



Assistance Animals and Fair Housing: NAVIGATING REASONABLE ACCOMMODATIONS



Overview



Fair Housing Discrimination Complaints Filed in Fiscal Year 2020

HUD's Office of Fair Housing and Equal Opportunity works to eliminate housing discrimination and achieve diverse, inclusive communities. One way HUD advances fair housing is through the investigation of fair housing complaints



Over 60% of complaints filed with HUD were disability related and often involved a denial of a reasonable accommodation request

Disability



Under the FHA, a person with a **disability** has a physical or mental **impairment** that substantially **limits** one or more major life **activities**, **has a record of**, or is **regarded as**, having such an **impairment**.

Disability and the Law



Fair Housing
Act of 1968



Section 504 of The
Rehabilitation Act of
1973



Americans with
Disabilities Act
of 1990

Fair Housing Act of 1968



The Fair Housing Act (FHA) prohibits discrimination in the sale, rental, and financing of housing and housing related transactions based on race, color, national origin, religion, sex (including gender identity and sexual orientation), familial status and ***disability***.

Under the FHA, housing providers must grant reasonable accommodations to individuals with disabilities when they are necessary to afford such person equal opportunity to use and enjoy a dwelling.

Section 504 of the Rehabilitation Act of 1973



Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in any program, service, or activity that receives federal financial assistance.

For example, housing providers that receive federal financial assistance may not refuse to sell or rent to a person with a disability, otherwise deny or exclude such person from housing or housing-related services and may not impose fees or penalties because a person has a disability. In addition, housing providers have an obligation to provide reasonable accommodations to otherwise qualified persons with disabilities.

Americans with Disabilities Act of 1990



Title II of the ADA prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities: (state and local governments and special purpose districts). In the context of housing, Title II of the ADA applies to housing provided for or made available by the public entity, regardless of whether the public entity receives federal financial assistance. For example, Title II of the ADA covers housing provided by public housing agencies that meet the definition of “public entity” and housing operated by state or local governments, such as housing on a State university campus.

Americans with Disabilities Act of 1990



Title III of the ADA , among other protections, prohibits private entities that own, lease, and operate places of public accommodation from discriminating on the basis of disability. In the context of housing, Title III of the ADA applies to places of public accommodation, including housing common-use areas that are open to the general public and not intended for the exclusive use of residents and their guests (such as leasing offices).

Types of Assistance Animals



Assistance Animal

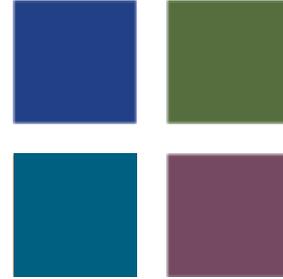
- Trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities.
- Can be any common domestic household animal.
- A reasonable accommodation must be granted where there is a nexus between a person's disability and the requested accommodation, i.e., the assistance that the animal provides to that person. The reasonable accommodation can be supported by a letter from a person knowledgeable about the individual's need for the assistance animal, such as a health care professional, but such a letter is not required. A reasonable accommodation may be made at any time.
- Unique animals are not necessarily excluded, but the requester may need to provide more information about why the animal that is not a common household animal is needed to meet the disability-related need.



Service Animal

- A type of Assistance Animal under the Act.
- Only type covered under ADA.
- Trained to do work or perform a task directly related to a disability.

Reasonable Accommodations



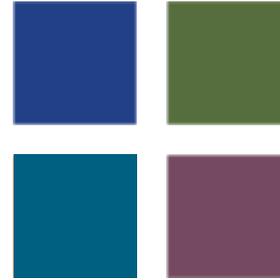
Assistance animals are NOT pets

A reasonable accommodation to a "No Pet" policy should be made for assistance animals.

A "reasonable accommodation" is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling or common areas.

Pet rules and policies are not applicable and additional fees or deposits may not be charged.

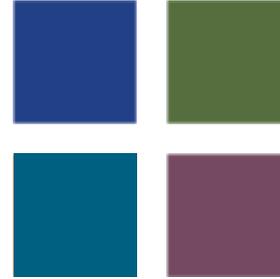
Reasonable Accommodations



Who can request reasonable accommodations?

- Tenants or applicants with a disability
- Household members with a disability
- Someone on behalf of a tenant or applicant with a disability
- Other persons with a disability associated with tenants and applicants who may frequent the dwelling
- A request for reasonable accommodation may be made at any time, regardless of whether the requestor has lived in the dwelling previously.
- A request does not have to be written, and the only requirement is that the requestor state that I or for whom the request is being made on behalf of , would like to request a reasonable accommodation to have an assistance animal.

