

**2020 Inland Northwest
Fair Housing Virtual Conference**
FAIR HOUSING BASICS CORE SERIES
Assistance Animals In Housing – WA & Federal Laws
 Thursday, August 20, 8:00am - 9:30am PT

Presented by

Marley Hochendoner
Executive Director



**NORTHWEST FAIR
HOUSING ALLIANCE**
"Working to Ensure Equal Housing Opportunity for All"

Sharon Ortiz
Executive Director



**Washington State
Human
Rights
Commission**

*2020 Inland Northwest Fair Housing Conference
Planning Committee*

City of Spokane
 Washington State Human Rights Commission
 County of Spokane
 Spokane Low Income Housing Consortium
 Spokane Housing Authority
 City of Coeur d'Alene
 Northwest Fair Housing Alliance
 Landlord Association of the Inland Northwest









**THANK YOU TO OUR
SPONSORS & DONORS!**



AHRP
AFFORDABLE INSURANCE
FOR AFFORDABLE HOUSING



**WELLS
FARGO**



REALTORS



**Washington
Trust Bank**



wheatland bank



EDEN
ADVANCED PEST TECHNOLOGIES



RUDEEN
MANAGEMENT COMPANY, INC.



NMC
NORTHWEST MANAGEMENT COMPANY



AVISTA



SPOKANE

UPCOMING WEBINARS:



**2020 Inland Northwest
Fair Housing Virtual Conference**

<http://nwfairhouse.org/training>

**Next Up: *Implicit Bias*
Thursday, August 27, 2020
8:00am - 9:30am PT**

A basic introduction to Implicit Bias and Social Cognition. "Implicit Bias refers to the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner. These biases, which encompass both favorable and unfavorable assessments, are activated involuntarily and without an individual's awareness or intentional control. Residing deep in the subconscious, these biases are different from known biases that individuals may choose to conceal for the purposes of social and/or political correctness. Rather, implicit biases are not accessible through introspection". The Kirwan Institute for the study of Race and Ethnicity.

Kurtis Robinson, Spokane NAACP #1137 President

HANDOUTS:

Download from <http://nwfairhouse.org/training>



*under the session description

Assistance Animals & Fair Housing - Federal

PRESENTED BY

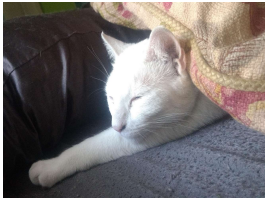
Marley J. Hochendoner,
Executive Director



NORTHWEST FAIR HOUSING ALLIANCE
35 W Main Ave, Suite 250, Spokane, WA 99201
Ph 509-325-2665
www.nwfairhouse.org
www.sexdiscriminationinhousing.org

Last Week's Webinar:**REASONABLE ACCOMMODATIONS**

Exceptions to rules, policies, practices, or services, when such accommodations may be necessary to afford ...person(s) [with disabilities] equal opportunity to use and enjoy a dwelling.

**Assistance Animals & Fair Housing**

What laws apply?

- **Fair Housing Act**
- Americans with Disabilities Act
- Section 504 of the Rehabilitation Act
- Washington Law Against Discrimination

Americans w/ Disabilities Act

- Applies to Public & common areas
- Limits service animals to trained dogs & miniature horses
- No emotional support animals





Sec 504 of the Rehabilitation Act

Recipients of federal funding
Reasonable accommodations
Equal access
Integrated setting

FHA

Use Reasonable Accommodation Analysis:

- **Is there a Disability?**
- **Is there a Nexus?**
- **Is the request Reasonable?**



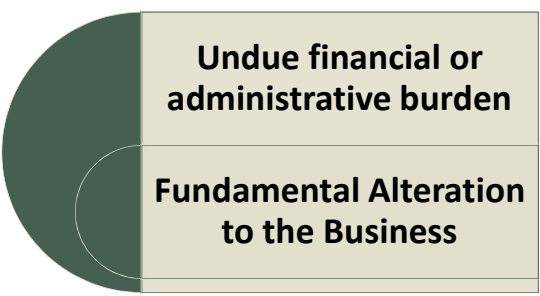
DISABILITY

COMMON DISABILITY ISSUES

- Reasonable Accommodations (includes Assistance Animals)
- Reasonable Modifications
- Design & Construction for Accessibility

