

SAMPLE POLICY: SERVICE ANIMALS



**Fair Housing
Partners of
Washington State**

Fourth Edition (October 2012)

Service Animals – Sample Policy

The Fair Housing Partners of Washington have developed this sample policy to assist you and your staff in dealing with issues involving service animals. This policy includes legal background as well as guidelines for use with applicants and residents who have service animals. We hope you will find this information helpful in your efforts to provide fair housing for all.

The Fair Housing Partners have also developed other free resources, available in print and CD format:

Fair Housing in Washington State – Top 100 Most Frequently Asked Questions for Housing Providers and Managers

Sample Policies:

- *Reasonable Accommodations & Modifications for People with Disabilities*
- *Harassment & Retaliation*
- *Domestic Violence*

“Fair Housing Update” – free online quarterly newsletter

Fair housing posters (specific to each fair housing agency)

Contact your local fair housing agency for technical assistance. To share your comments about this sample policy, contact the King County Office of Civil Rights.

FAIR HOUSING PARTNERS OF WASHINGTON STATE

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

This information does not constitute legal advice. The fair housing laws regarding service animals vary depending upon jurisdiction. Please consult with one of the fair housing agencies if you have questions about this topic.

AVAILABLE IN ALTERNATE FORMATS UPON REQUEST
Contact King County OCR, 206-263-2446, TTY Relay: 711
Civil-Rights.OCR@kingcounty.gov

SERVICE ANIMAL POLICY

REASONABLE ACCOMMODATIONS

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.

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.

Service animals are not pets.

WHAT IS A SERVICE ANIMAL?

Service animals assist people with disabilities to deal with the effects of their disabilities. The most common service animals are dogs, but they may be other species (cats, monkeys, birds, etc.). Service animals may be any breed, size or weight. Some, but not all, service animals wear special collars or harnesses. Service animals are not required to have special licenses, to be certified, or to have any visible identification.

NOTE: In some situations, a person with a disability may require more than one service animal, where each animal provides a different type of assistance. For example, an individual may need both a hearing dog and a seizure alert animal.

HOW DO FEDERAL, STATE AND LOCAL FAIR HOUSING LAWS DEFINE SERVICE ANIMALS?

- Fair Housing Act (FHA) and Section 504 of the Rehabilitation Act (504) – These laws do not specifically define “assistance animals”; however, they require the provision of “reasonable accommodations” for people with disabilities, which include assistance animals. For the purposes of compliance with the FHA and 504, HUD has defined assistance animals as:

“animals that serve as a reasonable accommodation for people with disabilities by assisting those individuals in some identifiable way by making it possible for them to make more effective use of their housing. Such animals are often referred to as ‘service animals, assistive animals, support animals, or therapeutic animals’ and may include any animal that actually performs tasks or a service for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with hearing impairments to sounds, pulling a wheelchair, fetching items or providing emotional support to people with mental disabilities.”

- Washington Law Against Discrimination– “Service animal” means an animal that is trained for the purpose of assisting or accommodating a sensory, mental or physical disability of a person with a disability. However, for housing purposes, HUD’s Fair Housing Act definition overrides state law.
- King County Fair Housing ordinance (which applies only in unincorporated King County) defines “service or assistive animal” as a dog guide, signal or hearing dog, seizure response dog, therapeutic companion animal or other animal that does work, performs tasks or provides medically necessary support for the benefit of an individual with a disability.

WHAT DO SERVICE ANIMALS DO?

Service animals perform various tasks and provide services for people with disabilities, who can train their own service animals. Here are some examples:

- **Guide** – serves as a travel aide for a person who is legally blind.
- **Hearing or signal** – alerts a person with hearing loss or deafness when a sound occurs, such as an alarm or a knock on the door.
- **Mobility assistance** – helps a person who has a mobility or health disability. They may carry, fetch, open doors, ring doorbells, activate elevator buttons, pull a wheelchair, steady a person while walking, help someone get up after a fall, etc.
- **Seizure response** – warns a person of an impending seizure, or provides aid during a seizure, such as going for help or standing guard over the person.
- **Therapeutic assistance** – (*often referred to as a companion animal*) aids people with cognitive or psychological disabilities, ameliorating the effects of a mental or emotional disability, and allowing them to live more independently. These animals may bring an emergency phone during a crisis, dial 911, turn on the lights in a dark room, bring medications, bark for help in an emergency, assist a person with panic disorder in coping with crowds, etc. According to HUD, “emotional support animals provide very private functions for people 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 people with certain medical conditions affected by stress.”