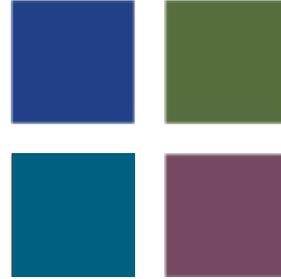
Best Practices for Requesting Reasonable Accommodations



As a best practice, it is recommended documentation supporting a reasonable accommodation request for assistance animal should include the following general information:

- The Tenant/Applicant's name;
- Whether the health care professional has a professional relationship with that patient/client involving the provision of health care or disability-related services;
- Whether the patient has a physical or mental impairment, but does not have to state what the actual condition is;
- Whether the patient's impairment(s) substantially limit at least one major life activity or major bodily function;
- The type of animal(s) for which the reasonable accommodation is sought;
- Whether the patient needs the animal(s) because it does work, aids, or performs at least one task that benefits the patient because of his or her disability, or because it provides therapeutic emotional support to alleviate a symptom or effect of the disability.

Reasonable Accommodations



Housing providers may not deny a request for an assistance animal due to:

- A “no pets” policy
- The size of animal
- The breed of animal
- The fear of setting a precedent with other tenants, or
- The individual does not look or appear to be disabled

Reasonable Accommodations and Other Tenants



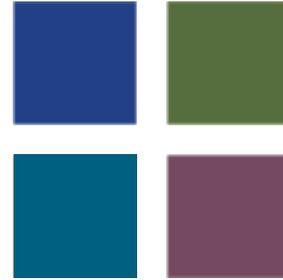
Potential Concerns from Other Tenants

- Allergic to animals
- Fear of animals or are uncomfortable living near an assistance animal

Housing Provider Obligations

- Housing providers may try to address these concerns from other tenants but may **NOT** limit the fair housing rights of persons with a disability who needs an assistance animal to have equal opportunity to use and enjoy the housing.

Reasonable Accommodations



Requests for a reasonable accommodation should be granted unless:

- The request was NOT made by or on behalf of a person with a disability
- There is no disability-related need for accommodation
- Providing the accommodation would pose and undue financial and administrative burden to the housing provider or fundamentally alter the nature of the provider's program

Requesting Information



Allowed

- Unobservable impairments

If the disability is unobservable, under the Fair Housing Act, a housing provider MAY request information to verify the requester's disability and need for accommodation.

Tip: Housing providers CANNOT request medical records, ask for a specific diagnosis, or ask about the nature or severity of an individual's disability.

Not Allowed

- Observable impairments
 - Ex: blindness, deafness, mobility limitations, epilepsy, etc.

Tip: If the disability is obvious, the housing provider may NOT request additional information about the requester's disability or need for accommodation, unless the assistance the animal provides is not obvious.

Requesting Information



Information About Disability:



A determination of disability from a federal, state, or local government agency



A receipt of disability benefits or services



Eligibility for housing assistance or a housing voucher received because of disability



Information confirming disability from a health care professional



Information from a licensed health care professional that explains the disability-related need for the assistance animal



Other information confirming disability-related need for an assistance animal

Requesting Information



Documentation to support a reasonable accommodation request should include:

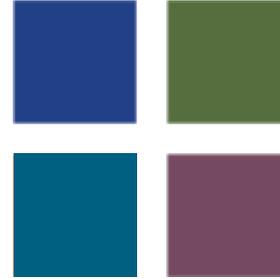
Resource: visit and check out the [FHEO Notice-2020-01](#) for more details on assistance animals.

- The patient's name
- Whether the health care professional has a professional relationship with that patient/client involving the provision of health care or disability-related services
- Whether the patient has a physical or mental impairment
- Whether the patient's impairment(s) substantially limit at least one major life activity or major bodily function
- The type of animal(s) for which the reasonable accommodation is sought
- Whether the patient needs the animal(s) because it does work, aids, or performs at least one task related to the disability, or because it provides therapeutic emotional support to assist with a disability-related need

Resources to Assist with Reasonable Accommodations



Tip: Housing providers should educate themselves about the Fair Housing Act and its requirements by seeking out training and educational materials from these resources.



Valuable Resources

- [HUD Local Field Office, FHEO HQ](#)
- [Fair Housing Initiative Program \(FHIP\)](#)
- [Fair Housing Assistance Program \(FHAP\)](#)

Important Documents

- [FHEO Notice-2020-01](#)
- [HUD-DOJ Joint Statement on Reasonable Accommodations](#)

Filing Complaints with HUD



General Information

- If you think you have been discriminated against, you can file a fair housing complaint on the [HUD website](#) or by phone.

What to Include in the Complaint

- The complainant's name, address and other contact information
- The name and address of the respondent (the person the claim is being filed against)
- The address or other identification of the property involved
- A brief description of the alleged violation

Key Takeaways



- Persons with disabilities have a **right** to an assistance animal in their housing if they have a disability-related need for such an animal.
- Pet rules **do not** apply to assistance animals.
- Housing providers should consider and respond to each request for a reasonable accommodation individually and grant the request if it is reasonable.
- Housing providers **should not** ask intrusive questions to verify the need for an assistance animal.
- Violations of the Fair Housing Act can be costly.
- The FHA covers **all** assistance animals, not only service animals.

Resources



Helpful Links

- [FHEO Assistance Animals Page](#)
- [Fair Housing Act](#)
- [Filing a complaint](#)
- Reasonable Accommodations Interactive Tool:
- [Fair Housing Resource Page](#)



Disclaimer



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Thank you!

