



# Asset Management Notice

To: All Owners and Managers

Notice # 2020-03

From: Bob Conroy, Director of Asset Management

Issued: March 13, 2020

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## I. **IRS Form 8703 – Annual Certification of a Residential Rental Project**

The operator of a residential rental project for which an election was made under Section 142(d) of the Internal Revenue Code must file Form 8703 annually during the qualified project period. This form must be filed by March 31 after the close of the calendar year for which the certification is made. The latest revision of this Form (Rev. 9-2013) includes Part III which requests information about the Issuer and the tax-exempt financing that financed the project under section 142(d).

In order to assist in completing Part III of the form, MaineHousing has posted information on its Tax-Exempt Private Activity Bond Issues on our website at the links listed below.

To gather the information on your project, first open the “MaineHousing MF Project List” at <http://www.mainehousing.org/partners/partner-type/property-owners-managers/tax-exempt-bond-project-information>. Locate your project from the list and note the bond series in column C. Please note that it is possible for your project to be listed under more than one bond series. If it is listed under more than one bond series the Form 8703 will need to include information on each bond series. If your project was previously on the “MaineHousing MF Project List” and is no longer listed, you should consult your accountant to determine whether you still need to file a Form 8703 for the project.

Once you know the bond series, open the “MaineHousing Master Bond List” at <http://www.mainehousing.org/partners/partner-type/property-owners-managers/tax-exempt->



[bond-project-information](#). This list contains the information on each bond series that is needed to complete part III of Form 8703 and corresponds with boxes 14 – 20 on the form.

Please note the bond information for your project will not necessarily stay the same for the life of the project. This information will need to be reviewed on an annual basis. Please also note that MaineHousing does not provide tax advice. If you have questions related to the filing of this form you may want to consult your tax professional or contact the IRS at <https://www.irs.gov/tax-exempt-bonds/tax-exempt-bonds-customer-services> or mail questions to:

Internal Revenue Service  
TE/GE Division, Customer Service  
P.O. Box 2508  
Cincinnati, OH 45201

## II. HUD No. 20-013 Assistance Animals and Reasonable Accommodations

HUD has announced the publication of guidance FHEO-2020-01 <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf> clarifying how housing providers can comply with the Fair Housing Act, when assessing a person's request to have an animal in housing to provide assistance because of a disability.

The Fair Housing Act prohibits discrimination in housing against individuals who have disabilities that affect a major life activity. The Act requires housing providers to permit a change or exception to a rule, policy, practice, or service that may be necessary to provide people with disabilities that affect a major life activity an equal opportunity to use and enjoy their home. In most circumstances, a refusal to make such a change or exception, known as a reasonable accommodation, is unlawful. A common reasonable accommodation is an exception to a no pet policy. A person with a disability that affects a major life activity may require the assistance of an animal that does work, performs tasks, or provides therapeutic emotional support because of the disability. Housing providers may confirm, if it is not apparent, whether the requested accommodation is needed because of a disability that affects a major life activity and is a reasonable request.

This new Assistance Animal Notice will help housing providers in this process by offering a step-by-step set of best practices for complying with the Act, when assessing accommodation requests involving animals and information that a person may need to provide about his or her disability-related need for the requested accommodation, including supporting information from a health care professional.

“Countless Americans rely on assistance animals to fill a void, providing individuals with disabilities with the means to have a home that supports their quality of life,” stated Secretary Ben Carson. “In my many discussions with housing providers and residents impacted by the need for assistance, I recognized the necessity for further clarity regarding support animals to provide peace of mind to individuals with disabilities while also taking in account the concerns of housing providers. Today’s announcement responds to the ambiguity surrounding proper documentation



for assistance animals with clarity and compassion to provide an equal opportunity for a person living with a disability to use and enjoy their home.”

“For decades, HUD has recognized the rights of individuals with disabilities to keep an assistance animal in the home where it is a reasonable accommodation,” said Anna María Farías, HUD’s Assistant Secretary for Fair Housing and Equal Opportunity. “Housing is unique, and a person with a disability that affects a major life activity, might need an animal that provides support in ways that is not readily apparent to housing providers. For example, veterans or senior citizens may need the assistance or therapeutic support of an animal to help them cope with the symptoms of a disability that affects a major life activity. This guidance will help housing providers to recognize the important way assistance animals can improve the lives of persons with disabilities and to meet their obligation to grant such accommodations.”

HUD General Counsel Paul Compton added, “With the Assistance Animals Notice, both housing providers and individuals with disabilities will better understand their rights and obligations under the Fair Housing Act regarding assistance animals, particularly emotional support animals. For housing providers, this is a tool that can be used to help them lawfully navigate various sets of sometimes complex circumstances to ensure that reasonable accommodations are provided where required so that persons with a disability-related need for an assistance animal have an equal opportunity to use and enjoy their housing. The guidance will help ensure that these important legal rights are asserted only in appropriate circumstances.”

Additionally, this new Assistance Animal Notice provides information on the types of animals that typically may be appropriate and best practices for when the requested animal is one that is not traditionally kept in the home. It also provides information for both housing providers and persons with disabilities regarding the reliability of documentation of a disability or disability-related need for an animal that is obtained from third parties, including internet-based services offering animal certifications or registrations for purchase.

Because they apply to more types of facilities than housing, the laws applicable to public accommodations and government funded facilities, including Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, while sometimes overlapping with the Fair Housing Act, have different, and sometimes narrower, requirements. Similarly, public transportation and common carriers, such as airlines, are also subject to different rules. The Assistance Animal Notice does not address those circumstances.

Persons who believe they have experienced housing discrimination may file a complaint of discrimination by contacting HUD's Office of Fair Housing and Equal Opportunity at (800) 669-9777 or visiting [How to File a Complaint](#) on HUD’s website.

### **III. HUD Guidance on COVID-19 “Coronavirus”**

“Health officials are currently taking steps to prevent the introduction and spread of COVID-19 (“Coronavirus”) into communities across the United States. Housing providers, including organizations that run continuums of care and shelters, as well as the general public, can play an important role in this effort.

Through collaboration and coordination with State and local health department, housing providers can disseminate critical information and prepare to take additional steps to prevent the spread of COVID-19.

Everyone should continue promoting everyday disease prevention strategies:

- If you are sick, stay home from work or school.
- Avoid close contact with those who are already sick.
- Cover your nose and mouth when coughing or sneezing with a tissue or the crook of your arm.
- Wash your hands often with soap and water.
- Avoid touching eyes, nose, or mouth.

Public housing authorities, landlords, non-profits, and shelter can share relevant CDC fact sheets to help individuals, families, and staff understand COVID-19 along with steps they can take to protect themselves.”

Copies of these fact sheets are attached.

#### **IV. A Directive from HUD Northeast Region on Electronic Mailboxes**

The HUD Multifamily Northeast Region went electronic four years ago. In order to streamline operations, we established a centralized intake process in Asset Management for all servicing requests and correspondence which has been traditionally mailed to our offices.

Given the current circumstances regarding Coronavirus (COVID-19) we are advising owners and management agents to utilize these electronic mail boxes to submit your servicing requests. With telecommuting become more and more important in stopping the spread of the corona virus it is vital that we avoid using regular mail and utilize the electronic intake mailboxes. Submissions mailed to our offices maybe overlook and can take an additional 2-3 weeks to process you request.

Owners and Agents should include the **Project Name** (IREMS number) and **type of correspondence** (i.e. 9250 Funds Authorization, Management Agent Certification, Budget Worksheet, etc.) in the subject line of emailed submissions.

