

# SERVICE AND ASSISTIVE ANIMALS

## FACT SHEET NO. 3

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Disability under Federal Fair Housing Law is defined as: A physical or mental impairment of a person that substantially limits one or more major life activities, a record of having had such an impairment or being regarded as having had such an impairment. This may also include temporary disabilities.

Individuals who are disabled, may require the use of service and/or assistive animals. Under Fair Housing Law, an individual who is disabled and whose doctor determines that a service/assistive animal is needed, may ask their housing provider for a reasonable accommodation in "no pets" policies. To deny the accommodation, the landlord must prove that such an accommodation is not reasonable or causes an undue burden to the landlord.

Service and/or assistive animals help people overcome the limitations of their disabilities and the barriers in their environment. **Service animals** are sometimes called assistive, therapeutic or companion animals. These animals are typically for individuals with mental disabilities. They assist people with depression, anxiety, or those in need of emotional support.

**Service animals** are typically defined as any guide dog, signal dog, or other animal individually trained to do work or tasks for the benefit of an individual with a physical disability. Their *service* entitles them to access of public places and common areas. Service animals are *typically* dogs but may include other animals. Below is an explanation of the different types of service dogs as explained by the Great Plains Assistance Dogs Foundation:

*"The **Service Dog** is a dog trained, placed and certified to work with an individual with a mobility impairment. Most often you will find a Service Dog working along side a wheelchair. You can often find a Service Dog working next to an individual using crutches, a cane, prosthesis, or with the Service Dog itself serving as a stabilization device. These working canines accomplish such tasks as pulling a manual wheelchair, picking up and delivering out of reach items, opening doors, operating and activating electronic on/off switches, activating light switches, delivery of items to counter, backpacking, and stabilization. These are the most common tasks trained; however, many Service Dogs are taught special skills related to an individual's limited abilities.*

*The **Hearing Dog** is a dog trained, placed and certified to work with an individual that is deaf or who has a hearing impairment. These working dogs are taught appropriate responses to everyday sounds and noises. The Hearing Dog is often taught in sign language as well as verbal communication. Common sounds which the Hearing Dog is taught to react to include: door knocks, door bells, telephone, emergency sirens, car horns, name recognition skills, beepers and pagers, dryer buzzer, and stove alarms. Again, these dogs are often custom trained. Therefore, particular skills may vary.*

*The **Therapeutic Companion Dog** category is divided into two distinct groups. The first type is placed into a health care type facility. These working dogs are often referred to as*

*Social Therapy Dogs, as they most often work with a number of individuals and must be skilled in obedience and social interaction. The Social Therapy Dog must be incredibly tolerant and very well adjusted. The second type, the Therapy Dog, is assigned to work with just one specific person, or in some cases in one household. These dogs are also well trained and socialized. In both instances, the working dog's job is much the same - interaction with human counterparts. Speech pathology, physical and occupational therapy, exercise and general physical fitness, and often, and perhaps most importantly, emotional consistency and support all benefit. You can find these dogs in children's hospitals, elderly care facilities, burn centers, terminal cancer units, and with some hospice programs, as well as others.*

*The newest of Assistance Dogs, the **Seizure Response/Alert Dog** started picking up momentum in the mid 1990s. These dogs are trained, placed and certified to work with an individual who has Epilepsy or another type of seizure condition. Seizure Response/Alert Dogs are trained in one or more of several appropriate response skills. These include: vocal alert, physical contact alert, activation of an emergency medical department, and vocal or physical alert of others. Stabilization skills and backpacking are also quite common jobs for these working dogs. The main function is for the dog to react to a seizure event very early in its onset, so that the human counterpart may have warning of impending seizure events. The training of these dogs is meticulous, as the dog must remain in complete and total control during any and all seizure episodes. At the present time, these dogs are only trained by a handful of centers in the United States and even fewer abroad. Individuals with severe migraine conditions, diabetes, and high blood pressure have also benefited from the work of the Seizure Response/Alert Dog.*

*The **Specialty Dog** is a dog which does not fit neatly into the above categories. Often this term is used to define the work done by a dog who is trained to work with more than one disability within one person (i.e. someone who is blind as well as hearing impaired). In other cases, the dog may work for two individuals in one household whom may have the same or very different disabilities. The Specialty Dog is just that, a very special dog. These dogs often put in many working hours a day and generally love it. The dog's dedication is unending and its loyalty without a doubt. Just as with the Seizure Response/Alert Dog, there are relatively few training centers that have the ability to train these dogs. Customizing trained skills is quite tedious and time consuming. The training program's cost of producing one of these dogs is nearly twice that of a basic Service Dog."*

Some service animals receive certification papers but others do not. Currently, there is no state or national standard which tests whether an animal qualifies as a service or assistive animal so "certification" cannot be required of those with service animals. The owner is responsible for the behavior of their service/assistive animal. These animals must

obey applicable laws and be under the control of their handlers at all times. Their behavior should be neither disruptive nor destructive. However, the animals are typically highly trained and work in partnership to increase the independence, safety and mobility of the person with the disability.

