

FEDERAL GUIDELINES REGARDING SERVICE DOGS AND EMOTIONAL SUPPORT DOGS (ESA) IN HOUSING COMPLEXES, APARTMENT BUILDINGS, AND OTHER DWELLINGS

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The purpose of this information sheet is to inform landlords and property managers about the federal guidelines set forth by the Fair Housing Act with respect to service animals, emotional support animals, and people with disabilities who seek housing. Under the FHA, people with disabilities may seek a reasonable accommodation to allow their service animals and/or emotional support animals to live with them regardless of the landlord or manager's pet policy. Additionally, since service animals are NOT considered pets under the FHA and are necessary to the well being of the disabled person, they are exempt from pet fees and/or extra pet deposit policies.

WHAT IS A REASONABLE ACCOMMODATION?

The federal Fair Housing Act, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and many state and local fair housing owners and managers provide reasonable accommodations for applications and residents who have disabilities. Reasonable accommodations are changes in rules, policies, practices, or services that are necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling. Allowing residents who have disabilities to live with their service animals is a reasonable accommodation.

WHAT IS THE DEFINITION OF DISABILITY?

Under fair housing laws, a person is considered to be disabled if he or she has a sensory, mental, or physical condition that substantially limits one or more major life activity like walking, hearing, seeing, working, eating, etc. Disabilities may be temporary or permanent, common or uncommon, mitigated or unmitigated. As a result of their disabilities, some people have a need for service animals to assist them with the functional limitations of everyday life caused by their disabilities.

HOW DOES FEDERAL LAW DEFINE DIFFERENT TYPES OF ASSISTANCE ANIMALS?

The definitions are as follows:

Assistance animals: HUD (Housing and Urban Development) compliance guidelines define assistive animals as “animals that serve as a reasonable accommodation for a person with disabilities by assisting those individuals in some identifiable way by making it possible for them to make more effective use of their housing.

Under fair housing laws, the term “assistance animal” includes animals who may also be known as service animals, “support animals, assistance animals, therapy animals, and companion animals.” While most assistance service animals are dogs, they may be other species, such as cats, birds or other domestic animals.

Assistance animals may be any breed, size or weight. Some, but not all, assistance animals wear special collars or harnesses. Assistance animals are not required by law to have special licenses, to be certified, or to have any visible identification.

Service Animals: HUD regulations governing the Fair Housing Act do not provide a specific definition of the term “service animal.” But generally speaking, service animals are assistance animals that are “trained to perform certain services or tasks for persons with disabilities. Examples include, but are not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing rescue assistance, pulling a wheelchair, or fetching items.”

Emotional Support Animals: An emotional support animal, often referred to as a companion animal, is defined as an assistance animal, “the presence of which ameliorates the effects of a mental or emotional disability.” According to HUD, “emotional support animals provide very private functions for persons with mental and emotional disabilities. Specifically, emotional support animals by their very nature, and **without** training, may relieve depression and anxiety, and help reduce stress-induced pain in persons with certain medical conditions affected by stress.”

HOW DO I REQUEST TO LIVE WITH AN ASSISTANCE ANIMAL?

If you need to live with an assistance animal because of your disability, make a request to your landlord or manager for a **reasonable accommodation**. It is best to submit these requests in writing but verbal requests are acceptable. We provide a sample letter you can send to your landlord at the end of this document.

WHAT ABOUT NO-PETS POLICIES?

Under the Federal Fair Housing Act, a person with a disability who needs an animal that provides disability-related assistance may request that a housing provider waive a “no pets” policy as a reasonable accommodation.

HOW DOES A LANDLORD OR MANAGER VERIFY THAT AN ASSISTANCE ANIMAL IS NECESSARY?

Under Federal Law housing providers are entitled to verify the existence of the disability if it is not readily apparent and the need for the accommodation if it is not readily apparent. For example, if you are seeking a reasonable accommodation for an emotional support animal, you may be required to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal provides support that alleviates at least one of your disability symptoms or effects of the existing disability. Common conditions alleviated by emotional support dogs include severe depression, anxiety, panic attacks, bipolar disorder, and others.

If your landlord or manager asks for this verification, you should obtain a signed letter from your doctor or other medical professional, or other qualified third party who, in their professional capacity, has knowledge about your disability and your need for a reasonable accommodation. **You do not have to provide details about your disability or about the specific tasks the service animal/emotional support dog performs, except that which is detailed in any applicable emotional support animal prescription letter.**

CAN A HOUSING PROVIDER REQUIRE THAT A SERVICE/ASSISTANCE ANIMAL BE TRAINED?

It depends on the assistance’s animal’s purpose. According to HUD, “the Department’s position has been that animals necessary as a reasonable accommodation do not necessarily need to have specialized training. Some animals perform tasks that require training, and others provide assistance that does not require training.”

