



CITY OF IOWA CITY

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Date: November 8, 2016
To: Iowa City Landlords and Rental Property Managers
From: Kristin Watson, Human Rights Investigator
Re: Service Animals and Emotional Support/Therapy Animals

Recently, this office has received multiple inquiries regarding assistance animals in the leasing / renting of housing in Iowa City. This memorandum is meant to provide general guidance regarding these animals.

What are assistance animals?

There are two types of assistance animals, governed by two different federal laws, with corresponding state and local versions. The first is a “service animal,” which is governed by the Americans with Disabilities Act (ADA). The second is governed by the Fair Housing Act (FHA) and can be either a traditional “service animal” or an “emotional support/therapy animal.”

Definition of a service animal:

The ADA narrowly defines a service animal as one that has been trained to do work or perform tasks for the benefit of a person with a disability. A disability is a condition that substantially limits one or more of a person’s major life activities. Disabilities may be physical, mental, sensory, or intellectual. Many disabilities are not obvious to a casual observer, for example, a seizure disorder.

Under the ADA, a service animal may only be a dog or a miniature horse. The ADA specifically excludes emotional support/therapy animals from qualifying as service animals.

Definition of assistance animal:

The FHA defines an assistance animal as one that is “necessary to afford the individual [who has a disability] equal opportunity to use and enjoy a dwelling” and includes both service animals and emotional support / therapy animals. Under the FHA, the assistance animal may be any animal.

What if I have a “no pet allowed policy” or impose a higher security deposit for tenants with a pet?

An assistance animal is not a pet. Therefore, no pet-associated rules or fees apply to them. A landlord cannot reserve “no pet” apartments, charge extra deposits or surcharges, impose weight limits or breed restrictions, designate special stairways or elevators for the animal’s use, exclude the animal from common areas, or impose any other restrictions that might be allowable if the animal were a pet.¹

What proof can I require from a potential or current tenant who expresses a need for a service animal or emotional support/therapy animal?

When a tenant or prospective tenant expresses a need for an assistance animal, the housing provider may ask only two questions: (1) Do you have a disability, i.e. “a physical or mental impairment that substantially limits one or more major life activities?” and (2) Do you have a

¹ Iowa City’s Code of Ordinances makes an exception for owner-occupied housing. If (1) the owner resides on the property, and (2) the owner rents four or fewer rooms within a single dwelling, or the owner occupies a unit in a dwelling with four or fewer independent units, the owner is exempt from the provisions of Title 2, the Human Rights Ordinance. (However, the owner still may not discriminate in advertising.) See § 2-3-5: Housing; Exceptions.

disability-related need for the assistance animal, i.e. does the animal “work, provide assistance, perform tasks or services, ... or provide emotional support that alleviates one or more of the identified symptoms of [the] existing disability?”² If the answer to both is yes, the housing provider must allow the animal.

However, the housing provider may verify the tenant’s responses. If the disability is not readily apparent or previously known to the housing provider, the provider may ask the person to provide documentation regarding the existence of the disability. The housing provider may not ask for medical records or specific detailed information regarding the disability, but may require that the existence of an actual disability is confirmed by a licensed medical professional. (This can include a physician, psychiatrist, social worker or other mental health professional.)

The housing provider may also ask for documentation establishing that the animal alleviates one or more symptoms of the existing disability. Again, the provider may require that the need for the animal is acknowledged by a licensed medical professional. Typically, this will be contained in the same document that confirms the existence of the disability.

Must a service animal or emotional support/therapy animal receive special training?

A service animal is not required to be professionally trained, and is not required to wear a vest, harness, or collar identifying it as an assistance animal. Some service animals are highly trained; guide dogs for the vision-impaired undergo extensive, verifiable training. However, many service animals are trained by their owners to do the tasks the owners require. Mobility-impaired owners, for example, are capable of training their service animals to fetch dropped objects themselves. Emotional support / therapy animals may perform their function simply by their presence without the need for training. Similarly, no certification is required. In some circumstances, the same animal may provide assistance to more than one person. For example, the same dog might alert both members of a deaf couple to knocks on the door or morning alarms.

Housing providers are not required to accept online “club membership” or “certification” documents that claim the animal is an assistance animal. Sham assistance animal certification services are prevalent on the internet; a housing provider is not required to accept this “documentation.” The provider may ask a tenant to obtain a letter from the tenant’s treating medical professional (or ask the medical professional to complete a housing provider’s form) confirming the existence of a disability and the need for the assistance animal to alleviate the symptoms of that disability.

Housing providers are not required to accept an animal that poses a genuine threat to the health and safety of others that cannot be alleviated (such as by requiring that the animal be muzzled when it is out of the tenant’s unit). This threat must be based upon actual evidence related to the specific animal; it cannot be based upon generalizations regarding breeds or other ambiguous fears. Similarly, housing providers are not required to accept an animal that causes substantial physical damage to the property of others that cannot be alleviated by other means. Again, this must be based upon objective evidence related to the specific animal’s actual conduct, not speculation. Tenants may be required to pay for any damage their assistance animals cause. However, they cannot be required to pay additional deposits or fees in advance of actual damage.

If you have questions regarding topics addressed in this memorandum or the obligations of housing providers to tenants with a service or support / therapy animal in general, please call the office at 319-356-5015 or 319-356-5022. Quarterly, the Iowa City Human Rights Office will provide guidance memos to local landlords on fair housing to assist in providing good outcomes for both landlords and tenants in this community. Please send fair housing topics you would like to receive guidance on to humanrights@iowa-city.org.

² Quotations from HUD Guidance Memo “Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs,” FHEO-2013-01.