

Hanson Housing Authority

Pet Policy and Rules

INTRODUCTION

This policy establishes the rules and conditions under which a pet may be kept in the Hanson Housing Authority (HHA) elderly, handicapped and family developments. The primary purpose of these rules is to establish reasonable requirements for the keeping of common household pets in order to provide a decent, safe and sanitary environment for existing and prospective tenants, employees, and the public, and to preserve the physical condition of the Hanson Housing Authority property.

Under 24CFR & 960.75, this policy does not apply to Assistive Animals that reside in public housing or that visit Hanson Housing Authority properties. It does not limit or impair the rights of persons with disabilities, or affect any authority the Hanson Housing Authority has under other legal provisions to regulate animals that assist persons with disabilities.

Violations of this policy shall be considered a violation of a material term of lease. The executive director may require the removal of a pet upon violation of these rules, or may commence eviction procedures. The appeal procedures that apply to other evictions actions including the right to a grievance hearing, shall apply to violation of these rules.

Any animal found in a Hanson Housing Authority owned or managed outdoor or common areas without a proper license, tags and restraint shall be reported to the Town of Hanson Animal Control Unit or other applicable authority for its removal.

DEFINITIONS

Pet – a domesticated animal of a species that is commonly kept as a household pet in the community. A cat, dog, or canary is an example of a domesticated animal that is commonly kept as a household pet. A monkey, snake or spider is an example of an animal that is not commonly kept as a household pet in the community.

Assistive Animal – an animal which provides assistance, service, or support to a person with disabilities and which is needed as a reasonable accommodation to such individual with disabilities (for example, a dog guiding an individual with impaired vision or alerting an individual with impaired hearing). An Assistive Animal shall be counted in the number of pets kept in a household.

TYPES AND NUMBERS OF PETS ALLOWED

1. A. maximum of two pets: a cat or a dog and either a caged bird or a fish tank not to exceed 20-gallons will be allowed in a one or two bedroom apartment.
2. Tenants who own more than the number of pets permitted at the time this policy is implemented may keep those pets as long as they were kept in compliance with the preexisting pet policy for the development. This exception applies only to the currently owned pets; therefore when one currently-owned pet leaves the household, the resident may not replace the pet but must comply with the new policy.
3. Only domesticated, common household pets will be allowed. Pets of vicious or aggressive disposition deemed by management to be potentially harmful to the health and safety of others are prohibited.
4. Livestock, poisonous reptiles, amphibians or rodents, snakes, birds of prey, insects, and arachnids are strictly prohibited. Also prohibited are Doberman Pinschers, Pit Bulls, Rottweiler's and any mixed breed dog with identifiable characteristics specific to one of these breeds. Currently owned pets of these breeds or types will not be permitted to stay.

No pet will be permitted which is expected to exceed 40 pounds in weight at maturity. All dogs and cats over the age of 6 months must be spayed or neutered unless the resident provides certification from a licensed veterinarian that such procedure would jeopardize the medical well-being of the pet.

PET OWNERSHIP RULES

1. A tenant who decides to acquire a new pet, keep an existing pet or add any new pet in a manner consistent with these rules must apply in writing at the Hanson Housing Office on the appropriate form provided by the Hanson Housing Authority. The form shall be available at the housing authority office. The tenant shall provide with the application (a) an identifying description of the pet accompanied by a photograph if the pet is a dog. (b) certificates of spaying or neutering of dogs and cats and the inoculations required by law, (c) in the case of a dog, a copy of the current license required by law, (d) the name and telephone number of a contact person who can be called upon to care for the pet in an emergency, and a non-refundable pet ownership fee of _____ in the form of a money order or bank check made payable to the Hanson Housing Authority.

A tenant who wished to keep a currently owned pet must provide the information listed above if he or she was not previously required to do so. No pet ownership fee will be required of residents who are registering currently owned pet that were in compliance with any development pet policy.

