

Service and Emotional Support Animals under the Fair Housing Act and the Americans with Disabilities Act

Three Classes of Animals:

1. **Pets** are animals living with owners for purposes of love, affection, and company.
2. **Emotional Support Animals** provide some therapeutic benefit to person with mental or psychiatric disability, requiring **no specific training**. The mere presence of this animal mitigates the effects of the emotional or mental disability.
3. **Service Animals** are any animal **individually trained** to do work or perform tasks for the benefit of an individual with a physical, intellectual, and mental disability—IE guiding individuals with impaired vision, providing protection or rescue work, pulling a wheel chair, or fetching dropped items.

Fair Housing Amendments Act of 1988

- Refusal to make reasonable accommodations in rules, policies, practices or services when necessary to provide equal opportunity to use and enjoy a **residential dwelling** is discriminatory—IE waiver of a “not pets” rule.
- Landlords must modify said policies, practices, or procedures to permit an individual with a disability to use, own, and live with a **service** and/or **emotional support** animal when doing so is necessary to provide a tenant an equal opportunity to use and enjoy the dwelling.
- Person who wishes to obtain and live with an emotional support or service animal may have to present documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal provides support which mitigates at least one identified symptom of the disability.
- Landlords cannot:
 - Ask a tenant to pay a deposit, fee, or surcharge in exchange for having a service or emotional support animal, **even if** they require such a practice from owners who wish to obtain pets in their dwelling.
 - Require than an emotional support animal have any specific training
 - Require the service or emotional support animal to wear or carry any special collar, harness, vest, emblem, or other means of identifying it as such.
 - Inquire about he extent of the disability, or ask for detailed medical records for the individual requesting the service or emotional support animal.
- A person with a disability may, however, be charged for damages caused to the premises by their emotional support or service animal.

Americans with Disabilities Act (Titles II and III)

- Congress intended that public places take necessary steps to accommodate service animals and ensure that individuals do not get separated from their service animal.
- Only protects **service animals** in **public** places (not emotional support animals, and does not touch private residences.)
 - Access to public services, programs, activities, and accommodations of government or private entities.



- Entity must modify policies to allow person with service animal access to the goods and services offered by the entity
- Implemented and enforced by the Department of Justice (DOJ)
 - DOJ publishes guide for businesses addressing practices regarding service animals, available at <http://www.ada.gov/business.htm#Anchor-ADA-11481>.
- Cannot charge handler fees or surcharges to have service dog accompany them in public place.
- Public accommodation may ask an individual with a disability to **remove a service animal** from the premises if:
 - The animal is not housebroken
 - 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.
 - The animal poses a direct threat to the health and safety of others that cannot be eliminated by reasonable modifications.
- Cannot require documentation that the animal has been certified or licensed as a service animal and the animal need not wear any special collar, harness, vest, emblem or other means of identifying it as such.

As you can see, the FHAA and the ADA take differing approaches in how they define service and emotional support animals and where they may accompany an individual. Furthermore, the two federal laws differ in duties of the animal's handler, landlord, and business owner.

State laws and regulations may also affect emotional support and service animals. Most state laws, however, do not speak to or incorporate the provisions of the federal Fair Housing Act and the Americans with Disabilities Act, adding another layer of confusion to the mix.

For further information, please contact:

Iowa Civil Rights Commission
Grimes Building, 400 E. 14th St.
Des Moines, IA 50319
515-281-4121 or 1-800-457-4416
www.state.ia.us/government/crc

Iowa Division of Persons with Disabilities
Lucas Building, 321 E. 12th St.
Des Moines, Iowa 50319
1-888-219-0471
www.state.ia.us/government/dhr/pd/index.html

HUD—Regional Fair Housing Office
400 State Ave., Room 200
Kansas City, Kansas 66101
913-551-6993 or 1-800-743-5323
www.hud.gov