When Must a Reasonable Accommodation Request Be Granted

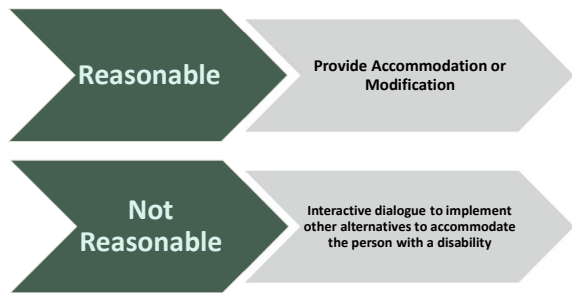
- ☞ The person has a disability
- ☞ There is a nexus between the disability & the accommodation
- ☞ It is reasonable



Undue financial or administrative burden

Fundamental Alteration to the Business

Reasonable vs. Unreasonable?



Reasonable → Provide Accommodation or Modification

Not Reasonable → Interactive dialogue to implement other alternatives to accommodate the person with a disability

What to do next?

FHEO Notice: FHEO-2020-01
Issued: Jan 28, 2020

Subject: ***“Assessing a Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act”***

- Replaces HUD’s Prior guidance, FHEO-2013-01
- Applies to all housing providers covered by the FH Act



FHEO Notice: FHEO-2020-01

Issued: Jan 28, 2020

- does not address reqts. of other civil rights laws besides the Fair Housing Act

- Sec. 504 of the Rehabilitation Act
- Americans with Disabilities Act

FHEO Notice: FHEO-2020-01
Issued: Jan 28, 2020

- does not govern airlines and common carriers, covered by other regs.



FHEO Notice: FHEO-2020-01
Issued: Jan 28, 2020

- should be read with:

- HUD's regulations prohibiting discrimination under the FHA, and

- Joint Statement of HUD and DOJ, ***Reasonable Accommodations Under the Fair Housing Act***

https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf



FHEO Notice: FHEO-2020-01

Issued: Jan 28, 2020

- is prospective



- **housing providers should not reassess requests for reasonable accommodations** granted prior to issuance of this guidance

FHEO Notice: FHEO-2020-01

Issued: Jan 28, 2020

- includes two sections:

- *“Assessing a Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act” (5 Parts); and*
- *“Guidance on Documenting an Individual’s Need for Assistance Animals in Housing”*

Assistance Animals:

Assistance animals are not pets.
2 Types:

- **Service animals**

OR

- **Other** trained or untrained **animals** that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (“**support animals**”)

FHEO Notice: FHEO-2020-01, Issued: Jan 28, 2020

Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the FH Act

Part I: *Is the Animal an ADA "Service Animal"?*

A **dog** that is individually **trained** to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

Other species are not service animals under the ADA

Part I: *Is the Animal an ADA "Service Animal"?*

Question 1: *Is the animal a dog?*

If **yes**, proceed to question 2.

If **no**, the animal is not a service animal but may be another assistance animal for which a reasonable accommodation is needed - **Proceed** to Part II.

Part I: *Is the Animal an ADA "Service Animal"?*

Question 2: *Is it readily apparent that the dog is trained to do work or perform tasks for the benefit of an individual with a disability?*

E.g., dog is observed guiding an individual who is blind; pulling a wheelchair; or providing assistance with stability or balance to an individual with an observable mobility disability.



If **yes**, further inquiries are unnecessary and inappropriate because the animal is a **service animal**. **STOP**



If **no**, **Proceed** to question 3.

Part I: *Is the Animal an ADA "Service Animal"?*

Question 3. *If disability & work or task are not obvious, housing provider may make 2 limited inquiries:*

1. ***"Is the animal required because of a disability?"***

If **yes**, then may ask:

2. ***"What work or task has the animal been trained to perform?"***

- Performing "work or tasks" = dog is trained to take a specific action when needed to assist person w/ disability

"What work or task has the animal been trained to perform?"

