

FAQs on Service and Assistance Animals in Housing

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Summary: This document gives some brief answers to questions on service and assistance animals in housing.

Introduction

In January of 2020, the U.S. Department of Housing and Urban Development (HUD) released revised guidance for housing providers assessing the needs of individuals seeking to have an animal as a reasonable accommodation under the Fair Housing Act (FHA). This guidance replaces the former guidance from 2013 (FHEO-2013-01).

A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have equal opportunity to use and enjoy a dwelling, including public and common use spaces.

The following linked FAQs uses this new guidance to explain some of the common issues with respect to assistance animals.

The federal Fair Housing Act (FHA) makes it illegal to discriminate in housing based on disability. A person with a disability may seek a “reasonable accommodation” from a housing provider so that they may have an equal opportunity as an able-bodied person to use and enjoy a dwelling. For decades, courts have recognized the ability to keep an animal in housing that otherwise does not allow animals as a reasonable accommodation. The accommodation at issue a change to the rule that no animals are allowed.

They are animals that do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities. Importantly, assistance animals are not considered pets and housing providers may not impose fees or deposits that are required for pets.

There are two types of assistance animals: (1) service animals, and (2) other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to in the guidance as a “support animal” but also called "assistance animals").

The revised guidance issued by HUD now has a two-tier process to evaluate requests for a service or

assistance animal. The first considers requests for service animals as defined by the Americans with Disabilities Act (ADA). The second part of the guidance considers other animals that are not service animals (this includes animals commonly known as “emotional support animals”). As a result, the following FAQs are divided into Part 1 for Service Animals and Part 2 for Assistance Animals.

HUD notes that this revised guidance is just that: guidance. It does not have the force of law and the guidance is not binding. The guidance is a tool to provide best practices for dealing with requests for service animals or assistance animal as reasonable accommodations in housing. In particular, HUD focuses on requests for reasonable accommodations with non-observable disabilities:

HUD provides this guidance "to help housing providers distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by housing providers' pet policies, such as pet fees or deposits." The guidance may also help persons with a disability who request a reasonable accommodation to use an assistance animal in housing.

With FHA complaints for disability access and denial of reasonable accommodations comprising 60% of all FHA complaints against housing providers according to HUD, this has become a growing issue for housing providers according to HUD.

[To access the HUD guidance directly, see [Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act, FHEO-2020-01, Issued January 28, 2020.](#)]

Frequently Asked Questions (FAQs)

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- (20) Is a housing provider responsible for taking care of the assistance animal?

(21) I am a health care provider and have been asked to provide documentation to establish a disability-related need for an assistance animal. What should I provide?

(22) I am a health care professional who has been asked to provide information on an animal as a reasonable accommodation. The housing provider wants me to sign a notarized statement with some legal language that I am not comfortable with. Is this allowed?

(23) Are there any state laws that relate to assistance animals in addition to the federal FHA?

Part 1: Service Animals

(1) What is a Service Animal?

For evaluation of assistance animal requests by housing providers, HUD uses the ADA definition for service animal: "service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability." 28 C.F.R. §§ 35.104; 36.104.

Since 2010, the definition of service animal has been limited to a dog.

(2) What happens if someone claims to have a service animal that is not a dog?

According to HUD on page 6 of the guidance, if the animal is not a dog, the person may need to go through the analysis for an assistance animal (Part 2).

(3) How do I know if the dog is a service animal?

A service animal is a dog that is individually trained to assist a person with a disability. This function may be readily apparent or not readily apparent. HUD states that if the function of the service animal is readily apparent, then "further inquiries are unnecessary and inappropriate because the animal is a service animal." FHEO-2020-01 at page 6. Some examples of this are guide dogs for the blind, service dogs who pull wheelchairs, and dogs who are aiding in mobility to a person with difficulty walking.

(4) What if the function of the dog is not readily apparent?

If the function the dog performs is not readily apparent, the housing provider may ask two questions:

(1) "Is the animal required because of a disability?" and

(2) "What work or task has the animal been trained to perform?"

(5) What is a disability?

Under the FHA, a disability is a physical or mental impairment that substantially limits one or more major life activities.

Major life activities include things like seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, and working.

(6) Can I get some proof of the requestor's disability like medical records?

No, HUD states that housing providers must not ask about the nature or extent of the person's disability or ask for documentation about it. A housing provider can have language in the lease or other agreement that, by signing the lease or agreement, representations made by the tenant show the truth and accuracy of other material information. If these affirmations turn out to be false, the landlord can pursue options described in the lease.

