

Assistance Animals and the Fair Housing Act Service Animals and the Americans with Disabilities Act

Fair Housing Act

An assistance animal is not a pet. It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including but not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support.

Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs, U.S. Department of Housing and Urban Development, FHEO Notice: FHEO-2013-01, April 25, 2013, at 2.

Two questions allowed:

- 1. Does the person seeking to use and live with the animal have a disability (a physical or mental impairment that substantially limits one or more major life activities)?**
- 2. Does the person making the request have a disability-related need for an assistance animal? (afford a person with disabilities an equal opportunity to use or enjoy the dwelling).**

A request for accommodation can be denied if the accommodation would impose an undue financial and administrative burden, if it would fundamentally alter the essential nature of the housing provider's services, or if the specific assistance animal poses a direct threat to the health or safety of others.

Guidelines:

- Breed, size, and weight limitations may not be applied to assistance animal.
- Animals other than dogs can be assistance animals.
- Housing providers may ask for documentation of the disability-related need for an assistance animal if disability is not apparent.
- Decision must be based on individualized assessment relying on objective evidence about the specific animal's actual conduct--not based on mere speculation that the animal may cause harm or on evidence of harm or damage caused by other animals.
- Landlords can request proof of current vaccination and/or license for the assistance animal.
- Landlords can expect the tenant to conform to the rules of the complex, i.e. picking up animal waste, maintaining the unit to the extent expected of every other tenant.
- A landlord cannot require the assistance animal to have any specific training or certification.
- A landlord cannot require the assistance animal to wear or carry any special collar, harness, vest, emblem or other means of identifying it as such.
- Pet deposits or pet fees are not allowed.

Americans with Disabilities Act (Titles II and III)

Service animals are defined as dogs (or miniature horses) that are individually trained to do work or perform tasks for people with disabilities. The tasks performed by the dog must be directly related to the person's disability. The dog must be trained to take a specific action when needed to assist the person with a disability.

ADA: 2010 Revised Requirements, U.S. Department of Justice, Civil Rights Division, Disability Rights Section, July 2011 and *Frequently Asked Questions about Service Animals and the ADA*, July 2015.

Two Questions Allowed:

1. Is the dog required because of a disability?
2. What work or task has the dog been trained to perform?

A public accommodation may ask an individual with a disability to remove a service animal from the premises if the animal's presence or behavior fundamentally alters the nature of the goods or services that the public entity provides, the animal is out of control and the animal's handler does not take effective action to control it, or the animal poses a direct threat to the health and safety of others that cannot be eliminated by reasonable modifications.

Guidelines:

- The public accommodation cannot ask anything if it is readily apparent the animal is trained to do work or perform a task.
- The public accommodation cannot require any type of documentation, not for the dog, of the person's disability, regarding the dog's training, or ask the dog to demonstrate its ability to perform the work or task.
- There are organizations that sell service animal certification documents on-line. These documents convey no rights under the ADA and the DOJ does not recognize them as proof that the dog is a service animal.
- The dog is not required to wear a vest, ID tag, or specific harness.
- The public accommodation cannot charge a pet fee.
- The person with disabilities is not required to use a professional service dog training program. They may train the dog themselves.
- Service-animals-in-training are not considered service animals for purposes of the ADA.

For further information, please contact:

Iowa Civil Rights Commission
Grimes State Office Building
6200 Park Ave.
Suite 100
Des Moines, Iowa 50321
515-281-4121 or 1-800-457-4416
<https://icrc.iowa.gov>

Iowa Division of Persons With Disabilities
Lucas State Office Building
321 E. 12th Street
Des Moines, Iowa 50319
515-242-5655

<https://humanrights.iowa.gov/cas/pd>