Please email correspondence to the appropriate box listed below:

#### **Baltimore (including Richmond, Philadelphia, Pittsburgh, Charleston, and Washington, DC)**

All routine servicing/processing correspondence (anything requiring HUD servicing, processing, or signature): [bal.incoming@hud.gov](mailto:bal.incoming@hud.gov)

Monthly Accounting Reports (MARs): [bal.mars@hud.gov](mailto:bal.mars@hud.gov)

Grant-related (Service Coordinator) correspondence: [bal.grants@hud.gov](mailto:bal.grants@hud.gov)

Funding requests (Contract Funding, strictly speaking): [bal.funding@hud.gov](mailto:bal.funding@hud.gov)



**Boston (including Hartford, Providence, and Manchester)**

All routine servicing/processing correspondence (anything requiring HUD servicing, processing, or signature): [bos.incoming@hud.gov](mailto:bos.incoming@hud.gov)

Monthly Accounting Reports (MARs): [bos.mars@hud.gov](mailto:bos.mars@hud.gov)

Grant-related (Service Coordinator) correspondence: [bos.grants@hud.gov](mailto:bos.grants@hud.gov)

Funding requests (Contract Funding, strictly speaking): [bos.funding@hud.gov](mailto:bos.funding@hud.gov)

**New York (including Newark and Buffalo)**

All routine servicing/processing correspondence (anything requiring HUD servicing, processing, or signature): [ny.incoming@hud.gov](mailto:ny.incoming@hud.gov)

Monthly Accounting Reports (MARs): [ny.mars@hud.gov](mailto:ny.mars@hud.gov)

Grant-related (Service Coordinator) correspondence: [ny.grants@hud.gov](mailto:ny.grants@hud.gov)

Funding requests (Contract Funding, strictly speaking): [ny.funding@hud.gov](mailto:ny.funding@hud.gov)

Please contact your properties' assigned HUD Account Executive(s) should you have any questions.

**Attachments:**

- “What you need to know about coronavirus disease 2019 (COVID-19)”
- “What to do if you are sick”
- “Stop the spread of germs – help prevent the spread of respiratory viruses like COVID-19”
- HUD Multifamily Corona Virus Q & A

*Please note that MaineHousing provides notices as a service to our partners. Notices are not intended to replace ongoing training and do not encompass all compliance and regulatory changes that may occur on the wide arrange of housing programs in which we work. MaineHousing recommends partners establish an ongoing training program for their staff.*

*MaineHousing does not discriminate on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, physical or mental disability, age, familial status or receipt of public assistance in the admission or access to or treatment in its programs and activities. In employment, MaineHousing does not discriminate on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, age, physical or mental disability or genetic information. MaineHousing will provide appropriate communication auxiliary aids and services upon sufficient notice. MaineHousing will also provide this document in alternative formats upon sufficient notice. MaineHousing has designated the following person responsible for coordinating compliance with applicable federal and state nondiscrimination requirements and addressing grievances: Louise Patenaude, Maine State Housing Authority, 353 Water Street, Augusta, Maine 04330-4633, Telephone Number 1-800-452-4668 (voice in state only), (207) 626-4600 (voice) or Maine Relay 711.*





U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-2000

OFFICE OF FAIR HOUSING  
AND EQUAL OPPORTUNITY

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**SPECIAL ATTENTION OF:**

HUD Regional and Field Office Directors of Public and Indian Housing (PIH); Housing; Community Planning and Development (CPD); Fair Housing and Equal Opportunity; and Regional Counsel; CPD, PIH, and Housing Program Providers

FHEO Notice: **FHEO-2020-01**  
Issued: January 28, 2020  
Expires: Effective until Amended, Superseded, or Rescinded.

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Subject: Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act

- 1. Purpose:** This notice explains certain obligations of housing providers under the Fair Housing Act (FHA) with respect to animals that individuals with disabilities may request as reasonable accommodations. There are two types of assistance animals: (1) service animals, and (2) other trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to in this guidance as a "support animal"). Persons with disabilities may request a reasonable accommodation for service animals and other types of assistance animals, including support animals, under the FHA. This guidance provides housing providers with a set of best practices for complying with the FHA when assessing requests for reasonable accommodations to keep animals in housing, including the information that a housing provider may need to know from a health care professional about an individual's need for an assistance animal in housing. This guidance replaces HUD's prior guidance, FHEO-2013-01, on housing providers' obligations regarding service animals and assistance animals. In particular, this guidance provides a set of best practices regarding the type and amount of documentation a housing provider may ask an individual with a disability to provide in support of an accommodation request for a support animal, including documentation of a disability (that is, physical or mental impairments that substantially limit at least one major life activity) or a disability-related need for a support animal when the disability or disability-related need for the animal is non-obvious and not known to the housing provider. By providing greater clarity through this guidance, HUD seeks to provide housing providers with a tool they may use to reduce burdens that they may face when they are uncertain about the type and amount of documentation they may need and may be permitted to request when an individual seeks to keep a support animal in housing. Housing providers may be subject to the requirements of several civil rights laws, including but not limited to the FHA, Section 504 of the Rehabilitation Act (Section 504), and the Americans with Disabilities Act (ADA). This guidance does not address how HUD will process complaints against housing providers under Section 504 or the ADA.

2. **Applicability:** This notice applies to all housing providers covered by the FHA.<sup>1</sup>
3. **Organization:** There are two sections to this notice. The first, “Assessing a Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act,” recommends a set of best practices for complying with the FHA when assessing accommodation requests involving animals to assist housing providers and help them avoid violations of the FHA. The second section to this notice, “Guidance on Documenting an Individual’s Need for Assistance Animals in Housing,” provides guidance on information that an individual seeking a reasonable accommodation for an assistance animal may need to provide to a housing provider about his or her disability-related need for the requested accommodation, including supporting information from a health care professional.

Questions regarding this notice may be directed to the HUD Office of Fair Housing and Equal Opportunity, Office of the Deputy Assistant Secretary for Enforcement and Programs, or your local HUD Office of Fair Housing and Equal Opportunity.

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Anna María Farías, Assistant Secretary for  
Fair Housing and Equal Opportunity

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<sup>1</sup> The Fair Housing Act covers virtually all types of housing, including privately owned housing and federally assisted housing, with a few limited exceptions.

## **Assessing a Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act<sup>2</sup>**

The Fair Housing Act (FHA) makes it unlawful for a housing provider<sup>3</sup> to refuse to make a reasonable accommodation that a person with a disability may need in order to have equal opportunity to enjoy and use a dwelling.<sup>4</sup> One common request housing providers receive is for a reasonable accommodation to providers’ pet or no animal policies so that individuals with disabilities are permitted to use assistance animals in housing,<sup>5</sup> including public and common use areas.

Assistance animals are not pets. They are animals that do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities.<sup>6</sup> There are two types of assistance animals: (1) service animals, and (2) other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to in this guidance as a “support animal”).<sup>7</sup> An animal that does not qualify as a service animal or other type of assistance animal is a pet for purposes of the FHA and may be treated as a pet for purposes of the lease and the housing provider’s rules and policies. A housing provider may exclude or charge a fee or deposit for pets in its discretion and subject to local law but not for service animals or other assistance animals.<sup>8</sup>

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<sup>2</sup> This document is an integral part of U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity Notice FHEO-2020-01, dated January 28, 2020 (sometimes referred to as the “Assistance Animal Notice”).

<sup>3</sup> The term “housing provider” refers to any person or entity engaging in conduct covered by the FHA. Courts have applied the FHA to individuals, corporations, partnerships, associations, property owners, housing managers, homeowners and condominium associations, cooperatives, lenders, insurers, real estate agents, brokerage services, state and local governments, colleges and universities, as well as others involved in the provision of housing, residential lending, and other real estate-related services.

<sup>4</sup> 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204. Unless otherwise specified, all citations refer to those authorities effective as of the date of the publication of this guidance.

<sup>5</sup> For purposes of this guidance, the term “housing” refers to all housing covered by the Fair Housing Act, including apartments, condominiums, cooperatives, single family homes, nursing homes, assisted living facilities, group homes, domestic violence shelters, emergency shelters, homeless shelters, dormitories, and other types of housing covered by the FHA.

<sup>6</sup> See 24 C.F.R. § 5.303(a).

