

SERVICE ANIMALS

It may not be obvious what an individual's disability is, why a person needs the service animal, or what the service animal does for him (and it's not appropriate to ask!). Read on for basic facts about service animals:

- ✓ Some fair housing laws define 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." Other fair housing laws define them as "an animal that does work, performs tasks or provides medically necessary support for the benefit of an individual with a disability." King County's fair housing law also includes "therapeutic companion" animals.
- ✓ Service animals are **not** pets. A person with a disability uses a service animal as an auxiliary aid – similar to the use of a cane, crutches or wheelchair. Fair housing laws require that service animals be permitted despite "no pet" rules.
- ✓ While the most common service animals are dogs, they may be other species, such as cats, monkeys, birds or other animals. Service animals may be any breed, size or weight.
- ✓ Service animals need no special licenses or visible identification. While some owners of service animals choose to put special collars or harnesses on their animals, there is no legal requirement for service animals to wear visible identification (i.e., special collar or harness) or to have documentation (i.e., license, training certification or identification papers).
- ✓ Service animals need no "certification". There are no state or national standards for certifying service animals, and no government agencies provide certification.
- ✓ A person may train his or her own service animal.
- ✓ Because service animals provide different types of assistance, in some cases a person with a disability may require more than one service animal.
- ✓ The service animal's owner is responsible for the animal's care, should observe leash laws, properly dispose of animal waste, and ensure the animal behaves around others.
- ✓ Service animals should be under the control of the owner.

A condo association with a “no pets” policy is refusing to rent to a person because he has an “emotional support animal.”

A service animal for a person with a disability is not a pet. An emotional support animal prescribed by a health care provider is a type of service animal. It is a reasonable accommodation for the condo association to permit the person to live in the unit and live there with his animal despite the no pet policy.

In some cases, the disability and need for a service animal is obvious, such as when a blind person uses a guide dog. If the need for a service animal is not obvious, the condo association board can request that the resident provide a letter from his health care provider verifying that he has a disability (but no details about it!) and has a disability-related need for this animal.

A resident with a service animal is responsible for the animal's care. The animal's owner should observe leash laws, properly dispose of animal waste, and ensure the animal behaves around other residents and does not break noise rules.

We allowed a resident to have a service animal, what can I say to other residents who are angry about the decision or who want a pet themselves.

If other residents ask the other resident has an animal in a “no pet” complex, you can say “Federal and local fair housing laws require our community to make exceptions to the ‘no pets’ rule under certain circumstances. If you believe you may qualify for an exception, management would be pleased to schedule a confidential meeting to discuss this matter.” You should not mention disability, as doing so would violate the other resident's right to privacy. Ideally, your property has a reasonable accommodation policy and all residents are aware of it, so service animals should not be a new concept for anyone. You are responsible for accommodating disability-related needs – allowing service animals does not mean that you must permit nondisabled residents to have pets.

A resident has a Rottweiler as a service animal. Our insurance company won't insure certain breeds, including Rottweilers. What should we do?

You should ask your insurance provider to make a reasonable accommodation or exemption or waiver in its policy under the fair housing laws. Ask the insurance company to waive its blanket prohibition of a certain breed, and instead to make an individual assessment of this service animal's behavior. If there is no evidence that this service animal is dangerous, the insurance company may have a hard time defending its denial of a reasonable accommodation request. A safety determination has to be made on the facts and not on speculation about what a particular breed of dog might do. If found in violation of fair housing laws, the insurance company could be responsible for any damages that the parties had to incur waiting for them to respond to the request.

What fair housing laws apply in Washington state and who enforces them?

The federal Fair Housing Act and its 1988 amendments (FHA) protect people from negative housing actions that occur because of their race, color, national origin, religion, sex, disability, or family status, which are “protected classes” under the FHA. State and local fair housing laws cover additional groups, such as marital status, sexual orientation, gender identity, age, participation in the Section 8 Program, etc.

HUD enforces the FHA. The Washington State Human Rights Commission (WSHRC) enforces the Washington Law Against Discrimination, RCW 49.60. Three local agencies enforce fair housing ordinances – King County Office of Civil Rights (OCR), Seattle Office for Civil Rights (SOCR), and the Tacoma Human Rights and Human Services Department (THR). The state and local laws are considered “substantially equivalent” to the FHA, and HUD contracts with these agencies to handle most fair housing investigations in Washington.

Are there any differences between federal and state or local laws regarding disability?

Yes. Washington state law has a broader definition of disability than federal laws. Under federal laws, a disability must “substantially limit a major life activity.” The Washington State Law Against Discrimination, WAC 162-22-020, defines disability as “the presence of a sensory, mental or physical disability when a condition is medically cognizable or diagnosable.” A condition is a “sensory, mental, or physical disability” if it is an abnormality and is a reason why the person with the condition did not get or keep the housing in question, or was discriminated against in other terms and conditions of housing. Washington’s definition includes people with temporary disabilities. A person with a leg injury who requires several weeks of recovery would be considered disabled under state law and should be given temporary accommodations as needed.

Under fair housing laws, who is considered to be disabled and who is not?

Under fair housing laws, the definition of disability includes people who have a current mental or physical disability. The laws also include those who do not currently have a disability, but have a record or history of one. These laws also protect nondisabled people who are regarded or perceived as disabled, and who are treated negatively because of that perception.

The following people are not considered to have a disability under fair housing laws:

- Current illegal drug users
- Anyone with a conviction for the illegal manufacture or distribution of a controlled substance.

Which laws apply to our property?

The Fair Housing Act and the state fair housing law cover most housing rental properties. WSHRC has jurisdiction over housing anywhere in the state of Washington. If a property is located in unincorporated King County, OCR has jurisdiction. SOCR and THR handle complaints within the city limits of Seattle and Tacoma. The City of Bellevue Code Compliance office investigates Section 8 cases in that city (WSHRC handles all other fair housing cases in Bellevue).

Most types of housing properties are covered – leased or rented apartments; houses or condominiums that are sold, leased or rented; rooming houses; cooperatives; temporary shelters; mobile home parks; roommate situations (except a renter can specify a roommate's sex); construction sites; and even empty lots. If uncertain whether a property is covered, contact any local fair housing agency.

RESOURCES

- HUD - http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws
- Fair Housing Center of Washington - <http://www.fhcwashington.org/>
- Washington State Human Rights Commission - <http://www.hum.wa.gov/FairHousing/Index.html>
- King County Office of Civil Rights - <http://www.kingcounty.gov/exec/CivilRights/FH/FairHousingUpdate.aspx>
- Tenants Union of Washington State - <http://tenantsunion.org/rights/21/FairHousing>

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