

Americans with Disability Act (ADA) VERSUS Fair Housing Act (FHA)

ADA



Requires business owners to make necessary, reasonable accommodations for people with disabilities.

42 U.S.C. §12182(B)(2)(A)(II)

Accommodation could allow a person with a disability to be accompanied by a **service animal** in a place of public accommodation.

ADA **only** allows **service animals**, meaning an animal specially trained to perform a task for a person with a disability.

Service animals perform a task related to an emotional or mental disability, **but cannot simply provide comfort by its presence.**

DOJ says **service animals** can only be dogs, or, in very specific circumstances, miniature horses.

FHA



Requires housing providers to make necessary, reasonable accommodations, similar to the ADA.

42 U.S.C. §3604(f)(3)(B)

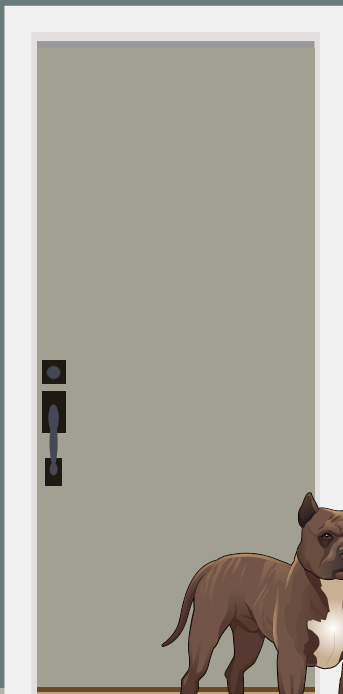
With regard to animals—any animal necessary because of a disability can be a reasonable accommodation.

Does not have to be a **service animal**. FHA permits any **assistance animal** as a reasonable accommodation.

Housing providers should provide an individualized, case-by-case evaluation of whether a particular animal is a “reasonable” accommodation.



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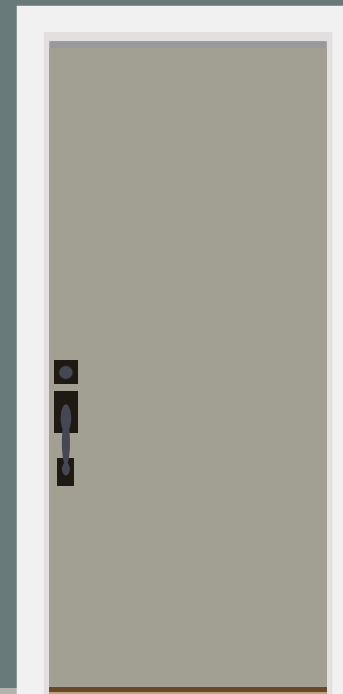
What constitutes a request for an assistance animal? When a resident communicates:

I would like an accommodation in your practices, policies, or procedures, that is necessary to allow me full enjoyment of my housing because of my disability, pursuant to 42 U.S.C. §3604(f)(3)(B). The accommodation that I request is to keep my emotional support pit bull, that fulfills a disability-related need for me.

However, the resident does not have to say this. There are no magic words. A request for an accommodation for a disability has been made when a reasonable person hearing the request would understand that it is a disability-related request for a change in the way the community does business.



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HOW TO PROPERLY

evaluate a request for accommodation

Housing providers aren't required to assume that every request is automatically valid.



1



Request should be in writing, authored by the resident or by on-site staff who have received the request verbally.



2



Housing provider cannot insist the resident put the request in writing before it is a **valid accommodation request.**



3



Is a third-party verification required? If so, take steps to obtain verification. **Verification is necessary** if the disability or disability-related nature of the request is not readily observable to the reasonable person.



4



Communicate the decision to the resident. If necessary, engage in **interactive process.**



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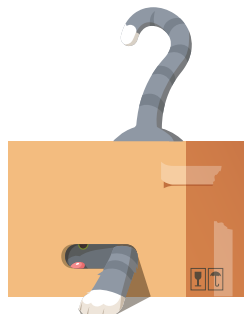
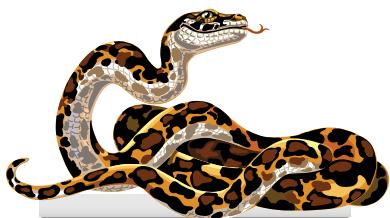


If request is denied, provide applicant with an opportunity to **discuss further or provide new information.**

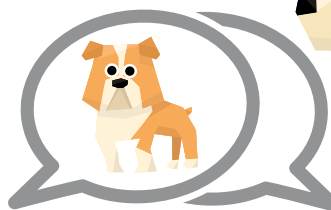
A REQUEST FOR AN ACCOMMODATION CAN BE MADE AT ANY TIME, INCLUDING ON THE COURT-HOUSE STEPS.

If you are sued for failure to accommodate

these are not acceptable defenses. The resident:



Did not disclose the animal at the time of move-in



Did not request accommodation at the time of move-in



Did not pay a pet deposit since move-in