- If the individual identifies **at least 1** action the dog is trained to take which is helpful to the disability, other than emotional support, the dog should be considered a **"service animal"** and permitted, **including in public and common use areas**.

- Housing providers should not make further inquiries. **STOP**



Part I: *Is the Animal an ADA "Service Animal"?*

Question 3. *If disability & work or task are not obvious, housing provider may make 2 limited inquiries:*

- "Is the animal required because of a disability?"***
- "What work or task has the animal been trained to perform?"***

If answer to either is **"no"** or **"none,"** it is **not a service animal**


but may be another type of assistance animal that needs to be accommodated:

Continue to Part II

Part II: *Analysis of reasonable accommodation requests under the Fair Housing Act for assistance animals other than service animals*

When an animal does not meet the definition of a service animal, as a best practice, housing providers may make the **following inquiries**:

Part II: Question 4: *Has the individual requested a reasonable accommodation to get or keep an animal in connection w/ a disability?*

- may be oral or written 
- may be requested **at any time** - *before or after acquiring assistance animal*
 - Housing provider must consider request even if made after bringing animal into housing, or after termination of tenancy is initiated b/c of animal

Part II: Question 4: *Has the individual requested a reasonable accommodation to get or keep an animal in connection w/ a disability?*

- may involve more than one animal
 - a person w/ disability-related need for 2 animals, or
 - 2 people each w/ a disability-related need for separate assistance animal

If a request for a reasonable accommodation has been made

Proceed to Part III



Part III: *Criteria for assessing whether to grant the requested accommodation*

Question 5: (DISABILITY?) *Does the person have an observable disability or does the housing provider already have info. giving reason to believe that the person has a disability?*



Part III: *Criteria for assessing whether to grant the requested accommodation*

- FHAct **Disability** = A **physical** or **mental** impairment that substantially limits one or more major life activities.
- Some impairments readily **observed**: blindness, deafness, mobility limitations, intellectual impairments (including some types of autism), neurological impairments (e.g., stroke, Parkinson's disease, cerebral palsy, epilepsy, or brain injury), mental illness, or other diseases or conditions that affect major life activities or bodily functions.
- Impairments **not observable**: housing
- provider **may request info.** re: disability & disability-related need for animal.

Some impairments,
in virtually all cases will = **disability**

- deafness, blindness, intellectual disabilities, partially or completely missing limbs or mobility impairments requiring use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, muscular dystrophy, multiple sclerosis, HIV/AIDs, major depressive disorder, bipolar disorder, PTSD, traumatic brain injury, obsessive compulsive disorder, and schizophrenia.
- Other conditions however may also be disabilities.

WLAD RCW 49.60 - Disability

Temporary or permanent
Common or uncommon
Mitigated or unmitigated

Examples:

- Broken Hip
- Pneumonia
- Whooping cough
- COVID 19



Part III: *Criteria for assessing whether to grant the requested accommodation*

- If disability is observable or known, **proceed to question 7** to determine if there is a connection between disability and animal.
- If disability is unknown, **continue to question 6.**

Part III: *Criteria for assessing whether to grant the requested accommodation*

Question 6: *Has the person requesting an accommodation provided info. that reasonably supports that the person has a disability?*

VERIFICATION OF DISABILITY

*info. that reasonably supports that a person has a **disability***

- **determination of disability** from govt. agency
- **receipt of disability benefits or services**
 - SSDI, Medicare or SSI for persons under 65, vets' disability benefits, services from voc. rehab. agency, or disability benefits or services from another federal, state, or local agency
- eligibility for **housing assistance** or a housing voucher rec'd **b/c of disability**
- info. confirming disability from a **health care professional** – e.g., physician, optometrist, psychiatrist, psychologist, physician's assistant, nurse practitioner, or nurse.

Housing providers **may not** require a health care professional to:

- use a **specific form**,
- provide **notarized statements**,
- **make statements under penalty of perjury**, or
- **provide diagnosis** or other detailed info. about a person's physical or mental impairments.

Internet Verifications



- Some websites sell certificates, registrations, and licensing docs. for assistance animals to people who answer questions or participate in a short interview and pay a fee.
- **Such documentation is not**, by itself, **sufficient** to establish a non-observable disability or disability-related need for an assistance animal.

