

## FAIR HOUSING FOR PERSONS WITH DISABILITIES - ASSISTANCE ANIMALS

### Protection under the Federal Fair Housing Act

The Federal Fair Housing Act (FHA) prohibits discrimination in housing, both public and private, based on race, color, religion, sex, national origin, familial status, and disability. One potential type of prohibited discrimination under this Act is a refusal to provide a reasonable accommodation to a person with a disability.

The FHA describes disability as mental or physical impairments that substantially limit one or more major life activities.

Physical and mental disabilities may include, but are not limited to:

- visual, speech, or hearing impairments,
- cerebral palsy, autism, epilepsy, multiple sclerosis, muscular dystrophy, or chronic fatigue,
- cancer, heart disease, diabetes, or HIV/AIDS,
- drug addiction (other than addiction caused by current illegal use of a controlled substance) and alcoholism,
- learning impairments, traumatic brain injury, intellectual development disorder, and other mental or emotional disabilities.

### What are assistance animals?

According to the Federal Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, an assistance animal is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or that provides emotional support that alleviates one or more identified effects of a person's disability.

### How should a tenant request a reasonable accommodation for an assistance animal?

Requesting an accommodation is as simple as giving notice to your housing provider that you need one. You may do this orally or in writing; however, it is preferable to put the request in writing for documentation purposes. An example letter for a request for reasonable accommodation is attached to this Fact Sheet. To receive an accommodation, you must first make the request; a person with a disability is not entitled to an accommodation unless a request has been made. The housing provider is obligated to respond to the request in a timely manner.

### May a housing provider ask for proof of disability or the need for an assistance animal?

Proof isn't necessary in cases where the disability is readily apparent or known, and the need for accommodation is also evident. However, in cases where the disability is not obvious or the

need for accommodation is not apparent, the housing provider may request additional information.

### **What information may the housing provider request?**

In order to evaluate a request for reasonable accommodation, a housing provider may ask for additional information to:

- verify that the person meets the Fair Housing Act's definition of disability,
- show the relationship between the person's disability and the need for the assistance animal,
- demonstrate how the assistance animal performs tasks that benefit the person with a disability or how the assistance animal alleviates one or more symptoms of a disability.

### **What materials can I provide to the housing provider if requested?**

Some materials that could be provided include but are not limited to:

- proof of Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits,
- a letter from a mental health or medical professional verifying the disability and the need for the assistance animal (for guidance, please see our [Fair Housing for Medical and Mental Health Professionals booklet](#)),
- a letter from a non-medical service agency verifying the connection between the disability and assistance animal,
- proof that an assistance animal is up-to-date on any required vaccines or veterinary care required by law.

### **Does an assistance animal require certification?**

An assistance animal does not need to be individually trained or certified to qualify, and no agency has the authority to issue a certification. Beware of online services that issue "certificates" or "licenses" for emotional support animals.

### **How is a request for an assistance animal evaluated?**

A housing provider will evaluate the following:

- Does the person seeking reasonable accommodation have a disability?
- Does the person making the request have a disability-related need for an assistance animal?

If the answer to both of these questions is yes, the housing provider must permit the tenant with the disability to live with their assistance animal, modifying or providing an exception to a "no pets" rule or policy where applicable.

### **Can a housing provider charge for an assistance animal?**

A housing provider cannot require a tenant with a disability to pay a deposit, fee, or surcharge in exchange for having an assistance animal. Assistance animals are not considered “pets,” and therefore, any typically applied pet fees must be waived.

### **Can my request for an assistance animal be denied, and if so, when?**

A request for an accommodation allowing an assistance animal may only be denied if

- the specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation, or
- the specific assistance animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.

When considering the above statements, a housing provider may not reference previous experience with other assistance animals. Additionally, any determination that the assistance animal would cause the above harm must be based on objective evidence, not speculation.

### **Does an assistance animal have to be a dog?**

Unlike the Americans with Disability Act (ADA), which defines a service animal as only a dog, the Fair Housing Act allows assistance animals to be animals other than dogs. Therefore, having a cat, a ferret, or another animal is permissible as an assistance animal.

### **Can an assistance animal be held to breed, size, or weight restrictions?**

An assistance animal for a tenant with a disability cannot be subject to a housing provider’s usual pet restrictions or the property’s insurance company’s restrictions. An accommodation must be made for the tenant.

**FHC Case Example:** *Denise Cox and her mother accepted \$40,000 to settle their case against Hastings Mutual Insurance Company and East Bay Manufactured Home Community. Ms. Cox lived on the property with her emotional support animal (ESA), a pit bull called Kylee, for two years without incident. Then, without warning, citing insurance company breed restrictions, property management demanded that she get rid of her ESA or face eviction. The settlement agreement also included policy changes by East Bay Manufactured Home Community and Hasting Mutual Insurance Company. Hasting Mutual agreed to modify its underwriting rules relating to its animal policies and accommodation requests and undergo staff training regarding assistance animals. East Bay agreed to alter its community rules and regulations regarding requests for emotional support animals.*

## **What should I do if I need help with my request or suspect my fair housing rights have been violated?**

Please call us toll-free at **1-877-979-3247** to discuss the situation. You can also fill out a contact form on our website ([www.fhcmichigan.org](http://www.fhcmichigan.org)). FHC staff will follow up with you to obtain additional information. We will keep the information you provide confidential. We will not report undocumented immigrants to the authorities.

The Fair Housing Center is a nonprofit organization that provides investigative services (testing), advice, advocacy, conciliation, attorney referrals, and community education for Clinton, Eaton, Hillsdale, Ingham, Jackson, Lenawee, Livingston, Monroe, Shiawassee, and Washtenaw counties. The FHC's mission is to end discrimination in housing and public accommodations and promote accessible, integrated communities.

## **Sources**

[U.S. Department of Housing and Urban Development's Assistance Animal Website](#)

Notice FHEO-2020-01: Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act (January 28, 2020)

<https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

Fact Sheet on HUD's Assistance Animal Notice

<https://www.hud.gov/sites/dfiles/PA/documents/AsstAnimalsGuidFS1-24-20.pdf>

**Sample of Letter to Request Reasonable Accommodation of an  
Emotional Support Animal**

[DATE]

[NAME OF HOUSING PROVIDER]  
[ADDRESS]

Re: Reasonable Accommodation for My Disability

Dear [HOUSING PROVIDER]:

I live at [ADDRESS] in [UNIT NUMBER]. I am an individual with a disability, as defined by the Fair Housing Amendments Act of 1988.

Due to my disability, it is necessary for me to live with my emotional support animal (ESA), [SPECIES, BREED, and NAME, if applicable]. This ESA assists me with the functional limitations associated with my disability. A [MEDICAL or MENTAL HEALTH] provider [HAS PRESCRIBED or SUPPORTS MY NEED FOR] this accommodation for my disability.

Under the Fair Housing Amendments Act, it is unlawful discrimination to deny a person with a disability a reasonable accommodation if such accommodation may be necessary to afford such a person full enjoyment of their dwelling.

Sincerely,

*[Signature]*

[PRINT NAME]