

RESOURCE GUIDE: ASSISTANCE ANIMALS IN HOUSING

Reasonable Accommodations Under the Fair Housing Act (FHA), a reasonable accommodation (RA) is a change or exception to any rule, policy, procedure, or service needed in order for a person with a disability to be able to have equal access to and full enjoyment of their home. **This Resource Guide only addresses reasonable accommodation requests for assistance animals;** however the Fair Housing Center has other guidance to assist in other kinds of accommodation requests or requests for modifications, like ramps or grab bars.*

HUD Guidance On January 28, 2020, the U.S. Department of Housing and Urban Development (HUD) Office of Fair Housing and Equal Opportunity (FHEO) released Notice FHEO-2020-01, sometimes referred to as the “Assistance Animals Notice.” It includes two sections and is meant to be applied to requests for Assistance Animals after that date; it should not be used to reassess requests granted previously. Note that it replaces HUD’s prior guidance, FHEO-2013-01, and does not address Section 504 or the Americans with Disabilities Act (ADA).

Assistance Animals It’s important to understand that an assistance animal is not a pet. There are two types of assistance animals: (1) *service animals* (limited to dogs or at times miniature horses), and (2) other trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to by HUD as a “*support animal*”). Service dogs perform many disability-related functions, including guiding individuals who are blind or have low vision and alerting persons to impending seizures or the presence of allergens. Assistance animals help by preventing or interrupting impulsive or destructive behaviors or taking action to calm a person during an anxiety attack; they can also provide emotional support that alleviates at least one identified symptom or effect of a physical or mental impairment.

Support animals do not need to be trained, certified or licensed by any entity or program but they, along with service animals, must be kept under control at all times.

Process: Service Animals HUD advises that *if* the animal is a dog and it is *readily apparent* that the dog is trained to do work or perform tasks for an individual with a disability, then no further inquiry or documentation is necessary, as it is a service animal. This step only applies to dogs (if the animal is not a dog, it should be evaluated as a Support Animal). If it is *not readily apparent*, a housing provider can only ask:

- (1) “Is the animal required because of a disability?” and
- (2) “What work or task has the animal been trained to perform?”

If the answer to either is “no” or “none”, the animal does not qualify as a service animal but may be a support animal. Emotional support, comfort, well-being, and companionship are not a specific work or task for purposes of this analysis.

Process: Support Animals Support Animals are allowed in housing under the FHA. Requests for support animals must be considered even if the resident made the request after bringing the animal into the housing, including when tenancy or lease termination is sought due to the animal’s presence. It is usually helpful for both requests and responses to such requests to be put in writing, although this may not always be possible for the requester and cannot be required.

HUD has established a step-by-step process for assessing assistance/support animal requests in its Notice FHEO-2020-01.* It establishes a process to help evaluate what information is already known and what additional information may be necessary regarding either the presence of a disability and/or the disability-related need for an assistance animal. RA requests should be welcomed and well documented by both parties, including information that was disclosed or provided. Housing providers should then work to follow up – consult existing policies, reference fair housing best practices, and keep in communication with the resident or applicant. HUD recommends making determinations promptly, generally *within 10 days* of receiving documentation.



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What is Fair Housing?

Federal and Michigan fair housing laws protect people from illegal discrimination in housing based on race, color, religion, national origin, sex, familial status, **disability**, marital status, and age.

Supporting Documentation Use HUD’s step-by-step process to determine what type of information, if any, is needed. The amount of information that can be requested depends on whether or not the individual’s disability is observable or known, and whether or not the disability-related need is readily apparent or known. Reasonably supporting information often consists of information from a licensed health care professional general to the condition but specific as to the individual with a disability and the assistance or therapeutic emotional support provided by the animal. The documentation should verify that the requester:

- **has a physical or mental impairment (as defined below),**
- **the physical or mental impairment(s) substantially limit at least one major life activity or major bodily function, AND**
- **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 (and not as a pet).**

Housing providers/landlords do not need to know the details related to the disability, the requester’s diagnosis, or their health history; only that a disability is present and that their request is needed because of that disability.

The FHA defines a person with a disability to include (1) individuals with a physical or mental impairment that (2) substantially limits one or more major life activities. Major life activities include walking, breathing, communicating, seeing, hearing, thinking, learning, caring for oneself, and beyond. ***Disabilities include, but are not limited to:*** Mental or emotional disabilities, developmental disabilities, cancer, auto-immune deficiencies like HIV, autism, cerebral palsy, multiple sclerosis, heart disease, diabetes, asthma, paraplegia, major depression, recovery from an addiction, and many long-term medical conditions.

If the documentation provided doesn’t address the points above, the FHCWM recommends providing HUD’s “Guidance on Documenting an Individual’s Need for Assistance Animals in Housing” from the Notice FHEO-2020-01 to all parties to better understand what information is needed to accurately assess these requests. The guidance from HUD states that websites selling “certificates, registrations, and licensing documents for assistance animals to anyone who answers certain questions or participates in a short interview and pays a fee” is not, by itself, sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal. However, it acknowledges that many legitimate, licensed health care professionals deliver services remotely, including over the internet. Therefore a case by case analysis of these requests is important. Housing providers may not require a health care professional to use a specific form, to provide notarized statements, to make statements under penalty of perjury, or to provide detailed information about a person’s impairments.

See attached sample support letter & assistance animal policy.