(7) The person requesting the accommodation said a service animal is required because of a disability and explained the work or task the dog performs. What do I do now?

If the tenant with the service animal answers both of the screening questions satisfactorily, the housing provider must grant the request for the animal as a reasonable accommodation because the animal qualifies as a service animal.

(8) The tenant answered "no" or "none" to the two service animal questions – do I have to grant the accommodation?

In this case, the animal is not a service animal. However, the animal may be presented by the individual as an assistance animal. The screening process in Part 2 would then be implemented to assess whether the animal is an assistance animal.

(9) What happens if the dog appears to be both a service animal and an emotional support animal?

HUD states that where the animal performs a task or function for a person with disability, but the person also states that the dog provides emotional support or comfort, then the dog should be considered a service animal and permitted in housing, including public and common use areas. FHEO at page 7. Housing providers should not make further inquiries. For example, a dog is individually trained to provide mobility support for a person who has difficulty with balance when walking. The handler also indicates that the dog provides love and comfort when stress overwhelms them. The dog would still be considered a service animal.

Part 2: Evaluation of Assistance Animals

(1) What is an assistance or support animal?

An assistance animal does work, performs tasks, provides assistance, or provides emotional support for a person with a physical or mental impairment that substantially limits at least one major life activity or bodily function. Unlike service animals, they are not individually trained to do work or perform tasks.

(2) What are some therapeutic benefits assistance animals can provide?

Animals can perform a variety of therapeutic functions for persons with emotional, neurological, or

cognitive disabilities. Here are a few examples:

Interrupting impulsive or destructive behavior or self-harm in individuals with psychiatric and neurological disabilities;

Reminding a person with psychiatric impairments to take their medication;

Providing a reason to live for a person with major depressive disorder; and

Engaging in an action to calm a person with person with post-traumatic stress disorder (PTSD) during an anxiety attack.

(3) Does a request only apply to rental housing?

No, requests for assistance animals are not limited to tenants in rental properties. The FHA covers nearly type of housing with a few exceptions. In fact, HUD states the term “housing provider” refers to any person or entity engaging in conduct covered by the FHA. Courts have applied the FHA to individuals, corporations, partnerships, associations, property owners, housing managers, homeowners and condominium associations, cooperatives, lenders, insurers, real estate agents, brokerage services, state and local governments, colleges and universities, as well as others involved in the provision of housing, residential lending, and other real estate-related services.

(4) Does the tenant need to submit the request for an accommodation in writing?

Not necessarily, according to HUD. While HUD reminds housing providers and individuals seeking animals as reasonable accommodations that miscommunication can occur when things are not in writing, a written request is not required. It is advisable and HUD reminds persons with disabilities to keep copies of their requests for reasonable accommodations in case later disputes arise. People requesting animals are also not required to use any special terms like “reasonable accommodation” or “assistance animal” to actually make the request. Failure to use specific terms does not disallow the request.

(5) Does a person need to make the request BEFORE they obtain the assistance animal?

No, the request may be made at any time. HUD says that a resident may request a reasonable accommodation either before or after acquiring the assistance animal. In fact, “[a]n accommodation also may be requested after a housing provider seeks to terminate the resident’s lease or tenancy because of the animal’s presence, although such timing may create an inference against good faith on the part of the person seeking a reasonable accommodation.” FHEO at page 8. However, a housing provider must consider the reasonable accommodation request even if the tenant obtained the animal prior to making the request.

(6) What is the general process for evaluating a request?

First, a request must be made (see question 4 regarding the type of request). If no request is made, then a housing provider does not need to make the accommodation. The person making the request must

either have an observable disability or provide information that reasonably supports that a person has a disability. Finally, the person seeking the accommodation must have provided reliable information to the housing provider showing the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability. Reliable documentation typically takes the form of a letter from the requestor's medical provider or therapist.

(7) What is a disability and how do I know if someone has a disability?

A disability is a physical or mental impairment that substantially limits one or more major life activities. Major life activities include things like seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, and working.

For this question, HUD distinguishes between "observable" and "non-observable" disabilities. Observable disabilities are ones that "generally tend to be obvious and would not be reasonably attributable to non-medical causes by a lay person." This would include things like neurological impairments (i.e., stroke, Parkinson's, etc.), intellectual impairments, and other diseases or conditions that affect major life functions.

Many times, people seek animals as reasonable accommodations for impairments that are non-observable. For example, a person might suffer from major depression, PTSD, or schizoaffective disorders that do not have readily observable traits.

(8) What proof can I request for a non-observable disability?

