

PREDETERMINATION SETTLEMENT AGREEMENT

CP# 06-19-73586
HUD# 07-19-1798-8

PARTIES TO THE SETTLEMENT AGREEMENT

RESPONDENTS

MERGED AREA VI COMMUNITY COLLEGE
3702 S. Center Street
Marshalltown, Iowa 50158-4760

ELLSWORTH COMMUNITY COLLEGE
1100 College Ave
Iowa Falls, Iowa 50126-1115

NATE FORSYTH
ELLSWORTH COMMUNITY COLLEGE
1100 College Ave
Iowa Falls, Iowa 50126-1115

BARB KLEIN
ELLSWORTH COMMUNITY COLLEGE
1100 College Ave
Iowa Falls, Iowa 50126-1115

WANDA KOEHRSEN
ELLSWORTH COMMUNITY COLLEGE
1100 College Ave
Iowa Falls, Iowa 50126-1115

COMPLAINANT

TATE ANDERSON
3304 220th Street
Charles City, Iowa 50616-8840

and

IOWA CIVIL RIGHTS COMMISSION
400 East 14th Street
Des Moines, Iowa 50319

Description of the Allegations: Complainant alleges Respondents failed to make a reasonable accommodation by rejecting her request for a second emotional support animal, which has resulted in different terms and conditions in housing based on disability. Respondent denies Complainant's allegations, states it rejected Complainant's request for a second animal because Complainant had not verified it was an assistance animal under the law.

Terms of Settlement: A complaint having been filed by Complainant against Respondents with the Commission under Iowa Code Chapter 216 and there having been a preliminary inquiry, the parties do hereby agree and settle the above-captioned matter in the following extent and manner:

Acknowledgment of Fair Housing Laws

1. Respondents agree there shall be no discrimination, harassment, or retaliation of any kind against Complainant or any other person for filing a charge under the "Iowa Civil Rights Act of 1965" (ICRA); or because of giving testimony or assistance, or participating in any manner in any investigation, proceeding or hearing under the ICRA; or because of lawful opposition to any practice forbidden by the ICRA. Iowa Code § 216.11(2).
2. Respondents acknowledge the ICRA makes it unlawful to discriminate in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of race, color, creed, sex, sexual orientation, gender identity, national origin, religion, disability, or familial status. Iowa Code § 216.8(1)(b). Respondents acknowledge that the Federal Fair Housing Act, as amended, makes it unlawful to discriminate in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of the person's race, color, religion, sex, disability, familial status, national origin, or disability. 42 U.S.C. 3604(b), 3604(f)(2) (§ 804 of the Fair Housing Act).
3. Respondents acknowledge the FHA and ICRA make it unlawful to refuse to make reasonable accommodations in rules, policies, practices, or services, when the accommodations are necessary to afford the person equal opportunity to use and enjoy a dwelling and to the extent that the accommodation does not cause undue financial or administrative burden or fundamentally alter the nature of the provider's operations. 42 U.S.C. 3604(f)(3)(b) (§ 804(f)(3)(b) of the Fair Housing Act); Iowa Code § 216.8A(3)(c)(2).
4. Respondents acknowledge the FHA and ICRA make it unlawful to discriminate against another person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability. 42 U.S.C. 3604(f)(2)(a) (§ 804(f)(2)(a) of the Fair Housing Act); Iowa Code § 216.8A(3)(b)(1).
5. Respondents acknowledge their obligation under the FHA and ICRA to allow assistance animals as a reasonable accommodation when necessary to permit an individual with a disability equal opportunity to use and enjoy a dwelling. See Iowa Code §§ 216.8B, .8C.

Under the FHA and ICRA, an assistance animal is "not a pet." It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including

but not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support.” *Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs*, U.S. Department of Housing and Urban Development, FHEO Notice: FHEO-2013-01, April 25, 2013, at 2; Iowa Code § 216.8B.

After receiving a request, housing providers must consider the following:

- (1) Does the person seeking to use and live with the animal have a disability (a physical or mental impairment that substantially limits one or more major life activities)?
- (2) Does the person making the request have a disability-related need for an assistance animal? (afford a person with disabilities an equal opportunity to use or enjoy the dwelling).

