless of what it is called (assistance, companion or therapy) falls under the definition of a service animal.

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Housing consumers who need an accommodation must demonstrate that the requested accommodation is necessary, related to his/her disability and needed to assist in fully utilizing and enjoying their home. This may come in the form of a letter of verification from a doctor, a therapist, a counselor, a social worker, etc.

Strong privacy rights surround disability under Fair Housing law; this is the extent of the information a housing provider is allowed to ask. You should never ask more detailed, probing questions about one's condition or treatment, such as, "Are you on your meds", "what's wrong with," "you don't look sick to me", "how can a cat possibly help your depression," etc.

What It Isn't

A service animal is not a pet and should never be treated as one. Following are some Q & A's and scenarios on the matter:

Q: What if a housing provider has a "no pets" policy? Scenario: A deaf renter requests that the provider allow him to keep a dog in his unit as a reasonable accommodation despite a "no pets" policy. The dog is an assistance animal that will alert him to several sounds, including knocks at the door, sounding of the smoke detector, the telephone ringing, and cars coming into the driveway.

A: The housing provider must make an exception to the "no pets" policy to accommodate this renter.

Q: May a housing provider charge a fee or require a deposit for an assistance animal?

A: No. Even if pets are allowed on the property with a fee and/or deposit, assistance animals are not pets and must not be charged such deposits or fees. To be clear, housing providers may not require persons with disabilities to pay any fees or deposits as a condition of receiving a reasonable accommodation.

Scenario: Because of his disability, an applicant with a hearing impairment needs an assistance animal as a reasonable accommodation. The housing provider may not require the applicant to pay a fee or a security deposit as a condition of allowing the applicant to keep the assistance animal, regardless of any pet policy. However, if a tenant's assistance animal causes damage to the applicant's unit or the common areas of the dwelling,, the housing provider may charge the renter for the cost of repairing the damage (or deduct it from the standard security deposit imposed on all tenants).

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