

FAQs on Emotional Support Animals

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Summary:

This document gives some brief answers to questions on emotional support animals in housing.

Overview of Assistance Animals in Housing (skip to [Questions](#))

An emotional support animal is a type of assistance animal that is recognized as a "reasonable accommodation" for a person with a disability under the federal Fair Housing Act (FHAct, 42 U.S.C.A. 3601 et seq.). The assistance animal is not a pet according to the U.S. Department of Housing and Urban Development (HUD). HUD is the agency that oversees the FHAct and investigates claims of housing discrimination.

There are only two questions that HUD says a housing provider should consider with a request for an assistance animal as a reasonable accommodation:

- (1) Does the person seeking to use and live with the animal have a disability – i.e., a physical or mental impairment that substantially limits one or more major life activities?
- (2) Does the person making the request have a disability-related need for an assistance animal?

In other words, does the animal work, provide assistance, perform tasks or services for the benefit of a person with a disability, or provide emotional support that alleviates one or more of the identified symptoms or effects of a person's existing disability?

([FHEO Notice: FHEO-2013-01 at page 2](#)). A "no" answer to either of the questions means that a housing provider is not obligated to make a reasonable accommodation according to HUD. This may mean that the person does not meet the definition of disability or that the assistance animal does not help with symptoms of the disability. If the answer is "yes" to both, then HUD states the FHA requires an exception to a "no pets" rule. The emotional support animal must alleviate, or help, some symptom(s) of the disability.

HUD does not list all the possible disabilities for which an assistance animal could be used. Instead, HUD says the functions include "providing emotional support to persons with disabilities who have a disability-related need for such support." ([FHEO Notice: FHEO-2013-01 at page 2](#)). Emotional support animals have been known to assist disabled individuals with severe depression, generalized anxiety disorder, post-traumatic stress disorder, and many other emotional and psychiatric disabilities.

If a person with a disability needs to use an assistance animal, he or she must first make the request to his or her housing provider or housing board. HUD says that a person seeking the accommodation must submit reliable documentation of the disability and disability-related need for the assistance animal if the disability is not known or readily-apparent. This documentation is usually a letter from a medical doctor or treating therapist who can establish the disability and need for the assistance animal. The housing provider may not ask for access to medical records or unreasonably delay the request.

Requests for an assistance animal are evaluated on a case-by-case basis. This means that housing providers cannot limit the assistance animal with general assumptions about certain species or breeds. There must be an individualized assessment of the specific assistance animal to determine if it poses a direct threat of harm or would cause substantial property damage.

Once these requirements are met, HUD goes onto to say that restrictions normally applied to pets cannot be applied to assistance animals. Housing providers cannot charge a "pet deposit" for disabled individuals who rely on assistance animals.

Conditions and restrictions that housing providers apply to pets may not be applied to assistance animals. For example, while housing providers may require applicants or residents

to pay a pet deposit, they may not require applicants and residents to pay a deposit for an assistance animal.

([FHEO Notice: FHEO-2013-01 at page 3](#)). Depending on what HUD says, a pet number restriction may also be considered a "condition or restriction" that is limited to pets and not assistance animals. You may consider contacting your local HUD office for more information or go to https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp.

The goal of the FHAct is to give disabled individuals and equal opportunity to use and enjoy their dwellings like non-disabled individuals. Reasonable accommodations are a recognized means of achieving that goal.

Frequently Asked Questions:

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The U.S. Dept. of Housing and Urban Development's (HUD) [FHEO Notice on Assistance Animals](#) answers almost every issue about emotional support animals and service animals in housing. *Please be advised that the following notice is a policy statement by HUD for internal agency decisions. It does not have the same weight of authority that a formal regulation would have should an issue go to court. One court stated that the letter is entitled to respect to the extent it has the power to persuade.

For legal research into cases that deal with emotional support animals/assistance animals, see the [Summary of Emotional Support Animal Cases](#).

For more, also see [Emotional Assistance Animals in Rental Housing: A How-to Guide](#).

