



Assistance Animal Flow Chart

(based on the U.S. Department of Housing and Urban Development's FHEO Notice: FHEO-2020-01)

This flow chart is for educational purposes only and should not be misconstrued as personal legal advice. Housing providers are encouraged to consult with their legal counsel when developing or amending their fair housing policies.

“The Fair Housing Act requires housing providers to modify or make exceptions to policies governing animals when it may be necessary to permit persons with disabilities to utilize animals[;]” this includes allowing the animal, waving animal fees and deposits, and not retaliating against the tenant.

1

Eye test

- Is the animal a dog?
- Is it readily apparent that the dog is trained to do work?

Animal is approved

2

Service Dog Test

- Is the animal a dog?
- Ask “is the animal required because of a disability?”
- Ask “what work or task has the animal been trained to perform?”

Animal is approved

3.1

Assistance Animal Test

- Has the tenant asked or implied that the animal is needed in connection with a disability?

If Yes, move to step 3.2

If No, no further steps

3.2

Assessing Whether to Grant an Assistance Animal Request

Does the Tenant Have a Disability?

- Yes, if the person has an observable disability, or if you already have information that gives you reason to believe they have a disability; or
- Yes, if the person provides information (*See the yellow box below*) that reasonably supports that they have a disability.

Does the Animal Assist or Support with Respect to the Individual's Disability?

- Yes, if the person provides information that reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability. Generally, except for rare exemptions, the animal must also be “commonly kept in households.” (*See the orange box below*)

Animal is approved



“Provides you Information” (from 3.2)

- Information about disability may include: determination of disability from a government agency, receipt of disability benefits, eligibility for housing assistance because of a disability, information confirming a disability from a health care professional, etc.



“Animal's Commonly Kept in Households” (From 3.2)

- These animals include: dogs (all breeds), cats, small birds, rabbits, hamsters, gerbils, rodents, fish, turtles, and other small domesticated animals.
- Does not include: reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals.

Other Detail:

A full explanation of this flow chart can be found through HUD's "Assistance Animal Notice" - January 28, 2020. As a reminder this flow chart is for educational purposes only and should not be misconstrued as personal legal advice. Housing providers are encouraged to consult with their legal counsel when developing, considering, or amending their fair housing policies.

Assistance Animals are governed by the following authorities:

- 42 U.S.C. § 3604(f)(3)(B)
- 24 C.F.R. § 100.204
- U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity Notice FHEO-2020-01.

"The Fair Housing Act requires housing providers to modify or make exceptions to policies governing animals when it may be necessary to permit persons with disabilities to utilize animals[;]" this includes allowing the animal, waving animal fees and deposits, and not retaliating against the tenant.

Generally, a housing provider "at its discretion, may make the truth and accuracy of information provided during the [assistance animal] process part of the representations made by the tenant under a lease or similar housing agreement to the extent that the lease or agreement requires the truth and accuracy of other material information."

Under step 1 | it is readily apparent when the dog is observed:

- Guiding an individual who is blind or has low vision
- Pulling a wheelchair
- Providing assistance with stability or balance to an individual with an observable mobility disability.

Under step 2 | do not ask about the nature or extent of the person's disability, and do not ask for documentation.

Under Step 3 | examples of "health care professional" includes, but is not limited to, a: "physician, optometrist, Psychiatrist, psychologists, physician's assistance, nurse practitioner, or nurse." Websites that sell documents to anyone who answers certain questions, in HUD's experience, **is not by itself** sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal.

Under Animal's Commonly Kept in Households | if the individual is requesting to keep a unique type of animal that is not commonly kept in households—then the tenant has the substantial burden of demonstrating a disability-related need for the specific animal (or the specific type of animal).

Other FHEO-2020-01 notes | "A housing provider may . . . refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through action . . . to maintain or control the animal[;]" HOA's, insurance companies, and cities also have to comply with these rules; when evaluating a request, it is important to engage in a good-faith dialogue with the requestor; you are allowed to enforce contract provisions against a tenant with an assistance animal if it is your usual practice to do so (i.e. charge for damages caused by a tenant's animal).