DOES AN EMOTIONAL SUPPORT OR COMPANION ANIMAL NEED TO BE TRAINED?

No. According to HUD, “emotional support animals do not need training to ameliorate the effects of a person’s mental and emotional disabilities. For example, there are animals that have an innate ability to detect that a person with a seizure disorder is about to have a seizure and can let the individual know ahead of time so that the person

can prepare. This ability is not the result of training, and a person with a seizure disorder might need such an animal as a reasonable accommodation to her disability.”

CAN A HOUSING PROVIDER REQUIRE LICENSING OF YOUR SERVICE OR EMOTIONAL SUPPORT DOG?

A housing provider can require an emotional support animal letter from a licensed therapist or physician before making a reasonable accommodation. Housing providers may not require licensing of service dogs.

CAN A HOUSING PROVIDER CHARGE PET RENT FEES OR REQUIRE ADDITIONAL DEPOSITS FOR ASSISTANCE ANIMALS?

No. Owners of assistance animals should not be charged pet deposits or fees, and cannot require a tenant with an assistance animal to obtain extra insurance. General cleaning or damage deposits can be charged, if all residents are similarly charged. Please remember that a housing provider can hold a resident with an assistance animal liable for any damage the animal causes.

CAN A HOUSING PROVIDER LIMIT THE NUMBER OF ASSISTANCE ANIMALS?

In some cases, a tenant with a disability may need assistance animals for different purposes. In some cases, more than one household member may be a person with a disability who needs an assistance animal. However, a resident with a disability must demonstrate a connection between the disability and the function each assistance animal provides. If a resident with a disability demonstrates that she needs one assistance animal to limit the effects of a mental or emotional disability and another to pull her wheelchair, approving two assistance animals would constitute a reasonable accommodation.

It is not necessary for a tenant with a disability to utilize more than one animal for the same function unless a new assistance animal is being trained to replace an older, retiring animal.

WHAT IF MY LANDLORD OR HOUSING MANAGER ONLY ALLOWS PETS UNDER 30 POUNDS OR OF A SPECIFIC SIZE OR BREED?

Assistance animals, including service animals and companion animals, and emotional support animals are NOT pets. Because assistance animals may be any breed, size, or weight, housing providers should reasonably accommodate a tenant with a disability-related need for an assistance animal by waiving any size or weight limitations that might otherwise apply to pets.

WHEN CAN A HOUSING PROVIDER DENY AN ASSISTANCE ANIMAL?

Housing providers are not required to provide a reasonable accommodation that is unnecessary or that would pose a direct threat to the health or safety of others. Thus, if the particular animal requested by the individual with a disability has a history of dangerous behavior, the housing provider does not have to accept the animal into the housing.

ANIMAL CARE AND SUPERVISION

YOU ARE RESPONSIBLE for the care of your service animal. You must supervise your animal and retain full control of it at all times. This means that while the animal is in common areas, it is on a leash, in a carrier, or otherwise in your direct control. When in the presence of others, the animal is expected to be well behaved, quiet, and not causing a nuisance to others. Additionally, you are responsible for the proper disposal of animal waste:

- Carry equipment to clean up your service animal's excrement whenever the animal is in common areas
- Properly dispose of waste and/or litter
- If you need assistance with cleanup, you must arrange for such help through family, friends, or other disability advocates

If a service animal is unruly, disruptive, or aggressive to others, the manager may ask the resident to remove the animal from a common area. If the animal's inappropriate behavior happens repeatedly, the manager may request that the resident not bring the animal into common areas until steps have been taken to mitigate the behavior, such as additional behavioral training, or ask that the animal be removed from the residential premises.

WHAT ABOUT OTHERS IN THE HOUSING UNIT WHO ARE AFRAID OF OR ALLERGIC TO SERVICE ANIMALS?

A fear of or minor allergy to dogs or other animals is not a disability, so management does not need to “accommodate” others in those situations. In rare cases, a person’s allergy may be so severe that animal contact may cause respiratory distress. In those situations, the allergic person may also request an accommodation, such as keeping the animal and the allergic person separate, as much as is possible.

LOCAL ORDINANCES THAT BAN SPECIFIC BREEDS

A few cities have adopted ordinances that completely ban the ownership of particular breeds including pit bulls, wolf-hybrids, and others. If your city or municipality does not have such bans in force, this does not apply to you.

Because prohibiting specific breeds could be considered too limiting for people with disabilities, local governments should be able to show that the breed has some unique traits and characteristics that pose a greater threat of serious injury or death to humans than other breeds. Breed-specific ordinances must also clearly define the particular breed being regulated so that owners or potential owners are given sufficient notice of requirements and violations. Housing providers should consider working with a tenant to seek a reasonable accommodation exception from a prohibited breed ordinance.

