

ASSISTANCE ANIMAL POLICY

BACKGROUND

The Federal Fair Housing Act requires that applicants and tenants with disabilities be provided with "reasonable accommodations" as needed, in order for them to have an opportunity for full use and enjoyment of their housing. Allowing tenants and their guests who have disabilities to be accompanied by their assistance animals is a reasonable accommodation to housing policy and practice.

WHO NEEDS ASSISTANCE ANIMALS?

Some people with disabilities require the assistance of an animal because of their disabling conditions. Under most federal laws, a person is considered to be disabled if s/he has a sensory, mental or physical condition that substantially limits one or more major life activities (such as walking, seeing, working, etc.).

WHAT IS AN ASSISTANCE ANIMAL?

The most common assistance animals are dogs, but sometimes other species are used (for example, a cat or a bird). Assistance animals may be any breed, size or weight. Some, but not all, assistance animals wear special collars and harnesses. Some, but not all, are licensed or "certified" and/or have identification papers. However, **there is no legal requirement for assistance animals to be visibly identified or to have documentation.** In addition, there are many types of assistance animals with different names which are not certified and don't have special training. For example, emotional support animals, sometimes called companion animals, don't perform specific tasks but are considered assistance animals. Their presence may help alleviate symptoms of a disability. The next two sections explain in detail the different types of assistance animals.

WHAT'S THE DIFFERENCE BETWEEN AN ASSISTANCE ANIMAL AND A PET?

Assistance animals are not considered to be pets. A person with a disability uses an assistance animal as an auxiliary aid -- similar to the use of a cane, crutches or wheelchair. Assistance animals are an auxiliary device necessary for the full enjoyment of a home. For this reason, fair housing laws require that housing providers make modifications to "No Pet" policies to permit the use of an assistance animal by an individual with a disability.

WHAT DO ASSISTANCE ANIMALS DO?

- A guide animal serves as a travel tool by a person who is legally blind.
- A hearing animal alerts a person with significant hearing loss or who is deaf when a sound occurs, such as a ringing alarm or a knock on the door.
- An assistance animal helps a person who has a mobility or health disability. Duties may include carrying, fetching, opening doors, ringing doorbells, activating

- elevator buttons, steadying a person while walking, helping a person up after a fall, etc.
- A seizure response animal assists a person with a seizure disorder. The animal's assistance depends on the person's needs. The animal may go for help, or may stand guard over the person during a seizure. Some animals have learned to predict a seizure and warn the person.
 - A companion animal or emotional support animal assists people with psychological disabilities. Emotional support animals can help alleviate symptoms such as depression, anxiety, stress and difficulties regarding social interactions, allowing tenants to live independently and fully use and enjoy their living environment.

PRACTICAL GUIDELINES FOR HOUSING PROVIDERS AND PROPERTY MANAGERS TO FOLLOW

ASSISTANCE ANIMAL ACCOMMODATION:

Property management must review all requests a tenant with a disability makes for reasonable accommodations, including requests for an assistance animal accommodation. A property manager might require the tenant to provide a third party verification from a "reliable source," when the disability of the tenant and/or the need for the accommodation are not obvious. HUD has provided guidance on assistance animals that needs to be used in conjunction with this assistance animal guidance. In 2004 the U.S. Dept. of Justice and Dept. of Housing & Urban Development wrote in a [Joint Statement](#) that:

a medical professional, a peer support group, a non-medical assistance agency, or a reliable third party who is in a position to know about the individual's disability may also provide verification of a disability.

In 2013 HUD issued a [Service Animal Policy](#) that gave additional guidance on Emotional Support Animal verifications:

The housing provider may ask persons who are seeking a reasonable accommodation for an assistance animal that provides emotional support to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal provides emotional support that alleviates one or more of the identified symptoms or effects of an existing disability.

When property management requires proof that the tenant has a disability and that the accommodation assists the person with that disability, they still cannot require the tenant to provide information about the nature or severity of the disability.

PET RULES AND "NO PETS" RULES:

If you allow tenants to have common household pets and you place limitations on the



size, weight, and type of pets allowed, these rules do not apply to assistance animals. Assistance animals may be any type of animal and any breed, size or weight, and an accommodation may involve more than one assistance animal. If your insurance provider says you have to restrict breeds, you should contact HUD, a fair housing center, or an attorney about this possible infraction of the law.

If a housing complex has a "no pets" rule, such rules do not apply to assistance animals. If property management has documentation that the tenant has a disability and needs the assistance animal as a result, then **the tenant can live with the animal despite the no pets rule.**

DEPOSITS AND FEES:

AN ASSISTANCE ANIMAL IS NOT A PET. Regardless of whether your property allows pets, a tenant who uses an assistance animal is not required to make a pet deposit or pay a pet-related move-in cleaning fee. You may charge a general cleaning or damage deposit charged to all tenants. The tenant is liable for any damage the animal actually causes.

