



HAWAI‘I CIVIL RIGHTS COMMISSION **KOMIKINA PONO KIWILA O HAWAI‘I**

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ASSISTANCE ANIMALS AS REASONABLE ACCOMMODATIONS IN HOUSING

An assistance animal is a type of aid that a person with a disability may need. A person with a disability can request the use of an assistance animal as a reasonable accommodation, which may involve making an exception to a “no pets” or “no animals” rule. The requested accommodations may be necessary to afford the person with a disability equal opportunity to use and enjoy a housing accommodation, including public and common use areas.

WHAT IS AN ASSISTANCE ANIMAL?

Assistance animals are animals that work, assist, or perform tasks for the benefit of a person with a disability. They can also be animals that provide emotional support. They are not pets.

Assistance animals can include: service animals, support animals, therapy animals, and comfort animals. An assistance animal does not have to be a dog. Cats, birds, rabbits and other animals have been recognized as assistance animals.

DOES AN ASSISTANCE ANIMAL NEED TO BE CERTIFIED OR FORMALLY TRAINED?

No. There is no federal, state, or county certification (or training requirement) for assistance animals.

WHO IS A PERSON WITH A DISABILITY?

A person with a disability who can request the use of an assistance animal is a person who has a physical or mental impairment which substantially limits one or more major life activities. The person in need of an assistance animal, also referred to as a "handler," can be a resident or a guest.

DOES A RESIDENT NEED TO MAKE A REQUEST FOR AN ACCOMMODATION IN WRITING?

No, a request can be made verbally, to the housing provider or their representative or agent. However, the resident, or someone acting on his or her behalf, must make a request.

WHAT INFORMATION MAY ONE REQUEST FROM A PERSON REGARDING AN ASSISTANCE ANIMAL?

A housing provider, including an AOA, may ask a resident to provide information from a treating health care professional, mental health professional, or social worker that verifies the person has a disability (as defined above), and that the assistance animal is needed to alleviate one or more symptoms of the person's disability, if the disability and disability-related need for the assistance animal are not obvious.

A resident cannot be asked to provide access to health care providers, or any details regarding the diagnosis, nature of the disability, symptoms, medical records, proof of training, or insurance coverage for the animal.

CAN A HOUSING PROVIDER REQUEST MEDICAL INFORMATION FROM A GUEST OF A RESIDENT?

Placing additional burdens on a guest with a disability deprives a resident of an equal opportunity to use and enjoy a housing accommodation. A housing provider, including an AOA, may only ask a short-term guest of a resident if he or she has a disability and if the animal alleviates a symptom of the disability. A housing provider may not request a short-term guest to provide a note from a health care provider.

WHAT ABOUT A PET SECURITY DEPOSIT?

No. A resident cannot be charged a higher security deposit, higher monthly rent, or be required to obtain liability insurance for an assistance animal, because an assistance animal is not a pet. However, the resident can be held accountable for any damage to property, and must comply with established policies regarding maintenance, cleaning or noise, or any other reasonable restriction that would leave the housing accommodation in the condition it was prior to the resident's occupancy (except for reasonable wear and tear).

CAN REASONABLE RESTRICTIONS BE ESTABLISHED ON THE USE OF AN ASSISTANCE ANIMAL FOR THE RESIDENT?

Yes. Housing providers may establish reasonable restrictions on the use of an assistance animal.

Examples of some reasonable restrictions are:

- 1) Observing applicable laws, including leash laws and pick-up laws;
- 2) Assuming responsibility for any damage caused by the animal;
- 3) Having the dwelling cleaned upon vacating, by fumigation, deodorizing, professional carpet cleaning, or other appropriate methods, at resident's expense.
- 4) Cleaning up of the animal's waste;
- 5) Having the animal licensed with the county, if required;
- 6) Having the animal vaccinated, with documentation of vaccinations;
- 7) Having the animal under the control of its handler, by use of a harness, leash, tether, cage or other physical control. If the nature of the person's disability makes physical control impracticable, or if physical control would interfere with the assistance that the animal provides, the housing provider may require that the animal be otherwise under the control of its handler, by voice control, signals or other effective means.
- 8) Having the animal meet minimum sanitary standards.

WHERE MUST ONE ALLOW THE ANIMAL ON THE PROPERTY?

The assistance animal must be allowed to accompany the handler at all times, and everywhere on the property except where the animal may pose significant health or safety hazards. Such designations may not interfere with the handler's right to fully enjoy the amenities of the housing complex.

DO THE ADA TITLE II AND III REGULATIONS AFFECT REASONABLE ACCOMMODATIONS UNDER THE FAIR HOUSING LAWS?

No. The ADA applies to public accommodations.

CONTACT INFORMATION:

If you believe you have been subjected to discrimination and want to file a complaint, or if you want additional information, contact:

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This fact sheet is a general summary of the state's laws and does not have the force or effect of administrative rules or Hawai'i laws. If there are any inconsistencies, the rules and Hawai'i law will control.