



HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY REASONABLE ACCOMMODATION GUIDELINE – ASSISTANCE ANIMAL

The purpose of this Reasonable Accommodation Guideline is to assure equal access to services, programs and activities for persons with disabilities, specifically assessing a person’s request to have an assistive animal as a reasonable accommodation (Please refer to the Housing Opportunities Commission of Montgomery County Reasonable Accommodation Guideline for all other accommodation requests).

The policies and procedures described herein are applied by the Housing Opportunities Commission of Montgomery County (HOC) in a consistent and nondiscriminatory manner as directed by the FHEO Notice: **FHEO-2020-01** requirements by the U.S. Department of Housing and Urban Development (HUD). HOC and Management Agent staff must comply with this procedure in accordance with the Fair Housing Act (FHA) of 1968 (as amended by the Fair Housing Act of 1988), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA) of 1990 (including the ADA Amendments Act of 2008), as well as Maryland State and Montgomery County Human Rights Laws, and the U.S. Department of Housing and Urban Development’s (HUD) regulations governing Fair Housing and Equal Opportunity, as each may be amended. All terms and conditions described herein are offered equally to all prospective and current clients of HOC’s housing programs.

The purpose of FHEO Notice: **FHEO-2020-01** (Notice) is to explain and provide guidance to housing providers under the Fair Housing Act (FHA) with regards to individuals with disabilities reasonable accommodation requests, with respect to assistance animals. HOC will use the Notice and this guideline as a guide to provide a set of best practices to ensure the type and amount of documentation requested from an individual with a disability to support an accommodation for an assistance animal include documentation of a disability (physical or mental) or a disability-related need for an assistive animal when the disability or disability-related need for the animal is not obvious or unknown to HOC.

Additionally, the Notice should be read with the HUD/Department of Justice (DOJ) Joint Statement on Reasonable Accommodation under the Fair Housing Act, which prohibits discrimination and is available at <https://www.hud.gov/sites/dfiles/FHEO/documents/huddojstatement.pdf>. HOC may also be subject to the ADA and should also refer to the DOJ’s *Frequently Asked Questions about Service Animals and the ADA* at https://www.ada.gov/regs2010/service_animal_qa.html and *ADA Requirements: Service Animals* at https://www.ada.gov/service_animals_2010.htm.

GUIDELINE

A person with disabilities may request a reasonable accommodation for an assistance, service, or any type of support animal under the FHA. The FHA defines 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 (also referred to as “support animals”). An animal that does not provide services or other types of assistance is considered a pet and may be treated

as a pet for purposes of HOC's policies, procedures, and leases. Service animals and other assistance animals are not subject to pet deposit charges or fees and are not considered pets.

An individual may make a reasonable accommodation request either before or after acquiring the assistance animal. An accommodation may also be requested after the termination process has begun because of the animal's presence, even though the timing may create an inference against good faith on the part of the person seeking a reasonable accommodation. The FHA allows for a person with disabilities to make reasonable accommodation request at any time, so HOC must consider the request even if it is brought after the animal resides in the unit.

Guidance on Documenting an Individual's Need for Assistance Animals in Housing.

Disability-Related Information

A disability for purposes of fair housing laws (including ADA definition) exists when a person has a physical or mental impairment that substantially limits one or more major life activities, is regarded as having such an impairment, or with a record of such impairment.¹ HOC will recommend that individuals seeking an accommodation for support animals ask health providers to confirm the related information:

- 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
- Whether the health provider has a professional relationship with that patient/client involving the provision of health care or disability-related services,
- The health provider must provide verification of the relationship (nexus) between the assistance animal and the individual's disability
- 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).
- 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 individual's 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 whether they specifically recommended this type of animal.

¹ HUD regulations define physical or mental impairment to include drug addiction, but current use of illegal substances cannot constitute a disability under the FHA. Individuals suffering from drug addiction who have successfully completed some form of rehabilitation program are considered disabled on the basis of their recorded history of addiction, or the fact that other individuals consider them to have been addicts.

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

Note: A health provider is a medical doctor, social worker, therapist, caseworker, a peer support group, a non-medical service agency, or some other reliable third-party who is in position to know about the individual's disability. The health provider is familiar with the individual who submits the request and provides written verification that in their professional opinion, the individual needs the specific accommodation(s). Any attempt on the part of a health provider to falsify or exaggerate a customer's disabilities may be construed as an attempt to defraud a government program.