<sup>7</sup> Under the FHA, a disability is a physical or mental impairment that substantially limits one or more major life activities. See 24 C.F.R. § 100.201.

<sup>8</sup> See Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act (“Joint Statement”), Q and A 11 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>; *Fair Hous. of the Dakotas, Inc. v. Goldmark Prop. Mgmt.*, 778 F. Supp. 2d 1028 (D.N.D. 2011). HUD views the Joint Statement as well-reasoned guidance on some of the topics addressed in this guidance. The Joint Statement, available to the public since 2004, has been cited from time to time by courts. See, e.g., *Bhogaita v. Altamonte Heights Condo. Ass’n*, 765 F.3d 1277, 1286 (11th Cir. 2014); *Sinisgallo*

As of the date of the issuance of this guidance, FHA complaints concerning denial of reasonable accommodations and disability access comprise almost 60% of all FHA complaints and those involving requests for reasonable accommodations for assistance animals are significantly increasing. In fact, such complaints are one of the most common types of fair housing complaints that HUD receives. In addition, most HUD charges of discrimination against a housing provider following a full investigation involve the denial of a reasonable accommodation to a person who has a physical or mental disability that the housing provider cannot readily observe.<sup>9</sup>

HUD is providing this guidance to help housing providers distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by housing providers' pet policies, such as pet fees or deposits. The guidance may also help persons with a disability who request a reasonable accommodation to use an assistance animal in housing.

While most requests for reasonable accommodations involve one animal, requests sometimes involve more than one animal (for example, a person has a disability-related need for both animals, or two people living together each have a disability-related need for a separate assistance animal). The decision-making process in this guidance can be used for all requests for exceptions or modifications to housing providers' rules, policies, practices, and/or procedures so persons with disabilities can have assistance animals in the housing where they reside.

This guidance is provided as a tool for housing providers and persons with a disability to use at their discretion and provides a set of best practices for addressing requests for reasonable accommodations to keep animals in housing where individuals with disabilities reside or seek to reside. It should be read together with HUD's regulations prohibiting discrimination under the FHA<sup>10</sup> —with which housing providers must comply— and the HUD/Department of Justice (DOJ) Joint Statement on Reasonable Accommodation under the Fair Housing Act, available at <https://www.hud.gov/sites/documents/huddojstatement.pdf>. A housing provider may also be subject to the Americans with Disabilities Act (ADA) and therefore should also refer to DOJ's regulations implementing Title II and Title III of the ADA at 28 C.F.R. parts 35 and 36, and DOJ's guidance on service animals, *Frequently Asked Questions about Service Animals and the ADA* at [https://www.ada.gov/regs2010/service\\_animal\\_qa.html](https://www.ada.gov/regs2010/service_animal_qa.html) and *ADA Requirements: Service Animals* at [https://www.ada.gov/service\\_animals\\_2010.htm](https://www.ada.gov/service_animals_2010.htm). This guidance replaces HUD's prior guidance on housing providers' obligations regarding service animals and assistance animals.<sup>11</sup> Housing

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*v. Town of Islip Hous. Auth.*, 865 F. Supp. 2d 307, 336-42 (E.D.N.Y. 2012). However, HUD does not intend to imply that the Joint Statement is independently binding statutory or regulatory authority. HUD understands it to be subject to applicable limitations on the use of guidance. See "Treatment as a Guidance Document" on p.5 for a citation of authorities on permissible use of guidance.

<sup>9</sup> See, e.g., *HUD v. Castillo Condominium Ass'n*, No. 12-M-034-FH-9, 2014 HUD ALJ LEXIS 2 (HUD Sec'y, October 02, 2014) aff'd, 821 F.3d 92 (1st Cir. 2016); *HUD v. Riverbay*, No. 11-F-052-FH-18, 2012 HUD ALJ LEXIS 15 (HUD ALJ, May 07, 2012), aff'd, 2012 ALJ LEXIS 19 (HUD Sec'y June 06, 2012).

<sup>10</sup> 24 C.F.R. Part 100.

<sup>11</sup> FHEO-2013-01.

providers should not reassess requests for reasonable accommodations that were granted prior to the issuance of this guidance in compliance with the FHA.

### **Treatment as a Guidance Document**

As a guidance document, this document does not expand or alter housing providers' obligations under the Fair Housing Act or HUD's implementing regulations. It should be construed consistently with Executive Order 13891 of October 9, 2019 entitled "Promoting the Rule of Law Through Improved Agency Guidance Documents," Executive Order 13892 of October 9, 2019 entitled "Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication," the Office of Management and Budget Memorandum M-20-02 entitled "Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents,'" the Department of Justice Memorandum of January 25, 2018 entitled "Limiting Use of Agency Guidance Documents in Affirmative Civil Enforcement Cases," and the Department of Justice Memorandum of November 16, 2017 entitled "Prohibition on Improper Guidance Documents."

### **Part I: Service Animals**

The FHA 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.<sup>12</sup> Because HUD interprets the FHA to require access for individuals who use service animals, housing providers should initially follow the analysis that DOJ has determined is used for assessing whether an animal is a service animal under the ADA.<sup>13</sup> The Department of Justice's ADA regulations generally require state and local governments and public accommodations to permit the use of service animals by an individual with a disability.<sup>14</sup> For support animals and other assistance animals that may be necessary in housing, although the ADA does not provide for access, housing providers must comply with the FHA, which does provide for access.<sup>15</sup>

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<sup>12</sup> 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204. See also Pet Ownership for the Elderly and Persons with Disabilities – Final Rule, 73 Fed. Reg. 63833 (Oct. 27, 2008).

<sup>13</sup> 24 C.F.R. § 100.204(b).

<sup>14</sup> 28 C.F.R. §§ 35.136(g); 36.302(c)(7).

<sup>15</sup> Specifically, under the Fair Housing Act, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with disabilities, or provide emotional support to alleviate a symptom or effect of a disability. Separate regulations govern airlines and other common carriers, which are outside the scope of this guidance.

## What is a service animal?

Under the ADA, “*service animal* means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.”<sup>16</sup>

As a best practice, housing providers may use the following questions to help them determine if an animal is a service animal under the ADA:<sup>17</sup>

1. Is the animal a dog?
  - If “yes,” proceed to the next question.
  - If “no,” the animal is not a service animal but may be another type of assistance animal for which a reasonable accommodation is needed.<sup>18</sup> Proceed to Part II below.
2. Is it readily apparent that the dog is trained to do work or perform tasks for the benefit of an individual with a disability?
  - If “yes,” further inquiries are unnecessary and inappropriate because the animal is a service animal.<sup>19</sup>
  - If “no,” proceed to the next question.

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<sup>20</sup>

3. It is advisable for the housing provider to limit its inquiries to the following two questions:
  - The housing provider may ask in substance: (1) “Is the animal required because of a

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<sup>16</sup> 28 C.F.R. §§ 35.104; 36.104 (emphasis added).

<sup>17</sup> 28 C.F.R. §§ 35.136; 36.302(c).

<sup>18</sup> Although a miniature horse is not a service animal, DOJ has determined that the same type of analysis is applied to determine whether a miniature horse should be provided access, although additional considerations, beyond the scope of this guidance, apply. *See* 28 C.F.R. §§ 35.136(i); 36.302(c)(9).

<sup>19</sup> 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

<sup>20</sup> 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

disability?” and (2) “What work or task has the animal been trained to perform?”<sup>21</sup> Do not ask about the nature or extent of the person’s disability, and do not ask for documentation. A housing provider, at its discretion, may make the truth and accuracy of information provided during the 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.

- If the answer to question (1) is “yes” and work or a task is identified in response to question (2), grant the requested accommodation, if otherwise reasonable, because the animal qualifies as a service animal.
- If the answer to either question is “no” or “none,” the animal does not qualify as a service animal under federal law but may be a support animal or other type of assistance animal that needs to be accommodated. HUD offers guidance to housing providers on this in Part II.

