



## Reasonable Accommodations Rights in Housing for Service and Emotional Support Animals

Nearly all housing providers must comply with the Fair Housing Act (FHA) and Americans With Disability Act (ADA) which prohibit discrimination on the basis of disability. This also includes more temporary and transitional housing such as universities, homeless shelters, domestic violence shelters, long-term care facilities, and other common dwellings.

Under the FHA and ADA, a **disability** is a physical or mental impairment that substantially limits one or more major life activities or the operation of major bodily functions. In practice, an impairment rises to the level of a disability when it makes it more difficult for the individual to perform an activity of daily living than the average person. Scientific and medical evidence are usually not necessary to make the determination. This is a broad definition that does not require an official diagnosis, impacting many people. In fact, **1 in 4 adults are living with a disability**.

Often times there are aids that help an individual living with a disability cope with the symptoms and allow them to fully engage in life. When there are rules that prevent individuals from using their preferred aid, they may ask for a **reasonable accommodation**, or exception, to the policy so that they can have equal use and access of the dwelling.

**Service and assistance animals** are one type of aid that assist people for a multitude of health issues such as anxiety, attention-deficit disorder, cancer, depression, diabetes, epilepsy, post-traumatic stress disorder, or any one of countless others. They are entitled to live in dwellings with their person as a reasonable accommodation and **are not subject to pet rules** such as policies that ban all pets, breed/weight/size restrictions (including laws banning certain breeds), number limits, and they are not subject to any pet deposits, rents, or other pet-related fees. Housing providers are permitted to require adherence to public health laws (such as rabies vaccination, licensing requirements), but they may not impose other conditions such as specific behavior training or declawing.

A **service animal** is a dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability. They are allowed in public spaces and housing.

An **assistance animal (an emotional support animal is one type)** is an animal commonly kept as a pet that does work, performs tasks, assists, and/or provides therapeutic emotional support for individuals with disabilities. An assistance animal does not need to be trained to perform the service. They are only allowed in housing, not public spaces.

**Verification Requirements.** These are only necessary if the disability and/or related need for the animal are not obvious:

**To made a request for a service animal**, a property manager may ask two questions: 1. Is the animal needed because of a disability? 2. What task or work is the animal trained to perform?

**To make a request for an assistance animal**, a property manager may request reliable verification of the disability and related-need. They may not ask for the specific diagnosis, medical records, or access to the individual who provided the verification. The verification letter must be reliable and is usually written by a healthcare provider, but it need not be. A non-medical service agency, a peer support group, or a reliable third party are examples of individuals who can provide reliable verification. A housing provider may not contact the author of the verification letter other than to authenticate the letter and signature.

**Multiple** service/assistance animals are permitted with verification justifying each one separately.

A housing provider **may deny or rescind the request** if an individual animal poses a direct threat to the health and safety of others or significant property damage that cannot otherwise be mitigated.

\*This document only applies to reasonable accommodation requests in housing under federal law. The animal accommodation requirements are different for air travel under the Air Carrier Access Act



## SAMPLE VERIFICATION LETTERS UNDER THE FAIR HOUSING ACT

The verification letter needs to establish:

- That the individual is living with a disability AND
- The relationship between the disability and need for the assistance animal. That is, how the assistance animal alleviates a symptom or effect of the individual's disability.

### NOTES:

1. These are sample letters for requirements under the Fair Housing Act for dwellings. They do not apply to verification letters needed for air travel under the Air Carrier Access Act.
2. A letter verifying a disability and related need for an animal accommodation should not disclose the individual's diagnosis or medical records. Although some housing providers will insist that verification letters are akin to a prescription, HUD has clearly stated that this is not the case. Any housing provider who demands otherwise is at risk of violating fair housing laws.
3. While HUD suggests that the clinician specify the type of animal requested, unless the clinician is trained in Animal Assisted Therapy, it is likely outside of the clinician's scope to recommend a certain species. In such cases, the clinician should defer to the patient on the species of the assistance animal. If the patient already has the animal, the clinician can identify it. See AAN at pp. 17-18.

Housing providers may not ask clinicians for any protected health information even when authenticating a verification letter. Clinicians should not answer anything more than:

1. Whether they wrote the letter and
2. Whether the signature on the page is theirs

All other questions or concerns that the housing provider has must be directed to the individual making the request.

4. While the 2020 HUD guidelines states suggest that the verification letter for a unique animal includes "[t]he date of the last consultation with the patient," doing so can violate HIPAA privacy and confidentiality laws. See AAN at p. 17
5. This information is only relevant for federal law. States and municipalities may provide additional protections for individuals living with a disability.

See Joint Statement of HUD and DOJ at p. 13-14, available at:

<https://www.hud.gov/sites/dfiles/FHEO/documents/huddojstatement.pdf>

See HUD's Assistance Animal Notice, available at

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



## FHA: Animals Commonly Kept as Pets

[LETTERHEAD]

[DATE]

Dear Landlord:

Tenant is a patient under my care. I am familiar with her impairment and the impact it has on her ability to perform major life activities. As such, she meets the definition of disability under fair housing laws, which is a physical or mental impairment that substantially limits one or more major life activities.

Due to her disability, Tenant has certain limitations regarding [social interaction, coping with stress/anxiety, etc.]. Use of an assistance animal alleviates these difficulties, enhancing her ability to live independently and enjoy full use of the dwelling unit you manage. Specifically,

[Provide information demonstrating how the accommodation is needed to alleviate one or more symptoms or effects of the disability.

Example: the assistance animal eases disability-related stress and anxiety OR reduces likelihood of a seizure OR increases capacity for social interaction OR allows for continued health and stability OR increases focus necessary for positive work performance OR keeps [TENANT] on a medication schedule OR improves physical, emotional and psychological functioning, etc.]

Tenant does not yet have an assistance animal, but will get an animal commonly kept as a pet, such as a dog or cat, once the reasonable accommodation request is approved.

I am available to answer questions you may have concerning the authenticity of the verification letter I provided, however I am limited by HIPAA confidentiality and privacy laws on the scope and level of detail of information that I am permitted to divulge.

Sincerely,

*Jane Smith*

Jane Smith, PhD

License # 123456789



## FHA: Unique Animals

[LETTERHEAD]

[DATE]

Dear Landlord,

Resident is a patient under my care. I am familiar with his medical history and disability-related functional limitations. I am familiar with his impairment and the impact it has on his ability to perform major life activities. As such, he meets the definition of disability under fair housing laws, which is a physical or mental impairment that substantially limits one or more major life activities.

Due to his disability, Resident has certain limitations regarding impulse control. Resident's hedgehog, Sonic, alleviates the symptoms of his disability by enabling Resident to engage in interactions with Sonic which helps resident to self-regulate which promotes calmness. This enhances his ability to live independently and enjoy full use of his dwelling.

I am available to answer questions you may have concerning the authenticity of the verification letter I provided, however I am limited by HIPAA confidentiality and privacy laws on the scope and level of detail of information that I am permitted to divulge.

Sincerely,

**Guy Smiley**

Guy Smiley, LCSW

License # 123456