1. What is an emotional support animal (also called "assistance animal")?

An emotional support animal is not a pet. An emotional support animal is a companion animal that provides therapeutic benefit to an individual with a mental or psychiatric disability. The person seeking the emotional support animal must have a verifiable disability (the reason cannot just be a need for companionship). The animal is viewed as a "reasonable accommodation" under the Fair Housing Amendments Act of 1988 (FHA or FHAct) to those housing communities that have a "no pets" rule. In other words, just as a wheelchair provides a person with a physical limitation the equal opportunity to use and enjoy a dwelling, an emotional support animal provides a person with a mental or psychiatric disability the same opportunity to live independently. Most times, an emotional support animal will be seen as a reasonable accommodation for a person with such a disability. Failure to make reasonable accommodations by changing rules or policies can be a violation of the FHA unless the accommodation would be an undue financial burden on the landlord or cause a fundamental alteration to the premises.

The United States Department of Housing and Urban Development (HUD) uses the term

"assistance animal" to cover any animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. ([FHEO Notice: FHEO-2013-01](#) at page 2). An emotional support animal is one type of assistance animal allowed as a reasonable accommodation to a residence with a "no pets" rule.

2. What is the difference between a service animal and an emotional support animal?

Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. These tasks can include things like pulling a wheelchair, guiding a person who is visually impaired, alerting a person who is having a seizure, or even calming a person who suffers from Post-Traumatic Stress Disorder. The tasks a service dog can perform are not limited to this list. However, the work or task a service dog does must be directly related to the person's disability. Service dogs may accompany persons with disabilities into places that the public normally goes. This includes state and local government buildings, businesses open to the public, public transportation, and non-profit organizations open to the public. The law that allows a trained service dog to accompany a person with a disability is the Americans with Disabilities Act (ADA).

An emotional support animal is an animal (typically a dog or cat though this can include other species) that provides a therapeutic benefit to its owner through companionship. The animal provides emotional support and comfort to individuals with psychiatric disabilities and other mental impairments. The animal is **not** specifically trained to perform tasks for a person who suffers from emotional disabilities. Unlike a service animal, an emotional support animal is not granted access to places of public accommodation. Under the federal Fair Housing Act (FHA), an emotional support animal is viewed as a "reasonable accommodation" in a housing unit that has a "no pets" rule for its residents.

3. Does an emotional support animal need specialized training?

HUD defines an emotional support animal as an animal that "provides emotional support that alleviates one or more identified symptoms or effects of a person's disability." ([FHEO Notice: FHEO-2013-01](#) at page 2). These animals do not need specialized training. In fact, HUD states that,

"[f]or purposes of reasonable accommodation requests, neither the FHA nor Section 504 requires an assistance animal to be individually trained or certified." ([FHEO Notice: FHEO-2013-01](#) at page 2). While training is not required for an assistance animal, [one court](#) has stated that an assistance animal must facilitate the disabled person's ability to function.

4. Does the Fair Housing Act (FHA) apply to all housing?

The Fair Housing Act (FHA) does apply to almost all housing types including those for sale or rent. This includes apartments, condominiums, and single family homes. There are some major exceptions, such as buildings with four or fewer units where the landlord lives in one of the units. The law also excludes private owners of single-family housing sold or rented without the use of a broker (who do not own more than three single family home) and housing operated by organizations and private clubs that limit occupancy to members. For more on what the FHAct covers, go to http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws/yourrights

The FHA would then cover homes in a planned community with a "no pets" restriction, owned or rented condominiums with a "no pets" covenant, and apartments with a "no pets" clause in the lease. As long as those housing units do not fall within listed exceptions, landlords or housing associations must comply with the FHA.

5. What does a housing provider or landlord consider when a request for an emotional support animal/assistance animal is made?

There are only two questions that HUD says a housing provider should consider with a request for an assistance animal as a reasonable accommodation:

(1) Does the person seeking to use and live with the animal have a disability – i.e., a physical or mental impairment that substantially limits one or more major life activities?

(2) Does the person making the request have a disability-related need for an assistance animal? In other words, does the animal work, provide assistance, perform tasks or services for the benefit of a person with a disability, or provide emotional support that alleviates one or more of the identified symptoms or effects of a person's existing disability?

