



SERVICE ANIMALS IN HOUSING

What laws govern the use of service animals in housing?

There are several laws that govern discrimination against people with disabilities in housing:

- The federal Fair Housing Act (FHA) covers most private landlords, condominium associations, and homeowners associations as well as public housing agencies. The FHA, however, does not cover: (1) a privately-owned building with no more than four housing units if one of them is occupied by the building's owner; and (2) a private landlord who leases his own home, provided that he does not own more than three single-family homes, does not use a real estate agent or employ discriminatory advertising, and is not in the business of selling or renting dwellings.
- Section 504 of the Rehabilitation Act (RA) applies to entities that receive federal funding, including public housing agencies. As under the FHA, discrimination under the RA includes the failure to provide reasonable accommodations, including the failure to allow the use of service animals in housing in many instances.
- The Pennsylvania Human Relations Act (PHRA) applies to public and private housing, including apartments, condominiums, and homeowners associations. The PHRA does not apply to a building that houses no more than two individuals or two groups of families living independently as long as the building is used by the owner or lessee as a residence for himself and members of his family.

How do these statutes affect the use of service animals?

The FHA and RA prohibit the covered entities (public or private landlords, condominium associations, and homeowners associations) from engaging in discrimination on the basis of disability. "Discrimination" includes a failure to provide reasonable modifications to policies and practices when

necessary for an individual with a disability to have equal opportunity to use and enjoy the housing. The failure of the covered entities to waive general policies governing "pets" for people with disabilities who use and need service animals would thus be discriminatory in many circumstances.

The PHRA explicitly bars covered housing accommodations from refusing to sell or lease or otherwise deny housing to: an individual who is deaf or blind uses a "guide animal"; an individual with a physical disability who uses a "support animal"; or an individual is the handler or trainer of support or guide animals.

Do the FHA's and RA's provisions relating to service animals apply to individuals who live with the renter or owner of the dwelling?

Yes. The FHA's and RA's provisions do not only apply to the owner or renter, but also to people with disabilities who live with the owner or renter.

What is a "service animal" that can be permitted in housing under the FHA and RA?

For purposes of housing, a service animal is any type of animal that is needed by an individual with a disability to afford him equal opportunity to use and enjoy housing as long as there is a connection between the individual's disability and the service that the animal provides.

Service animals in housing can include animals that perform specific tasks for the individual with a disability, such as guiding a person who has a visual disability; picking up or retrieving objects for a person with a physical disability; providing support for a person with a disability that affects his balance; alerting a person who is deaf to sounds; alerting persons to impending seizures; preventing a child with autism from wandering; and preventing detrimental behaviors by a person with post-traumatic stress disorder.

Aside from service animals that perform tasks, animals that provide emotional support for individuals with disabilities are also considered "service animals" under the FHA and RA's housing provisions.

Do the FHA and RA use the same definition of service animals as the Americans with Disabilities Act?

No. Recent amendments to the ADA's regulations that govern public entities (state and local governments) and public accommodations (like restaurants and hospitals) adopted a very narrow definition of service animals that must be permitted in the covered facilities. Under the ADA regulations, service animals are limited to dogs or miniature horses that are specifically trained to perform particular tasks. Animals that provide only emotional support are not considered service animals under those ADA regulations.

The United States Department of Housing and Urban Development (HUD), which implements the FHA and the RA's public housing requirements, has expressly stated that these new ADA regulations do **not** apply to the FHA and housing provisions of the RA. Thus, under these federal fair housing laws, service animals are not limited to specific species, the animals need not be specifically trained to perform tasks, and emotional support animals can be service animals.

Must an animal be specially trained to qualify as a service animal that can be used by a person with a disability in housing?

No.

Must an animal be certified to qualify as a service animal that can be used by a person with a disability in housing?

No.

Can a landlord, condominium or homeowners association, or public housing agency bar the use of a service animal by a person with a disability based on its general "no pet" policy?

No, because service animals are not pets. A person with a disability who wants to or is living in a place with a no-pets policy should request a reasonable accommodation to allow him to have a service animal.

Can a landlord, condominium or homeowners association, or public housing agency require a person with a disability to pay fees or deposits that must be paid by tenants or owners who have pets?

No. Again, service animals are not "pets," and an individual with a disability should request a reasonable accommodation to waive that policy.

If, however, the service animal causes damage that would otherwise be chargeable to a tenant, the landlord can charge the tenant for the damage.

Can a landlord, condominium or homeowners association, or public housing agency impose any requirements on people with disabilities who have service animals?

Yes. Reasonable requirements to protect the health and safety of others are permitted. For instance, people with disabilities can be required to clean up after their service animals.

Are there any circumstances when a landlord, a condominium or homeowners association, or a public housing agency can refuse to allow a person with a disability to have a service animal in her home?

Yes. The FHA and RA allow service animals to be barred if they pose a "direct threat" to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation. An unsubstantiated belief that the animal is a direct threat is not enough; there must be evidence of an actual risk.

In addition, the FHA and RA allow service animals to be barred if it can be shown that the animal would impose an undue financial or administrative burden or would fundamentally alter the nature of the housing program or service. This will be a difficult burden for a housing provider to meet, but it might be able to bar a service animal under this standard if the animal is particularly disruptive or the person with a disability fails to take proper measures to assure that the animal does not bother other tenants.

What information can a landlord, condominium or homeowners association, or public housing agency request when a person with a disability requests an accommodation to allow a service animal?

When an individual with a disability requests a reasonable accommodation to allow him to have a service animal in his home or apartment, he can be asked to provide proof of his disability and documentation that the service animal serves a function that is related to his disability.

What can a person with a disability do if she believes that her landlord, condominium or homeowner's association, or public housing agency is unlawfully discriminating against her on the basis of her use of a service animal?

A person can file an administrative complaint with HUD relating to alleged violations of the FHA or RA's housing provisions by contacting 800-669-9777 (voice) or 800-927-9275 (TTY) or by filing a complaint online at http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination. You also can file a lawsuit in federal court to challenge violations of the RA or the FHA.

A person also can file an administrative complaint with the Pennsylvania Human Relations Commission (PHRC) to challenge an alleged violation of the PHRA. To file a PHRC complaint contact the Philadelphia Regional Office at 215-560-2496 (voice) or 215-560-3599 (TTY), the Harrisburg Regional Office at 717-787-9784 (voice) or 717-787-7279 (TTY), or the Pittsburgh Regional Office at 412-565-5395 (voice) or 412-565-5711 (TTY). Although the PHRC does not permit filing an online complaint, additional information on how and where to file a PHRC complaint is available at <http://www.portal.state.pa.us/portal/server.pt?open=512&objID=18976&mode=2#WWW>.

Contact Information

If you need more information or need help, please contact Disability Rights Pennsylvania (DRP) at 800-692-7443 (voice) or 877-375-7139 (TDD). The email address is: intake@disabilityrightspa.org.

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