

Landlord Obligations to Allow Assistance Animals

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Issue

Describe a landlord's obligations under federal and state law to allow tenants to keep assistance animals in dwelling units.

The Office of Legislative Research is not authorized to give legal opinions, and this should not be considered one.

Summary

With limited exceptions, federal law requires landlords to allow tenants to keep assistance animals, which includes service dogs, emotional support dogs, and other support animals. Although the Americans with Disabilities Act (ADA) and Section 504 of the 1973 Rehabilitation Act provide some protection for people with assistance animals, the federal Fair Housing Act (FHA) ([42 U.S.C. § 3601 et seq.](#)) provides the broadest protection. The FHA generally requires landlords to allow tenants with disabilities to keep assistance animals as a reasonable accommodation.

Connecticut's fair housing law also requires landlords to make reasonable accommodations if necessary for a person with a disability to use and enjoy a dwelling, however, it does not explicitly reference assistance animals ([CGS § 46a-64c](#)).

Federal Fair Housing Act

The FHA prohibits a range of practices to ensure equal access to housing opportunities, including public and private rental housing. Under the FHA, landlords must allow tenants with a disability to keep assistance animals if doing so qualifies as a reasonable accommodation ([42 U.S.C. § 3604\(f\)\(3\)\(B\)](#)).

U.S. Housing and Urban Development (HUD) guidance defines a “reasonable accommodation” as “a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have equal opportunity to use and enjoy a dwelling, including public and common use spaces.” (The January 28, 2020, guidance – [FHEO-2020-01](#) – is known as HUD’s “Assistance Animals Notice” and referred to as “HUD guidance” throughout this report.)

Applicability

The FHA generally does not apply to:

1. owner-occupied buildings with no more than four units ([42 U.S.C. § 3603 \(b\)](#)),
2. single-family housing sold or rented without the use of a broker, or
3. housing operated by organizations and private clubs that limit occupancy to members ([42 U.S.C. § 3607](#)).

Disability Definition

The FHA defines a disability ("handicap"), with respect to a person, as follows:

1. a physical or mental impairment which substantially limits one or more of such person's major life activities,
2. a record of having such an impairment, or
3. being regarded as having such an impairment ([42 U.S.C. § 3602\(h\)](#)).

A landlord may ask a tenant to provide reliable documentation of his or her disability-related need for an assistance animal if the need is not readily apparent. For additional details on the criteria landlords use in assessing reasonable accommodation requests, see Part III of the [HUD guidance](#).

Qualifying Assistance Animals

According to [HUD guidance](#), to be eligible as an assistance animal under the FHA, animals must meet the definition of either (1) service animals or (2) support animals.

Table 1: Assistance Animals Recognized Under FHA

<i>Service Animals</i>	<i>Support Animals</i>
<ul style="list-style-type: none"> • defined by ADA regulations 	<ul style="list-style-type: none"> • defined by HUD guidance
<ul style="list-style-type: none"> • any dog 	<ul style="list-style-type: none"> • any species
<ul style="list-style-type: none"> • dog must be individually trained to work or perform tasks for the benefit of an individual with a disability 	<ul style="list-style-type: none"> • animal is not required to be specially trained
<ul style="list-style-type: none"> • dog's work or tasks must be directly related to the disability (28 C.F.R. §§ 35.104; 36.104) 	<ul style="list-style-type: none"> • animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support for an individual with a disability

Table 1 (continued)

Service Animals	Support Animals
Examples of Assistance Provided – see page 19 of HUD guidance for an extensive list	
<ul style="list-style-type: none"> • guiding individuals who are blind • alerting individuals who are deaf • pulling a wheelchair • alerting an individual with epilepsy to an upcoming seizure and assisting during the seizure 	<ul style="list-style-type: none"> • alerting an individual with diabetes when blood sugar is low or high • providing emotional support that alleviates at least one identified symptom or effect of a physical or mental impairment

Fees, Security Deposits, and Pet Rules

Landlords may not require tenants or applicants to pay an extra fee or additional security deposit as a condition of granting a reasonable accommodation for an assistance animal (see page 9 of the May 17, 2004, Joint Statement of HUD and the DOJ: [Reasonable Accommodations Under the Fair Housing Act](#)). However, landlords may charge a tenant for damage an assistance animal causes if it is the landlord’s usual practice to charge for damage caused by tenants.

Additionally, citing existing caselaw, [HUD guidance](#) (see page 14) states that assistance animals are not pets and "pet rules do not apply to service animals and support animals." Therefore, landlords may not limit the breed or size of a service or support dog solely on the basis of breed or size.

However, landlords with a general "no-pet policy" may deny a tenant's request for a reasonable accommodation for an assistance animal under certain circumstances, including the following:

1. the request was not made by or behalf of a person with a disability or there is no disability-related need for accommodation ([HUD/DOJ 2004 Joint Statement, page 7](#));
2. accommodating the request would impose an undue financial and administrative burden or would fundamentally alter the nature of the landlord’s services ([HUD/DOJ 2004 Joint Statement, pages 7 to 9](#)); or
3. the specific assistance animal (a) poses a direct threat to the health or safety of others or (b) would cause substantial physical damage to the property of others that cannot be eliminated or reduced to an acceptable level by a reasonable accommodation ([24 C.F.R. § 100.202\(d\)](#)).

For additional information and resources regarding assistance animals, see [HUD’s website](#).

2019 Connecticut Legislation

During the 2019 regular legislative session, the Housing Committee considered [HB 6289](#). The bill would have (1) required that certain housing providers provide reasonable accommodations for individuals with mental and emotional disabilities who have an emotional support animal, thus codifying certain provisions of the federal FHA and Title I of the Rehabilitation Act into state law and (2) established penalties for misrepresenting the status of an emotional support animal. Following a public hearing, the committee took no further action on the bill.

Additional Resources

- [Connecticut Fair Housing Center. "Moving Forward: Connecticut Renters Guide."](#) (See pages 42 to 45.)
- [Kovner, Josh. "Fake service dogs are on the rise, so Connecticut lawmakers are considering fines." *Hartford Courant*. February 15, 2019.](#)
- [HUD. "Fact Sheet on HUD's Assistance Animals Notice."](#)

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