Type of Animal If the animal prescribed is not 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, the requester has to establish why that unique animal is needed. Reptiles, barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

Insurance Assistance animals can’t be denied due to a housing insurance policy that has a restriction or prohibition against certain breeds, sizes, or number of animals. If the insurance carrier would cancel, substantially increase costs, or adversely change the policy terms because of the presence of a certain breed or animal however, this may impose an undue financial and administrative burden. This should be verified and housing providers should consider whether comparable insurance is available.

Considerations A RA may be refused if the *specific* animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through actions the individual takes to maintain or control the animal. Please note that pet fees and/or policies do not apply to assistance animals; breed or size limitations for pets also do not apply. An alternative accommodation must be offered/discussed if the original request is denied as unreasonable. See FHCWM’s RA/RM Guide for Housing Professionals.*

Housing providers may want to maintain an easily accessible list of RA’s granted so that all staff, including maintenance, are aware of assistance animals living in the housing. Adopting an Assistance Animal policy (such as the template provided on p. 4) with clear guidelines ensures that everyone understands their rights and responsibilities for a safe and healthy living environment.

Sample Support Letter for Assistance Animal Requests

- Should be on letterhead, provide contact information, and any professional licensing information
 - Should accomplish the following:
 - Verify that the person has a physical or mental impairment (need not mention specific diagnosis, but must be clear that the person’s condition rises to the level of a disability)
 - Verify that the impairment(s) substantially limit at least one major life activity or major bodily function,
 - Show the relationship between the person’s disability and the need for the requested accommodation
 - May be written by a health care professional, such as a physician, optometrist, psychiatrist, psychologist, physician’s assistant, nurse practitioner, or nurse.
-

Date

Dear (*Housing Provider*):

(*Name of client*) is my client/patient, and has been under my professional care since (*date*) involving the provision of health care **OR** disability-related services and therefore I am familiar with his/her history and disability-related functional limitations. She/he has a physical or mental impairment that substantially limits at least one major life activity or major bodily function as defined by the Fair Housing Act.

**TIP: USE
OFFICE LOGO or
LETTERHEAD**

To enhance his/her ability to live independently and to have full use and enjoyment of his/her dwelling, (*Name of client*) needs (*insert need*)

Example 1: a support dog, cat, bird, etc. (be as specific as possible about the kind of animal(s) needed and mention if the patient has the animal(s) already) that will assist (*name of client*) with the functional limitations associated with his/her disability.

Example 2: a service dog (mention if the patient has the dog(s) already) that will assist (*name of client*) with the functional limitations associated with his/her disability.

Specifically, (*please provide information demonstrating how the accommodation is needed or necessary to alleviate one or more identified symptoms or effects of an existing disability or how the disability will be exacerbated in the absence of the accommodation*)

Example 1: the support animal (dog, cat, bird, etc.) is necessary to prevent or interrupt impulsive or destructive behaviors OR calm a person with post-traumatic stress disorder (PTSD) during an anxiety attack OR assist in dealing with disability-related stress or pain OR assist to leave the isolation of home OR assist to interact with others OR provide a reason to live OR provide emotional support that alleviates at least one identified symptom or effect of a physical or mental impairment, etc. (*If animal is not a traditional domesticated animal, please justify the patient’s need for the particular animal or type of animal(s)*)

Example 2: the service dog is necessary to alert (*name of client*) to an upcoming seizure OR pull a wheelchair OR retrieve necessary objects/summon emergency assistance, etc.

While honoring HIPAA and/or other patient/client confidentiality laws, I am available to answer questions you may have concerning my verification of (*name of client*)’s request.

Sincerely,

Signature and Printed Name of Professional, Credentials

Sample Assistance Animal Policy

[Housing provider] is committed to making reasonable accommodations to its rules, policies, and practices as required by law to afford people with disabilities an equal opportunity to access housing and any associated amenities, including granting reasonable accommodations for assistance animals as determined on a case-by-case basis. An assistance animal is not a pet. There are two types of assistance animals:

(1) service animals (limited to dogs and in rare cases, miniature horses) and (2) other trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (a “support animal”).

[Housing provider] is not responsible for the care or supervision of assistance animals.

Assistance animal owners are responsible for the cost, care, and supervision of assistance animals, including:

- compliance with any laws pertaining to animal licensing, leashing, vaccination, and owner identification;
- keeping the animal clean, healthy and under control, as well as taking effective action when it is out of control;
- feeding and exercising (if applicable) the animal; and
- cleaning up after the animal in the residence and any other areas of the property as well as properly disposing of its waste.

Waste disposal via property plumbing is prohibited, but the **[Housing provider]** can provide guidance on where/how to appropriately dispose of animal waste.

[Housing provider] will not require any deposits, surcharges or fees for assistance animals. However, an assistance animal owner may be charged for damage caused by the assistance animal(s) to the same extent that **[Housing provider]** would normally charge a person for the damage they cause. The assistance animal owner is responsible for any expenses incurred for cleaning above and beyond a standard cleaning or for repairs to the premises after they vacate.

Owners of assistance animals must comply with the same **[lease or other property]** rules regarding noise, safety, disruption, and cleanliness as people without disabilities. A reasonable accommodation which may constitute an exception to a policy that otherwise would prohibit having an animal does not constitute an exception to any other policy.

*Developed with guidance from the Fair Housing Center of West Michigan • www.fhcwm.org
Please note this resource guide, including the sample documents, is not intended to be used as legal advice.*

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