



# Assistance Animals



# Assistance Animals

- How assistance animals under state and federal Fair Housing Law differ from service dogs under the Americans with Disabilities Act
- HUD Guidance – released January, 2020
- How to Evaluate Requests and Verifications
- Insurance Policy Restrictions
- PA Assistance and Service Animal Integrity Act



# Federal Fair Housing Act

Title VIII of the Civil Rights Act of 1968, as amended in 1988, known as the Fair Housing Act (FHA), makes it unlawful to discriminate against individuals in housing transactions based on:

**Race**

**Color**

**Religion**

**National Origin**

**Sex**

**Disability**

**Familial Status\***

*\* Familial status means the presence of children under 18 in a household, pregnant women or anyone adopting or securing legal custody of a child.*



# PA State Human Relations Act

- PA Human Relations Act adds TWO additional protected classes and makes it illegal to discriminate against
  - age (40 and over)
  - users, handlers, or trainers of assistance animals for persons with disabilities



# Fair Housing Act Exemptions

- Owner occupied buildings with four or fewer rental units (two or fewer units under PA state law)
- For Sale By Owner - single family housing sold or rented without the use of a broker if the private individual owner does not own more than three such single family homes at one time NOTE: PA State Human Relations Act does not state this exemption.
- No exemption for discriminatory statements and/or advertising



# ADA vs. Fair Housing Law

- **Americans with Disabilities Act of 1990** – prohibits discrimination based on disability in programs and activities provided by public entities (including housing related programs) and in goods, services, facilities, and privileges of places of public accommodation owned or operated by private entities.

- **SERVICE DOGS** under the ADA are individually trained to do work or perform tasks for people with disabilities.



# ADA vs. Fair Housing Law

- **Pa State Human Relations Act and the federal Fair Housing Amendments Act** apply to DWELLINGS and have a broader definition of assistance animal.

- ASSISTANCE ANIMALS do NOT need to be trained or certified.
- ASSISTANCE ANIMALS serve a disability related need and allow a person with a disability equal opportunity to use and enjoy a dwelling.



# Assistance Animals

- Includes service dogs, emotional support animals, therapy animals.....
- Can be any type of animal within reason - must be a typical household pet.
- Does not need to be trained
- There is no certification for assistance animals or for emotional support animals





## **DISABILITY DEFINED**

A physical or mental impairment that substantially limits one or more of a person's major life activities.

Includes people having a history of an impairment and people being perceived as having an impairment.



# Reasonable Accommodations

A **reasonable accommodation** is a change in rules, policies, practices, or services that enables a person with a disability equal opportunity to use and enjoy a dwelling. Example accommodations include:

- Allowing an assistance animal even if there is a “no pets’ policy
- Waiving pet fees and pet deposit for assistance animals
- Making an exception to weight limits for assistance dogs

# What is Reasonable?

A request for an accommodation or modification is considered reasonable if that request:

- Does not cause an undue financial and administrative burden to the housing provider
- Does not cause a basic change in the nature of the housing program available
- Will not cause harm or damage to others
- Is technologically possible





# How should the request be made?

- It is the responsibility of the person with a disability to make the request.
- It is not the responsibility of a housing provider to offer or suggest an accommodation or modification to a resident or prospective resident, even if they are aware of the disability or disability related need.
- Requests can be made verbally.
- A request can be made by someone on behalf of a person with a disability.
- There must be a connection between the disability and the need for the accommodation or modification.
- A person can ask for a reasonable accommodation at any time including when applying for housing, when moving in or moving out, while living in the unit, or even during an eviction hearing at the Magisterial District Court.



# Standardized Forms

- Housing providers can create standardized forms for requesting reasonable accommodations and modifications, however, they cannot require that a person use a certain form to request a reasonable accommodation or modification.
- Housing providers cannot require that the request is made in a specific manner or at a specific time.
- Housing providers must consider the request even if the person making the request did not use their preferred form or procedure for making the request. The request cannot be denied just because the requester did not use the preferred form or procedure.
- The form cannot contain invasive questions or be burdensome.



# Verifying Disability and Need

Cannot ask questions which would require someone to waive their rights to confidentiality regarding their history or records.

Cannot ask to see medical records.

Cannot ask about the nature or severity of a disability or a specific diagnosis.

Cannot ask if a person is able to live independently.



# Verifying Disability and Need

**If disability is obvious and need for accommodation or modification is clear** – No additional documentation may be required

**If disability is known, but need for accommodation or modification is not clear** – Only information to evaluate disability-related need may be required

**If disability and need are not known** – Provider may request documentation that tenant has a disability and a disability-related need



# Verifying Disability and Need

**If the accommodation or modification proposed is unreasonable, is there another solution?**

**Engage in an interactive dialogue.**





# Verifying Disability and Need

All verifications to housing providers should come from a medical or other professional who is familiar with :

- the patient or client making the request,
- their disability, and
- the disability related need for the animal.

**NOTE:** No official certification or registration for emotional support animals or assistance animals currently exists.



# Reasonable Accommodation Evaluation “DANCE”

Assess the following to help determine the reasonableness of the request.

**Disability** – Does the tenant have a disability as defined by fair housing laws?

**Accommodation** – Is the tenant requesting a change in the landlord’s rules or practices?

**Necessary** – Is the accommodation or modification necessary for full use and enjoyment?

**Cost** – Does the accommodation or modification impose an undue financial and administrative cost on the landlord?

**Effect** – Would the accommodation or modification effect a fundamental change in the landlord’s business?

If the answer to the first three questions is YES and the answer to the last two questions is NO, then the housing provider should grant the request.