([FHEO Notice: FHEO-2013-01](#) at page 2). A "no" answer to either of the questions means that a housing provider is not obligated to make a reasonable accommodation according to HUD. This may mean that the person does not meet the definition of disability or that the assistance animal does not help with symptoms of the disability. If the answer is "yes" to both, then HUD states the FHA requires an exception to a "no pets" rule. Note that [many courts](#) have considered this issue of the "nexus" or connection between the assistance animal and its ability to reduce the effects of the person's disability. The emotional support animal must alleviate some symptom(s) of the disability.

6. What documentation do I need to provide to have an emotional support animal/assistance animal?

If a person needs an emotional support animal to help alleviate the symptoms of a disability, he or she must first make the request to his or her landlord. HUD states the following in its FHEO Notice: "Housing providers may ask individuals who have disabilities that are not readily apparent or known to the provider to submit reliable documentation of a disability and their disability-related need for an assistance animal." ([FHEO Notice: FHEO-2013-01](#) at page 3). Most sources indicate that the request should be in writing and explain how the reasonable accommodation helps or mitigates symptoms of the disability. While the tenant or owner does not need to disclose the disability, he or she will need to provide documentation from a doctor or other health professional. According to HUD, a physician, psychiatrist, social worker, or other mental health professional can provide documentation that the animal provides emotional support that alleviates one or more of the identified symptoms or effects of an existing disability. ([FHEO Notice: FHEO-2013-01](#)).

The documentation is typically a note from his or her doctor. This link from the Bazelon Center for Mental Health Law provides guidance on this exact issue. If you go to page six of the pdf link, there is a sample letter (<http://www.bazelon.org/LinkClick.aspx?fleticket=mHq8GV0FI4c%3D&tabid=245>). Such a letter would be the way a person could verify the need for an emotional support animal with his or her landlord.

7. Can a landlord or housing provider ask details about my disability?

While a landlord or housing provider may ask for documentation of the disability-related need for the assistance animal, he or she may NOT ask for personal medical details. HUD states that a

housing provider "may not ask an applicant or tenant to provide access to medical records or medical providers or provide detailed or extensive information or documentation of a person's physical or mental impairments." ([FHEO Notice: FHEO-2013-01](#) at page 4).

8. Can a landlord or housing provider delay granting my request for an emotional support animal/assistance animal?

This is a difficult question to answer that will depend on the circumstances of an individual request. HUD specifically says that "[a] request for a reasonable accommodation may not be . . . unreasonably delayed." ([FHEO Notice: FHEO-2013-01](#) at page 4). There is no specific time period given in which a request must be granted. In [one case](#), a condominium association requested detailed information and submitted continuous inquiries into the tenant's medical history over the course of many months. The court found that the delay resulted in a "constructive denial" of the disability accommodation request for his assistance animal. This means that the condo did not outright deny the request, but that their actions could be interpreted as a denial.

9. What other areas of my housing complex can I take my emotional support animal/assistance animal?

HUD indicates that an assistance animal is allowed "in all areas of the premises where persons are normally allowed to go, unless doing so would impose an undue financial and administrative burden or would fundamentally alter the nature of the housing provider's services." ([FHEO Notice: FHEO-2013-01](#) at page 3). This would generally include a tenant's residence and tenant common areas of the building (for example, a party room open only to tenants and their guests, but not members of the public). If there is an area of the building open to members of the public, some sources indicate that emotional support animals can be excluded (but service animals must be allowed. See pages 4 and 5 of <http://www.disabilityrightsnc.org/sites/default/files/SelfAdvocacyPacket-Animals%20in%20Housing.pdf> for more examples). One [federal district court case](#) indicated that a reasonable accommodation for an assistance animal does not provide "unrestricted access" for the animal.

