

## Fair Housing & Assistance Animals



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- Fair Housing Act
- Sec 504 of the Rehabilitation Act
- Americans with Disabilities Act (ADA)
- WA Law Against Discrimination



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- Applies to Public and common areas
- Limits service animals to trained dogs and miniature horses
- No emotional support animals

**AMERICANS WITH DISABILITIES ACT  
ADA**



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Recipients of federal funding

Reasonable accommodations

Equal access

Integrated setting

Sec 504 of the Rehabilitation Act



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- No definition of service animal
- Applies to dwelling units
- Use Reasonable Accommodation Analysis
- No restriction on species, size, weight, breed, etc.



## FAIR HOUSING ACT



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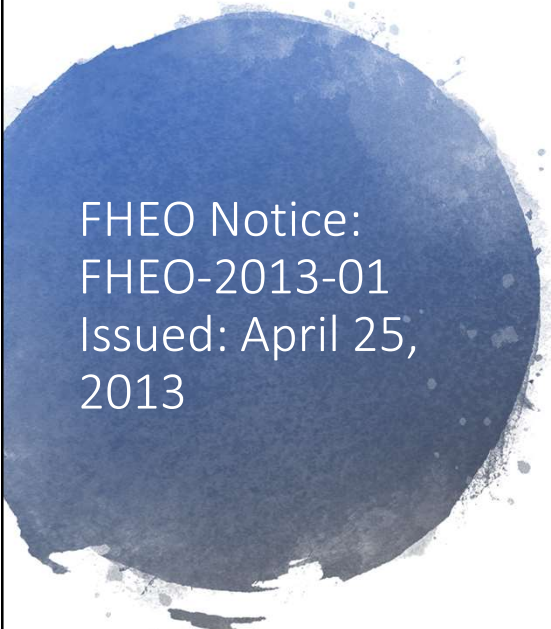
## WA Law Against Discrimination



The 2018 legislature amended WA's law so that the **definition of "service animal" does not apply to reasonable accommodations or real estate transactions.**

Effective 1/1/19


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FHEO Notice:  
FHEO-2013-01  
Issued: April 25,  
2013

Subject: *Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs*


Applies to all housing providers covered by the FHAct, Section 504, and/or the ADA.



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## ADA vs. FHA

FHEO 2013-01



ADA regulations limit definition of "service animal" to **dogs**, and **excludes emotional support animals**.

→

This definition does not limit housing **providers'** **obligations to make reasonable accommodations for assistance animals under the FHAct or Section 504**

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## WHAT IS AN ASSISTANCE ANIMAL?

- Assistance animals are sometimes referred to as "service animals," "assistive animals," "support animals," or "therapy animals."
- To avoid confusion with the ADA "service animal" definition, HUD uses the term "assistance animal" to ensure that housing providers have a clear understanding of their obligations under the FHAct and Section 504.

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## An assistance animal is not a pet

- It works, provides assistance, or performs tasks for the benefit of a person with a disability

or

- provides emotional support that alleviates one or more identified symptoms or effects of a person's disability

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## What does an Assistance Animal do?

- guide individuals who are blind/low vision
- alert individuals who are deaf or hard of hearing
- provide protection or rescue assistance
- pull a wheelchair
- fetch items
- alert persons to impending seizures
- provide emotional support to persons w/ disabilities who have a disability-related need for such support

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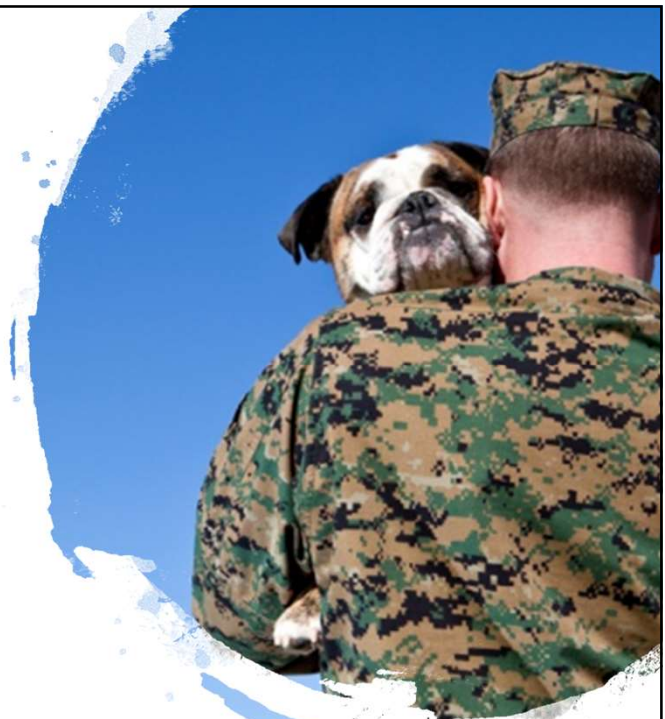


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IS SERVICE ANIMAL  
TRAINING REQUIRED?

