

SERVICE ANIMAL POLICY FOR HOUSING PROVIDERS

BACKGROUND

Fair Housing Laws require 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 or be certified.

The ADA defines a service animal as "any animal that is individually trained to do work or perform tasks for the benefit of a person with a disability." Fair Housing Laws consider "companion" animals to be a type of service animal; however, they are not always trained to perform tasks but instead provide support, companionship or a calming influence.

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. For this reason, Fair Housing Laws require that housing providers make accommodations to "No Pet" policies to permit the use of a service animal by an individual with a disability. Also, pet fees, pet deposits or increased rent cannot be charged for service animals (see guidelines below).

WHAT DO SERVICE ANIMALS DO?

Service animals perform many types of services for those with disabilities. Here are some examples:

- 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. Service animals sometimes are called assistance animals.

- 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.

Because service animals provide different types of assistance, a person with a disability may require more than one service animal.

WHAT ABOUT OTHER TENANTS WHO ARE AFRAID OF OR ALLERGIC TO ANIMALS?

While some people might have fear of dogs or other animals, this fear does not amount to a disability, so a housing provider need not "accommodate" the fear. For most people with allergies, the presence of an animal will cause only minor discomfort, such as sneezing or sniffing. Because this reaction does not constitute a disability, no accommodation is necessary for the allergic person. Rarely, a tenant's allergy is so severe that animal contact may cause respiratory distress; in these cases, the allergic tenant may also request an accommodation (for example, to keep the animal and the allergic tenant in separate areas of the building, as much as is possible).

GUIDELINES FOR STAFF

SERVICE ANIMAL ACCOMMODATION:

Property management must review all requests a disabled tenant makes for reasonable accommodations, including requests for a service animal accommodation. You can require the tenant provide written verification from the tenant's healthcare or mental health provider that the tenant has a disability and needs the service animal (the provider need not be an M.D.). You can require proof that the tenant is disabled, but cannot require the tenant provide information about the specific disability. The property manager should provide a written response to the tenant (see sample letter).

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 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 as long as other tenants are charged for damage that they cause.

AWARENESS TRAINING:

Property management will ensure that staff is properly trained in the facility's service animal policies, including the following suggested rules:

- Allow a service animal to accompany the tenant at all times and everywhere on the property except where animals are specifically prohibited under law.
- 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 do 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 the Fair Housing of the Dakotas 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.

These rules are especially relevant for the working service animal who accompanies its handler out in the public.

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 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 (not jumping on or nipping at people, not snarling or barking, etc.).

REMOVAL OF A SERVICE ANIMAL:

If a service animal is unruly or disruptive (aggressively jumping on people, nipping, or other harmful behavior), 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 any common area, until significant steps have been taken to mitigate the behavior. Mitigation can include refresher training for both the animal and the tenant or obedience training for the animal.

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.

RESOURCES/QUESTIONS

If you have any questions regarding your rights and responsibilities under fair housing laws, contact the Fair Housing of the Dakotas or one of these resources for information on service animals:

Service Dogs for America/Great Plains Assistance Dogs Foundation

920 Short Street, PO Box 513
Jud, ND 58454
877-737-8364 (toll free), 701-685-2290
www.greatplainsdogs.com/

Americans with Disabilities Act (ADA) Information Line

U.S. Department of Justice
800-514-0301, TTY 800-514-0383
www.usdoj.gov/crt/ada/animal.htm

Delta Society National Service Dog Center

Provides advocacy education, referral, research assistance, and a variety of other information services regarding service dogs.

Delta Society
289 Perimeter Road East
Renton, WA 98055-1329
Voice: 800-869-6898, TTY: 800-809-2714
deltasociety.org

This information does not constitute legal advice. The fair housing laws are subject to change. If you have questions about this topic or other fair housing issues, feel free to contact the:

Fair Housing of the Dakotas
909 Basin Avenue, Suite 2
Bismarck, ND 58504
Phone: 701-221-2530 or 1-888-265-0907
Web: www.ndfhc.org Email: ndfhc2@btinet.net

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