



Assistance Animals in Housing Under the Fair Housing Act

Reasonable Accommodation

A reasonable accommodation is a change in a rule, policy, practice, or service of a housing provider that may be necessary to allow a person with a disability the equal opportunity to use and enjoy their home.

A disability is a physical or mental impairment which substantially limits one or more a person's major life activities. Major life activities include walking, eating, sleeping, speaking, hearing, caring for oneself, etc.

Assistance Animals

Some people with disabilities may find it helpful to have an assistance animal. Under fair housing laws, assistance animals are considered tools of a person's disability. **They are not pets.** Pet rules in housing do not apply to assistance animals. A reasonable accommodation request of a housing provider can waive no pet policies, pet deposit, pet rent, and breed or weight restrictions of animals. Individuals with assistance animals are responsible for maintaining and controlling their animals. This includes paying for any damage done to the property by the assistance animal, if the housing provider already has a policy of charging or withholding deposits from tenants for damage.

Service Animals vs. Emotional Support Animals

There are two types of assistance animals: service animals and emotional support animals (ESA). For the purposes of the Fair Housing Act, both types of animals are treated equally and are referred to as assistance animals. Service animals are dogs who have been individually trained to do work or perform tasks for the benefit of a person with a disability. ESAs are any animals that are commonly kept in households who provide therapeutic emotional help to someone with a disability.

Types of Animals

ESAs are typically animals that are commonly kept in households: dogs, cats, small birds, rabbits, hamsters, gerbils, other rodents, fish, turtles, or other small, domesticated animals traditionally kept in the home. Reptiles (with the exception of turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

If a person with a disability wants to keep a unique animal outside of the typical ESA, they will have a substantial burden to demonstrate they have a disability-related therapeutic need for the specific animal or specific type of animal. Unique animals may be necessary if the animal is individually trained to do work or perform tasks that cannot be performed by a dog, the individual with a disability has allergies that prevent them from using a dog and this is documented by a healthcare professional, not having the animal significantly increases the symptoms of the individual's disability, or, for a house, the individual keeps the animal in a fenced yard outdoors.

What Housing Providers Can Ask Regarding Assistance Animals

- Is the animal required because of a disability?
- If the animal is a service animal, what work or task has the service animal been trained to perform?
- Has the tenant requested a reasonable accommodation to get or keep an animal in connection with a physical or mental impairment?
- Does the tenant have an observable disability or does the housing provider already have information that gives them reason to believe the tenant has a disability?



What Housing Providers Cannot Request

- The nature or extent of a tenant's disability
- An individual's diagnosis
- Certification, training, or licenses

Requirements for Assistance Animals in Housing

If an individual's disability is not readily apparent, housing providers can ask for reliable documentation of the individual's disability or disability-related need for the assistance animal. Reliable documentation can be a note from the individual's healthcare provider (physician, therapist, optometrist, psychiatrist, physician's assistant, nurse practitioner, nurse, etc.). This note should provide information about the individual's general condition and provide a connection between their disability and their need for an assistance animal.

Assistance animals are **not** required to have certification, training, or licenses. Some websites offer this type of documentation for assistance animals that individuals can obtain by completing an interview or paying a fee. This documentation is not required, recommended, or sufficient for obtaining a reasonable accommodation for assistance animals.

How to Request a Reasonable Accommodation

Requests for reasonable accommodations of an assistance animal can be made to housing providers verbally or in writing. Tenants are encouraged to make requests in writing and to keep a copy of the request. Requests can be made on behalf of a person with a disability by a legal guardian or authorized representative. Requests can be made at any point in the tenancy – when the need arises, during application, when signing the lease, to avoid lease termination or an eviction because of the animal's presence etc. Housing providers can refuse a request if the specific animal requested poses a direct threat to the health or safety of others or would cause substantial physical damage. The direct threat has to be an individualized assessment on the specific animal and not just a generalization on the type or species of the animal.

This fact sheet is a collaboration of the Center for Arkansas Legal Services and Legal Aid of Arkansas, Inc. These nonprofit organizations provide free legal assistance to eligible Arkansans who meet income, asset, and other guidelines. Legal assistance may also include advice and counsel, brief services, or full representation depending on the situation. For more information about civil legal aid in Arkansas, please visit arlegalservices.org. For information specific to Legal Aid of Arkansas, Inc., visit arlegalaid.org. Apply for services online or by calling 1-800-9-LAW-AID (1-800-952-9243).

The information and statements of law in this fact sheet should not be considered legal advice. This fact sheet is provided as a broad guide to help you understand how certain legal matters are handled in general. Courts may interpret the law differently. Before you take action, talk to an attorney and follow his or her advice. Always do what the court tells you to do.

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