**No.**

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FHA permits  
animals besides  
dogs

Persons with disabilities may request a reasonable accommodation for **any assistance animal**, including an **emotional support animal**, under both the FHAct and Section 504.

**dogs are most common but other animals can be assistance animals**


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Breed, size, and weight limitations **may not** be applied to an assistance animal.


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Whether a person has a **disability-related need** for an assistance animal involves an **individualized assessment**.

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**REASONABLE ACCOMMODATIONS**

**Exceptions** to rules, policies, practices, or services, when such accommodations may be necessary to afford ...person(s) [with disabilities] equal opportunity to use and enjoy a dwelling.




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<p><b>Is there a Disability?</b></p> <p><b>Is there a Nexus?</b></p> <p><b>Is the request Reasonable?</b></p>	<p>FHA Reasonable Accommodation Analysis:</p> 
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<p><b>A physical or mental impairment which substantially limits one or more major life activities</b></p>	<p>Is there a disability?</p> 
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Housing  
provider  
must  
consider:

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Is there a **disability-related need** for an assistance animal?

- **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 symptoms or effects of a person's existing disability

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If no disability or no  
disability-need =  
request can be denied

disability  
+  
disability-need  
= grant accommodation  
request

**Unless**  
an undue financial and  
administrative burden  
or

fundamentally alters  
nature of housing  
provider's services.



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If disabilities  
& need are  
obvious

= no  
verification

Ex: don't ask person  
who is to provide  
documentation of  
disability or  
disability-related  
need for guide dog



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If disability and need are not obvious:

Ask for **reliable documentation of a disability and disability-related need** for assistance animal

**Cannot ask for access to medical records**

**Cannot ask for access to medical providers**

**Cannot ask for detailed or extensive info. or documentation of impairments**

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Can ask for documentation from:

- **physician**
- **psychiatrist**
- **social worker**
- **other mental health professional**


Sufficient if document establishes that an individual has a disability and that the animal will provide some type of disability-related assistance or emotional support.

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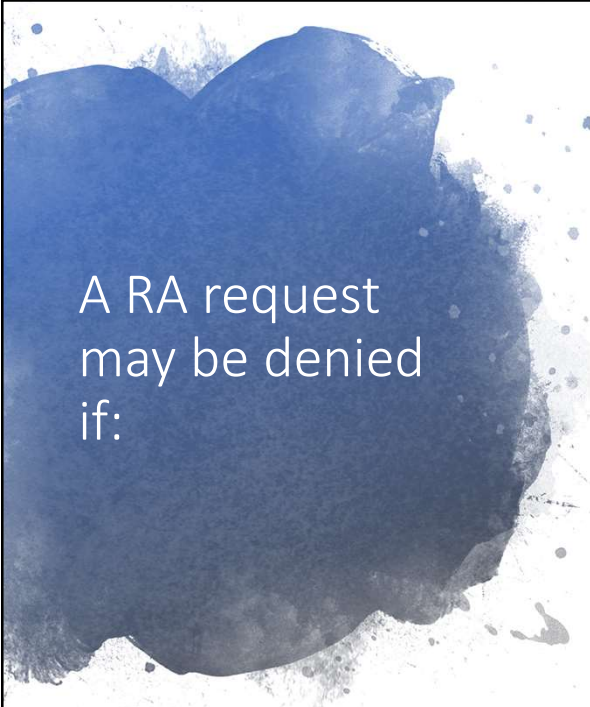


A response to a reasonable accommodation request may not be unreasonably delayed

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A RA request may be denied if:

the **specific assistance animal**

- **poses a direct threat** to the health or safety of others, or
- **would cause substantial physical damage to the property** of others

that cannot be reduced or eliminated by another reasonable accommodation.

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## What is Proof of a Direct threat?

Determination that A.A. poses a direct threat of harm to others or would cause substantial physical damage to property of others must be based on individualized assessment that relies on **objective evidence about specific animal's actual conduct — not on mere speculation or fear** about types of harm or damage animal may cause and not on evidence about harm or damage other animals have caused.

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## What rules are permitted for assistance animals?



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# Can't charge pet deposit

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No fees or deposits

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Pet restrictions may not be applied to assistance animals

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What if the assistance animal causes damage?