If you have questions about this topic, you may wish to consult with an attorney, or contact one of the fair housing agencies.

SERVICE ANIMAL POLICY – GUIDELINES FOR STAFF

REASONABLE ACCOMMODATION PROCESS

When an applicant or resident with a disability makes an accommodation request, housing management will consider the request promptly, and grant it when reasonable. When someone inquires about living with a service animal, follow our reasonable accommodations policy.

DETERMINE WHETHER YOU NEED VERIFICATION

- If the person's disability is obvious or otherwise known to you, and if the need for the service animal is also apparent, do not request any additional information about the disability or the need for the accommodation. For example, a blind person with a guide dog does not need to verify his disability or need for the dog.
- If the disability is known, but the accommodation need is not apparent, request only information necessary to evaluate the disability-related need for the accommodation. For example, if you know a resident has depression and s/he wants to have an assistance dog, request documentation of the disability-related need for the animal.
- If neither the disability nor the need is clear, ask for proof of both. For example, if someone with no obvious disability asks to live with a service animal, request that the person document both that s/he has a disability as defined under fair housing law and that there is a disability-related need for the animal.

WHO SHOULD PROVIDE VERIFICATION

When verification of disability status or disability-related need is appropriate, you can require that the individual provide written verification from a doctor or other medical professional, or other qualified third party who, in their professional capacity, has knowledge about the person's disability and the need for reasonable accommodation. Written verification should be provided by someone with sufficient knowledge and training to verify that the applicant or resident meets the fair housing definition as a person with a disability, and that there is a disability-related need for a service animal. **Remember, you cannot require someone to provide details about his or her disability.**

When someone requests to live with a service animal, management will provide a prompt written response (see sample letters).

RULES FOR SERVICE ANIMALS AND PETS

If residents are allowed to have household pets –

- you cannot charge a pet deposit or fee
- do not place limitations on the size, weight, and type of service animals
- both service animals and pets can be required to meet the same reasonable behavior rules
- you can require service dogs or cats to be licensed, if required in your municipality and if you require licensing of pets
- remember that a household may have a service animal and also pets

If the housing community has a “no pets” rule –

- you must allow service animals
- you cannot charge a pet deposit or fee
- do not place limitations on the size, weight, and type of service animals
- you can apply reasonable behavior rules to service animals
- you can require service dogs or cats to be licensed, if required in your municipality

You should charge the same general cleaning or damage deposit that is charged to all residents. A resident with a service animal is liable for any damage the animal actually causes.

ANIMAL CARE AND SUPERVISION

The resident has the responsibility to care for and supervise the service animal. The resident should retain full control of the animal at all times. This generally means that while the animal is in common areas, it should be on leash, in a carrier, or otherwise in the direct control of its owner. When around other people or animals, the service animal should be well behaved (no jumping, snarling, nipping, excessive barking). The resident is responsible for the safe removal of animal waste products.

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” 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.

SENSITIVITY AND AWARENESS

Management will ensure that staff is properly trained about service animal policies, including the following rules –

- Allow a service animal to accompany the resident at all times and everywhere in the community except where animals are prohibited for safety reasons (such as in a pool or sauna).
- Do not separate or attempt to separate a resident from the service animal.
- Do not pet or talk to a service animal when it is working – this distracts the animal from its tasks.
- Do not feed a service animal, which 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 or make noises at the animal (barking, whistling, etc.).
- Be aware that many people with disabilities do not care to share personal details.
- If other residents complain that they are not allowed pets and want to know why an exception was made, state that your community complies with the fair housing laws. You can also refer your residents to the community’s accommodation policy.