A housing provider is entitled to request information that reasonably supports the request for the accommodation. If a person submits documentation that they receive state or public benefits because of a disability or other documentation showing that the person suffers from the disability, that is sufficient. A person does NOT have to receive or be eligible for public disability benefits to request an assistance animal.

HUD states that certain impairments outlined in the ADA Amendments Act of 2008 will almost always be found to impose a substantial limitation on major life activities in virtually all cases. Such impairments include:

deafness, blindness, intellectual disabilities, partially or completely missing limbs or mobility impairments requiring the use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, muscular dystrophy, multiple sclerosis, Human Immunodeficiency Virus (HIV) infection, major depressive disorder, bipolar disorder, post-traumatic stress disorder, traumatic brain injury, obsessive compulsive disorder, and schizophrenia.

FHEO-2020-01 at page 10. This list is not exhaustive, but it means that, in almost every case, those conditions will be covered as disabilities. HUD notes that housing providers should consider this information when a person submits a request.

(9) I am a housing provider and just don't believe what people tell me without proof. Can I ask for details

about the disability or request medical records?

HUD does not allow housing providers to seek personal and private details of a person's medical history. HUD states that "[d]isclosure of details about the diagnosis or severity of a disability or medical records or a medical examination cannot be required."

(10) What about documentation from the Internet? Is that sufficient to show that someone is disabled from something like depression or PTSD?

It depends, according to HUD. A housing provider is entitled to request reliable documentation related to the disability. Because of the presence of numerous web-based providers that issue assistance animal "registrations" and "certificates" after a short interview for a fee, HUD states the following:

In HUD's experience, such documentation from the internet is not, by itself, sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal.

FHEO-2020-01 at page 11.

Documentation from a medical provider that has an established relationship with the person seeking the accommodation would be much more reliable. In the present Covid Pandemic, many patients have switched to remote visits with their medical and mental health providers. Thus, there is apt to be less face-to-face interaction between providers and those seeking accommodations since 2020. HUD notes that licensed, medical professionals can deliver services remotely and deliver reliable documentation.

(11) How does the person seeking the accommodation establish a disability-related need for the animal?

HUD explains that A relationship or connection between the disability and the need for the assistance animal must be provided. This is particularly the case where the disability is non-observable, and/or the animal provides therapeutic emotional support.

For non-observable disabilities and animals that provide therapeutic emotional support, a housing provider may ask for information that is consistent with that identified in the Guidance on Documenting an Individual's Need for Assistance Animals in Housing (see pages 16 to 18 in the Guidance). In essence, this is the proof or reliable documentation of the existence of the disability and the disability-related need for an animal as an accommodation. HUD gives medical and mental health practitioners an idea of what they need to include in a document once a patient inquires about using an assistance animal. This documentation submitted by the requestor's medical or mental health practitioner allows the housing provider to conduct an individualized assessment of whether it must provide the accommodation under the Fair Housing Act. The lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation.

(12) Can an assistance animal be any type of animal or just common type of animal (cat, dog, bird, etc.)?

The animal can be something uncommon in households, but the evaluation process for such an animal

became more involved in 2020 in the new HUD guidance.

In the updated guidance, HUD has now specifically addressed this concern of housing providers. In the past, housing providers were limited as to whether the specific animal posed a threat.

Now, HUD has created two categories for assistance animals: (1) common household pets; and (2) unique animals.

A common household animal is a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes. This excludes reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

A unique animal is just that – one that is not commonly kept as a household pet.

If the person has established the disability and disability-related need for a common household pet through reliable information (or an observable disability need), then the housing provider should grant the request.

If the person is requesting the accommodation for a unique animal, then they have the “substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal” [emphasis added]. FHEO-2020-01 at page 12.

HUD encourages those with unique animals to submit documentation from a health care professional confirming the need for this animal, which includes information set forth in the Guidance on Documenting an Individual’s Need for Assistance Animals in Housing. For purposes of establishing the need for a unique animal, the Guidance suggests the following additional information for unique animals:

The date of the last consultation with the patient,

Any unique circumstances justifying the patient’s need for the particular animal (if already owned or identified by the individual) or particular type of animal(s), and

Whether the health care professional has reliable information about this specific animal or whether they specifically recommended this type of animal.

HUD notes that this does not establish a new documentation threshold for requestors, but says that “the lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation.

FHEO-2020-01 at page 17 - 18

(13) Why would anyone need a unique animal? What is an example of a therapeutic need for a unique animal?

