

Assistance Animals and the Fair Housing Act

What is an assistance animal?

Under the Federal Fair Housing Act (FHA), an assistance animal is:

- an animal that provides emotional support that improves symptoms of a person's disability; and/or
- an animal that works or performs tasks that assist a person with a disability.

Assistance animals are commonly known as service animals and emotional support animals.

How are assistance animals protected in housing?

Under the FHA people with disabilities have the right to equally use and enjoy their housing and public-use areas. To do this, individuals may need to ask their housing provider to change a rule, policy or procedure. This is a reasonable accommodation. For example, if an individual with a disability requires an assistance animal but lives in housing that has a "no-pets" policy, they may need to ask for a reasonable accommodation to that policy.

What housing is covered under the Fair Housing Act?

The FHA covers most housing, including single and multifamily housing (homes, apartments, and condominiums), nursing homes, group homes, most student housing, and assisted-living housing. The act exempts single-family homes sold or rented without a real estate agent, buildings with four or fewer units with the landlord occupying one of the units, housing operated by organizations, and private clubs with limited occupancy to members. Local ordinances may expand this coverage.

How to request a reasonable accommodation for an assistance animal?

You are not required to put your request for a reasonable accommodation in writing, but it can be helpful. Making the request in writing can help to avoid miscommunication and help to clear up later misunderstandings. If you meet in person or have discussions about your accommodation in person, you can follow-up with an email or letter.

You also do not need to use specific language as long as you are making it clear that you are requesting a change to a policy and why there is a disability-related need for that change. However, it can be helpful to use certain terms like “fair housing act,” “full and equal enjoyment” and “reasonable accommodation.”

If your disability is not known or obvious, your housing provider has the right to request additional information that shows you are an individual with a disability and there is a disability-related need for your accommodation. This is typically a letter from your treating medical professional. The letter may be from a therapist, nurse practitioner, general physician, etc. It can be helpful to provide this letter with your initial request for accommodations.

NOTE: You are not required to provide medical records or detailed information about the nature or severity of your disability. You also do not need a certification or specific registration for your assistance animal beyond local licensing laws. Additionally, assistance animals do not need to wear a vest or special collar.

When may a housing provider deny your assistance animal?

A landlord does not have to allow an assistive animal if it would impose an undue financial and administrative burden, or it would fundamentally alter the nature of the provider’s operations. For example, a landlord would not have to allow a horse as an assistive animal in a small one-bedroom apartment.

A landlord may also deny an assistive animal if the animal’s behavior poses a direct threat to the health or safety of others. However, the risk must be significant and immediately identified, and must be based on objective medical/factual evidence, not fear or opinions. This must be determined on a case-by-case basis.

Can a landlord charge a fee for an assistance animal?

Housing providers cannot charge a “pet deposit” or extra rent for assistance animals. Assistive animals are not pets. However, a housing provider may hold a tenant responsible for property damage to the same extent that other individuals would be held responsible.

What are your responsibilities as an assistance animal owner?

As an owner of an assistive animal, you are responsible for the care and supervision of the animal. These responsibilities include: having control of the animal, housebreaking the animal, cleaning up after the animal, and following state and local licensing and vaccination laws.

Resources: Individuals who believe they have been illegally denied housing or access because of an assistive animal may file a complaint against the property manager/owner with the U.S. Department of Housing and Urban Development (HUD) within one year of the incident. Individuals may also be able to sue under state law.

Where to file a Complaint:

- HUD's Office of Fair Housing and Equal Opportunity (FHEO)
 - https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint#_How_to_File
 - This website explains how to file a complaint online, email, phone or mail.

Sample Letters

Sample Letter from Tenant to Landlord for an Emotional Support Animal or Service Animal:

DATE

Dear NAME OF LANDLORD/HOUSING MANAGER:

My name is TENANT’S NAME and I live in unit UNIT NUMBER. I am a person with a disability, as defined under the Fair Housing Act and the Rehabilitation Act of 1973. My disability limits my ability to DETAIL THE LIMITATIONS. I would like to request a reasonable accommodation of exempting me from the “No Pets” policy that is currently in place. My service animal/emotional support animal helps me to DETAIL THE ASSISTANCE. Please see the attached verification from my provider explaining how the accommodation would assist me with my disability.

I am asking that you modify your rules prohibiting pets to allow me to have a service animal/emotional support animal. This reasonable accommodation to your “No Pets” policy would provide me with full use and enjoyment of the housing unit as a person with a disability.

I look forward to hearing from you by A DATE IN THE NEAR FUTURE.

Thank you for your consideration.

Sincerely,

TENANT’S NAME AND SIGNATURE

Sample Letter from Professional to Landlord for an Emotional Support Animal:

Note: The letter should be on the physician's or mental health provider's letterhead

DATE

NAME OF PROFESSIONAL (therapist, physician, psychiatrist, rehabilitation counselor)
ADDRESS

Dear HOUSING AUTHORITY/LANDLORD:

NAME OF TENANT is my patient, and has been under my care since DATE. I am intimately familiar with his/her history and with the functional limitations imposed by his/her disability.

He/She meets the definition of disability under the Americans with Disabilities Act, the Fair Housing Act, and the Rehabilitation Act of 1973.

Due to mental illness, FIRST NAME OF TENANT has certain limitations regarding LIST LIMITATION. In order to help alleviate these difficulties, and to enhance his/her ability to live independently and to fully use and enjoy the dwelling unit you own and/or administer, I am prescribing an emotional support animal that will assist FIRST NAME OF TENANT in coping with his/her disability. I am familiar with the voluminous professional literature concerning the therapeutic benefits of assistance animals for people with disabilities, such as that experienced by FIRST NAME OF TENANT. I would be happy to answer any questions you may have concerning my recommendation that FULL NAME OF TENANT have an emotional support animal. Should you have additional questions, please do not hesitate to contact me.

Sincerely,

PROFESSIONAL'S NAME AND SIGNATURE