



In New York State, it is illegal to discriminate in housing on the basis of race, color, religion, sex, disability, familial status (children under 18 living with a parent or guardian), national origin, sexual orientation, age, military status, or marital status. The Fair Housing Act (“FHA”) and New York State Human Rights Law (“NYSHRL”) (collectively, “fair housing laws”) prohibit housing-related policies and practices that exclude or otherwise discriminate against individuals because of protected characteristics.

This FAQ provides an overview of the fair housing requirements relating to owners, management companies, and their agents’ policies and practices affecting individuals with disabilities who require assistance animals.

Questions and Answers on Fair Housing Laws and Assistance Animals

Q: What is a disability?

A: The New York State Human Rights Law defines a disability as “(a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment or (c) a condition regarded by others as such an impairment.”¹

Q: In the housing context, what is unlawful under fair housing laws in regard to people with disabilities?

A: It is illegal to discriminate against people with disabilities by denying housing, offering different terms/conditions or denying reasonable accommodations or modifications.

Q: What is a “reasonable accommodation” under fair housing laws?

A: A reasonable accommodation is a change to the housing provider’s² “rules, policies, practices, or services . . . to afford [a disabled] person equal opportunity to use and enjoy a dwelling.”³ So long as the requested accommodation does not fundamentally alter the nature of the housing, the landlord must provide the accommodation.

¹ N.Y. Exec. Law § 292(21)

² For this FAQ, “housing provider” and “landlord” are intended to include owners, management companies, and/or their agents.

³ 42 U.S.C. § 3604(3)(B) (the NYSHRL uses similar language).

Q: What are the protections in housing for people with disabilities who require assistance animals?

A: Under fair housing laws people with disabilities cannot be discriminated against because of their disability. Denying an individual a reasonable accommodation, such as an assistance animal, is considered discrimination under fair housing laws.

Q: What type of medical information and documentation is a landlord allowed to ask of the tenant who requests a reasonable accommodation?

A: A landlord can ask for medical information and documentation which will confirm the tenant is disabled and the animal relieves the effects of those limitations. Under fair housing laws, a landlord and/or their agent is entitled to obtain **only** that information necessary to determine whether the requested accommodation is necessary because of a disability.

This information and documentation **does not** need to come from the tenant’s physician. For example, a letter from a service provider or therapist explaining the need for the assistance animal may be sufficient.

Q: Does a “No Pets” policy apply to assistance animals?

A: No. If the tenant has a disability, and can provide the proper documentation that the assistance animal eases the symptoms of the disability, then a landlord must allow a reasonable accommodation to their “No Pets” policy. The Department of Housing and Urban Development (“HUD”) and several courts have explicitly stated that an exception to a “no pets” policy for an assistance animal generally qualifies as a reasonable accommodation.⁴

Q: What types of animals can qualify as assistance animals?

A: Assistance animals provide assistance in alleviating symptoms of disabilities. Any type of animal can qualify as an assistance animal if it meets the criteria of alleviating a limitation associated with a disability.

There is however a “reasonableness” requirement as part of an assistance animal being considered a reasonable accommodation for a disability. Therefore, a landlord can limit animals if there is a serious and present health or safety concern. HUD and past cases have found that, in most circumstances, landlords cannot forbid cats or dogs.

Q: What are some ways assistance animals alleviate symptoms of disabilities?

A: A landlord should not assume an assistance animal is not required based on visual appearance because many disabilities are not immediately apparent. Some examples include, but are not limited to, alerting a tenant with diabetes of low blood sugar, guarding a tenant with

⁴ Occupancy Requirements of Subsidized Multifamily Housing Programs, HUD, No. 4350.3, exhibit 2-2 (2013), available at: https://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35662.pdf.

epilepsy from injury during a seizure, help calming people with autism, or alleviating the symptoms of depression or post-traumatic stress disorder.

Q: Is a tenant able to have more than one assistance animal?

A: If a tenant needs more than one animal to alleviate the symptoms associated with a disability, and can provide the proper documentation that each assistance animal eases the symptoms of the disability, then a tenant may have more than one assistance animal.

Q: Can a landlord require a tenant's assistance animal to be certified or complete trainings?

A: No. The fair housing laws do not require an assistance animal have any sort of certification or training to be considered a reasonable accommodation. So, a request for such a certification is unnecessary.

Q: Can a landlord charge an additional security deposit, other fees, or require a tenant to have an insurance policy for an assistance animal?

A: No. A landlord cannot impose extra charges because a tenant has an assistance animal.

Even if the landlord allows pets and charges tenants a pet deposit/insurance, a pet deposit/insurance is prohibited for an assistance animal. This is because a reasonable accommodation is required as an assistance animal's primary purpose is to alleviate the symptoms of a tenant's disability and, therefore, is not considered a pet.

Q: Can a landlord treat a request for an assistance animal differently depending on whether the tenant making the request is a long-time tenant or a new tenant?

A: No. If an applicant or a tenant can provide documentation, as described above, that demonstrates a need for an assistance animal, the lack of a past request should not be used as evidence of whether a tenant has a disability requiring the reasonable accommodation of an assistance animal.

Q: Can a landlord deny a tenant's request for an assistance animal based on the allergies of other tenants?

A: No. However, a landlord may move the tenant and their animal to another unit to lessen exposure to allergens if it is proven that other tenants do have a health risk from exposure to the animal.

Q: What responsibilities do tenants have if they have an assistance animal?

A: The tenant has the responsibility of taking care of the animal including things like making sure their animal is being fed, groomed, and is housebroken. The tenant also has the responsibility to make sure that the animal does not become a nuisance to other tenants in such a

way that fundamentally alters the habitability of the building (for example, excessive barking). The tenant also has a responsibility to make sure the animal does not physically injure other tenants.

Q: Can a landlord withhold a security deposit for damage caused by the assistance animal?

A: Only if the same penalty would be imposed on a tenant, who does not have an assistance animal, for doing the same damage.

Q: What should a tenant do if they think they are being discriminated against by their landlord for having an assistance animal (*i.e.*, refusing to make repairs unrelated to the assistance animal)?

A: If a tenant believes they may have experienced discrimination, they can contact the New York State Division of Human Rights or the New York State Attorney General to file a complaint.

More information:

<http://www.nyshcr.org/AboutUs/Offices/FairHousing/HowToFileAComplaint.htm>