

RESOURCE GUIDE: ASSISTANCE ANIMALS IN HOUSING



What is Fair Housing?

Fair housing means you can choose where you live free from illegal discrimination. The federal Fair Housing Act protects fair housing choice. The Fair Housing Act protects people from illegal discrimination in housing because of race, color, religion, national origin, sex, familial status, or *disability*. Illegal discrimination on the basis of disability includes a refusal to make a **reasonable accommodation**.

What is a Reasonable Accommodation?

Under the Fair Housing Act, a reasonable accommodation 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. Reasonable accommodation includes the right of people with disabilities to have an assistance animal in their home despite any pet fees or restrictions. Common reasonable accommodations under the Fair Housing Act look like:

- a landlord waiving pet fees for an assistance animal,
- a property manager not applying breed or size limitations to an assistance animal, or
- a condominium association allowing an assistance animal in a “no pets” property.

This Resource Guide is based on best practice and only addresses reasonable accommodation requests for assistance animals; however the FHCWM has other guidance to assist in other kinds of accommodation requests or requests for modifications, like ramps or grab bars.*

What is an Assistance Animal?

Under the Fair Housing Act an assistance animal is not a pet. Assistance animals include **service animals** (limited to dogs or at times miniature horses), and **support animals** (other trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities). Assistance animals do not necessarily need to be trained, certified or licensed by any entity or program but they must be kept under control at all times.

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. Other assistance animals, such as support animals, help people with disabilities 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.

Reasonable Accommodation Process: Service Animals

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 to consider the reasonable accommodation request, as it is a service 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.

Reasonable Accommodation Process: Support Animals

Under the Fair Housing Act, housing providers must make reasonable accommodations to allow support animals in housing. 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.

*Please visit www.fhcm.org/disability for these documents and other helpful information.

When assessing requests for assistance animals, 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. Reasonable accommodation 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. As a best practice determinations should be made promptly, generally *within 10 days* of receiving documentation.

Supporting Documentation for Support Animals

The amount of information that can be asked of someone requesting a support animal depends on whether the individual’s disability is observable or known, and whether the disability-related need is readily apparent or known. Where such information is not known or obvious, supporting 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**
- **the requester 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, and should not ask about 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 Fair Housing Act 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.

Typically, documentation from websites that sell certificates, registrations, and/or 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 verify that an individual has a disability-related need for an assistance animal. However, 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 should 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.**

Special considerations

Type of Animal or Multiple Animals: If the animal prescribed is not a dog, cat, or other small, domesticated animal that is traditionally kept in the home, 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. Further, requests for multiple assistance animals should be supported by documentation establishing the unique need for each animal.

Insurance: Assistance animals should not be denied due to a housing insurance policy that has a restriction or prohibition against certain breeds, sizes, or number of animals. A reasonable accommodation may be requested of the insurance company.

Safety: A reasonable accommodation may be refused if the *specific* animal actively poses a direct threat that cannot be eliminated or reduced to an acceptable level through actions to maintain or control the animal. However, an alternative accommodation must be offered/discussed if the original request is denied as unreasonable. See FHCWM’s RA/RM Guide for Housing Professionals.*

Recordkeeping: Housing providers may want to maintain an easily accessible list of reasonable accommodations 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 doctor or other qualified medical professional (e.g., physician's assistant, nurse, nurse practitioner), a peer support group, a non-medical service agency, a social worker, a therapist, or a reliable third party who is in a position to know about the individual’s disability.

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.

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

**TIP: USE
OFFICE LOGO or
LETTERHEAD**

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] will make a reasonable accommodation to “no pet” or “no animals” rules to allow an assistance animal, including in common areas (e.g. lobbies, rental offices, elevators, building lounges, clubhouses, grounds, etc.).

[Housing provider] will not limit or restrict the breed or size of an assistance animal.

[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.

[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.

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 to pet rules, restrictions, fees, deposits, etc. for an assistance animal does not constitute an exception to all other rules and policies.

*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.*