

## **Can I deny rental to an Applicant if they have a support animal?**

If someone applies for tenancy and meets all of your minimum requirements for renting, you cannot use the fact that they have a support animal as a reason to deny them an apartment. Individuals who need support animals are protected by the City of Madison, Equal Opportunities Ordinance, which mirrors the federal Fair Housing Act and local ordinances. Support animals assist individuals with physical or mental disabilities. These animals may be individually trained to perform tasks for people with disabilities—such as guiding people who are blind, alerting people who are deaf, pulling wheelchairs, alerting and protecting a person who is having a seizure, or may simply provide companionship based on a doctor’s recommendation. Support animals are working animals, not pets.

## **Requesting and Accommodation**

An accommodation may be necessary to allow a person with a disability to have equal use and enjoyment of a dwelling. To refuse an accommodation request without a legally recognized justification could be disability discrimination. Requesting an accommodation for a support animal is similar to requesting any other accommodation because of an individual’s disability. A resident or an applicant for housing makes a reasonable accommodation request whenever he/she makes it clear to the housing provider that he/she is requesting an exception, change, or adjustment to a rule, policy, practice, or service because of his/her disability. An individual making a reasonable accommodation request does not need to use the words “reasonable accommodation.” A housing provider cannot require the request to be in writing. The housing provider is required to consider this request promptly and respond to the requestor. A request for a reasonable accommodation may be denied if providing the accommodation would impose an undue financial or administrative burden on the housing provider. The determination for each request must be made on a case-by-case basis. If you are concerned about the accommodation requested, you should engage in an interactive

process with your resident or potential resident discussing the need for the requested accommodation and possible alternative accommodations.

## **Support Animal Certifications**

There is no national or state certification for support animals. You may not insist on proof of state certification before granting the accommodation.

## **“No Pet” Policy**

A landlord may not rely on their “no pet” policy to deny tenancy to a person with a support animal. A housing provider must make an exception to its “no pet” policy to accommodate tenants. For example: A housing provider has a “no pets” policy. A tenant who is deaf requests that the provider allow him to keep a dog in his unit as a reasonable accommodation. The tenant explains that the dog is a support animal that will alert him to several sounds, including knocks at the door, sounding of the smoke detector, the telephone ringing, and cars coming into the driveway. Allowing such an accommodation does not stop you from enforcing a “no pet” policy with other tenants.

## **Additional Fees**

Housing providers may not require persons with disabilities to pay extra fees or deposits as a condition of receiving a reasonable accommodation. For example, because of his disability, an applicant with a hearing impairment needs to keep a support animal in his unit as a reasonable accommodation. The housing provider may not require the applicant to pay a fee or a security deposit as a condition of allowing the applicant to keep the support animal even when the same is required of other tenants. However, if a tenant’s support animal causes damage to the unit or the common areas of the dwelling, the housing provider may charge the tenant for the cost of

repairing the damage, if it is the provider's practice to assess tenants for any damage they cause to the premises.

## **Madison Equal Opportunities Commission**

This article answers basic questions that arise when dealing with applicants and tenants and the need for a support animal. The Madison Equal Opportunities Commission is a division of the Department of Civil Rights, and provides free technical assistance. Please contact us at 608-266-4910 (Voice) or 608-266-4899 (TDD) with questions regarding your specific situation.

Nothing in this information should be interpreted to mean that following the recommendations of the Commission will prevent a complaint from being filed against you or your company or guarantee success in defending or presenting a complaint through the Commission. Following the recommendations of the Commission will not serve as a valid excuse to justify any actions taken by any person, employer, housing provider or place of public accommodations. The Commission does not have any jurisdiction outside of the City of Madison. For legal advice, you should consult your attorney.