Performing “work or tasks” means that the dog is trained to take a specific action when needed to assist the person with a disability.

- If the individual identifies at least one action the dog is trained to take which is helpful to the disability other than emotional support, the dog should be considered a service animal and permitted in housing, including public and common use areas. Housing providers should not make further inquiries.
- If no specific work or task is identified, the dog should not be considered a service animal but may be another type of animal for which a reasonable accommodation may be required. Emotional support, comfort, well-being, and companionship are not a specific work or task for purposes of analysis under the ADA.

For more information, refer to the ADA rules and service animal guidance on DOJ’s ADA Home Page at [www.ada.gov](http://www.ada.gov)<sup>22</sup> or call the ADA Information Line at 1-800-514-0301.

## **Part II: Analysis of reasonable accommodation requests under the Fair Housing Act for assistance animals other than service animals**

**A reasonable accommodation** is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have equal opportunity to use and enjoy a dwelling, including public and common use spaces.

Remember: While it is not necessary to submit a written request or to use the words “reasonable accommodation,” “assistance animal,” or any other special words to request a reasonable accommodation under the FHA, persons making a request are encouraged to do so in order to avoid

<sup>21</sup> 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

<sup>22</sup> See *Frequently Asked Questions About Service Animals and the ADA* at [https://www.ada.gov/regs2010/service\\_animal\\_qa.html](https://www.ada.gov/regs2010/service_animal_qa.html); *ADA Requirements: Service Animals* at [https://www.ada.gov/service\\_animals\\_2010.htm](https://www.ada.gov/service_animals_2010.htm).

miscommunication.<sup>23</sup> Persons with disabilities may also want to keep a copy of their reasonable accommodation requests and supporting documentation in case there is a later dispute about when or whether a reasonable accommodation request was made. Likewise, housing providers may find it helpful to have a consistently maintained list of reasonable accommodation requests.<sup>24</sup>

A resident may request a reasonable accommodation either before or after acquiring the assistance animal.<sup>25</sup> An accommodation also may be requested after a housing provider seeks to terminate the resident's lease or tenancy because of the animal's presence, although such timing may create an inference against good faith on the part of the person seeking a reasonable accommodation. However, under the FHA, a person with a disability may make a reasonable accommodation request at any time, and the housing provider must consider the reasonable accommodation request even if the resident made the request after bringing the animal into the housing.<sup>26</sup>

As a best practice, housing providers may use the following questions to help them make a decision when the animal does not meet the definition of service animal.<sup>27</sup>

4. Has the individual requested a reasonable accommodation — that is, asked to get or keep an animal in connection with a physical or mental impairment or disability?

Note: The request for a reasonable accommodation with respect to an assistance animal may be oral or written. It may be made by others on behalf of the individual, including a person legally residing in the unit with the requesting individual or a legal guardian or authorized representative.<sup>28</sup>

- If “yes,” proceed to Part III.
- If “no,” the housing provider is not required to grant a reasonable accommodation that has not been requested.

### **Part III: Criteria for assessing whether to grant the requested accommodation**

As a best practice, housing providers may use the following questions to help them assess whether

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<sup>23</sup> See Joint Statement, Q and A 12 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

<sup>24</sup> See Joint Statement, Q and A 13 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

<sup>25</sup> See Joint Statement, Q and A 12 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

<sup>26</sup> See 24 C.F.R. § 100.204(a).

<sup>27</sup> See *Janush v. Charities Hous. Dev. Corp.*, 169 F.Supp.2d 1133, 1136-37 (N.D. Cal., 2000) (rejecting an argument that a definition of “service dog” should be read into the Fair Housing Act to create a rule that accommodation of animals other than service dogs is per se unreasonable, instead finding that “the law imposes on defendants the obligation to consider each request individually and to grant requests that are reasonable.”).

<sup>28</sup> See Joint Statement, Q and A 12 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

to grant the requested accommodation.

5. Does the person have an observable disability or does the housing provider (or agent making the determination for the housing provider) already have information giving them reason to believe that the person has a disability?
  - If “yes,” skip to question #7 to determine if there is a connection between the person’s disability and the animal.
  - If “no,” continue to the next question.

### **Observable and Non-Observable Disabilities**

Under the FHA, a disability is a physical or mental impairment that substantially limits one or more major life activities. While some impairments may seem invisible, others can be readily observed. Observable impairments include blindness or low vision, deafness or being hard of hearing, mobility limitations, and other types of impairments with observable symptoms or effects, such as intellectual impairments (including some types of autism), neurological impairments (*e.g.*, stroke, Parkinson’s disease, cerebral palsy, epilepsy, or brain injury), mental illness, or other diseases or conditions that affect major life activities or bodily functions.<sup>29</sup> Observable impairments generally tend to be obvious and would not be reasonably attributable to non-medical causes by a lay person.

Certain impairments, however, especially including impairments that may form the basis for a request for an emotional support animal, may not be observable. In those instances, a housing provider may request information regarding both the disability and the disability-related need for the animal. Housing providers are not entitled to know an individual’s diagnosis.

6. Has the person requesting the accommodation provided information that reasonably supports that the person seeking the accommodation has a disability?<sup>30</sup>
  - If “yes,” proceed to question #7. A housing provider, at its discretion, may make the truth and accuracy of information provided during the 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.
  - If “no,” the housing provider is not required to grant the accommodation unless this information is provided but may not deny the accommodation on the grounds that the person requesting the accommodation has not provided this information until the requester has been provided a reasonable opportunity to do so.<sup>31</sup> To assist the person requesting the

<sup>29</sup> See 24 C.F.R. § 100.201.

<sup>30</sup> See Joint Statement, Q and A 17 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

<sup>31</sup> This would not permit the housing provider to require any independent evaluation or diagnosis specifically obtained for the housing provider or for the housing provider to engage in its own direct

accommodation to understand what information the housing provider is seeking, the housing provider is encouraged to direct the requester to the Guidance on Documenting an Individual's Need for Assistance Animals in Housing. Referring the requester to that Guidance will also help ensure that the housing provider receives the disability-related information that is actually needed to make a reasonable accommodation decision.

### **Information About Disability May Include . . .**

- A determination of disability from a federal, state, or local government agency.
- Receipt of disability benefits or services (Social Security Disability Income (SSDI), Medicare or Supplemental Security Income (SSI) for a person under age 65, veterans' disability benefits, services from a vocational rehabilitation agency, or disability benefits or services from another federal, state, or local agency.
- Eligibility for housing assistance or a housing voucher received because of disability.
- Information confirming disability from a health care professional – *e.g.*, physician, optometrist, psychiatrist, psychologist, physician's assistant, nurse practitioner, or nurse.

Note that a determination that an individual does not qualify as having a disability for purposes of a benefit or other program does not necessarily mean the individual does not have a disability for purposes of the FHA, Section 504, or the ADA.<sup>32</sup>

### **Disability Determination**

Note that under DOJ's regulations implementing the ADA Amendments Act of 2008, which HUD considers instructive when determining whether a person has a disability under the FHA, some types of impairments will, in virtually all cases, be found to impose a substantial limitation on a major life activity resulting in a determination of a disability.<sup>33</sup> Examples include deafness, blindness, intellectual disabilities, partially or completely missing limbs or mobility impairments requiring the use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, muscular dystrophy, multiple sclerosis, Human Immunodeficiency Virus (HIV) infection, major depressive disorder, bipolar disorder, post-traumatic stress disorder, traumatic brain injury, obsessive compulsive disorder, and schizophrenia.<sup>34</sup> This does not mean that other conditions are not disabilities. It simply means that in virtually all cases these conditions will be covered as disabilities. While housing providers will be unable to observe or identify some of these impairments, individuals with disabilities sometimes voluntarily provide more details about their disability than the housing provider actually needs to make decisions on accommodation requests. When this information is provided, housing providers should consider it.