Internet Verifications



- Health care professionals deliver services remotely, via the internet:
- Reliable documentation:** A note from a health care prof. that **confirms a disability** and/or **need** for an animal when provider has personal knowledge of the individual

Part III: *Criteria for assessing whether to grant the requested accommodation*

Question 6: *Has the person requesting an accommodation provided info. that reasonably supports that the person has a disability?*

If info. verifying disability has been provided, **Proceed** to question 7.



Question 7: *Has the person requesting the accommodation provided info. that reasonably supports the animal does work, performs tasks, provides assistance, and or provides therapeutic emotional support with respect to a disability?*

NEXUS BETWEEN DISABILITY & NEED FOR ANIMAL

- Must provide info. confirming **disability-related need** for an assistance animal
- May include **info. from a licensed health care prof.**
 - e.g., physician, optometrist, psychiatrist, psychologist, physician's assistant, nurse practitioner, or nurse
- general to the condition but specific to the individual w/ a disability and the assistance or therapeutic emotional support provided by the animal



Question 7: *Has the person requesting the accommodation provided info. that reasonably supports the animal does work, performs tasks, provides assistance, and or provides therapeutic emotional support with respect to a disability?*

- Lack of documentation of need for animal may be grounds for denying a requested accommodation
- If info. that supports that the animal is needed for a disability has been provided, **proceed to Part IV**

Part IV: *Type of Animal*

Question 8. *Is the animal commonly kept in households?*



- dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal



- traditionally kept in home for pleasure rather than for commercial purposes

If a common household animal, reasonable accommodation request **should be granted**.

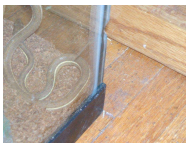
STOP



Part IV: *Type of Animal*

Question 8. *Is the animal commonly kept in households?*

- **Unique animals:** Reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non domesticated animals are **not common household animals**



Part IV: *Type of Animal*

Question 8. *Is the animal commonly kept in households?*

Reasonable accommodations may be necessary when the need for a unique animal involves unique circumstances, e.g.:

- the animal is trained to do work or perform tasks that cannot be performed by a dog;
- info. from a health care prof. confirms that:
 - allergies prevent the person from using a dog; or
 - w/o the animal, the symptoms or effects of the person's disability will be significantly increased; or
- the individual seeks to keep the animal outdoors at house w/ fenced yard where animal can be appropriately maintained

Part V: *General Considerations*

- Can only refuse a RA for an animal if the specific animal poses a direct threat
- that cannot be eliminated or reduced to an acceptable level through actions the individual takes to maintain or control the animal (e.g., keeping the animal in a secure enclosure).


Part V: *General Considerations*

- As a best practice, housing provider should make determination promptly, generally w/in 10 days of receiving disability need verifying documentation
- Before denying RA request, housing provider is encouraged to engage in good-faith dialogue with the requestor ("interactive process")

Part V: General Considerations

- If RA request is denied b/c it would impose a **fundamental alteration** to nature of provider's operations or **undue financial and administrative burden**, housing provider should engage in **interactive process** to discuss whether **alternative accommodation** would meet the individual's disability-related needs.

Part V: General Considerations

- Cannot charge a fee for processing a RA request
\$
- Cannot charge a deposit, fee, or surcharge for an assistance animal

- Can charge tenant for damage an assistance animal causes if it is usual practice to charge for damage caused by tenants


Part V: General Considerations

- Pet rules do not apply to service and support animals
- Cannot limit the breed or size of dog used as a service or support animal
- Person w/ disability is responsible for arranging for feeding, maintaining, providing veterinary care, and controlling his/her assistance animal.