2. The tenant shall keep the apartment and surrounding areas free of pet odors, insect infestation, waste, litter and maintain the apartment in sanitary condition at all times.
3. The tenant shall be responsible to clean up after their pet anywhere on the Hanson Housing Authority property including carrying a "pooper scooper" and disposable plastic bag any time the pet is outside the apartment. Pet waste shall be bagged and disposed of in appropriate trash receptacles. Pet waste or pet litter shall not be deposited in the toilet.
4. The tenant shall keep his/her pet inside the apartment at all times except for transportation on and off Hanson Housing Authority property and daily walks for dogs. When outside the apartment, dogs must be controlled on a leash. Other pets shall be in suitable portable cages when outside the apartment.
5. Dogs and cats shall wear a collar with a tag identifying the pet and its owner, with name, address, and telephone number. This tag shall be required in addition to a license, rabies vaccination and any other tag required by law.
6. The tenant shall pay promptly, upon receipt of a bill, for the cost of all materials and/or labor for repair of any damage caused by their pet.
7. The tenant shall be responsible for any pet-related insect infestation and shall pay promptly, upon receipt of the bill, for all materials and/or labor used for necessary exterminations. No pet is to remain unattended, without proper care, for more than 24 hours. The tenant shall designate one or more persons as an emergency contact that can tend to the pet if the tenant is unable to do so. In instances where a pet appears to have been abandoned for more than 24 hours, and an emergency contact cannot be located, the Management shall report the matter to the Massachusetts Society for the Prevention of Cruelty to Animals or other applicable authority for its removal. If necessary, Management will enter the apartment, as in an emergency, to rescue the animal.

8. The tenant shall be responsible for insuring that the rights of other tenants to peace and quiet enjoyment, health and/or safety are not infringed upon or diminished by his/her pet's noise, odors, wastes, or other nuisance.
9. The tenant shall be responsible for disposing of pet remains in accordance with the Federal, State, and local laws, rules and regulations.
10. The tenant shall allow the Hanson Housing Authority to inspect their unit as required to ensure compliance with these rules.
11. A copy of these rules shall be given to every resident who registers a pet and additional copies will be available at the Hanson Housing Authority office.
12. The executive director shall be responsible for maintaining records required by this policy including all pertinent pet-related information and documents supplied by tenants, periodic unit inspections, investigation of complaints regarding pets, billing for damages caused by pets and scheduling of repairs required because of pet action.
13. All complaints by other tenants or Hanson Housing Authority personnel regarding pets shall be referred to the executive director.
14. These rules may be amended for time to time by the Hanson Housing Authority pursuant to policy and in compliance with all relevant statutes and regulations.
15. Residents are prohibited from feeding or harboring stray animals. Feeding or harboring a stray animal shall constitute keeping an animal without approval of the Hanson Housing Authority.
16. Residents shall not alter their apartment, patio or other area on Hanson Housing Property to create an enclosure for a pet.
17. Residents are entitled to request a grievance hearing pursuant to the Hanson Housing Authority Grievance Procedure with regard to any dispute they may have with the Hanson Housing Authority arising under this policy. Applicants are entitled to request a review if they disagree with the Hanson Housing Authority decision under this policy pursuant to the procedures of the Hanson Housing Authority Applicant Review Procedure.

LEASE ENFORCEMENT AND EVICTION POLICY FOR UNAUTHORIZED PETS OR OTHER VIOLATIONS OF THE POLICY

1. All lease enforcement and /or eviction actions taken as a result of this policy shall comply with the Hanson Housing Authority Lease and Grievance Procedures.
2. All violations of this pet policy shall be dealt with as a material violation of the lease and appropriate lease enforcement actions up to and including eviction shall be taken. In addition if the housing authority, through the executive director, determines that the presence of a pet constitutes a risk of damage to Hanson Housing Authority property or creates a threat to the health and safety of any member of the public housing community, including residents, household members, guests and/or employees, Hanson Housing Authority may require the removal of the resident's pet upon 48 hours written notice. Failure to comply with this notice shall be deemed a violation of the resident's lease obligations. Any violation shall give rise to all appropriate remedies under the lease, including eviction proceedings. In the case of a vicious dog, the housing authority may make a complaint to the Town of Hanson, Dog Control Unit.
3. After an unauthorized pet has been seen, a letter of violation will be given to the resident. This letter shall state that a resident must remove the pet within seven (7) days or eviction proceedings will commence. Seven days after this letter is given to the resident, the manager will inspect the apartment and verify whether or not the pet is gone.
4. If the resident still has the pet or has not otherwise responded to the 7-day letter, the resident will be served with notice of a private conference. If the resident fails to respond to the private conference, a 30-day notice to quit will be issued. If the resident responds, at the conference the resident must agree to correct the lease violation, provide alternative evidence and/or explanations that the violation has not taken place, already have the corrected the problem or follow the procedures in this policy to apply to have a pet. The director shall follow up to verify that the resident has removed the pet or otherwise complied with this policy. Should the resident refuse to comply or if she/he has been a repeat offender of the Pet Policy, the director will proceed with the eviction.
5. An applicant who rejects an offer of housing because of a refusal to comply with the pet policy will not be allowed to apply for a: "good cause" exception. All applicants are subject to the pet policy and may not move in with a pet that is not in compliance with the policy.

