

It is legal for housing providers to inquire about any individual's ability to meet the requirements of ownership or tenancy when the same inquiries are made of all applicants, whether or not they have disabilities. A provider may consider an applicant's ability to pay, past rental history, and violations of rules and laws. Further, an application for tenancy or ownership may be rejected when it can be demonstrated by concrete and credible evidence that an individual would be a direct threat to the safety, or cause substantial damage to the property, of others. An individual with a disability will be held to the same standards of behavior and obligations as any other individual.

Required Conduct

For the purpose of sale or rental, the Fair Housing Act prohibits housing providers (landlords, property managers, owners, etc.) from asking whether an individual has a disability or about the nature or severity of that disability. In addition, housing providers may not request or require medical records or documentation of disability. However, limited exception is made and questions specific to disability may be asked in certain circumstances, such as:

- to determine whether an individual qualifies for residency in dwellings that are designated for, and made available only to, persons with disabilities.
- when particular units are set aside for priority occupancy by individuals with disabilities.
- when a person with a disability requests a reasonable accommodation, such as having a service animal in otherwise "no-pets" housing.

Responding to Discriminatory Conduct

If an individual feels he or she is being discriminated against because of a disability, and efforts to resolve the matter through discussion with housing management fail, a complaint may be filed with the Lawrence Human Relations Department within one year of the alleged discriminatory conduct.

If you feel that you have been discriminated against or would like more information, you should contact the Human Relations Division at (785) 832-3310.

If you have questions about your rights or responsibilities under fair housing laws, contact the specialists in the Human Relations Division for a consultation.

They can also provide you with copies of Chapter X, Article 1 of the Code of the City of Lawrence, Kansas, the Kansas Residential Landlord and Tenant Act, the Mobile Home Parks Landlord and Tenant Act, as well as informational brochures and posters.

City of Lawrence, Kansas
Legal Department
Human Relations Division
and
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Service and Therapy/ Companion Animals

in



Rental Housing

City of Lawrence, Kansas
Legal Department
Human Relations Division



City of Lawrence

Landlords, tenants, and owners in multifamily housing often have questions about service animals in housing. In many areas, despite laws that protect people with disabilities to have service animals in housing, confusion about rights and obligations persist. This can lead to discrimination. The federal Fair Housing Act is the law that provides the guidance necessary to answer the questions that arise about service animals in housing.

In order to be protected by the Fair Housing Act with regard to service animals, three tests must be met:

1. The person must have a disability
2. The animal must serve a function directly related to the person's disability.
3. The request to have the service animal must be reasonable.

Disability Defined

The Fair Housing Act defines a person with a disability as an individual who has a physical or mental impairment that substantially limits one or more major life activities, or has a record of an impairment, or is regarded as having an impairment (regardless of whether that perception is accurate). It is not necessary that the disability be an obvious one.

Service Animal

Service animals perform a wide variety of tasks for people with a wide variety of disabilities. Here are some examples:

- Guiding a person who is blind
- Alerting a person who is deaf or hard of hearing to noises such as alarms, doorbells, a baby crying, etc.
- Assisting wheelchair users by retrieving dropped items, opening doors, pulling a wheelchair, or carrying supplies.
- Sensing and warning about a person's oncoming seizure.
- Providing support or balance for someone with an unsteady gait.

The Fair Housing Act does not define "service animal" per se, and does not make a distinction among certified service animals, non-certified animals, animals that provide

psychological support, and service animals in training that live with the people with disabilities for whom they will work. The Act does not have restrictions about who may train the animal. However, the Act recognizes that service animals are necessary for the individuals with disabilities who have them, and as such does not categorize service animals as "pets." Service animals, then, cannot be subjected to "pet rules" that may be applied by housing providers to non-service animals. For example, housing providers cannot impose upon service animals the size or weight restrictions of a pet rule, exclusions from areas where people are generally welcome, or access restrictions to only a particular door or elevator. Further, special tags, equipment, certification, or special identification of service animals cannot be required.

Companion Animal

Companion animals, also referred to as assistive or therapeutic animals, can assist individuals with disabilities in their daily living, and as with service animals, help disabled persons overcome the limitations of their disabilities and the barriers in their environment. They are typically for individuals with mental disabilities and can assist the person with depression, anxiety or provide emotional support.

A service or companion animal is not a pet and it is unlawful to require any additional deposits. The tenant is responsible for the actions of his/her animal and can be held accountable for any damage to property. Additionally, the tenant must comply with established policies such as cleanliness and maintenance of the unit as well as leash requirements and noise guidelines.

Reasonable Accommodation

Reasonable accommodations are modifications that are practical and feasible. The Fair Housing Act requires that owners and landlords provide reasonable accommodation (that is, a change in rules and policies) when necessary to permit an individual with a disability equal opportunity to use and enjoy a dwelling. It is the responsibility of the person with the disability to request any necessary reasonable accommodations necessary for tenancy.

The Act does not specifically limit the number of service animals an individual with a disability may have. Requests

for multiple service animals may be reviewed on a case-by-case basis. Housing providers may impose limitations if it can be demonstrated that an individual's request for reasonable accommodation exceeds what is necessary for that person to have full use and enjoyment of the premises.

Individuals with disabilities may request other reasonable accommodations regarding their service animals. For example, a person with a mobility impairment may find it difficult to walk a service dog. He and the landlord might work together to identify a mutually agreeable, and accessible, area of the property on which the dog can relieve itself.

Housing providers **may ask** an applicant or tenant to provide documentation from a qualified professional that the individual has a disability and requires a service animal as an accommodation

Housing providers **may not ask** an applicant or tenant to provide:

- Any details about the applicant's/tenant's disability
- Medical records
- Proof of training (such as a training certificate)

Individuals with disabilities may ask their housing provider to make reasonable accommodations in the "no pets" policy to allow for their use of a companion/assistive animal. The housing provider may ask the disabled applicant/tenant to provide verification of the need for the animal from a qualified professional. Once that need is verified, the housing provider must generally allow the accommodation.

Rights of Housing Providers

Individuals with disabilities are solely responsible for the conduct of their service animals, and housing providers may have recourse available if the tenant fails to satisfy this obligation. For example, a housing provider may require payment for damages (such as chewed carpeting), or insist that a service animal be prevented from repeated barking that disturbs neighbors. However, a housing provider may first be obligated to attempt resolution of the problem before eviction proceedings are initiated. Complaints about a service animal must be substantiated and not based on speculation.



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