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evaluation. *See* Joint Statement, Q and A 17-18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

<sup>32</sup> *See* Joint Statement, Q and A 18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

<sup>33</sup> *See* 28 C.F.R. §§ 35.108(d)(2); 36.105(d)(2).

<sup>34</sup> *See* 28 C.F.R. §§ 35.108(d)(2)(iii); 36.105(d)(2)(iii).

### Documentation from the Internet

Some websites sell certificates, registrations, and licensing documents for assistance animals to anyone who answers certain questions or participates in a short interview and pays a fee. Under the Fair Housing Act, a housing provider may request reliable documentation when an individual requesting a reasonable accommodation has a disability and disability-related need for an accommodation that are not obvious or otherwise known.<sup>35</sup> In HUD's experience, such documentation from the internet is not, by itself, sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal.

By contrast, many legitimate, licensed health care professionals deliver services remotely, including over the internet. One reliable form of documentation is a note from a person's health care professional that confirms a person's disability and/or need for an animal when the provider has personal knowledge of the individual.

7. Has the person requesting the accommodation provided information which reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability?<sup>36</sup>
  - If "yes," proceed to Part IV. A housing provider, at its discretion, may make the truth and accuracy of information provided during the 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.
  - If "no," the housing provider is not required to grant the accommodation unless this information is provided but may not deny the accommodation on the grounds that the person requesting the accommodation has not provided this information until the requester has been provided a reasonable opportunity to do so. To assist the person requesting the accommodation to understand what information the housing provider is seeking, the housing provider is encouraged to direct the requester to the Guidance on Documenting an Individual's Need for Assistance Animals in Housing. Referring the requester to that Guidance will also help ensure that the housing provider receives the disability-related information that is actually needed to make a reasonable accommodation decision.

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<sup>35</sup> See Joint Statement, Q and A 18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

<sup>36</sup> See *Fair Hous. of the Dakotas, Inc. v. Goldmark Prop. Mgmt.*, 778 F. Supp. 2d 1028 (D.N.D. 2011) (determining that, in housing, a broader variety of assistance animals may be necessary as a reasonable accommodation, regardless of specific training).

### **Information Confirming Disability-Related Need for an Assistance Animal. . .**

- Reasonably supporting information often consists of information from a licensed health care professional – *e.g.*, physician, optometrist, psychiatrist, psychologist, physician’s assistant, nurse practitioner, or nurse – general to the condition but specific as to the individual with a disability and the assistance or therapeutic emotional support provided by the animal.
- A relationship or connection between the disability and the need for the assistance animal must be provided. This is particularly the case where the disability is non-observable, and/or the animal provides therapeutic emotional support.
- For non-observable disabilities and animals that provide therapeutic emotional support, a housing provider may ask for information that is consistent with that identified in the Guidance on Documenting an Individual’s Need for Assistance Animals in Housing (\*see Questions 6 and 7) in order to conduct an individualized assessment of whether it must provide the accommodation under the Fair Housing Act. The lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation.

#### **Part IV: Type of Animal**

8. Is the animal commonly kept in households?

- If “yes,” the reasonable accommodation should be provided under the FHA unless the general exceptions described below exist.<sup>37</sup>
- If “no,” a reasonable accommodation need not be provided, but note the very rare circumstances described below.

**Animals commonly kept in households.** If the animal is a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes, then the reasonable accommodation should be granted because the requestor has provided information confirming that there is a disability-related need for the animal.<sup>38</sup> For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

**Unique animals.** If the individual is requesting to keep a unique type of animal that is not commonly kept in households as described above, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. The individual is encouraged to submit documentation from a health care professional confirming the need for this animal, which includes information of the type set out in the Guidance on Documenting an Individual’s Need for Assistance Animals in Housing. While this guidance

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<sup>37</sup> See, *e.g.*, *Majors v. Hous. Auth. of the Cnty. of DeKalb Georgia*, 652 F.2d 454, 457 (5th Cir. 1981) (enforcing a “no pets” rule against an individual with a disability who needs an animal as a reasonable accommodation effectively deprives the individual of the benefits of the housing).

<sup>38</sup> See 24 C.F.R. § 100.204(a).

does not establish any type of new documentary threshold, the lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation. If the housing provider enforces a “no pets” policy or a policy prohibiting the type of animal the individual seeks to have, the housing provider may take reasonable steps to enforce the policy if the requester obtains the animal before submitting reliable documentation from a health care provider that reasonably supports the requestor’s disability-related need for the animal. As a best practice, the housing provider should make a determination promptly, generally within 10 days of receiving documentation.<sup>39</sup>

**Reasonable accommodations may be necessary when the need for a unique animal involves unique circumstances ...**

Examples:

- The animal is individually trained to do work or perform tasks that cannot be performed by a dog.
- Information from a health care professional confirms that:
  - Allergies prevent the person from using a dog; or
  - Without the animal, the symptoms or effects of the person’s disability will be significantly increased.
- The individual seeks to keep the animal outdoors at a house with a fenced yard where the animal can be appropriately maintained.

**Example: A Unique Type of Support Animal**

An individually trained capuchin monkey performs tasks for a person with paralysis caused by a spinal cord injury. The monkey has been trained to retrieve a bottle of water from the refrigerator, unscrew the cap, insert a straw, and place the bottle in a holder so the individual can get a drink of water. The monkey is also trained to switch lights on and off and retrieve requested items from inside cabinets. The individual has a disability-related need for this specific type of animal because the monkey can use its hands to perform manual tasks that a service dog cannot perform.

**Part V: General Considerations**

- The FHA does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.<sup>40</sup> A housing provider may, therefore, 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 actions the individual takes to maintain or control the animal (e.g., keeping the

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<sup>39</sup> See Joint Statement, Q and A 15 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

<sup>40</sup> See 24 C.F.R. § 100.202(d).

animal in a secure enclosure).<sup>41</sup>

- A reasonable accommodation may include a reasonable accommodation to a land use and zoning law, Homeowners Association (HOA) rule, or co-op rule.<sup>42</sup>
- A housing provider may not charge a fee for processing a reasonable accommodation request.<sup>43</sup>
- Pet rules do not apply to service animals and support animals. Thus, housing providers may not limit the breed or size of a dog used as a service animal or support animal just because of the size or breed<sup>44</sup> but can, as noted, limit based on specific issues with the animal's conduct because it poses a direct threat or a fundamental alteration.<sup>45</sup>
- A housing provider may not charge a deposit, fee, or surcharge for an assistance animal. A housing provider, however, may charge a tenant for damage an assistance animal causes if it is the provider's usual practice to charge for damage caused by tenants (or deduct it from the standard security deposits imposed on all tenants).
- A person with a disability is responsible for feeding, maintaining, providing veterinary care, and controlling his or her assistance animal. The individual may do this on his or her own or with the assistance of family, friends, volunteers, or service providers.
- Individuals with disabilities and housing providers may reference the best practices provided in this guidance in making and responding to reasonable accommodation requests within the scope of this guidance for as long as it remains in effect. HUD strongly encourages individuals with disabilities and housing providers to give careful attention to this guidance when making reasonable accommodation requests and decisions relating to animals.
- Failure to adhere to this guidance does not necessarily constitute a violation by housing providers of the FHA or regulations promulgated thereunder.<sup>46</sup>
- Before denying a reasonable accommodation request due to lack of information confirming an individual's disability or disability-related need for an animal, the housing provider is encouraged to engage in a good-faith dialogue with the requestor called the "interactive process."<sup>47</sup> The housing provider may not insist on specific types of evidence if the information which is provided or actually known to the housing provider meets the requirements of this guidance (except as provided above). Disclosure of details about the diagnosis or severity of a disability or medical records or a medical examination cannot be required.

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<sup>41</sup> See Joint Statement Q and A 4 (May 17, 2004), at

<https://www.hud.gov/sites/documents/huddojstatement.pdf>.