May require tenant to pay for **repairs for damage**

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Delta House  
Investments,  
LLC & Premier  
Realty, Inc.-NV

**Prospective tenant filed HUD complaint, alleging:**

- denied request to keep an assistance animal in apt. she was attempting to rent, even though she provided documentation from her doctor attesting to need for the animal due to disability
- the leasing agent told her the owner did not allow pets because the floors had been recently upgraded to hardwood.

**5/10/18 Conciliation agt:**

- \$6,000
- fair housing training
- adopt reasonable accommodation policies

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*United States  
v. Irvin  
(W.D. Okla.)*

**Complaint filed 11/16/17 alleged:**

- Christine Irvin, owner and manager of Shady Oaks Mobile Home Park, denied request for a reasonable accommodation to park's "small dog" policy for an emotional support animal
- defendant retaliated by serving a notice of eviction after she made a complaint to HUD.

**8/10/18 - Settlement Agreement**

- \$50,000
- Fair Housing Act training
- implement reasonable accommodation policy

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## Keeton Property Mngt. LLC

### **A woman filed a HUD complaint alleging**

- the property manager told her she could not keep her dog and threatened to evict her, even though she provided medical documentation attesting to her need for the emotional support animal;
- after receiving an eviction notice, she moved out of her home.

### **9/7/18 conciliation agt.**

- \$8,500
- fair housing training

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## HUD v. Bernashe Realty, Inc.

MA Fair Housing Center (MFHC) filed a complaint alleging

- property owner Pleasant Valley Estates, Inc., and its Mngt. co. posted Craigslist ads: "One cat considered, no dogs please," and "no service animals."
- 2 testers contacted P.V. Estates and asked if they could keep a dog to help w/ their disabilities.
- 1 tester was told to send an email to arrange a visit, but received no reply to her email.
- The other tester rec'd a reply stating, "I am highly allergic to dogs and therefore I cannot accept dogs at my properties. I think I have that in my ad."
- Testers who did not mention they used assistance animals were offered opportunities to view units, told when units would become available, and given rental applications.

**08/2018 - HUD charge.**

**10/2018 – Consent Order: \$15,000**

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*United States  
v. Biafora's  
Inc.  
(N.D. W. Va.).*

**10/26/18 – Complaint allegations**

- owners and managers of apt. complexes in and around Morgantown, WV refused to allow tenants to keep assistance animals

**Settlement Agreement:**

- \$6,000 each to two individual complainants
- adopt a new policy on reasonable accommodations and assistance animals
- fair housing training
- report to the US on future requests for reasonable accommodations relating to assistance animals.

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*Hudson  
Harbour  
Condominium  
Association,  
Inc.*

- NJ
- 10/29/18 - Charge

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HUD v. Nolo  
Contedre LLC

Syracuse, NY

**5/24/18 - HUD charged** property owners and their agents w/ housing discrimination for refusing to allow a woman with mental disabilities to keep an emotional support dog

**11/19/18 - Consent Order**, entered by a HUD ALJ:

- \$15,000
- fair housing training
- create a reasonable accommodation policy that allows residents with disabilities to keep assistance animals, including emotional support animals.

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*United States  
v. Glenwood  
Management  
(S.D.N.Y.)*

**2/20/19 -US Attorney's Office filed a [complaint](#), alleging**

- owner and manager of apt. building in Manhattan refused to rent a unit to complainants who have an assistance animal.

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Kaiwen You

San Francisco,  
CA,

- An individual w/ disabilities filed HUD complaint alleging he was denied the opportunity to rent an apt. because he had an emotional support animal.
- HUD's investigation found the landlord and agent were explicitly informed that the prospective tenant's animal is prescribed by a Dr. and allowed under fair housing laws, but still refused to consider his tenancy because of the animal.

**3/5/19 - HUD Conciliation Agreement:**

- \$9,000
- fair housing training.

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*United States  
v. Gorecki  
(D. Minn.)*

3/26/19 - US Attorney's Office filed a [complaint](#) alleging

- owner and property manager of an 8-unit rental property refused to allow the complainant to live with an emotional support German Shepard puppy for her minor son, who has disabilities.

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*United States  
v. 118 East  
60th Owners,  
Inc. (S.D.N.Y.)*

**Complaint filed 3/25/19, alleges**

- the owner and property manager of a 232-unit housing cooperative refused to allow a tenant with disabilities to keep an emotional support beagle

**3/28/19 - consent decree**

- \$70,000
- adopt a reasonable accommodations policy
- fair housing training

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**Northwest Fair  
Housing Alliance**

*"Working to ensure equal opportunity housing for all"*

**www.nwfairhouse.org 1-800-200-FAIR**

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