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

I. Service Animals

Under the ADA a service animal is defined as, "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 purpose of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability."

Note: Typically, the health provider's documentation will confirm the individual has a disability and the need for the service animal. Staff should not inquire about the nature or extent of an individual's disability nor request documentation for proof of disability, only determine if the request is for a service animal or an assistive animal.

If an individual with a disability requests a reasonable accommodation for a service animal but there is insufficient information to make a determination, as a best practice, HOC will use the following questions to help determine if an animal is a service animal under the ADA:

1. Is the animal a dog?
 - a. If "yes," proceed to the next question.
 - b. If "no," the animal is not a service animal but may be another type of assistance animal for which a reasonable accommodation is needed. Proceed to Question #4.
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?

It is *readily apparent* when the dog is observed:

- guiding the 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.

- a. If "yes," further inquiries are unnecessary and inappropriate because the animal is a service animal.
- b. If "no," proceed to the next question.

3. HOC will limit the additional inquiries to the following two questions: (1) Is the animal required because of a disability? (2) What work or tasks has the animal been trained to perform?
 - a. If the answer to (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.
 - b. 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. Proceed to Question 4.

After ruling out that the animal is not a service animal, HOC will seek to determine if the animal qualifies as an assistance animal.

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?
 - a. If “yes,” proceed to Question #5.
 - b. If “no,” the housing provider is not required to grant the reasonable accommodation that has not been requested.

Note: See PART II: FHEO-2020-01 Analysis of reasonable accommodation requests under the Fair Housing Act for assistance animals other than service animals for more specific guidance to question #4.

In order to assess whether to grant the requested accommodation, please ask the following questions:

5. Does the person have an observable disability or does 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?
 - a. If “yes,” skip to question #7 to determine if there is a connection between the person’s disability and the animal.
 - b. If “no,” continue to the next question.
6. Has the person requesting the accommodation provided information that reasonably supports that the person seeking the accommodation has a disability?
 - a. If “yes,” proceed to question #7.
 - b. 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.
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?
 - a. If “yes,” proceed to Section II – Type of Animal.
 - b. 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.

Note: See FHEO-2020-01 PART III: Criteria for assessing whether to grant the requested accommodation for more specific guidance to questions #5-#7.

II. Type of Animal – Animals commonly kept in households and unique animals

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. 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 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.

8. Is the animal commonly kept in households?
 - a. If “yes,” the reasonable accommodation should be provided under the FHA unless the general exceptions described below exist.
 - b. If “no,” a reasonable accommodation need not be provided, but note the very rare circumstances described above.

Note: Reasonable accommodations may be necessary when the need for a unique animal involves unique circumstances. Some 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 in yard where the animal can be appropriately maintained.
- See the Notice for more specific examples (page 13 of FHEO-2020-01).

Note: See FHEO-2020-01 PART IV: Type of Animal for more specific guidance to question 8.

Administration

HOC's FHEO Officer administers this guideline in accordance with HUD regulations governing fair housing and equal opportunity. Customers have the option to submit the Request for a Reasonable Accommodation Form via email, fax, or regular mail. The contact information for submitting the completed form, along with health verification to HOC is as follows:

ATTN: HOC FHEO Officer
Compliance Department
Housing Opportunities Commission
10400 Detrick Avenue
Kensington, Maryland 20895
Fax: 301-949-1433
RAInbox@hocmc.org

HOC reviews all complete reasonable accommodation requests to determine eligibility and approve or deny each request, as stated in the previous section. Customers also have the option to make a verbal accommodation request at an HOC Customer Service Center, where HOC staff will submit a request on the customer's behalf. However, HOC staff cannot assist with completing the health verification portion of the form. Only a qualified health provider may complete that portion of the request. Communications under this guideline are sent to customers in plain language and in a format appropriate to meet the communication needs of the person with disabilities. If a client requires an in person meeting with an HOC staff member regarding their reasonable accommodation request, HOC staff will schedule the meeting in an accessible location.

COMPLIANCE OVERSIGHT

Compliance is responsible for enforcement of this guideline and reviews a percentage of completed reasonable accommodation requests annually. A secure file is established for each individual Request for a Reasonable Accommodation Form with all subsequent correspondence and information. Compliance conducts a monthly review of all reasonable accommodations submitted evaluating the number of requests, the disposition of those requests, timely response to requests, and any outstanding issues.

Upon Request, Copies of this guideline are available in an accessible format to persons with disabilities.