Some states and municipalities provide exemptions to breed specific limitations, for example, dogs that pass the American Kennel Club’s Canine Good Citizen Program.

INSURANCE ISSUES

Some insurance carriers refuse to cover a rental property, substantially increase the cost of coverage, or adversely change the terms of their policies if a person with a disability resides in the rental dwelling with an assistance animal that is a breed of dog that the carrier considers dangerous.

HUD and the U.S. Department of Justice have issued a joint statement on “Reasonable Accommodations Under the Fair Housing Act”. This statement notes that an accommodation is unreasonable if it imposes an undue financial and administrative burden on a housing provider's operations. If an insurance carrier would cancel, increase policy costs, or adversely change policy terms because of the presence of a certain breed of dog or a certain animal, HUD states that this imposes an undue financial and administrative burden on the housing provider.

A housing provider should substantiate any claim regarding the potential loss of or adverse change to the insurance coverage by verifying such a claim with the insurance company directly and considering whether comparable insurance, without the restriction, is available in the market.

If there is evidence that an insurance provider has a policy of refusing to insure any housing that has animals, without exception for assistance animals, the insurance provider may be violating federal civil rights laws prohibiting discrimination based upon disability.

IF YOU HAVE FURTHER QUESTIONS, BELIEVE YOUR RIGHTS ARE BEING VIOLATED, OR WOULD LIKE MORE INFORMATION, PLEASE VISIT THE FOLLOWING PUBLICLY AVAILABLE RESOURCES:

US Department of Housing and Urban Development

www.hud.gov

ADA Info Hotline, US Department of Justice

www.ada.gov

800-514-0301, TTY 800-514-0383

ADA FAQs

<http://www.ada.gov/qasrvc.htm> http://www.ada.gov/regs2010/service_animal_qa.html

SAMPLE LETTERS

In the following two pages we provide a sample letter for a request for reasonable accommodation of your service dog or emotional support dog which you can fill out and give to your landlord in addition to any registration materials and ID cards you've received from USA Service Dogs. On the next page is a sample verification letter which would be filled out by a licensed health professional, therapist, or physician which would serve as proof of your need for a reasonable accommodation to allow your emotional support animal to live with you.

REQUEST FOR REASONABLE ACCOMMODATION OF EMOTIONAL SUPPORT SERVICE ANIMAL

Date: _____

TO (Landlord Name): _____

Landlord Address: _____

I have a disability as defined by the Fair Housing laws. I use an emotional support animal to assist me with the functional limitations related to my disability. My service animal enhances my ability to live independently, and to use and enjoy my dwelling fully.

Type of service animal (dog, cat, etc):

_____ As an accommodation for my disability, I request that you:

___ Waive your no-pet policy

___ Waive your pet weight / height / breed restrictions

___ Waive your pet deposit or fees

___ Other:

—

Additionally, upon request, I can furnish registration documents and a note from a qualified medical professional who has knowledge about my disability and my need for a reasonable accommodation. The letter will verify that I have a disability as defined in the fair housing laws and that I have a disability related need for a service animal.

Signed

Name

Address

Phone

Please advise me the status of my request by _____
(date)

REQUEST FOR REASONABLE ACCOMMODATION OF SERVICE ANIMAL

Date: _____

TO (Landlord Name): _____

Landlord Address: _____

I have a disability as defined by the Fair Housing laws. I use a service animal to assist me with the functional limitations related to my disability. My service animal enhances my ability to live independently, and to use and enjoy my dwelling fully.

Type of service animal (dog, cat, etc):

_____ As an accommodation for my disability, I request that you:

___ Waive your no-pet policy

___ Waive your pet weight / height / breed restrictions

___ Waive your pet deposit or fees

___ Other:

—

Additionally, I can furnish registration documentation and ID cards upon request. Signed

Name

Address

Phone

Please advise me the status of my request by _____
(date)

**Verification for Reasonable Accommodation / Modification From Health
Professional, Sample Letter**

Please accept this correspondence as verification that:

1. I am a _____ (type of medical
professional)

2. I have treated _____ since _____ for a
_____ condition. I have evaluated and/or treated him/her
_____ times in the last twelve months.

3. _____ is a person with a disability as defined by
the ADA

4. The disability affects _____

5. _____ requests that a reasonable
accommodation be made to your housing policy and allow the service dog to live in your
dwelling with my patient.

Please approve _____'s request for

Printed Name: _____

Professional Title: _____

Name of Clinic/Hospital: _____

Address:

_____ Phone:

Fax: _____

Date: _____

Signature: _____