**RECENT FAIR HOUSING CASES DEALING WITH SERVICE/ASSISTIVE ANIMALS**

- ◆ *Green v. Housing Authority of Clackamas County, 994 F.Supp. 1253 (D. Ore. 1998).* Court found housing authority violated the fair housing act by threatening to evict a family after it acquired a "hearing" dog for their deaf child. Court found that the only requirements to be classified as a service animal are that the animal be individually trained and work for the benefit of the disabled person.
- ◆ *HUD v. Dutra, FH-FL Rptr. 25,124 (November 12, 1996).* Disabled man threatened with eviction if he did not get rid of his cat which he had kept as a service animal for many years.
- ◆ *Whittier Terrace v. Hampshire, 532 N.E.2d 712 (Mass App. Ct. 1989).* Tenant with psychiatric disability cannot be evicted due to defiance of "no pets" rule due to her need of the companionship of a cat.
- ◆ *Secretary, HUD v. Purkett, HUDALJ 09-89-1495-1 (July 31, 1990).* Disabled woman awarded \$60,000 following harassment, charging of a "pet deposit" and threatened eviction by the landlord due to her service animal.
- ◆ *Housing Authority of the City of New London v. Toni Tarrant, No. 12480, 1997 Conn. Super. LEXIS 120 (Conn. Super. Ct. 1-14-97).* Tenant could not provide medical or psychological evidence of her son's mental disability and need of a support animal.

**Questions Most Often Asked of Service Animals**

- **How do I know a service dog is safe to be around?** Service dogs are carefully screened for temperament and stability BEFORE they are trained and placed with persons with disabilities. These professional animals are focused on their human partners and their work.
- **How do I recognize a service animal?** Most wear a tag; vest; harness or backpack identifying the dog as a service dog. If you're not sure, ask the person.
- **May I pet a service dog?** No, not when the dog is working or without approval from the owner. Petting is distracting and service dogs need to focus on the instructions and needs of their human partner. Do not call or distract the dog with whistles and sounds, this could endanger their partner.
- **Some people do not look disabled. Why do they need a service dog with them?** The partner may have a "hidden disability," for example, cancer, chronic back pain, seizure disorder or hearing impairment to name a few.

- **Can I ask the person, "What's wrong with you?"** No. Federal law protects the privacy of disabled persons. They are not required to explain their disability nor are they required to explain or demonstrate why they are accompanied by a service animal.
- **Is the service dog likely to "make a mess" indoors?** These dogs are carefully selected and trained to have excellent manners.
- **Can a deposit or additional insurance coverage be required for a tenant with a service animal?** No. The law prohibits imposition of additional burdens on the residency of a person with a disability if those tenancy provisions would subject that person to different and/or more adverse treatment than a similarly situated person without a disability.
- **How can I learn more about service and assistive animals?** Contact the Great Plains Assistance Dogs Foundation, P.O. Box 513, Jud, ND 58454, phone: 701/685-2242.

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**WHAT ARE THE DIFFERENCES BETWEEN SERVICE/ASSISTIVE ANIMALS AND PETS?**

-Pets are animals that may be owned by people with or without disabilities. Service and assistive animals assist individuals with disabilities (whether a physical or mental disability) in their daily living and are not considered pets.

-A housing provider may charge up to \$2,500 or 2 months rent (whichever is greater) for a combined pet and security deposit in North Dakota. In South Dakota, the law is not as clear as to a maximum amount for a "pet deposit". The pet deposit should only be used to correct problems created or caused by the pet living on the premises and any remaining portion should be returned. *No "pet deposit" may be required of a service/assistive animal.*

-A housing provider may make inspections to determine whether unreasonable wear and tear is being caused by a pet or service animal; however, these inspections cannot be any more stringent or often than those inspections of those residents without animals. The inspections should also follow the state's landlord/tenant law in regard to a landlord's right of entry and reasonable notice to a tenant.

-A housing provider has the right to request an animal (either pet, assistive or service animal) be removed or given additional training if it is being noisy or disruptive.

-Federal (and most state) laws guarantee the right of service animals for those with physical disabilities to accompany their disabled partners any place open to the public. Service animals for those with mental disabilities are typically not entitled to this benefit.

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 • This document was adapted from the following resources: *Working with an Assistive Animal* published by the Great Plains Assistance Dogs Foundation and *Landlord and Tenant Rights in North Dakota* published by the North Dakota Apartment Association. The Fair Housing of the Dakotas is a private, non-profit organization that serves North and South Dakota and works to eliminate housing discrimination and to ensure equal housing opportunities for all. The Fair Housing of the Dakotas is located at 909 Basin Avenue, Suite 2, Bismarck, ND 58504. Phone: 701-221-2530 or 1-888-265-0907. ND TDD: 1-800-927-9275 or ND Relay: 1-800-366-6889 (voice). SD TDD: 1-866-273-3323 or SD Relay: 1-800-877-1113. Email: info@fhdakotas.org Web: www.fhdakotas.org The work that provided the basis for this publication was supported by funding under a grant/cooperative agreement with the U.S. Department of Housing & Urban Development. The substance and findings of this work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in the publication. This information is not itself legal advice; for legal advice about a particular situation, contact an attorney. Alternative formats will be made available upon request.  
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