RESOURCES & QUESTIONS

- **Fair housing agencies** (see chart on last page)
- **Americans with Disabilities Act Information Line**, U.S. Dept of Justice
800-514-0301, TTY 800-514-0383
www.ada.gov and www.usdoj.gov/crt/ada/animal.htm
- **Delta Society National Service Dog Center**
425-679-5500, deltasociety.org

SERVICE ANIMAL POLICY – GUIDELINES FOR RESIDENTS

REQUEST FOR A SERVICE ANIMAL ACCOMMODATION

If you need to live with a service 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.

VERIFICATION OF YOUR DISABILITY AND NEED FOR A SERVICE ANIMAL

You may be asked to provide written verification that you have a disability and that the accommodation of a service animal is necessary to give you an equal opportunity to use and enjoy your housing community. 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. (Sample letters are attached)

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.

PROBLEMS

If you believe rental staff is not handling your request for a service animal properly, contact {insert your property management contact information here}.

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 (a change in rules, policies, or practices) or reasonable modification (a structural change to a dwelling). Once an applicant or resident has made a request, a housing provider may ask that the person obtain written verification of disability and/or verification of the need for the accommodation, if not obvious or known.

Verification of disability or need may come from a medical professional, peer support group, non-medical service agency, or a reliable third party who is in a professional position to have knowledge about the person's disability and/or need for accommodation. The verification should state that the person meets the fair housing definition of disability, and that the requested accommodation is necessary and is related to the disability.

For the purposes of requesting a reasonable accommodation or 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....” (RCW 49.60.040)

The verification should include the following items:

- I. **Qualification of person** writing the verification letter.
- II. **Nature of relationship** the professional has with the person making the request.
- III. **Statement that** the person has a disability that meets the state definition above.

Important Note: Revealing a diagnosis puts an individual at risk of additional discrimination. Before naming a specific diagnosis or category of disability, obtain the person's informed consent.

IV. **Describe how the accommodation or modification requested is necessary** to afford the person the equal opportunity to access housing, maintain housing, or for full use and enjoyment of the housing or housing related service. Because housing providers must make only those accommodations or modifications that are necessary, be sure to use words like: “necessary,” “essential,” “prescribed”; when describing that the condition creates a need for the accommodation or modification. 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 2005 for a disability-related condition.
- III. John Smith is a person with a disability as defined by the Washington Law Against Discrimination (RCW 49.60).
- IV. 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, Agency, etc.: Seattle Hospital

Address: 500 First Avenue, Seattle, WA 98101

Phone Number: 206-555-1212

Fax Number: 206-555-1234

Date: June 1, 2012

SAMPLE LETTER

MANAGEMENT RESPONSE TO ACCOMMODATION REQUEST

Management staff may use this type of letter when responding to a request from a resident who wants to live with a service animal.

Date: _____

Dear {resident name}:

We have received your request for a reasonable accommodation. We understand you want to live with a service animal in our housing community. We also received the letter from your {service provider} confirming that you have a disability as defined by fair housing laws and that you have a disability-related need for the animal.

We agree to your request for your service animal live in your apartment. We will waive our “no-pet” policy, waive our pet weight/height restrictions, waive our pet deposit/pet-related fees, and {insert other agreements}.

Our rules require residents who have animals to follow noise regulations, to dispose of animal waste properly, and to ensure that the animals do not cause property damage. As noted in your rental agreement, you will be responsible for any damage caused by your animal.

We welcome your animal to our community!

Name

Title

Address and telephone number

APPENDIX

LOCAL ORDINANCES THAT BAN SPECIFIC BREEDS

Under RCW 16.08, the state regulates "dangerous dogs" and imposes requirements and restrictions on the owners of such dogs. This law defines and makes a distinction between "dangerous dogs" (which are regulated under RCW 16.08) and "potentially dangerous dogs" (which are regulated by locally-adopted ordinances).

A few cities have adopted ordinances that completely ban the ownership of particular breeds including pit bulls, wolf-hybrids, and others. In the case of breed-specific ordinances, 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.