<sup>42</sup> See *Warren v. Delvista Towers Condo. Ass'n*, 49 F. Supp. 3d 1082 (S.D. Fla. 2014).

<sup>43</sup> See Joint Statement, Q and A 11 (May 17, 2004), at

<https://www.hud.gov/sites/documents/huddojstatement.pdf>; *Fair Hous. of the Dakotas, Inc. v. Goldmark Prop. Mgmt.*, 778 F. Supp. 2d 1028 (D.N.D. 2011).

<sup>44</sup> See, e.g., *Bhogaita v. Altamonte Heights Condo. Ass'n*, 765 F.3d 1277 (11th Cir. 2014) (reasonable accommodation to a housing provider's rule that all dogs must be under 25 pounds).

<sup>45</sup> See 24 C.F.R. § 100.202(d); Joint Statement, Q and A's 5 & 7 (May 17, 2004), at

<https://www.hud.gov/sites/documents/huddojstatement.pdf>.

<sup>46</sup> See "Treatment as a Guidance Document" on p.5 for a citation of authorities on permissible use of guidance.

<sup>47</sup> See Joint Statement, Q and A 7 (May 17, 2004), at

<https://www.hud.gov/sites/documents/huddojstatement.pdf>.

If a reasonable accommodation request, provided under the framework of this guidance, is denied because it would impose a fundamental alteration to the nature of the provider's operations or impose an undue financial and administrative burden, the housing provider should engage in the interactive process to discuss whether an alternative accommodation may be effective in meeting the individual's disability-related needs.<sup>48</sup>

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<sup>48</sup> For guidance on what constitutes a fundamental alteration or an undue financial and administrative burden, refer to the HUD/DOJ Joint Statement on Reasonable Accommodation under the Fair Housing Act, available at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

## **Guidance on Documenting an Individual’s Need for Assistance Animals in Housing**

This section provides best practices for documenting an individual’s need for assistance animals in housing. It offers a summary of information that a housing provider may need to know from a health care professional about an individual’s need for an assistance animal in housing. It is intended to help individuals with disabilities explain to their health care professionals the type of information that housing providers may need to help them make sometimes difficult legal decisions under fair housing laws. It also will help an individual with a disability and their health care provider understand what information may be needed to support an accommodation request when the disability or disability-related need for an accommodation is not readily observable or known by the housing provider. Housing providers may not require a health care professional to use a specific form (including this document), to provide notarized statements, to make statements under penalty of perjury, or to provide an individual’s diagnosis or other detailed information about a person’s physical or mental impairments.<sup>49</sup> Housing providers and the U.S. Department of Housing and Urban Development rely on professionals to provide accurate information to the best of their personal knowledge, consistent with their professional obligations. This document only provides assistance on the type of information that may be needed under the Fair Housing Act (FHA). The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. Further, this document does not create any obligation to provide health-care information and does not authorize or solicit the collection of any information not otherwise permitted by the FHA.<sup>50</sup>

The Appendix to this Guide answers some commonly asked questions about terms and issues below. An understanding of the terms and issues is helpful to providing this information.

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When providing this information, health care professionals should use personal knowledge of their patient/client – *i.e.*, the knowledge used to diagnose, advise, counsel, treat, or provide health care or other disability-related services to their patient/client. **Information relating to an individual’s disability and health conditions must be kept confidential and cannot be shared with other**

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<sup>49</sup> See Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act (“Joint Statement”), Q and A’s 13, 16-18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

<sup>50</sup> This guidance does not expand on the obligations under the FHA or HUD’s regulations and should be construed consistently with Executive Order 13891 of October 9, 2019 entitled “Promoting the Rule of Law Through Improved Agency Guidance Documents,” Executive Order 13892 of October 9, 2019 entitled “Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication,” the Department of Justice Memorandum of January 25, 2018 entitled “Limiting Use of Agency Guidance Documents in Affirmative Civil Enforcement Cases,” and the Department of Justice Memorandum of November 16, 2017 entitled “Prohibition on Improper Guidance Documents.”

**persons unless the information is needed for evaluating whether to grant or deny a reasonable accommodation request or unless disclosure is required by law.<sup>51</sup>**

As a best practice, documentation contemplated in certain circumstances by the Assistance Animals Guidance is recommended to include the following general information:

- The patient's name,
- Whether the health care professional has a professional relationship with that patient/client involving the provision of health care or disability-related services, and
- The type of animal(s) for which the reasonable accommodation is sought (i.e., dog, cat, bird, rabbit, hamster, gerbil, other rodent, fish, turtle, other specified type of domesticated animal, or other specified unique animal).<sup>52</sup>

**Disability-related information.** A disability for purposes of fair housing laws exists when a person has a physical or mental impairment that substantially limits one or more major life activities.<sup>53</sup> Addiction caused by current, illegal use of a controlled substance does not qualify as a disability.<sup>54</sup> As a best practice, it is recommended that individuals seeking reasonable accommodations for support animals ask health care professionals to provide information related to the following:

- Whether the patient has a physical or mental impairment,
- Whether the patient's impairment(s) substantially limit at least one major life activity or major bodily function, and
- Whether the patient needs the animal(s) (because it does work, provides assistance, or performs at least one task that benefits the patient because of his or her disability, or because it provides therapeutic emotional support to alleviate a symptom or effect of the disability of the patient/client, and not merely as a pet).

Additionally, if the animal is not a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes, it may be helpful for patients to ask health care professionals to provide the following additional information:

- The date of the last consultation with the patient,
- Any unique circumstances justifying the patient's need for the particular animal (if already owned or identified by the individual) or particular type of animal(s), and
- Whether the health care professional has reliable information about this specific animal or

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<sup>51</sup> See Joint Statement, Q and A 18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

<sup>52</sup> See, e.g., *Janush v. Charities Housing Development Corporation*, 169 F.Supp.2d 1133, 1136-37 (N.D. Cal. 2000) (rejecting an argument that a definition of "service dog" should be read into the Fair Housing Act to create a rule that accommodation of animals other than service dogs is per se unreasonable, finding that "the law imposes on defendants the obligation to consider each request individually and to grant requests that are reasonable.").

<sup>53</sup> 24 C.F.R. § 100.201.

<sup>54</sup> 24 C.F.R. § 100.201.

whether they specifically recommended this type of animal.

It is also recommended that the health care professional sign and date any documentation provided and provide contact information and any professional licensing information.

## **Appendix**

### **What are assistance animals?**

Assistance animals do work, perform tasks, provide assistance, or provide emotional support for a person with a physical or mental impairment that substantially limits at least one major life activity or bodily function.<sup>55</sup>

### **What are physical or mental impairments?**

Physical or mental impairments include: any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

Any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability; or

Diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.<sup>56</sup>

### **What are major life activities or major bodily functions?**

They are: seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, and working.<sup>57</sup>

Other impairments – based on specific facts in individual cases -- may also substantially limit at least one major life activity or bodily function.<sup>58</sup>

### **What are Some Examples of Work, Tasks, Assistance, and Emotional Support?**

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<sup>55</sup> See 24 C.F.R. §§ 5.303; 960.705.

<sup>56</sup> See 24 C.F.R. § 100.201.

<sup>57</sup> See 24 C.F.R. § 100.201(b).

<sup>58</sup> See 24 C.F.R. § 100.201.

Some examples of work and tasks that are commonly performed by service dogs include<sup>59</sup>:

- Assisting individuals who are blind or have low vision with navigation and other tasks,
- Alerting individuals who are deaf or hard of hearing to the presence of people or sounds,
- Providing non-violent protection or rescue work,
- Pulling a wheelchair,
- Alerting a person with epilepsy to an upcoming seizure and assisting the individual during the seizure,
- Alerting individuals to the presence of allergens,
- Retrieving the telephone or summoning emergency assistance, or
- Providing physical support and assistance with balance and stability to individuals with mobility disabilities.