AWARENESS TRAINING:

Good property management will ensure that staff and other tenants are properly trained in the facility's assistance animal policies, including the following rules -

- Allowing an assistance animal to accompany the tenant at all times and everywhere on the property except where animals are specifically prohibited (*such as in the pool*).
- Do not pet or touch an assistance animal. Petting an assistance animal when it is working distracts the animal from the task at hand.
- Do not feed an assistance animal. The animal may have specific dietary requirements. Unusual food or food at an unexpected time may cause the animal to become ill.
- Do not deliberately startle an assistance animal. Avoid making noises at the animal (*barking, whistling, etc.*).
- Do not separate or attempt to separate a tenant/handler from her or his assistance animal.
- Avoid initiating conversation about the assistance animal, the tenant's disabilities or other assistance animals one has known. If you are curious, you may ask if the tenant/handler would like to discuss it, but be aware that many people with disabilities may not care to share personal details.
- Remember, not all disabilities are visible. The nature of the person's disability is a private matter, and **you are not entitled to inquire for details.**
- If other tenants complain about the fact that they are not allowed to have a pet and want to know why you have made an exception, simply state that your company complies with the fair housing

laws. You can also refer your tenants to the fair housing laws or your local fair housing agency for further details.

- Assistance animals do not need to wear any special identifying gear such as tags, harnesses or capes. Assistance animal owners/handlers are not required to carry any paperwork documenting the animal as an assistance animal.
- A tenant may train his or her own assistance animal and is not required to provide any information about training or the specific tasks the animal performs.

ANIMAL CARE AND SUPERVISION:

The tenant/handler has the responsibility to care for and supervise the animal. The tenant must retain full control of the animal at all times. This generally means that while the animal is in common areas, it is on a leash, in a carrier, or otherwise in the direct control of the animal owner/handler. When in the presence of others, the animal is expected to be well behaved.

REMOVAL OF AN ASSISTANCE ANIMAL:

If an assistance animal misbehaves, the property manager may ask the tenant/handler to remove the animal from the immediate area. If the animal's improper behavior happens repeatedly, the manager may tell the tenant not to bring the animal into certain common areas, until significant steps have been taken to stop the behavior. This might include some type of specialized training for both the animal and the tenant.

AREAS OFF-LIMITS TO ASSISTANCE ANIMALS:

Management may designate certain areas off limits to assistance animals, such as swimming in the pool or inside the sauna room. Such designations should not infringe upon the right of a person with disabilities to full enjoyment of the amenities of the community

PRACTICAL GUIDELINES FOR TENANTS WHO WANT OR NEED ASSISTANCE ANIMALS

REQUEST FOR AN ASSISTANCE ANIMAL ACCOMMODATION:

The tenant who needs an assistance/companion animal can submit a request to the housing provider for an accommodation for the tenant's disability. Even though people with disabilities are not required to use company forms, having forms that allow someone to “fill in the blank” might make the process easier for both staff and tenants/applicants. If there are no forms, a tenant can write a letter or verbally ask for the accommodation. Written requests should be dated, copied and copies should be retained by the tenant for proof that the request was made.

VERIFICATION OF DISABILITY AND NEED FOR A ASSISTANCE ANIMAL:

The tenant must be prepared to provide written verification that s/he has a disability and that the accommodation is necessary to give the tenant equal opportunity to use and enjoy the housing and/or housing community. If the tenant/applicant's situation requires that they get a third person to verify the disability or the need for the accommodation, (this happens when a person's disability is not obvious), the tenant/applicant should obtain a signed letter on professional letterhead from his/her healthcare or mental health provider to the housing provider answering the following questions:

- 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?
- 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?

While the property management may not require the requester of an accommodation to disclose the nature or severity of his/her disability, the requester might be required to show the relationship between the disability and the need for the requested accommodation. For example, a tenant applicant may need a seizure response animal. The seizures may come and go unexpectedly and be due to genetics, an injury or some other situation. The only thing they need to disclose is that they have had seizures and may have seizures in the future and that the seizures come and go unexpectedly. Either the tenant/applicant can explain this or have it explained by a health care provider. The tenant/applicant does not have to say how often they have seizures, how severe the seizures are or what causes the seizures.

ANIMAL CARE AND SUPERVISION:

The tenant/handler is responsible for the care of his/her assistance animal. The animal



must be supervised and the tenant/handler must retain full control of the animal at all times. This generally means that while the animal is in common areas, it is on a leash, in a carrier, or otherwise in the direct control of the animal owner/handler. When in the presence of others, the animal is expected to be well behaved.

The tenant is responsible for the proper disposal of animal waste --

- Never allow the assistance animal to defecate on any property, public or private (except the tenant's own property), unless the tenant immediately removes the waste.
- Always carry equipment sufficient to clean up the animal's feces whenever the assistance animal is in the common areas or off the tenant's property.
- Properly dispose of waste and/or litter.
- If you need assistance with cleanup, make arrangements for such help through family, friends or advocates.

RESOURCES

Miami Valley Fair Housing Center www.mvfairhousing.com

JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE DEPARTMENT OF JUSTICE *REASONABLE ACCOMMODATIONS UNDER THE FAIR HOUSING ACT*

<https://www.hud.gov/offices/ftheo/library/huddojstatement.pdf>

2013 HUD SERVICE ANIMAL POLICY

https://portal.hud.gov/hudportal/documents/huddoc?id=servanimals_ntcftheo2013-01.pdf