# Other Considerations

- Owner must clean up after the animal and provide all proper care.
- Owner must maintain control of the animal (must be leashed outside).
- Owner is responsible for any damages caused by the animal.
- Dog must be properly licensed.
- Dogs and cats must be vaccinated as required by law.
- If animal disturbs neighbors (i.e. barking) the accommodation may no longer be reasonable.



# Insurance Policy Restrictions

Q. WHAT IF a housing provider's insurance policy would terminate, substantially increase in cost, or the policy terms would be adversely affected by the presence of a certain breed of dog?



# Insurance Policy Restrictions

Remember that an accommodation is unreasonable if it imposes an undue financial or administrative burden on the housing provider.

- However, the housing provider may need to show that comparable insurance without the breed restriction is unavailable.
- If an insurance provider has a policy of refusing to insure any housing that has animals without an exception for assistance animals, that insurance provider may be held liable for discriminating against individuals with disabilities.



# PA Assistance and Service Animal Integrity Act (2018)

1. Protects landlords or associations from being held liable for injuries caused by a person's assistance animal or service animal which the landlord has permitted on the property as a reasonable accommodation.



# PA Assistance and Service Animal Integrity Act (2018)

2. Makes it a Third Degree Misdemeanor to:
- Misrepresent an animal as an assistance or service animal,
  - Intentionally create a document misrepresenting an animal as an assistance animal or service animal in housing
  - Provide a document to another falsely stating that an animal is an assistance animal or service animal for use in housing
  - To fit an animal with a vest or sign which indicates the animal is an assistance animal .

Third Degree Misdemeanor is a Summary Offense  
Can be fined up to \$1,000.



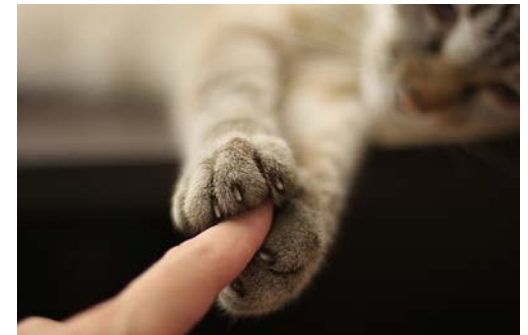
# Common Accommodation Mistakes

- Requiring forms *ALWAYS*
- Being rigid with rules, policies and procedures
- Not responding timely to requests
- Not engaging in an interactive process
- Not training all employees who deal with tenants/prospective tenants
- Not being sensitive



# Common Mistakes: Assistance Animals

- Refusing to allow someone with a disability the right to an assistance animal when it's reasonable
- Denying occupancy, or evicting a person with a disability because they request an assistance animal
- Charging extra fees or deposits
- Stall or delay in responding to a request
- Requiring training or certification for an assistance animal
- Inquiring about the nature or severity of a person's disability





# HUD/DOJ Joint Statement

## DOJ and HUD have provided joint statements on **Reasonable Accommodations Under the Fair Housing Act**

- Clear Q&A format providing technical guidance on rights and obligations of persons with disabilities and housing providers under the Fair Housing Act
- Available at:  
[www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint\\_statement\\_ra.pdf](http://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf)



# HUD Guidance

HUD GUIDANCE: Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act - January 28, 2020

<https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>



# Fair Housing Guide to Reasonable Accommodations and Modifications

The Housing Equality Center of PA offers a comprehensive guide to reasonable accommodations and modifications for consumers with disabilities.

<https://www.equalhousing.org/wp-content/uploads/2020/02/Fair-Housing-Guide-to-Reasonable-Accommodations-and-Modifications.pdf>



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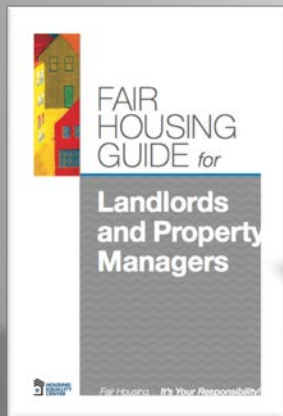
# Report Discrimination

## (267) 419-8918

Consumers, providers and advocates should contact **Housing Equality Center of Pennsylvania** to report discrimination. The Housing Equality Center accepts and investigates complaints from anonymous sources.

Fair housing complaints can be filed with HUD for up to one year from the incident, or with the Pennsylvania Human Relations Commission for up to 180 days from the incident. A lawsuit may be filed in Federal Court up to two years from the incident.

# equalhousing.org



- ✓ Sign up for fair housing news
- ✓ Register for an upcoming fair housing event or meeting
- ✓ Learn about fair housing laws
- ✓ Download guides, resources, fact sheets and fair housing guidance
- ✓ Request fair housing training or publications for your clients, colleagues or offices
- ✓ Report discrimination online



# Fair Housing is Good Business

- Contact Housing Equality Center of PA for a confidential review and assessment of specific circumstances

**Carolyn Steinhofer**  
**Intake and Outreach Coordinator**  
**(267)-419-8918 x. 2**  
**Steinhofer@equalhousing.org**  
**[www.equalhousing.org](http://www.equalhousing.org)**