*Guidance on Documenting an Individual's
Need for Assistance Animals in Housing*
(second portion of FHEO Notice)

- best practices for documenting need for assistance animals
- can help individuals w/ disabilities explain to health care pros. what info. may be needed to support a RA request when disability or disability-related need is not obvious or known by housing provider

HUD Guidance **recommends** that verification need for assistance animal include:

- 
- patient's name
 - whether health care prof. has prof. relationship w/ patient/client involving provision of health care or disability-related services
 - **signature** and date, contact and any prof. licensing info.
 - **Verification of disability:**
 - whether the patient has physical or mental impairment
 - whether impairment(s) substantially limit at least one major life activity or major bodily function

HUD Guidance **recommends** that verification need for assistance animal include:

- **Verification of need for animal:**
 - whether patient needs animal(s) b/c it does work, provides assistance, or performs at least 1 task that benefits patient b/c of his/her disability, or b/c it provides therapeutic emotional support to alleviate a symptom or effect of disability
 - type of animal(s)

HUD Guidance **recommends** that verification need for assistance animal include:

■ **Verification of need for animal:**

- if not an animal traditionally kept in home for pleasure, it may be helpful to provide:
 - date of last consultation w/ patient,
 - any unique circumstances justifying need for particular animal (if already owned or identified by the individual) or particular type of animal(s),
 - whether health care prof. has reliable info. about this specific animal or whether they specifically recommended this type of animal



SERVICE ANIMALS AND THE WASHINGTON STATE LAW AGAINST DISCRIMINATION



**WASHINGTON STATE
HUMAN RIGHTS COMMISSION**
It's Not Justice If It's Not Equal

Sharon Ortiz
August 2020



**WASHINGTON STATE
HUMAN RIGHTS COMMISSION**
It's Not Justice If It's Not Equal

- ▶ Established in 1949 by the Washington State Legislature to administer the Washington Law Against Discrimination, RCW 49.60

The Mission of the Washington State Human Rights Commission is to prevent and eliminate discrimination through the fair application of the law, the efficient use of resources, and the establishment of productive partnerships in the community.

- ▶ Neutral, Fact-Finding, Law Enforcement Agency – Not an advocacy organization
- ▶ Mission carried out through: Complaint Investigation; Alternative Dispute Resolution; Technical Assistance; Education and Outreach

The Washington State Human Rights Commission (WSHRC) enforces the civil rights laws born from both the state and national civil rights movements.

The WSHRC does not:
 Have jurisdiction over police, the federal government or tribes
 There are also other exemptions in different areas of the law.
 Investigate torture, disappearances, hate crimes, human trafficking or other similar human rights violations.

The WSHRC investigates discrimination complaints in the areas of:
 Employment
 Housing
 Public Accommodations
 Credit and Insurance
 State Whistleblower
 Retaliation

History of Service Animals in Washington State

- ▶ Has changed over time and is confusing
- ▶ Strict definition
- ▶ Protected class by itself
- ▶ Spicy the dog and how the law changed service animals in fair housing for the state
- ▶ Attempts to change the law to match federal law
- ▶ Legislator requested Service animal work groups
- ▶ Grocery stores take the lead.
- ▶ WSHRC requests definition does not apply to housing
- ▶ January 2019, law changes to match federal law

January 1, 2019 the definition of a service animal changed

- ▶ Places of public accommodation: trained dog or miniature horse
- ▶ Employment: trained dog or miniature horse
- ▶ Housing: assistance animal; no definition; reasonable accommodation

January 1, 2019 the definition of service animal changed

- ▶ (24) "Service animal" means any dog or miniature horse, as discussed in RCW 49.60.214, that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by the service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks. This subsection does not apply to RCW 49.60.222 through 49.60.227 with respect to housing accommodations or real estate transactions.

Miniature Horse

- ▶ (3) A place of public accommodation shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability in accordance with RCW 49.60.040(24) if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a facility, a place of public accommodation shall act in accordance with all applicable laws and regulations.

There are other significant changes to the law.

- ▶ It is illegal to misrepresent a pet or companion animal as a service animal
- ▶ Civil infraction
- ▶ Enforced by who?