The tenant acknowledges that he/she has received this Pet Policy and agrees to abide by the rules.

Signed this day _____ of _____ 201____.

Tenant Name

Unit Number: _____



HANSON HOUSING AUTHORITY

Meetinghouse Lane
Hanson, Massachusetts 02341
Telephone 293-7474

STATEMENT OF RIGHT TO APPLY FOR PET OWNERSHIP

You have the right to complete an application for pet ownership at any time, now or in the future. That application goes to the Board of Commissioners of the Authority for action. To date, they have refused all such applications based on two votes by the tenants taken a few years ago, both indicating by about 75% that they did not wish to allow dogs and cats at the Meetinghouse Lane. The only exception would be for a service animal for a handicapped tenant.

Following a denial of your application by the Board, you have the right to appeal to the Department of Housing and Community Development (DHCD) in Boston. If they granted permission to you to have the pet, it would be subject to all the rules and regulations of the state pet guidelines, including the payment of a Pet Deposit, currently one month's rent up to \$160.00.

_____ I do not wish to apply for a pet at this time but understand that I may do so at anytime in the future.

_____ My Pet Application is attached.

Signature

Date

APPLICATION FOR WAIVER FOR PET-OWNERSHIP

Date: _____

NAME: _____

ADDRESS: _____

DESCRIPTION OF NEW PET (dog, cat, bird, etc.): _____

DESCRIPTION OF CURRENT PET (type, age, weight, etc.): _____

PREVIOUS PET OWNERSHIP/EXPERIENCE: _____

CURRENT VETERINARIAN: Name _____

Address _____

Names of 2 Alternate Caretakers (one not residing at the facility) who will assume immediate responsibility if needed:

1. _____

2. _____

Reasons for acquiring a pet at this time: _____

I hereby agree to adhere to all pet rules and regulations as directed by the Authority and EOCD.

Signature

Approved _____

Denied _____

Reasons for denial must be attached. You have the right to appeal within 14 days of the denial to:

DHCD
17th Floor
100 Cambridge Street
Boston, MA 02202

PET RIDER

Name of Pet (if any) _____ Type of Pet _____

This pet rider to the lease between _____ and _____
(Tenant) (LHA)

is made a part of the lease entered between parties on _____
(Date)

1. Tenant has read and agrees to the Guidelines for Responsible Pet Ownership in Elderly/Handicapped State-Aided Public Housing and agrees to comply with said guidelines.
2. Tenant will keep his/her pet in a responsible manner and provide proper care.
3. In the space provided below are the names, addresses and telephone numbers of two pet caretakers who by signing this form agree to assume responsibility for the care of Tenant's pet in the event Tenant becomes unable to care for the pet.

PET CARETAKER #1

NAME: _____

ADDRESS: _____

TELEPHONE: _____

SIGNATURE: _____

PET CARETAKER #2

NAME: _____

ADDRESS: _____

TELEPHONE: _____

SIGNATURE: _____

The following is the name, address and telephone number of the pet's veterinarian:

VETERINARIAN

NAME: _____

ADDRESS: _____

TELEPHONE: _____

4. If Tenant is unable to secure the signatures of two pet caretakers ready, willing and able to care for the pet if necessary, Tenant will provide documentation of other arrangements which ensure proper care of the pet.

CHECKLIST

The tenant is responsible for providing management with the following information and documents which are to be kept on file in the tenant's folder:

- a color photo and identifying description of the pet
- attending veterinarian's name, address and telephone number
- veterinary certificates of spaying or neutering, rabies, distemper, parvovirus, feline leukemia and other inoculations when applicable
- dog licensing certificates in accordance with local and state laws
- two (2) alternate caretakers, their names, addresses and telephone numbers, who will assume immediate responsibility for the care of the pet should the owner become incapacitated; these caretakers must be verified in writing by signing the Lease Pet Rider, acknowledging their responsibilities as specified
- emergency boarding accommodations
- temporary ownership (overnight or short term) shall be registered with management under the pet rules and regulations

The tenant is responsible for keeping management informed of any change of information.



