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2026 Fair Housing Updates

Educational information only — not legal advice for any specific situation.

Refresher: Protected Classes

7 federal + 3 Utah. None of these changed in 2026.

Federal (1968)

Race · Color · Religion · Sex · National Origin

Federal (1988)

Disability · Familial Status

Disability is ~70% of complaints

Utah adds

Source of Income · Sexual Orientation · Gender Identity

Small-landlord exemption? It never covers your advertising. Ever.

01

The federal shift

How we got here



Executive Order 14281

Agencies directed to stop using disparate-impact liability "to the maximum extent possible."

Guidance pulled

HUD withdraws ESA notices (2013, 2020), 2024 online-ad guidance, source-of-income testing memo, criminal-records memos.

Proposed rule

HUD proposes removing its disparate-impact regulations. Supplemental proposal Aug 10, 2026. Not final yet.

ESA memo

HUD will pursue animal cases only where the animal is trained to provide disability-related assistance.

None of these documents changed the Fair Housing Act itself.

Enforcement changed. The law didn't.

What changed

- HUD's priorities and who it charges
- HUD guidance documents withdrawn
- FHEO staff down to roughly a third of Jan 2025 levels

but

What did NOT change

- **The Fair Housing Act itself** (Congress hasn't amended it)
- **Private lawsuits** — tenants can still sue you directly
- **Utah law** and the Utah Antidiscrimination & Labor Division (UALD)
- **Disparate impact in court**

A HUD memo changes what HUD does, not what a tenant's lawyer can do.

02

Assistance animals

The May 2026 HUD memo, Louisiana case, and Utah law

ESAs: the old framework vs. the new HUD memo

Old (2013 & 2020 notices)

- Service animals need training; ESAs did not
- A reliable letter linking disability to need was enough
- HUD investigated untrained-ESA denials

New (May 22, 2026 memo)

- HUD pursues only cases with animals trained for disability-related tasks
- Requests for untrained ESAs are not "presumptively reasonable"
- HUD plans rulemaking on animal accommodations
- Memo says it doesn't change the underlying law

Can you charge for an ESA? Louisiana vs. Utah



Henderson v. Five Properties

- E.D. La., July 16, 2025
- Tenant wanted a $400 ESA fee waived; landlord offered a payment plan
- Court: waiver not necessary (she could pay) or reasonable (~3% of housing cost)
- Court said it's case-by-case, not a blanket yes

vs



Utah Code 26B-6-803

- **No extra fee or deposit** for a service animal or a support animal
- You can still recover the reasonable cost of actual damage
- Louisiana's result shows potential shift
- What’s next with elections?

In Utah: no ESA fees or deposits. Charge for actual damage instead.

How aggressive will you be?

Different companies will choose different positions. Upper management decision.

Conservative

Keep processing ESAs under the old approach and Utah law. Lowest risk, more animals.

Middle ground

Ask for documentation of training and disability-related need, then decide case by case. Document the interactive process.

Aggressive

Deny untrained ESAs. Exposure to private suits, UALD complaints, and a future HUD reversal.

Whatever you choose: apply it the same way, every time, at every property.

03

Other 2026 updates

Utah H.B. 404: sex-designated shared housing

2026 General Session · effective May 6, 2026

- **What it allows:** designating shared housing as single-sex by sex at birth, where bedrooms or bathrooms are shared
- **Where it fits:** roommate units, student housing,
- **Where it doesn't:** government-owned housing, or where federal law or federal funding conditions forbid it
- **Caution:** the federal Fair Housing Act still bans sex discrimination. Talk to attorney before relying on it.



Recent cases: what's still getting enforced

Idaho RV park · Jan 2026

DOJ settlement, $20,000 + training. 15-lb assistance-animal limit, pet fee, and a retaliatory eviction.

Colorado · Apr 2026

AG settlement, $10,000. Staff told tester’s "vouchers not accepted."

New York · July 2026

East Hampton Housing Authority paid $82,500 after refusing an ESA for 19 months.

SafeRent · Nov 2024

$2.275M class settlement. Algorithm scores allegedly hurt voucher holders and minority applicants.



YOU MAKE THE CALL

The $300 pet deposit

An applicant in Logan has a dog with no special training and a letter from an online provider. Your policy charges a $300 pet deposit. She asks you to waive it because the dog is her emotional support animal. HUD's May 2026 memo says it won't pursue untrained-ESA cases.

A Charge the deposit — HUD won't care

B Waive it, verify the letter, enforce animal rules

C Deny the animal outright

What to do Monday

Get a written management decision
on how you'll handle untrained ESAs

Keep Utah's no-fee rule
for service and support animals

Review your ads
the advertising rules apply to everyone

Document the interactive process
every request, every call, every answer

Retrain front-line staff
on one consistent process

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Questions?

Next up at 10:00: Small Claims / When AI Joins the Dispute