A request for accommodation can be denied if the accommodation would impose an undue financial and administrative burden or if it would fundamentally alter the essential nature of the housing provider's services. “The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the provider, the benefits that the accommodation would provide to the requester, and the availability of alternative accommodations that would effectively meet the requester's disability-related needs.” Joint Statement of the Department of Housing and Urban Development and the Department of Justice, *Reasonable Accommodations Under The Fair Housing Act*, May 17, 2004, at 7.

“The request may also be denied if: (1) the specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation, or (2) the specific assistance animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation. Breed, size, and weight limitations may not be applied to an assistance animal. A determination that an assistance animal poses a direct threat of harm to others or would cause substantial physical damage to the property of others must be based on an individualized assessment that relies on objective evidence about the specific animal's actual conduct — not on mere speculation or fear about the types of harm or damage an animal may cause and not on evidence about harm or damage that other animals have caused. Conditions and restrictions that housing providers apply to pets may not be applied to assistance animals.” FHEO-2013-01 *at 3*.

Respondents acknowledge they will consider each occupant or prospective occupant’s situation and accommodation request individually to determine if the requested accommodation is reasonable. The parties acknowledge that if the disability is not known or obvious, Respondents may make a reasonable inquiry and request documentation consistent with state and federal law to verify the existence of a disability (without seeking specifics on the nature of the disability) and disability-related need for the assistance animal. Assistance animals cannot be subjected to monthly pet fees since they are not considered pets under the

FHA and ICRA. Iowa Code § 216.8B(2). Housing providers cannot require special tags, equipment, certification or special identification of assistance animals.

Voluntary and Full Settlement

6. The parties acknowledge this Predetermination Settlement Agreement is a voluntary and full settlement of the disputed complaint. The parties affirm they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened or in any way forced to become a party to this Agreement.
7. The parties enter into this Agreement in a good faith effort to amicably resolve existing disputes. The execution of this Agreement is not an admission of any wrongdoing or violation of law. Nor is the execution of this Agreement an admission by Complainant that any claims asserted in her complaint are not fully meritorious.
8. The parties agree the execution of this Agreement may be accomplished by separate counterpart executions of this Agreement. The parties agree the original executed signature pages will be attached to the body of this Agreement to constitute one document.
9. The parties acknowledge the Commission will, in a reasonable manner, review compliance with this Agreement subject to Sections 15-17 of this Agreement, including if necessary the examination of witnesses, collection of documents, or requiring of written reports.

Disclosure

10. Because, pursuant to Iowa Code § 216.15A(2)(d), the Commission has not determined that disclosure is not necessary to further the purposes of the ICRA relating to unfair or discriminatory practices in housing or real estate, this Agreement is a public record and subject to public disclosure in accordance with Iowa's Public Records Law, Iowa Code Chapter 22. See Iowa Code § 22.13.

Release

11. Complainant hereby waives, releases, and covenants not to sue Respondents with respect to any matters which were, or might have been alleged as charges filed with the Iowa Civil Rights Commission, the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, or any other anti-discrimination agency, subject to performance by Respondents of the promises and representations contained herein. Complainant agrees any complaint filed with any other anti-discrimination agency, including the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, which involves the issues in this complaint, shall be closed as Satisfactorily Adjusted.

Fair Housing Training

12. Wanda Koerhsen, Barb Klein, Nate Forsyth and each of Respondents' current Assistant Directors of Residence Life will receive training on the requirements of State and Federal Fair Housing Laws within ninety (90) days of their receipt of a Closing Letter from the

Commission. The training will include an overview of fair housing laws, but will emphasize the law regarding how to handle requests for reasonable accommodations from individuals with a disability. The training shall be a one-hour telephone training conducted by the Commission, at the cost of \$125.00 for all trainees. The Commission will keep record of the completion of the training once it occurs.