10. Can a landlord or housing provider ban my emotional support animal/assistance animal based on breed?

According to HUD, "[b]reed, size, and weight limitations may not be applied to an assistance animal." ([FHEO Notice: FHEO-2013-01](#) at page 3). Instead, a housing provider may only determine if **the specific assistance animal in question** poses a direct threat to the health and safety of others. This determination of a "direct threat" must be based on "individualized assessment that relies on objective evidence about the specific animal's actual conduct." ([FHEO Notice: FHEO-2013-01](#) at page 3). It may not be based on fears about a certain type of animal or evidence from damage done by previous animals of the same type. For example, if a dog has been previously declared a dangerous dog, this may indicate that the dog poses a direct threat in an individualized assessment. However, breed alone will not result in this determination. This reasoning by HUD has been upheld in at least two U.S. district courts, which can be [accessed here](#).

An issue sometimes arises where a housing provider/landlord's insurance company has restrictions on breeds of dogs in the insured's policy. The insurance company may label certain breeds of dogs as "dangerous" in the policy. A memorandum issued by the Office of Fair Housing and Equal Opportunity (FHEO) issued some guidelines to directors on how to handle this issue in cases of discrimination. The memo reiterates that each reasonable accommodation determination must be made on a case-by-case basis. An accommodation is considered unreasonable if it imposes an undue financial and administrative burden on a housing provider's operations. The memo then states:

If a housing provider's insurance carrier would cancel, substantially increase the costs of the insurance policy, or adversely change the policy terms because of the presence of a certain breed of dog or a certain animal, HUD will find that this imposes an undue financial and administrative burden on the housing provider.

This claim must then be substantiated with the insurance company directly and comparable insurance coverage must be considered. According to the memo, if the insurance company has a policy that does not have an exception for assistance animal, an investigation may be launched against the insurance company for potential disability discrimination. For more on this particular issue, see http://www.fhcwm.org/uploads/files/reports/HUD_Memo_-_RA_Breed_Restrictions_Insurance.pdf.

11. What if I live in a city or county that has a ban on certain breeds of dog?

HUD states that breed, size, and weight limitations cannot be applied to assistance animals. A housing provider must look to see if the specific assistance animal in question poses a threat to other residents. One court has found that "if the County ordinance were enforced it would violate the FHA by permitting a discriminatory housing practice." See [Warren v. Delvista Towers Condo. Ass'n, Inc.](#), 49 F. Supp. 3d 1082, 1089 (S.D. Fla. 2014). The court in that case actually found that the FHA preempted or took precedence/authority over the ordinance that banned the particular breed of dog. While HUD does not specifically state anything about local breed bans, it does provide in its notice to housing providers that breed limitations cannot be applied to assistance animals. ([FHEO Notice: FHEO-2013-01](#) at page 3). Note that assistance animals are only allowed in housing and a banned breed may not be taken to places of public accommodation like service animals.

12. Can the landlord charge me a pet/security deposit for my emotional support animal/assistance animal?

Based on statements by HUD, it appears that a housing provider may not charge a "pet fee" for an assistance animal/emotional support animal. These animals are not pets and cannot be subject to pet fees. HUD specifically states the following:

Conditions and restrictions that housing providers apply to pets may not be applied to assistance animals. For example, while housing providers may require applicants or residents to pay a pet deposit, they may not require applicants and residents to pay a deposit for an assistance animal.

([FHEO Notice: FHEO-2013-01](#) at page 3). Most disability law experts feel that requiring a deposit would be the equivalent of charging an advance damage deposit for someone in a wheelchair. While a landlord may be able to recoup reasonable fees for damage done after the fact by the tenant and his or her emotional support animal, an initial security deposit may go against the purpose of the Fair Housing Act. In one [federal district court case](#), a court found that a tenant could proceed with a disability discrimination case where a housing provider charged a fee for untrained assistance animals like emotional support animals, but waived the fee for trained assistance animals like guide dogs.

13. Does a tenant have to clean-up after his or her emotional support animal/assistance animal? What about damage done by the assistance animal?

According to HUD, if it is the policy to charge tenants for damage to the tenant's dwelling unit beyond reasonable wear and tear, then a housing provider may require a tenant to cover the costs for repairs due to damage by the tenant's assistance animal. This includes damages to the dwelling and common areas. ([FHEO Notice: FHEO-2013-01](#) at page 3, footnote 6). The key here is that both disabled and non-disabled tenants must be treated on equal footing. If damages are never assessed for pets of non-disabled tenants, then it may be problematic to only charge for damage done by assistance animals. There appears to be only one court case that truly considered this issue.

