

## ReasonableAccommodations15

Reasonable Accommodations Under the Fair Housing Act:



One type of disability discrimination prohibited by the Act is the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations are necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling.

The Fair Housing Act's protection against disability discrimination covers not only tenants and home seekers with disabilities but also buyers and renters without disabilities who live or are associated with individuals with disabilities. The Act also prohibits housing providers from refusing residency to persons with disabilities, or placing conditions on their residency, because they require reasonable accommodations. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on others, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling.

- Who must comply with this requirement?

The requirement to provide reasonable accommodations applies to, but is not limited to individuals, corporations, associations and others involved in the provision of housing or residential lending, including property owners, housing managers, homeowners and condominium associations, lenders, real estate agents, and brokerage services. This also applies to state and local governments, most often in the context of exclusionary zoning or other land-use decisions

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The Fair Housing Act defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.

This may include, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

The term "major life activity" means those activities that are of central importance to daily life, such as seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, and speaking.<sup>8</sup> This list of major life activities is not exhaustive. See e.g., Bragdon

- When is a reasonable accommodation necessary?

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An assistance animal is not a pet. It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability.

Assistance animals perform many disability-related functions, including but not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. For

purposes of reasonable accommodation requests, neither the Fair Housing Act nor Section 504 requires an assistance animal to be individually trained or certified.<sup>5</sup> While dogs are the most common type of assistance animal, other animals can also be assistance animals.

- What information may a provider seek when a reasonable accommodation is requested?

A provider is entitled to obtain information that is necessary to evaluate if a requested reasonable accommodation may be necessary because of a disability. If a person's disability is obvious, or otherwise known to the provider, and if the need for the requested accommodation is also readily apparent or known, then the provider may not request any additional information. If the disability and/or the disability-related reason for the requested accommodation is not known or obvious, the requesting individual, medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may also provide verification of a disability. In most cases, an individual's medical records or detailed information about the nature of a person's disability is not necessary for this inquiry.

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A housing provider can deny a request for a reasonable accommodation if the request was not made by or on behalf of a person with a disability or if there is no disability-related need for the accommodation. In addition, a request for a reasonable accommodation may be denied if providing the accommodation is not reasonable – i.e., if it would impose an undue financial and administrative burden on the housing provider or it would fundamentally alter the nature of the provider's operations. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the provider, the benefits that the accommodation would provide to the requester, and the availability of alternative accommodations that would effectively meet the requester's disability-related needs.

When a housing provider refuses a requested accommodation because it is not reasonable, the provider should discuss with the requester whether there is an alternative accommodation that would effectively address the requester's disability-related needs without a fundamental alteration to the provider's operations and without imposing an

undue financial and administrative burden. These discussions often results in an effective accommodation for the requester that does not pose an undue financial and administrative burden for the provider.

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Housing providers may not require persons with disabilities to pay extra fees or deposits as a condition of receiving a reasonable accommodation.

- Where can I find information on reasonable accommodations, reasonable modifications, and assistance animals?

## **Recent Fair Housing Cases on Reasonable Accommodations**

HUD Charges Santa FE, New Mexico, Property Owner With Discriminating Against Tenant With Disabilities, (Emotional Support Animal and live in aide May 4, 2015)

HUD Charges Brooklyn Co-Op With Discriminating Against Disabled Veteran ([Emotional Support Animal January 9, 2015](#))

HUD Finds that Puerto Rico Condo Association Discriminated against Resident with Disabilities ([Emotional Support Animal November 12, 2014](#))

HUD Charges Kent State University with Housing Discrimination for Refusing to Allow Support Animal in Campus Housing ([Emotional Support Animal August 19, 2014](#))

HUD Settles Claims Alleging Owner of Dekalb Apartment Complex Discriminated against Persons with Disabilities ([Ground Floor Apartment and Live in Aide November 3, 2014](#))

HUD charges the Owners of an Apartment Complex in San Francisco with Discrimination ([Emotional Support Animal September 30, 2014](#))

HUD charges New Hampshire Owners and management Company for Denying a Parking Space ([Assigned Parking Space September 24, 2014](#))