

SERVICE ANIMAL POLICY

BACKGROUND

The Federal Fair Housing Act requires that applicants and tenants with disabilities be provided with "reasonable accommodations" as needed, in order for them to have an opportunity for full use and enjoyment of their housing. Allowing tenants and their guests who have disabilities to be accompanied by their service animals is a reasonable accommodation to housing policy and practice.

WHO NEEDS SERVICE ANIMALS?

Some disabled people require the assistance of an animal because of their disabling conditions. Under most federal 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, working, etc.).

WHAT IS A SERVICE ANIMAL?

The most common service animals are dogs, but sometimes other species are used (for example, a cat or a bird). Service animals may be any breed, size or weight. Some, but not all, service animals wear special collars and harnesses. Some, but not all, are licensed or "certified" and/or have identification papers. However, **there is no legal requirement for service animals to be visibly identified or to have documentation.** In addition, there are many types of service animals with different names which are not certified and don't have special training. For example, companion animals, which don't perform specific tasks, are considered service animals. The next two sections explain in detail the different types of service animals.

WHAT'S THE DIFFERENCE BETWEEN A SERVICE ANIMAL AND A PET?

Service animals are not considered to be pets. A person with a disability uses a service animal as an auxiliary aid -- similar to the use of a cane, crutches or wheelchair. Service animals are a medical device necessary for the full enjoyment of a home. For this reason, fair housing laws require that housing providers make modifications to "No Pet" policies to permit the use of a service animal by an individual with a disability. Service animals sometimes are called assistance animals, or emotional support animals and, as stated previously, companion animals.

WHAT DO SERVICE ANIMALS DO?

- A guide animal serves as a travel tool by a person who is legally blind.
- A hearing animal alerts a person with significant hearing loss or who is deaf when a sound occurs, such as a ringing alarm or a knock on the door.
- A service animal helps a person who has a mobility or health disability. Duties may include carrying, fetching, opening doors, ringing doorbells, activating elevator buttons, steadying a person while walking, helping a person up after a fall, etc.
- A seizure response animal assists a person with a seizure disorder. The animal's service depends on the person's needs. The animal may go for help, or may

- stand guard over the person during a seizure. Some animals have learned to predict a seizure and warn the person.
- A companion animal or emotional support animal assists people with psychological disabilities. Emotional support animals can help alleviate symptoms such as depression, anxiety, stress and difficulties regarding social interactions, allowing tenants to live independently and fully use and enjoy their living environment.

PRACTICAL GUIDELINES FOR HOUSING PROVIDERS AND PROPERTY MANAGERS TO FOLLOW

SERVICE ANIMAL ACCOMMODATION:

Property management must review all requests a disabled tenant makes for reasonable accommodations, including requests for a service animal accommodation. A property manager might require the tenant to provide written verification from the tenant's healthcare or mental health provider (when the disability is not obvious) that the tenant has a disability and needs the service animal (***the provider need not be an M.D. – in fact, in the U.S. Dept. of Justice and Dept. of Housing & Urban Development have said that a medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may also provide verification of a disability.***) When property management requires proof that the tenant is disabled and that the accommodation assists the person with that disability, they still cannot require the tenant to provide information about the nature or severity of the disability.

PET RULES AND "NO PETS" RULES:

If you allow tenants to have common household pets and you place limitations on the size, weight, and type of pets allowed, these rules do not apply to service animals. Service animals may be any type of animal and any breed, size or weight, and an accommodation may involve more than one service animal. If your insurance provider says you have to restrict breeds, you should contact HUD, a fair housing center, or an attorney about this possible infraction of the law.

If a housing complex has a "no pets" rule, such rules do not apply to service animals. If property management has documentation that the tenant has a disability and needs the service animal as a result, then **the tenant can live with the animal despite the no pets rule.**

DEPOSITS AND FEES:

A SERVICE ANIMAL IS NOT A PET. Regardless of whether your property allows pets, the disabled tenant who uses a service animal is not required to make a pet deposit or pay a pet-related move-in cleaning fee. You may charge a general cleaning or damage deposit charged to all tenants. The tenant is liable for any damage the animal actually causes.

