

General Requirement

The Maine Human Rights Act requires that housing providers usually allow service animals on the premises. There are certain exceptions, such as if the service animal is unsafe or overly disruptive, but service animals generally must be allowed.

Definition

The Maine Human Rights Act defines “service animal” as any animal that has been determined necessary to mitigate the effects of a physical or mental disability by a physician, psychologist, physician’s assistant, nurse practitioner or licensed social worker or has been individually trained to assist the person with a disability. An animal is protected if it meets this definition, regardless of whether it is called a “service animal” or any other term, such as assistive animal, therapy animal, guide dog, or emotional support animal. An example of a service animal might be a dog that is trained to guide a

person with a visual impairment or help balance a person who has difficulty walking. It might also include a cat that is prescribed by a psychologist to provide companionship for a person with depression. These are just a few examples, and service animals may be prescribed or trained for many different reasons. Service animals also may be any species or breed (e.g., monkey, bird) and are not limited to dogs and cats.

Identification

It is not necessary for a service animal to have a special identification card, be certified, be registered, or wear a harness or collar identifying it as a service animal. Some service animals have these characteristics, but they are not required in order for a service animal to be covered under the Maine Human Rights Act.

Permissible Questions

A housing provider may ask about the nature of the disability if it is not obvious and for some evidence that

the service animal has been prescribed or trained. Evidence of training may be shown by demonstration.

Terms of Use

The person with a service animal should be afforded the same housing experience on the same terms as other tenants without service animals. This means, for example, that the person should not be isolated or removed from the normal usage areas of the housing accommodation. It is also unlawful for an apartment owner to designate specific apartments for tenants with service animals.

It is illegal to charge a person with a service animal extra fees for the animal. For example, a housing provider cannot impose an additional security deposit for a service animal, even if it charges such a fee for pets. Remember, a service animal is not a pet; it is an aide that allows the person with a disability an equal opportunity to use and enjoy the housing. Housing providers may charge for damage (other than normal wear and tear) caused by service animals, however, if it is the normal practice to charge for damage.

Removal

A service animal may be removed from the premises if it is a direct threat to the health or safety of others, if it would result in substantial physical damage to the property of others, or if the animal substantially interferes with the reasonable enjoyment of the housing by others. A dog that regularly barks at night while other tenants are trying to sleep or nips at other tenants or guests, for example, can permissibly be removed. There must be a factual basis for removing the animal, however, and not simply because of fears or stereotypes about certain animals. For example, a dog with a history of aggressive behavior may be denied access or removed but not one that is merely a certain size or breed. If tenants have allergies to the animal, it may be necessary to accommodate all people concerned, such as by keeping the animal away from the person with allergies while still allowing the person with the animal access to the housing.

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THE MAINE HUMAN RIGHTS ACT

Definition

“Service animal” means:

A. For the purposes of Subchapter 4:

(1) Any animal that has been determined necessary to mitigate the effects of a physical or mental disability by a physician, psychologist, physician’s assistant, nurse practitioner or licensed social worker; or

(2) Any animal individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals who are deaf or hard of hearing to intruders or sounds, providing reasonable protection or rescue work, pulling a wheelchair or fetching dropped items. . . . 5 M.R.S.A. §4553(9-E).

Unlawful housing discrimination on the basis of disability

It is unlawful housing discrimination, in violation of this Act: . . . For any owner, lessee, sublessee, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the housing accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the housing accommodation by others. The use of a service animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such a service animal. 5 M.R.S.A. §4582-A(3).

SERVICE ANIMALS IN HOUSING

KNOW YOUR RIGHTS & RESPONSIBILITIES



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