



**FAIR HOUSING LAW FOR PEOPLE
WITH MENTAL HEALTH DISABILITIES**

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FAIR HOUSING AMENDMENTS ACT OF 1988

- Added disability as protected class in all housing prohibiting discrimination against people with disabilities
- Added accessibility requirements for multifamily housing (four or more units) available for first occupancy after March 13, 1991

DISCRIMINATION PROHIBITED

- Cannot refuse to rent or sell to someone because of their disability
- Cannot charge higher rents or deposits to people with disabilities
- Cannot segregate people based on their disability
- Cannot subject people with disabilities to different lease terms
- Cannot harass or intimidate people because of their disability (NIMBY issues)

HARASSMENT BY NEIGHBORS NOT IN MY BACKYARD (NIMBY)

- The Fair Housing Act prohibits neighbors or others from harassing or interfering with the rights of people with disabilities to equal access to housing
 - Often arises in the sighting of group homes
 - Also applies to harassment by neighbors in other settings

**ACCESSIBILITY
REQUIREMENTS
FOR NEW
CONSTRUCTION**

Applies to housing for
first occupancy after
March 13, 1991

Applies to Multi-family
units of 4 or more

REQUIREMENTS :

Public and Common areas must be accessible and usable

Doorways must be wide enough to allow wheelchair passage

Must have an accessible route to and through the dwelling

Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations

Reinforcements in walls to allow the installation of grab bars

Usable kitchens and bathrooms so a person in a wheelchair can maneuver in the space

- Housing providers must allow a reasonable accommodations which is a change, exception, or adjustment to a rule, policy, practice, or service.
- Generally provided at housing provider's expense unless it results in an undue financial or administrative burden
- There must be a nexus between the disability and the requested accommodation
- Provider cannot charge extra fee or deposit for accommodation

REASONABLE ACCOMMODATIONS

ILLUSTRATION: REASONABLE ACCOMMODATION

- Allowing an assigned parking space along an accessible route to an individual with a mobility impairment even if other spots are first come first serve
- Allowing a person who hoards to avoid eviction by making arrangements for outside cleaning services
- Allowing early termination of lease if individuals disability makes it difficult to enjoy housing unit
- Allowing service animal or emotional support animal in “no pets” housing

- Housing provider's must allow reasonable modifications to a premises. Reasonable modifications are structural changes necessary to allow a person with a disability full enjoyment of the premises
- Generally modifications are the tenant's expense (different requirements for federally funded housing)
- Housing provider can require workman like manner and meeting building permit requirements
- Housing provider may require the premises be returned to prior state when tenant moves out if it effects tenantability at tenant's expense

REASONABLE MODIFICATION

ALLOWED INQUIRY

- Housing provider is allowed to obtain information sufficient to determine if the requested accommodation is necessary because of a disability
- If disability is obvious or known to the provider no additional information about the disability is necessary
- If disability is known but the need is not readily apparent the provider can ask for information necessary to evaluate the disability related need
- If disability is not known, provider can ask for information verifying the disability, the needed accommodation, and the relationship between the disability and the requested accommodation

SERVICE ANIMALS AND EMOTIONAL SUPPORT ANIMALS



SERVICE ANIMALS MODIFIED BY ADAAA

- Dogs that are trained to do work or perform a task for the benefit of an individual with a disability.
- Work or tasks must be directly related to the individual's disability such as assisting individuals who are blind navigate, alerting individuals who are deaf to the presence of people or sounds, pulling a wheelchair, retrieving items, providing physical support for balance or stability, assisting an individual during a seizure, or helping people with psychiatric or neurological disabilities by preventing or interrupting impulsive or destructive behavior. (Does not include emotional support animals that have not been trained.)
- Also included miniature horses as long as the facility can accommodate the horse's size, type, and weight.

- Can ask:
 - Is the animal required because of a disability?
 - What work or task has this animal been trained to perform?
- Cannot ask:
 - The nature or extent of an individual's disability
 - Cannot require documentation or proof of training
 - Cannot require animal to wear a vest

SERVICE ANIMALS: INQUIRIES ARE LIMITED

SERVICE ANIMALS CONT.

- Allowed wherever public allowed unless its presence interferes with the legitimate safety requirement of the facility
- Must be on a leash or harness unless a tether would interfere with the animals ability to safely perform tasks or because of person's disability
- Animal must be under control and housebroken
- Care of the animal is responsibility of individual with a disability
- Cannot charge a surcharge for the presence of the animal

EMOTIONAL SUPPORT ANIMALS

- Distinct from Service Animals
- Not limited to dogs
- Does not need specific training or certification
- Cannot charge pet deposit or additional rent
- Can inquire as to whether individual has a disability and whether there is a disability related need for the animal

**SERVICE
ANIMALS AND
EMOTIONAL
SUPPORT
ANIMALS UNDER
WISCONSIN
OPEN HOUSING
LAW**

- Neither animals who perform tasks nor those that provide emotional support must be a dog
- Specifically prohibits eviction because of ESA
- Can require documentation from Wisconsin licensed provider
- Penalties for tenants or health care providers who misrepresent disability or need for emotional support animal

ENFORCEMENT

- State of Wisconsin Equal Rights Division:

<https://dwd.wisconsin.gov/er/civilrights/housing/default.htm>

- Department of Housing and Urban Development:

https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint

RESOURCES:

1) Assessing a Person's Right to Have an Assistance Animal Under the Fair Housing Act :

<https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

2) HUD and DOJ Joint Statement on Reasonable Accommodations:

<https://www.fairhousingnc.org/document/hud-doj-joint-statement-reasonable-accommodations/>

3) HUD and DOJ Statement On Reasonable Modifications:

https://www.hud.gov/sites/documents/reasonable_modifications_mar08.pdf

4) Bazelon Center for Mental Health Law

<http://www.bazelon.org/our-work/mental-health-systems/housing/>

FURTHER QUESTIONS?

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