

## Fair Housing Laws and the Provisions Addressing Reasonable Accommodations for Assistance Animals

If a person has a disability, the Federal Fair Housing Act as Amended in 1988 (FHAA) allows him/her to request a reasonable accommodation, including the waiver of a no pet policy for someone with a disability needing an assistance animal. An associated reasonable accommodation may include a request for waiver of a size, breed or weight limit at properties allowing animals but limiting the size, breed or weight.

Assistance animals are often referred to as service animals, companion animals/pets, or therapy animals. If the need for the animal is linked to an individual's disability, the animal is considered an assistance animal, regardless of the terminology used.

As a result of recent changes in the Americans with Disabilities Act (ADA), many people believe that assistance animals can be limited in type to dogs, and in some instances, miniature horses. The changes to the ADA did not impact the definition of assistance animals in regards to the FHAA. In relation to housing, assistance animals can be birds, reptiles, cats, dogs, bunnies, etc.

A disability is a physical or mental impairment which substantially limits one or more major life activities. Major life activities are those activities that are of central importance to daily life, such as seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, and speaking.

Fair housing laws do not allow a housing provider to subject a person with a disability to different treatment than a similarly situated person without a disability. Applying additional terms such as insurance coverage, higher or additional deposit monies, increased rent or other fees for an assistance animal would subject a person with a disability to different treatment because of his/her disability.

A housing provider can enforce the same conditions of tenancy for a person with a disability as are applied to persons without disabilities. For example, the lease may contain a clause that the tenant is liable for damage caused by his/her negligence. The housing provider would enforce this clause against a tenant who is using a barbecue that causes a fire damaging another tenant's property. A housing provider enforces the same provision against a tenant with a disability who fails to keep his/her animal leashed in public areas and the animal damages a piece of furniture.

Requiring proof of vaccination, licensing, and spaying/neutering of an assistance animal would likely be permitted. If a lease includes a section requiring tenants to abide by state and local laws, and there is a local ordinance requiring vaccination, licensing, and/or spaying/neutering of all animals, the housing provider can require proof that the animal is in compliance with those laws.

An animal does not have to receive specialized training in order to be considered an assistance animal. A housing provider can ask for verification that the person has a disability, has a need for the animal, and that the need for the animal relates to the disability. The verification can include a section requesting the health care provider describe how the disability will be offset by the requested accommodation, if approved. A housing provider is also able to request information about the duration of a disability. In most cases the disability will be permanent, but some temporary conditions may also require accommodations. In regards to temporary conditions, assistance animals may not be the most appropriate accommodation. The verification does not have to include a statement

identifying diagnosis or treatment, and the consumer does not have to provide medical records. The FHAA defines medical professional broadly, allowing for verification from social workers, paraprofessionals, chiropractors, nurse practitioners, etc.

A housing provider can offer alternative accommodations that will potentially meet the needs of the person with the disability, and requests for accommodations and/or modifications are limited to tenants or applicants. A guest at the property who needs a reasonable accommodation or modification may also make a request. A housing provider cannot ask about a disability or disability related needs. It is the responsibility of the consumer to request needed accommodations or modifications, and there is no limit to the number of accommodations and/or modifications that can be requested.

### *Information Provided by Montana Fair Housing*

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