

The Fair Housing Act and Assistance Animals

You and your assistance animal have rights

The Fair Housing Act

The Fair Housing Act (FHA) is a federal law that prevents discrimination against tenants in their homes.

Under the FHA, a disability is defined as a physical or mental impairment which significantly limits a person's major life activities. Even if a lease says "no pets" or restricts pets, landlords are required to make what is called a "reasonable accommodation" to allow pets who serve as assistance animals, which includes animals who provide emotional support.

Assistance animals are in a different legal classification than pets who are not assistance animals, which is why pet restrictions and fees are waived for them. They are animals that work, assist and/or perform tasks and services for the benefit of a person with a disability or provide emotional support that improves the symptoms of a disability.

There is no official certification or training for assistance animals, and they can assist in a wide variety of ways. Breed and weight restrictions do not apply to assistance or service animals.

Differences between service animals and assistance animals

Service animals are categorized as animals trained to do a specific task for their owner. The most common example is a guide dog. Service animals are allowed in public accommodations because of the owner's need for the animal at all times.

An assistance animal can be a cat, dog or other type of companion animal, and does not need to be trained to perform a service. The emotional and/or physical benefits from the animal living in the home are what qualify the animal as an assistance animal. A letter from a medical doctor or therapist is all that is needed to classify the animal as an assistance animal.

The fact that the term "service animal" is often used by landlords and public housing authorities to refer to both service dogs and assistance animals often creates confusion.

Some examples of assistance animals:

A cat who can detect and alerts their companion of oncoming seizures .

A dog who alleviates a person's depression or anxiety.

A cat who reduces a person's stress-induced pain.

A bird who alerts their hard-of-hearing companion when someone has come to the door.

Demonstrating your pet is an assistance animal

You should provide your landlord with a letter from your doctor/therapist stating you have a disability and explaining how your pet is needed to help you cope with this disability and/or improves its symptoms. Attach a brief personal statement explaining to the landlord that you are asking for "a reasonable accommodation to keep your pet who functions as an assistance support animal."

If your landlord refuses to accommodate

Landlords must agree to a reasonable accommodation request if the disability claim is true and if the request does not create a hardship on the landlord or other tenants. If your request for a reasonable accommodation is denied by the landlord, you have the right to request that a government agency investigate your claim that the landlord is discriminating against you.

You have several options for filing a complaint:

You can file a discrimination complaint electronically with the Department of Housing and Urban Development (HUD). Information about the process is located on this HUD webpage.

You can print and complete the HUD Discrimination Form and mail it to the appropriate HUD office.

Many states have a government agency that investigates discrimination claims. You can also file a complaint directly with your state's agency. (See Finding legal resources in your community.)

Housing covered by the Fair Housing Act

All types of housing, including public housing, are covered by the FHA except: 1. Rental dwellings of four or less units, where one unit is occupied by the owner; 2. Single family homes sold or rented by the owner without the use of a broker; 3. Housing owned by private clubs or religious organizations that restrict occupancy in housing units to their members.

Pet fees

Service and assistance animals are not technically pets and owners do not have to pay pet fees. The landlord, however, can charge a security deposit and may still seek money from the tenant if there is any damage caused by the animal to the home. Also, if there is a nuisance issue the landlord does have the right to try to remove the assistance animal through legal proceedings.

Further resources for tenants with assistance animals

Judge David L. Bazelon Center for Mental Health Law, Fair Housing Information Sheet (Includes a sample letter to show a doctor/therapist how to explain that the pet functions as an assistance animal, p. 6).

MFY Legal Services, Reasonable Accommodations for People with Mental Illness Living in NYC Apartments (Includes a sample letter for the tenant to request reasonable accommodation from the landlord to keep an animal as an assistance animal).