

Behavioral Health and Tenants' Rights

TENANT LAW CENTER

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What we will cover

- Federal Law (ADA, FHA, Section 504)
- Washington Law Against Discrimination (WLAD)
- How Federal and Washington law affect housing rights in WA
 - What landlords can and cannot do
- Requesting a reasonable accommodation
- Requesting a reasonable modification
- Service and support animals
- Resources
- Questions

Relevant Federal Laws

- Americans with Disabilities Act (ADA)
- Fair Housing Act (FHA)
- Section 504

Americans with Disabilities Act

Prohibits discrimination against people with disabilities in several areas, including employment, transportation, public accommodations, communications and access to state and local government' programs and services

Fair Housing Act

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, because of race, color, religion, sex (including gender identity and sexual orientation), familial status, national origin, and disability. It also requires that all federal programs relating to housing and urban development be administered in a manner that affirmatively furthers fair housing.

Section 504

Prohibits discrimination based on disability

Part of the Rehabilitation Act, applies to any entity getting Federal money

Federal Exemptions

FHA:

Under very limited circumstances, the FHA does not apply to a owner-occupied dwelling with no more than four units, single-family homes sold or rented by the owner without the use of an agent, and housing operated by religious organizations and private clubs that limit occupancy to members.

Federal Exemptions

ADA:

Religious organizations and private clubs

Section 504:

Those not receiving Federal money

Washington Law Against Discrimination

RCW 49.60

Bans discrimination “in real property transactions” based on:

- Race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability

WLAD Exemptions

The Washington Law Against Discrimination prohibits discrimination of anyone based on any feature or characteristic. It does, however, contain an exception for “religious or sectarian organizations not organized for private profit” [RCW 49.60.040\(11\)](#).

Who is protected?

FEDERAL

Persons who could experience discrimination on the basis of race, color, national origin, religion, sex (including gender identity and sexual orientation) familial status and/or disability.

STATE

Age, Ancestry, Color, Creed, Disability, Gender Identity, Marital Status, National Origin, Parental Status, Political Ideology, Race, Religion, Sex, Sexual Orientation, Use of Service Animal, Military Status or Veteran, and use of Section 8 certificate.

Local

Seattle recognizes the following protected classes:

Age, Ancestry, Breastfeeding in a Public Place, Caste, Color, Creed, Disability, Gender Identity, Genetic Information, Immigration or Citizenship Status, Marital Status, National Origin, Parental Status, Political Ideology, Pregnancy Outcome, Race, Religion, Sex, Sexual Orientation, Use of a Section 8 voucher, and/or Military Status or Veteran

SMC 14.08 covers unfair housing practices; it does not exclude premises where the owner resides and there are less than four units.

Federal Law, WLAD, and Housing Rights

1. Federal - HUD – Fair Housing Center of Washington
2. State - Washington Human Rights Commission
3. Local- Office of Civil Rights (Seattle), Human Rights Commission, Fair Housing Center

Accommodations v. Modifications

ACCOMMODATIONS

A change to a rule or policy

For example:

- Allowing a service animal in the home
- Providing copy of notice to client's POA/guardian
- Making sure client gets copies of notes taken during meetings
- Allowing client to move out early to a place that better meets their needs

MODIFICATIONS

A change to the physical space

For example:

- Allowing client to install grab bars in shower
- Providing a designated parking space

Reasonable Accommodations

How to request a reasonable accommodation request:

- Submit request IN WRITING to landlord
 - Identify:
 1. The desired accommodation
 2. The fact that request is directly related to the person's disability
 - Landlord cannot ask that the requester tell them about the nature of the disability or its severity
 - Landlord may request verification letter from medical provider
- You or client may need to do some negotiating to find an accommodation that works for both sides
 - Landlord CANNOT outright deny, interactive conversation required

HUD and DOJ Joint Statement re behavioral health issues ([link](#))

GR 33 – Accommodation at Court

Landlord CANNOT charge client for accommodation or charge extra fees/deposits

Reasonable Modifications

Similar process, but client may have to pay for installation and removal at the end of the tenancy.

Animals

Service Animals

A service animal is any dog that is individually trained to do work or perform tasks for the benefit of a person with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability.

Washington also recognizes miniature horses as service animals. RCW 49.60.040

Emotional Support Animals (ESAs)

Emotional Support Animals are often used as part of a medical treatment plan. They provide companionship, relieve loneliness, and sometimes help with depression, anxiety and some phobias, but do not have special training to perform tasks that assist people with disabilities.

Accommodation and Modification Resources

Washington law provides that a person with a disability can request accommodation from Court Administration in any matter where a person requires assistance in order to access the Court, which includes provision of qualified counsel. See GR 33.

In 2021, Washington enacted Right to Counsel for low-income persons in eviction proceedings. RCW 59.18.640.

Fair Housing Center of Washington

Medical provider guide

Northwest Access Fund: <https://www.nwaccessfund.org/home-modification-resources/>

Questions