Misrepresentation a civil infraction

- ▶ RCW [49.60.214](#)
- ▶ Misrepresentation of an animal as a service animal—Civil infraction—Investigation and enforcement—Miniature horse. *(Effective January 1, 2019.)*
- ▶ (1) It shall be a civil infraction under chapter [7.80](#) RCW for any person to misrepresent an animal as a service animal. A violation of this section occurs when a person:
 - ▶ (a) Expressly or impliedly represents that an animal is a service animal as defined in RCW [49.60.040](#) for the purpose of securing the rights or privileges afforded disabled persons accompanied by service animals set forth in state or federal law; and
 - ▶ (b) Knew or should have known that the animal in question did not meet the definition of a service animal.
- ▶ (2)(a) An enforcement officer as defined under RCW [7.80.040](#) may investigate and enforce this section by making an inquiry of the person accompanied by the animal in question and issuing a civil infraction.
- ▶ (b) An enforcement officer or place of public accommodation shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. An enforcement officer or place of public accommodation may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. An enforcement officer or place of public accommodation shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, or require that the service animal demonstrate its task. Generally, an enforcement officer or place of public accommodation may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for a person with a disability, such as a dog is observed guiding a person who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to a person with an observable mobility disability.

Service Animals in Places of Public Accommodation

- ▶ A service animal is not a pet.
- ▶ A place of public accommodation may not exclude service animals or charge a fee.
- ▶ Service animals are limited to dogs and miniature horses
- ▶ Emotional support animals are not service animals

Identifying Service Animals in Places of Public Accommodation

Only two questions may be asked:

- (1) "Is that a service animal?" (or "Is that a pet?") and
- (2) "What service is the animal trained to perform?" (or "What task or function?")

Identifying Service Animals in Places of Public Accommodation

- Once identified as a service animal, the business must allow the animal into all public parts of the business, including where food is sold and eaten.
- The business cannot segregate the service animal and its handler to a particular place within the facility.

Exclusions of Animals when they do Not meet the definition of “Service Animals”

- It is reasonable to expect that the service animal remain in physical or voice control of its handler at all times.
- An animal that defecates or urinates inside, or that barks excessively or acts aggressively toward people will not be considered “trained” under the law.
- Note that some service animals are trained to warn the handler of proximity of others or other environmental circumstances, and may give a bark or growl to do so, for example, in cases of PTSD.
- Service animals and their handlers are expected to follow pet rules as far as clean up, not barking and

Big Change in housing

- ▶ Assistance animals
- ▶ Not limited to dogs and mini horses
- ▶ Reasonable accommodation analysis
- ▶ Can't asking questions about the disability
- ▶ Can ask for documentation

Service Animals and Housing

- ▶ With the removal of the definition of service animal in housing the Washington law now matches the federal fair housing act when it comes to animals in housing.
- ▶ There is no Federal Definition, only guidance
- ▶ Sometimes referred to as an assistance animal that is a necessary reasonable accommodation for a person with a disability.
- ▶ Applies to housing providers renting housing to an individual with a disability who requires a service animal as a reasonable accommodation.
- ▶ Includes emotional support and comfort animals.
- ▶ No Pet Policies do not apply; therefore, a housing provider may not charge a "pet fee" for the service animal.

LEGAL THEORY: Failure to Accommodate

ELEMENTS OF PROOF:

- ▶ Complainant has a disability which requires an accommodation;
- ▶ Respondent was made aware of Complainant's need for accommodation;
- ▶ Respondent refused or failed to engage in an interactive process with Complainant, and/or refused or failed to provide the needed accommodation; and
- ▶ The required accommodation allows Complainant to properly perform the essential functions of the job in question.

Reasonable Accommodation Exceptions

Respondent's Burden to Demonstrate:

1. Undue Hardship (unduly costly, disruptive, alters fundamental nature of business)
2. Direct Threat
3. Health and Safety

RCW 49.60.222

(a) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the dwelling, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the dwelling to the condition that existed before the modification, reasonable wear and tear excepted;

(b) To refuse to make reasonable accommodation in rules, policies, practices, or services when such accommodations may be necessary to afford a person with the presence of any sensory, mental, or physical disability and/or the use of a trained dog guide or service animal by a person who is blind, deaf, or physically disabled equal opportunity to use and enjoy a dwelling; or

RCW 49.60.222

Nothing in (a) or (b) of this subsection shall apply to:

(i) A single-family house rented or leased by the owner if the owner does not own or have an interest in the proceeds of the rental or lease of more than three such single-family houses at one time, the rental or lease occurred without the use of a real estate broker or salesperson, as defined in *RCW 18.85.010, and the rental or lease occurred without the publication, posting, or mailing of any advertisement, sign, or statement in violation of subsection (1)(g) of this section; or (ii) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the rooms or units as his or her residence.