AWARENESS TRAINING:

Good property management will ensure that staff and other tenants are properly trained in the facility's service animal policies, including the following rules -

- Allow a service animal to accompany the tenant at all times and everywhere on the property except where animals are specifically prohibited (*such as in the pool*).
- Do not pet or touch a service animal. Petting a service animal when it is working distracts the animal from the task at hand.
- Do not feed a service animal. The animal may have specific dietary requirements. Unusual food or food at an unexpected time may cause the animal to become ill.
- Do not deliberately startle a service animal. Avoid making noises at the animal (*barking, whistling, etc.*).
- Do not separate or attempt to separate a tenant/handler from her or his service animal.
- Avoid initiating conversation about the service animal, the tenant's disabilities or other service animals one has known. If you are curious, you may ask if the tenant/handler would like to discuss it, but be aware that many people with disabilities may not care to share personal details.
- Remember, not all disabilities are visible. The nature of the person's disability is a private matter, and **you are not entitled to inquire for details**.
- If other tenants complain about the fact that they are not allowed to have a pet and want to know why you have made an exception, simply state that your company complies with the fair housing laws. You can also refer your tenants to the fair housing laws or your local fair housing agency for further details.
- Service animals do not need to wear any special identifying gear such as tags, harnesses or capes. Service animal owners/handlers are not required to carry any paperwork documenting the animal as a service animal.
- A tenant may train his or her own service animal and is not required to provide any information about training or the specific tasks the animal performs.

ANIMAL CARE AND SUPERVISION:

The tenant/handler has the responsibility to care for and supervise the animal. The tenant must retain full control of the animal at all times. This generally means that while the animal is in common areas, it is on a leash, in a carrier, or otherwise in the direct control of the animal owner/handler. When in the presence of others, the animal is expected to be well behaved.

REMOVAL OF A SERVICE ANIMAL:

If a service animal misbehaves, the property manager may ask the tenant/handler to remove the animal from the immediate area. If the animal's improper behavior happens repeatedly, the manager may tell the tenant not to bring the animal into certain common areas, until significant steps have been taken to stop the behavior. This might include some type of specialized training for both the animal and the tenant.

AREAS OFF-LIMITS TO SERVICE ANIMALS:

Management may designate certain areas off limits to service animals, such as swimming in the pool or inside the sauna room. Such designations should not infringe upon the right of a person with disabilities to full enjoyment of the amenities of the community

PRACTICAL GUIDELINES FOR TENANTS WHO WANT OR NEED SERVICE ANIMALS

REQUEST FOR A SERVICE ANIMAL ACCOMMODATION:

The tenant who needs a service/companion animal can submit a request to the housing provider for an accommodation for the tenant's disability. Even though people with disabilities are not required to use company forms, having forms that allow someone to "fill in the blank" might make the process easier for both staff and tenants/applicants. If there are no forms, a tenant can write a letter or verbally ask for the accommodation. Written requests should be dated, copied and copies should be retained by the tenant for proof that the request was made.

VERIFICATION OF DISABILITY AND NEED FOR A SERVICE ANIMAL:

The tenant must be prepared to provide written verification that s/he has a disability and that the accommodation is necessary to give the tenant equal opportunity to use and enjoy the housing and/or housing community. If the tenant/applicant's situation requires that they get a third person to verify the disability or the need for the accommodation, (this happens when a person's disability is not obvious), the tenant/applicant should obtain a signed letter on professional letterhead from his/her healthcare or mental health provider to the housing provider answering the following questions:

- Is the person disabled as defined by the fair housing laws?
- In the health care provider's professional opinion, does the person need the requested accommodation (use of a service animal) to have the same opportunity as a non-disabled person to use and enjoy the housing community?

While the property management may not require the requester of an accommodation to disclose the nature or severity of his/her disability, the requester might be required to show the relationship between the disability and the need for the requested accommodation. For example, a tenant applicant may need a seizure response animal. The seizures may come and go unexpectedly and be due to genetics, an injury or some other situation. The only thing they need to disclose is that they have had seizures and may have seizures in the future and that the seizures come and go unexpectedly. Either the tenant/applicant can explain this or have it explained by a health care provider. The tenant/applicant does not have to say how often they have seizures, how severe the seizures are or what causes the seizures.

ANIMAL CARE AND SUPERVISION:

The tenant/handler is responsible for the care of his/her service animal. The animal must be supervised and the tenant/handler must retain full control of the animal at all times. This generally means that while the animal is in common areas, it is on a leash, in a carrier, or otherwise in the direct control of the animal owner/handler. When in the presence of others, the animal is expected to be well behaved.

The tenant is responsible for the proper disposal of animal waste --

- Never allow the service animal to defecate on any property, public or private (except the tenant's own property), unless the tenant immediately removes the waste.
- Always carry equipment sufficient to clean up the animal's feces whenever the service animal is in the common areas or off the tenant's property.
- Properly dispose of waste and/or litter.
- If you need assistance with cleanup, make arrangements for such help through family, friends or advocates.

RESOURCES

www.mvfairhousing.com **Miami Valley Fair Housing Center**

<http://www.metrokc.gov/dias/ocre/animals.htm> **King County Fair Housing**

http://www.usdoj.gov/crt/housing/final8_1.htm **JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE DEPARTMENT OF JUSTICE *REASONABLE ACCOMMODATIONS UNDER THE FAIR HOUSING ACT***