New Policy and Practice

13. For all residential rental properties owned and managed, now and in the future, Respondents agree, within thirty (30) days of the execution of this Settlement Agreement, to ensure the adoption and implementation of specific, uniform, and objective written standards, procedures, and forms for receiving and handling requests made by people with disabilities for an assistance animal as a form of reasonable accommodation. These standards shall comply with the requirements of Iowa Code Chapter 216 and 42 U.S.C. § 3601 et seq.

Respondents agree within thirty (30) days of the execution of this Settlement Agreement to send documentation to the Commission detailing Respondents' said procedures with a copy of their assistance animal policy and applicable forms.

Within thirty (30) days of the execution of this Settlement Agreement, Respondents agree to make their assistance animal policy and forms readily available on the housing section of their website, in a conspicuous location easily viewable to residential students and prospective residential students.

Upon inquiry, Respondents shall inform all applicants and occupants that they may request an assistance animal as a reasonable accommodation of Respondents' rules, policies, practices, and services. Prior to lease/housing agreement execution, if prospective residential students inquire about an assistance animal as reasonable accommodations, Respondents shall inform them of their ability to seek an assistance animal as a reasonable accommodation and provide them a copy of their assistance animal policy and forms.

Respondents shall ensure the adoption of an Assistance Animal Policy and forms to implement the policy, using the following forms or forms substantially equivalent:

- Assistance Animals – Sample Policy
- Assistance Animals – Sample Guidelines

These policies are available at: <https://icrc.iowa.gov/publications/sample-forms-and-policies>. Respondents will accept the Sample Health Care Provider Form published by the Commission, if filled out in full.

Upon ensuring the adoption of specific, uniform, and objective written standards and procedures for receiving and handling requests made by people with disabilities for assistance animals as reasonable accommodations, Respondents shall provide written notice of those standards, procedures and forms to each current and future resident who has requested such an accommodation.

Relief for Complainant

14. Respondent agrees that it will approve Complainant to have two emotional support animals in her residence hall room for the 2019-2020 academic year, if:
 - a) Complainant obtains and provides to the College a verification that she is a person with a disability and has a disability-related need for each of her two requested emotional support animals in order to afford Complainant equal opportunity to use and enjoy her dwelling, from her health care provider on the form attached hereto as Exhibit A prior to the start of the 2019-2020 academic year; and
 - b) Complainant agrees to follow the College's policies, practices, and requirements regarding the assigned living space, cleanliness, and animal control as it applies to all assistance animals on the College campus. Consistent with state and federal law, Respondents can deny an accommodation as an undue burden or fundamental alteration of the College's housing.

Reporting and Record-Keeping

15. Respondents shall provide the Commission a copy of the Complainant's completed verification(s) under Section 14(a) of this Agreement, and the College's response to Complainant concerning her verification(s), within thirty (30) days of the College's response, as evidence of compliance with Term 14(a) of this Agreement.
16. Respondents shall schedule and conduct their training with the Commission within ninety (90) days of receiving their Closing Letter from the Commission, as evidence of compliance with Term 12 of this Agreement.
17. Within thirty (30) days of the execution of this Settlement Agreement, Respondents shall submit a written report to the Commission detailing Respondents' assistance animals as a reasonable accommodation procedures with a copy of their policy and applicable request forms, as objective evidence that Respondents have adopted and implemented specific, uniform, and objective written standards, procedures and said forms for receiving and handling requests made by people with disabilities for assistance animals as reasonable accommodation, as evidence of compliance with Term 13 of this Agreement.

All required documentation of compliance must be submitted via email or U.S. Mail to:

Dean Meester
Iowa Civil Rights Commission
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
dean.meester@iowa.gov
Telephone: 515-281-3001.

By:
Merged Area VI Community College, RESPONDENT

Date

By:
Ellsworth Community College, RESPONDENT

Date

Nate Forsyth, RESPONDENT

Date

Barb Klein, RESPONDENT

Date

Wanda Koehrsen, RESPONDENT

Date

Tate Anderson, COMPLAINANT

Date

Kaitlyn Smith, IOWA CIVIL RIGHTS COMMISSION

Date