State Definition of Disability

(25)(a) "Disability" means 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.

(b) A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.

The tale of two ferrets and online documentation

Ad from internet:

“Wish you could claim your pet as an emotional support animal?

Get Your Official ESA Approval Letter Here.

As the nation's leading all-in-one online solution for approving emotional support animals for housing and travel, we've got you—and your pet covered.

- Quick Online Questionnaire (Finish in Minutes)
- No Prior Documentation or Diagnosis Required
- Official Letter Accepted Nationwide (Beware of Scams)
- 95% of Our Applicants Qualify”!



Therapy Pet helps people get the proper documentation to make their pet an official Emotional Support Animal

- No More Unfair Pet Deposits
- Avoid Breed and Size Restrictions
- No More Unfair Airline Fees

The Official US Service Animal & Support Animal (ESA) Registry
Register Your Service Animal, Emotional Support Animal, or Apply for a Letter from a Licensed Mental Health Professional for Airline Travel & Housing.



Fraudulent service animal claims

- ▶ There is no certification or registration for service animals in Washington state.
- ▶ Check out the provider, look online for scams
- ▶ Ask what service the animal provides
- ▶ Call HUD and report scams
- ▶ Be aware of HUD's January 2020 guidance to determine the legitimacy of the document and animal.
- ▶ Be able to discern between legitimate virtual medical services and those that advertise to provide documentation.

Snake in a bowling bag

Unique animals.

If the individual is requesting to keep a unique type of animal that is not commonly kept in households as described above, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. The individual is encouraged to submit documentation from a health care professional confirming the need for this animal, which includes information of the type set out in the Guidance on Documenting an Individual's Need for Assistance Animals in Housing. While this guidance does not establish any type of new documentary threshold, the lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation.

HUD GUIDANCE:

Information Confirming Disability-Related Need for an Assistance Animal. . .

- Reasonably supporting information often consists of information from a licensed health care professional - e.g., physician, optometrist, psychiatrist, psychologist, physician's assistant, nurse practitioner, or nurse - general to the condition but specific as to the individual with a disability and the assistance or therapeutic emotional support provided by the animal. • A relationship or connection between the disability and the need for the assistance animal must be provided. This is particularly the case where the disability is non-observable, and/or the animal provides therapeutic emotional support. • For non-observable disabilities and animals that provide therapeutic emotional support, a housing provider may ask for information that is consistent with that identified in the Guidance on Documenting an Individual's Need for Assistance Animals in Housing (*see Questions 6 and 7) in order to conduct an individualized assessment of whether it must provide the accommodation under the Fair Housing Act. The lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation.

Do service animals have to follow the rules?

- ▶ Yes. The owner is responsible to clean up after the animal.
- ▶ The animal needs to be in control
- ▶ The service animal cannot interfere with the peaceful enjoyment of other tenants (Barking all day and night).
- ▶ Keep in mind that some dogs are alert dogs and may bark or growl to alert their owners.
- ▶ Aggression does not have to be tolerated. Document this if the situation arises; remember you have the burden to prove the animal is a safety concern.

Service Animals in Employment: Lucky the Dog

- ▶ An employer is prohibited from requesting a trained service animal or dog guide be removed from the workplace. WAC 162-22-100
- ▶ Dogs and Mini Horses
- ▶ "No Pets" in the workplace policy does not apply because a service animal or dog guide is NOT a pet
- ▶ May be excluded ONLY if there is an immediate, reasonably foreseeable risk or danger to people or property
- ▶ Speculation of risk or danger, or a customer complaint is not enough
- ▶ Allergies must be balanced with the need for the service animal
- ▶ There are certain narrow exceptions, such as operating rooms in surgical facilities or food processing plants where a sterile environment must be maintained.

Questions? Hum.wa.gov