Some other examples of work, tasks or other types of assistance provided by animals include:<sup>60</sup>

- Helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors,
- Reminding a person with mental illness to take prescribed medication,
- Alerting a person with diabetes when blood sugar is high or low,
- Taking an action to calm a person with post-traumatic stress disorder (PTSD) during an anxiety attack,
- Assisting the person in dealing with disability-related stress or pain,
- Assisting a person with mental illness to leave the isolation of home or to interact with others,
- Enabling a person to deal with the symptoms or effects of major depression by providing a reason to live, or
- Providing emotional support that alleviates at least one identified symptom or effect of a physical or mental impairment.

**What are examples of a patient's need for a unique animal or unique circumstances?<sup>61</sup>**

- The animal is individually trained to do work or perform tasks that cannot be performed by a dog.
- Information from a health care professional confirms that:
  - Allergies prevent the person from using a dog, or
  - Without the animal, the symptoms or effects of the person's disability will be significantly increased.
- The individual seeks a reasonable accommodation to a land use and zoning law, Homeowners Association (HOA) rule, or condominium or co-op rule.
- The individual seeks to keep the animal outdoors at a house with a fenced yard where the animal can be appropriately maintained.

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<sup>59</sup> See 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

<sup>60</sup> See, e.g., *Majors v. Housing Authority of the County of DeKalb Georgia*, 652 F.2d 454, 457 (5th Cir. 1981); *Janush*, 169 F.Supp.2d at 1136-37.

<sup>61</sup> See, e.g., *Anderson v. City of Blue Ash*, 798 F.3d 338, 360-63 (6th Cir. 2015) (seeking a reasonable accommodation to keep a miniature horse as an assistance animal).

# What you need to know about coronavirus disease 2019 (COVID-19)

## What is coronavirus disease 2019 (COVID-19)?

Coronavirus disease 2019 (COVID-19) is a respiratory illness that can spread from person to person. The virus that causes COVID-19 is a novel coronavirus that was first identified during an investigation into an outbreak in Wuhan, China.

## Can people in the U.S. get COVID-19?

Yes. COVID-19 is spreading from person to person in parts of the United States. Risk of infection with COVID-19 is higher for people who are close contacts of someone known to have COVID-19, for example healthcare workers, or household members. Other people at higher risk for infection are those who live in or have recently been in an area with ongoing spread of COVID-19. Learn more about places with ongoing spread at <https://www.cdc.gov/coronavirus/2019-ncov/about/transmission.html#geographic>.

## Have there been cases of COVID-19 in the U.S.?

Yes. The first case of COVID-19 in the United States was reported on January 21, 2020. The current count of cases of COVID-19 in the United States is available on CDC's webpage at <https://www.cdc.gov/coronavirus/2019-ncov/cases-in-us.html>.

## How does COVID-19 spread?

The virus that causes COVID-19 probably emerged from an animal source, but is now spreading from person to person. The virus is thought to spread mainly between people who are in close contact with one another (within about 6 feet) through respiratory droplets produced when an infected person coughs or sneezes. It also may be possible that a person can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes, but this is not thought to be the main way the virus spreads. Learn what is known about the spread of newly emerged coronaviruses at <https://www.cdc.gov/coronavirus/2019-ncov/about/transmission.html>.

## What are the symptoms of COVID-19?

Patients with COVID-19 have had mild to severe respiratory illness with symptoms of

- fever
- cough
- shortness of breath

## What are severe complications from this virus?

Some patients have pneumonia in both lungs, multi-organ failure and in some cases death.

## How can I help protect myself?

People can help protect themselves from respiratory illness with everyday preventive actions.

- Avoid close contact with people who are sick.
- Avoid touching your eyes, nose, and mouth with unwashed hands.
- Wash your hands often with soap and water for at least 20 seconds. Use an alcohol-based hand sanitizer that contains at least 60% alcohol if soap and water are not available.

## If you are sick, to keep from spreading respiratory illness to others, you should

- Stay home when you are sick.
- Cover your cough or sneeze with a tissue, then throw the tissue in the trash.
- Clean and disinfect frequently touched objects and surfaces.

## What should I do if I recently traveled from an area with ongoing spread of COVID-19?

If you have traveled from an affected area, there may be restrictions on your movements for up to 2 weeks. If you develop symptoms during that period (fever, cough, trouble breathing), seek medical advice. Call the office of your health care provider before you go, and tell them about your travel and your symptoms. They will give you instructions on how to get care without exposing other people to your illness. While sick, avoid contact with people, don't go out and delay any travel to reduce the possibility of spreading illness to others.

## Is there a vaccine?

There is currently no vaccine to protect against COVID-19. The best way to prevent infection is to take everyday preventive actions, like avoiding close contact with people who are sick and washing your hands often.

## Is there a treatment?

There is no specific antiviral treatment for COVID-19. People with COVID-19 can seek medical care to help relieve symptoms.



## Questions and Answers for Office of Multifamily Housing Stakeholders

### Coronavirus (COVID-19)

Last Updated: March 12, 2020, 11:00 a.m., ET

#### Emergency Preparedness

**Q1: Who is coordinating COVID-19 efforts for Multifamily Housing (MFH)? Who will be the point of contact for housing providers?**

A: Owners and agents should contact their field MFH Account Executive or Resolution Specialist for property specific inquiries. Jeff Little, the Associate Deputy Assistant Secretary for MFH Programs, is the main point of contact for Multifamily stakeholders.

**Q2: Have MFH Field Offices been given guidance on how housing providers should prepare and respond to COVID-19?**

The Office of MFH provides regular direction to field staff. On March 3, the Office sent an email message to external stakeholders that encouraged stakeholders to share information from the Centers for Disease Control and Prevention (CDC) on the Coronavirus with residents, stakeholders, and others.

**Q3: What emergency preparedness steps does HUD recommend or require property owners and agents take?**

A: Owners and agents should generally follow CDC guidelines and the directions given by local health officials for emergency preparedness. Chapter 38 of [Handbook 4350.1](#), Emergency and Disaster Guidance, should also be consulted.

The CDC provides guidance for [communities, businesses and schools](#) that can assist housing providers.

#### Resident Health

**Q1: In the event of a confirmed COVID-19 case at a HUD-assisted property, what steps should property owners and managers take to protect residents, staff, and the community?**

**A:** MFH recommends property owners and agents follow CDC guidelines and the direction of local health officials, especially in the event of property quarantine.

**Q2: How should housing providers assist residents in accessing continued critical services from home- and community-based providers in the event of a quarantine or if community service providers close temporarily?**

**A:** HUD encourages property owners and agents follow Centers for Disease Control guidelines and the direction of local health officials in all cases, including within the context of home and community-based service providers.

**Q3: What steps is HUD taking to make sure that Fair Housing obligations will still be met in the event of an emergency?**

**A:** Stakeholders are reminded to ensure that their responses remain faithful to obligations under the Constitution, Fair Housing Act and related regulations. Exigencies associated with important and timely response to issues surrounding COVID-19 are not the basis for unlawful discrimination based on race, color, religion, national origin, sex, disability or familial status.

**Q4: It is thought that many seniors and people with disabilities are particularly susceptible to illness. What kind of communication and resources is HUD providing to communities to reassure residents and property management staff, and prepare them in the event of a confirmed COVID-19 case on site?**

**A:** We encourage all parties to access information about the health impacts and proper handling of COVID-19 cases from the CDC, and/or state or local health officials.

We intend to provide regular updates to stakeholders and will continue to send written updated communications via email to national stakeholder groups for forwarding to their members, and to HUD Multifamily Field Offices for distribution to stakeholders in their jurisdiction. Where applicable, we will encourage stakeholders to forward COVID-19 communications from HUD to communities and residents.

**Q5: Does HUD have guidance available on infectious disease preparation and response?**

**A:** See information on the Coronavirus from the CDC's [Coronavirus web site](#).

**Q6: If a person under quarantine has additional family members who need to be kept separate what are a property manager's options for meeting those needs? What if managers are being asked to use vacant units for quarantine?**

A. Resident requests to occupy vacant units or temporarily relocate should be verified before being granted. Verification could include written communication from a medical health professional or through communication with the local health department. Managers may use electronic and telephonic communication to perform verification.

