
LEGAL UPDATE

Legal Services Division



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IOWA CIVIL RIGHTS COMMISSION MEETING - JUNE 14, 2019

Purpose. *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

Date and Location. The Iowa Civil Rights Commission (commission) met on June 14, 2019, in the Grimes State Office Building.

Reports. Commissioners provided reports of community involvement. Interim Executive Director Linda Grathwohl provided an update, which included information about staffing, funding, the commission's outreach committee, the annual symposium, and the summer intern program. Ms. Grathwohl also discussed recently enacted legislation, including 2019 Iowa Acts, Senate File 341, which affects service animals and assistance animals, and 2019 Iowa Acts, House File 766, which provides that the Iowa Civil Rights Act does not require a state or local government unit or tax-supported district to provide for sex reassignment surgery or related procedures.

Public Hearing on Iowa Civil Rights Commission ex rel. Jennifer Spencer v. Vincent Kobliska, DIA No. 19ICRC001. The commission held a public hearing to review an administrative law judge's ruling in a housing case alleging failure to provide reasonable accommodations for a disability under the Iowa Civil Rights Act. Complainant has a seizure disorder, anxiety disorder, and post-traumatic stress disorder. Complainant toured an apartment with a landlord, the respondent in the case. While reviewing the lease after the tour, it was discussed that the landlord had a general no-pets policy, but the lease stated an exception for service animals. Complainant asked to have an assistance animal in the apartment, asserted a medical necessity, and offered to provide medical documentation. Landlord refused to see the documentation and denied permission for the assistance animal in the apartment at that time. Complainant moved into the apartment without her assistance animal and suffered a seizure shortly thereafter. The seizure might have been avoided if the assistance animal had been living with the complainant. After the seizure, the complainant moved the assistance animal into the apartment without seeking permission but was fearful she would be evicted as a result due to the landlord's denial. Complainant and landlord had a confrontation regarding the assistance animal, argued, and ultimately the landlord relented and allowed the complainant to keep the assistance animal in the apartment.

The administrative law judge determined that the landlord violated the Iowa Civil Rights Act by failing to accommodate complainant's disability. The administrative law judge awarded complainant damages for emotional distress for the time she was denied access to her assistance animal and for the time she had her assistance animal in her apartment but was fearful that the landlord would take action to evict her. After listening to arguments from the parties and reviewing the briefs, the commission voted to adopt the administrative law judge's decision in its entirety.

Rulemaking Authorization. The commissioners discussed whether to adopt emergency rulemaking to implement 2019 Iowa Acts, Senate File 341, which requires the commission to adopt a form for certain

licensed health care professionals relating to whether an animal is a reasonable accommodation for the health care professional's patient or client. Commissioners were given a draft form to review.

The commissioners discussed the form, including whether to include the definition of health care professional provided by the Act on the form. A representative of the commission said that because under the Act, persons other than health care professionals as defined in the Act may help a person establish that the person is a person with a disability entitled to an animal, a definition was unnecessary. Commissioners asked why the form was only for assistance animals, not service animals, when the Act stated that it needed to be for both. A representative of the commission provided two reasons. First, the representative stated that it is the commission's position that every service animal is an assistance animal and second, the commission does not want people to use this form for entry with their animal into the grocery store because a person only has a right to a service animal under federal law in public accommodations, not housing. Next, a commissioner asked about the definition of disability as used on the form. A fellow commissioner stated that the definition would draw on federal law. A representative of the commission stated that the rules will be effective immediately upon filing with the Administrative Rules Review Committee. The commissioners voted in favor of adopting the emergency rulemaking.

SF 341 Assistance Animal in Housing Form and related informational materials may be found here: icrc.iowa.gov/assistance-animal-fact-sheet-policy-guidelines-and-request-forms-0

Next Meeting. The commissioners scheduled the next meeting for September 13, 2019, at 1:30 p.m.

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