A therapeutic need for a unique animal can be established in some circumstances. Here is the example

HUD provides for a capuchin monkey:

An individually trained capuchin monkey performs tasks for a person with paralysis caused by a spinal cord injury. The monkey has been trained to retrieve a bottle of water from the refrigerator, unscrew the cap, insert a straw, and place the bottle in a holder so the individual can get a drink of water. The monkey is also trained to switch lights on and off and retrieve requested items from inside cabinets. The individual has a disability-related need for this specific type of animal because the monkey can use its hands to perform manual tasks that a service dog cannot perform.

FHEO-2020-01 at page 13.

In addition, a person with an allergy to a dog may seek a unique animal as a reasonable accommodation to a land use and zoning law, Homeowners Association (HOA) rule, or condominium or co-op rule.

(14) I am a housing provider and have specific rules against certain breeds of dog. Can I refuse a request based on a breed of dog?

Because pet rules do not apply to assistance animals, breed restrictions for individuals with pets would also not apply. Remember, assistance animals are not pets. However, the housing provider can limit animals if they pose a direct threat or cause a fundamental alteration to the housing situation. As HUD states in the guidance, “. . . housing providers may not limit the breed or size of a dog used as a service animal or support animal just because of the size or breed but can, as noted, limit based on specific issues with the animal’s conduct because it poses a direct threat or a fundamental alteration.”

FHEO-2020-01 at page 14.

(15) What about requests for multiple assistance animals?

HUD acknowledges that there are circumstances where a person could need more than one assistance animal. For example, a person has a disability-related need for more than one animal, or two people living together each have a disability-related need for a separate assistance animal. Each request would be individually evaluated based on the criteria explained in the guidance.

(16) Under what conditions can a housing provider refuse a request for an assistance animal as a reasonable accommodation?

If the housing provider can prove that the animal poses a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others, then they can refuse the accommodation. The animal must pose a direct threat that cannot be eliminated or reduced to an acceptable level through actions the individual takes to maintain or control the animal.

HUD does note that if a request is denied, the housing provider and the tenant should engage in an “interactive process” to determine if there are other reasonable accommodations that would meet the individual’s disability-related needs.

(17) I think my housing provider has wrongfully denied my request for a reasonable accommodation.

How do I contact HUD?

HUD has an online portal for complaints available at https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint.

(18) This sounds like extra work on my part as a housing provider. Can I charge people a fee for processing a reasonable accommodation request?

No, HUD specifically states this is not allowed. FHEO-2020-01 at page 14.

(19) I charge all of my tenants pet fees and damage deposits. Can I charge a person with an assistance animal?

This answer is also no. You may charge a tenant for damage an assistance animal causes if it is your usual practice to charge for damage caused by tenants (or deduct it from the standard security deposits imposed on all tenants). In essence, you can charge for damage done IF you also do that for non-disabled tenants.

(20) Is a housing provider responsible for taking care of the assistance animal?

No, the responsibility of care for the animal remains with the person requesting the accommodation. That person may seek help from friends, relatives, or paid caretakers of animals. If the care of the animal fell to an unacceptable level that could constitute neglect, then proper authorities may be notified just as with other non-disabled tenants.

(21) I am a health care provider and have been asked to provide documentation to establish a disability-related need for an assistance animal. What should I provide?

HUD has created "Guidance on Documenting an Individual's Need for Assistance Animals in Housing" beginning on page 16 of the revised 2020 guidance. In this part, HUD states that the following information is helpful to include in such documentation:

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.

The type of animal(s) for which the reasonable accommodation is sought (i.e., dog, cat, bird, rabbit, hamster, gerbil, other rodent, fish, turtle, other specified type of domesticated animal, or other specified unique animal – see questions 12 and 13 for additional requirements for unique animals).

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, and

Whether the patient needs the animal(s) (because it does work, provides assistance, 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 of the patient/client, and not merely as a pet).

It is also recommended that the health care professional sign and date any documentation provided and provide contact information and any professional licensing information.

FHEO-2020-01 at page 16.

(22) I am a health care professional who has been asked to provide information on an animal as a reasonable accommodation. The housing provider wants me to sign a notarized statement with some legal language that I am not comfortable with. Is this allowed?

Housing providers may not require a health care professional to use a specific form (including this document), to provide notarized statements, to make statements under penalty of perjury, or to provide an individual's diagnosis or other detailed information about a person's physical or mental impairments

(23) Are there any state laws that relate to assistance animals in addition to the federal FHA?

In recent years, states have begun to enact laws on assistance animals in housing to address a perceived demand for assistance animals. These laws define housing providers obligations with respect to requests for reasonable accommodations and create penalties for individuals who fraudulently claim pets as assistance animals. Some laws give restrictions and guidance to medical professionals who are asked to provide documentation for individuals with disabilities.