[Woodside Village v. Hertzmark](#), 1993 WL 268293 (Conn. 1993) (unpublished). The court found there that the landlord did not fail to properly accommodate a tenant's disability after the tenant was evicted for his demonstrated inability to comply with the plaintiff's pet policy," which included cleaning up after the dog and toileting the dog in a designated area.

Note that there may be an issue of a tenant who becomes unable to properly care for his or her emotional support animal. If a tenant is neglecting his or her service or emotional support animal and it rises to a level where the animal is endangered, then it may become a criminal matter. Service and emotional support animals are not exempt from state animal neglect laws. If any animal is being neglected, local law enforcement or animal control can intervene. Moreover, a tenant would also be subject to all the other provisions of the lease, such as maintaining his or her residence in a sanitary manner.

14. Can a person have more than one service or emotional support animal?

While there do not seem to be any cases dealing with the issue of multiple emotional support animals, the basic requirements for this reasonable accommodation would still be the same. In other words, if a person were claiming the need for multiple emotional support animals, then he or she would need documentation supporting this need from his or her physician or medical professional. The practitioner would need to provide documentation that *each* support animal alleviated some symptom of the disability.

15. Can animals besides cats and dogs act as emotional support animals/assistance animals?

Yes, an assistance animal is not limited to a cat or dog. HUD specifically states that "[w]hile dogs are the most common type of assistance animal, other animals can also be assistance animals." ([FHEO Notice: FHEO-2013-01](#) at page 2). Again, the assistance animal will undergo an individualized assessment to determine whether the assistance animal in question poses a direct threat to the health and safety of others. A wild or exotic animal that poses a greater risk of attack or disease to other residents could be denied based on this individualized assessment. It should be noted that a case in 2015 considered the use of a miniature horse as an assistance animal under the FHA and a case in 2012 dealt with a guinea pig as an assistance animal (find links to these cases [here](#)).

16. Can I bring my emotional support animal/assistance animal to university or on-campus housing?

A [couple of courts](#) have dealt with this issue. Many college campuses have "no pets" rules for their housing. One case said that on-campus housing meets the definition of "dwelling" under the Fair Housing Act. Thus, that college was required to make reasonable accommodations for disabled students under the Fair Housing Act in its on-campus housing. Many colleges and universities have now adopted policies for the use of assistance animals in housing.

17. What about the emotional support animals/assistance animals of my guests?

HUD does not cover this issue specifically in its notice to housing providers. However, the underlying purpose of the FHA is provide an equal opportunity to use and enjoy housing regardless of disability. If a tenant cannot have a particular guest over who uses a service or assistance animal, then the tenant may be deprived of the ability to use and enjoy his or her dwelling based on the presence of a disability. There do not yet appear any published legal cases that have reviewed this issue. In 2011, the United States District Court for the District of Nevada entered a consent decree (a settlement of a lawsuit where a party agrees to take an action without admitting liability) on a this issue. The complaint in the underlying case alleged that the defendants declined to allow a friend of their tenants who uses a service animal to visit the tenants' apartment. The defendants then evicted the tenants based on the service animal's presence in the apartment. As plaintiff, the

United States alleged that this denied the tenants the "full enjoyment of their apartment at Defendants' apartment building." See U.S. v. DeAngeli, Case No. 3:11-CV-00796-RCJ-WGC (July 8, 2013), available at <http://www.justice.gov/sites/default/files/crt/legacy/2013/10/30/deangelisettle.pdf>. As part of the agreement, the defendants had to agree to comply with the Fair Housing Act, create a policy for assistance animals in their apartment building, undergo education and training on the issue, and abide by other requirements of the consent decree.

18. How can I file a complaint with HUD?

HUD offers an on-line complaint process for individuals who feel they have experienced discrimination in housing. You may access this at http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/online-complaint.

For more, also see [Emotional Assistance Animals in Rental Housing: A How-to Guide](#)

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