## **Policy and Operations**

### **Q1: Does HUD plan to issue guidance on quarantine procedures for HUD-assisted housing that serves predominantly older adults?**

A: HUD encourages property owners and agents to follow CDC guidelines on quarantine procedures and the direction of local health officials. Stakeholders should reference Chapter 38 of [Handbook 4350.1](#), *Multifamily Asset Management and Project Servicing*, which covers Multifamily emergency and disaster guidance.

### **Q2: Will HUD make rent payment relief or additional assistance available for Project-Based Rental Assistance and Project Rental Assistance Contract units if tenants fall under adverse conditions due to COVID-19?**

A: Multifamily Housing encourages all owners to work with impacted residents and families to adjust rent payments, enter into forbearance agreements, and lessen the impact on affected residents. At this time, no additional subsidy funding has been made available.

### **Q3: What emergency funds can owners and agents access for outbreak preparedness and response (including extra supplies, additional administrative hours, and staff overtime), and what kind of approval do housing providers need from HUD in order to access the funds?**

A: Multifamily property owners and agents can access property operating accounts for all reasonable and necessary COVID-19 related preparedness and response actions, including supplies, staff hours, and overtime. No advance HUD approval is required to access operating account funds.

To the extent that owner advances are required, owners should receive HUD approval in advance, especially if the owner expects repayment before the distribution of annual (or semi-annual) surplus cash. For those properties with reserve for replacement accounts, funds should be accessed according to current policy in Handbook 4350.1, Chapter 4, for eligible items. If the owner is seeking to use reserve for replacement funds for non-eligible uses, approval must be received from HUD field staff in advance.

### **Q4: In the event of an outbreak in a locality with HUD-assisted housing, what regulatory waivers will apply for HUD housing?**

A: HUD will consider policy, Handbook, and regulatory waivers on a case-by-case basis with the intention of providing flexibility to owners and agents to respond to unique needs.

**Q5: Is HUD planning to update their Chapter 38 on emergency preparedness to include infectious disease protocol?**

A: Multifamily plans to use lessons learned from the COVID-19 response in the update to Chapter 38. The Chapter is in the process of being redrafted. Stakeholders will be able to comment when the draft chapter is posted to the Multifamily Drafting Table.

**Q6: Will HUD be making COVID-19 prevention training available for property management and resident services coordinator staff? Will HUD be providing technical assistance for housing providers and residents?**

A: HUD recommends that property managers and service coordinators avail themselves of all relevant training and supplies at the local, state, and federal level.

**Q7: Is testing for the virus for property staff an eligible cost, and if so, under what source of funding? How about residents?**

A. No, this is not an eligible cost.

**Q8: Can I allow residents with COVID-19 or in quarantine extra time to complete recertification if it is due during an outbreak?**

A. Yes, you may consider extension requests for an active case of COVID-19 or where a resident has been advised to quarantine. Management should verify the reasons for the extension request, which may include written information from a medical or other health professional.

**Q9: What steps should managers take for subsidized residents who experience a reduction in income from missing work due to the COVID-19?**

Current policy states that owners must process an interim recertification if a tenant reports a decrease in income that will last for more than one month. The owner should already have this policy in writing and apply it consistently. See [handbook 4350.3, chapter 7, section 2](#).

**Property Reviews and Inspections****Q1: Will HUD temporarily defer REAC and other inspections, and Management and Occupancy Reviews (MORs) and how will HUD notify owners?**

A: HUD may adjust inspections or MORs in accordance with guidance provided by local health officials. HUD will update owners directly on any changes to scheduled inspections or MORs.

**Q2: What should owners/property managers do if tenants refuse entry to inspectors, citing fears of COVID-19?**

A: Until federal, state, or local public health officials counsel otherwise, owners and agents should follow published guidance covering apartment inspections. In this case, Paragraph 20 of the [HUD Model Lease](#) covers the rules governing the landlord's access to a tenant's apartment.

# STOP THE SPREAD OF GERMS

Help prevent the spread of respiratory diseases like COVID-19.

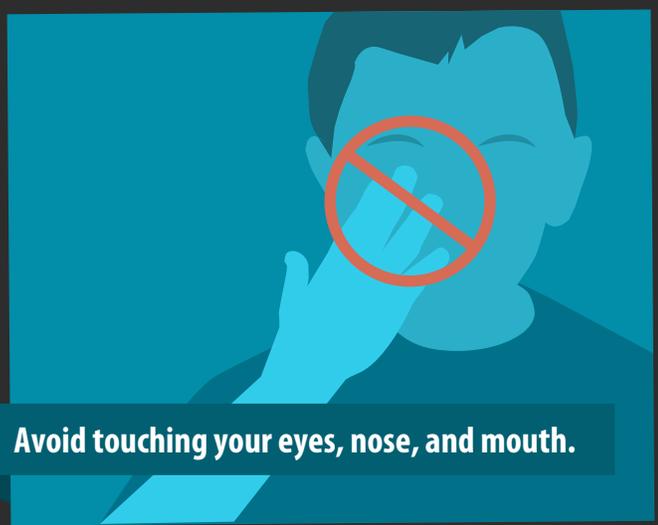
Avoid close contact with people who are sick.



Cover your cough or sneeze with a tissue, then throw the tissue in the trash.



Avoid touching your eyes, nose, and mouth.



Clean and disinfect frequently touched objects and surfaces.



Stay home when you are sick, except to get medical care.



Wash your hands often with soap and water for at least 20 seconds.



For more information: [www.cdc.gov/COVID19](http://www.cdc.gov/COVID19)

The current outbreak of 2019 novel coronavirus (2019-nCoV) was first identified in China but has now spread internationally, impacting an increasing number of countries. Sustained community spread is occurring in China. Limited person-to-person spread, most associated with close contact with a patient with confirmed 2019-nCoV, has been seen outside of China. No community spread of 2019-nCoV has been identified in the United States at this time.

In the coming days and weeks, we expect more confirmed cases in the United States, including some person-to-person spread. The goal of CDC's aggressive ongoing public health response is to prevent spread of 2019-nCoV in the United States.

## What you should do

- **STAY INFORMED** – CDC is updating its website daily with the latest information and advice for the public. ([www.cdc.gov/ncov](http://www.cdc.gov/ncov))
- **REMEMBER TO TAKE EVERYDAY PREVENTIVE ACTIONS** that are always recommended to prevent the spread of respiratory viruses.
  - » Avoid close contact with sick people.
  - » While sick, limit contact with others as much as possible.
  - » Stay home if you are sick.
  - » Cover your nose and mouth when you cough or sneeze. Avoid touching your eyes, nose and mouth with unwashed hands; germs spread this way.
  - » Clean and disinfect surfaces and objects that may be contaminated with germs.
  - » Wash your hands often with soap and water for at least 20 seconds. If soap and water are not available, use an alcohol-based hand rub with at least 60% alcohol.
- **IF YOU FEEL SICK** with fever, cough, or difficulty breathing, and have traveled to China or were in close contact with someone with 2019-nCoV in the 14 days before you began to feel sick, seek medical care. Before you go to a doctor's office or emergency room, call ahead and tell them about your recent travel and your symptoms.

## What you should not do

- **DO NOT** travel to China.
- **DO NOT** use facemasks. CDC does not recommend the use of facemasks for the **general U.S. public** to prevent the spread of 2019-nCoV.
- **DO NOT** show prejudice to people of Asian descent, because of fear of this new virus. Do not assume that someone of Asian descent is more likely to have 2019-nCoV.

All persons in the U.S.—including those of Asian descent—who have not traveled to China or been in contact with someone with a confirmed or suspected nCoV case in the last 14 days are at low risk of becoming sick.