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.

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 of 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.

For more information, see:

- *“Insurance Policy Restrictions as a Defense for Refusals to Make a Reasonable Accommodation”*, www.fairhousing.com/include/media/pdf/insuranceguidance.pdf)
- *“Reasonable Accommodations Under the Fair Housing Act”*, www.hud.gov/offices/ftheo/library/huddojstatement.pdf

FAIR HOUSING AGENCIES IN WASHINGTON STATE

**The fair housing laws exempt certain types of housing from coverage.
For questions, contact each agency concerning the law that agency enforces.**

U.S. Dept. of Housing & Urban Development Fair Housing 909 First Avenue Suite 205 Seattle, WA 98104-1000	Washington State Human Rights Commission 711 S. Capitol Way Suite 402 Olympia, WA 98504-2490	King County Office of Civil Rights Chinook Building 401 Fifth Avenue Suite 215 Seattle, WA 98104-1818	Seattle Office for Civil Rights 810 Third Avenue Suite 750 Seattle, WA 98104-1627	Tacoma Human Rights & Human Services Dept. 747 Market Street Room 836 Tacoma, WA 98402-3779
206-220-5170 800-877-0246 TTY 206-220-5185 Fax 206-220-5447	360-753-6770 800-233-3247 (in WA) TTY 800-300-7525 Fax 360-586-2282	206-263-2446 TTY Relay: 711 Fax 206-296-4329	206-684-4500 TTY 206-684-4503 Fax 206-684-0332	253-591-5151 TTY 253-591-5153 Fax 253-591-5050
www.hud.gov/local/sea/seafhome.html	www.hum.wa.gov	www.kingcounty.gov/civilrights	www.seattle.gov/civilrights	www.cityoftacoma.org/humanrights
<u>Protected Classes</u> Race Color National Origin Religion Sex Disability Familial Status	<u>Protected Classes</u> Race Color National Origin Creed Sex Disability Familial Status Marital Status Sexual Orientation (incl. gender identity) Veteran/Military Status	<u>Protected Classes</u> Race Color National Origin Religion Gender Disability Familial Status Marital Status Sexual Orientation (incl. gender identity) Age Section 8 Ancestry Use of a Service or Assistive Animal	<u>Protected Classes</u> Race Color National Origin Religion/Creed Sex Disability Parental Status Marital Status Sexual Orientation Gender Identity Age Section 8 Political Ideology Veteran/Military Status	<u>Protected Classes</u> Race Color National Origin Religion Sex Disability Familial Status Marital Status Sexual Orientation Gender Identity Age Ancestry Veteran/Military Status
File within 1 year <u>Jurisdiction:</u> United States	File within 1 year <u>Jurisdiction:</u> Washington	File within 365 days <u>Jurisdiction:</u> Unincorporated King County	File within 180 days <u>Jurisdiction:</u> City of Seattle	File within 1 year <u>Jurisdiction:</u> City of Tacoma

Fair housing laws prohibit retaliation – an act of harm by anyone against a person who has asserted fair housing rights (makes an informal discrimination complaint, files a civil rights complaint, or is otherwise involved in an investigation).

NOTE: City of Bellevue investigates fair housing violations based on participation in the Section 8 Program. To file a complaint, contact Code Compliance, 450 110th Ave. NE, P.O. Box 90012, Bellevue, WA 98009, 425-452-4570, e-mail: codecompliance@bellevuewa.gov, web: www.bellevuewa.gov/reportproblem.htm.

These organizations advocate for fair housing, and provide training, education and outreach:

Fair Housing Center of Washington
 1517 S. Fawcett Avenue, Suite 250
 Tacoma, WA 98402

253-274-9523, 888-766-8800 (toll free), Fax 253-274-8220
www.fhcwashington.org

Northwest Fair Housing Alliance
 35 West Main Avenue, Suite 250
 Spokane, WA 99201

509-325-2665, 800-200-FAIR (in 509 area code),
 Fax 509-325-2716 www.nwfairhouse.org