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

OFFICE OF FAIR HOUSING
AND EQUAL OPPORTUNITY

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-2013-01**
Issued: April 25, 2013
Expires: Effective until
Amended, Superseded, or
Rescinded

Subject: Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs

- 1. Purpose:** This notice explains certain obligations of housing providers under the Fair Housing Act (FHAct), Section 504 of the Rehabilitation Act of 1973 (Section 504), and the Americans with Disabilities Act (ADA) with respect to animals that provide assistance to individuals with disabilities. The Department of Justice's (DOJ) amendments to its regulations¹ for Titles II and III of the ADA limit the definition of "service animal" under the ADA to include only dogs, and further define "service animal" to exclude emotional support animals. This definition, however, does not limit housing providers' obligations to make reasonable accommodations for assistance animals under the FHAct or Section 504. Persons with disabilities may request a reasonable accommodation for any assistance animal, including an emotional support animal, under both the FHAct and Section 504. In situations where the ADA and the FHAct/Section 504 apply simultaneously (*e.g.*, a public housing agency, sales or leasing offices, or housing associated with a university or other place of education), housing providers must meet their obligations under both the reasonable accommodation standard of the FHAct/Section 504 and the service animal provisions of the ADA.
- 2. Applicability:** This notice applies to all housing providers covered by the FHAct, Section 504, and/or the ADA².

¹ Nondiscrimination on the Basis of Disability in State and Local Government Services, Final Rule, 75 Fed. Reg. 56164 (Sept. 15, 2010) (codified at 28 C.F.R. part 35); Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Final Rule, 75 Fed. Reg. 56236 (Sept. 15, 2010) (codified at 28 C.F.R. part 36).

² Title II of the ADA applies to public entities, including public entities that provide housing, *e.g.*, public housing agencies and state and local government provided housing, including housing at state universities and other places of education. In the housing context, Title III of the ADA applies to public accommodations, such as rental offices, shelters, some types of multifamily housing, assisted living facilities and housing at places of public education. Section 504 covers housing providers that receive federal financial assistance from the U.S. Department of Housing and Urban Development (HUD). The Fair Housing Act covers virtually all types of housing, including privately-owned housing and federally assisted housing, with a few limited exceptions.

3. **Organization:** Section I of this notice explains housing providers' obligations under the FHAAct and Section 504 to provide reasonable accommodations to persons with disabilities³ with assistance animals. Section II explains DOJ's revised definition of "service animal" under the ADA. Section III explains housing providers' obligations when multiple nondiscrimination laws apply.

Section I: Reasonable Accommodations for Assistance Animals under the FHAAct and Section 504

The FHAAct and the U.S. Department of Housing and Urban Development's (HUD) implementing regulations prohibit discrimination because of disability and apply regardless of the presence of Federal financial assistance. Section 504 and HUD's Section 504 regulations apply a similar prohibition on disability discrimination to all recipients of financial assistance from HUD. The reasonable accommodation provisions of both laws must be considered in situations where persons with disabilities use (or seek to use) assistance animals⁴ in housing where the provider forbids residents from having pets or otherwise imposes restrictions or conditions relating to pets and other animals.

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 FHAAct nor Section 504 requires an assistance animal to be individually trained or certified.⁵ While dogs are the most common type of assistance animal, other animals can also be assistance animals.

Housing providers are to evaluate a request for a reasonable accommodation to possess an assistance animal in a dwelling using the general principles applicable to all reasonable accommodation requests. After receiving such a request, the housing provider must consider the following:

³ Reasonable accommodations under the FHAAct and Section 504 apply to tenants and applicants with disabilities, family members with disabilities, and other persons with disabilities associated with tenants and applicants. 24 CFR §§ 100.202; 100.204; 24 C.F.R. §§ 8.11, 8.20, 8.21, 8.24, 8.33, and case law interpreting Section 504.

⁴ Assistance animals are sometimes referred to as "service animals," "assistive animals," "support animals," or "therapy animals." To avoid confusion with the revised ADA "service animal" definition discussed in Section II of this notice, or any other standard, we use the term "assistance animal" to ensure that housing providers have a clear understanding of their obligations under the FHAAct and Section 504.

⁵ For a more detailed discussion on assistance animals and the issue of training, see the preamble to HUD's final rule, Pet Ownership for the Elderly and Persons With Disabilities, 73 Fed. Reg. 63834,63835 (October 27, 2008).

- (1) Does the person seeking to use and live with the animal have a disability – *i.e.*, a physical or mental impairment that substantially limits one or more major life activities?
- (2) Does the person making the request have a disability-related need for an assistance animal? In other words, does the animal work, provide assistance, perform tasks or services for the benefit of a person with a disability, or provide emotional support that alleviates one or more of the identified symptoms or effects of a person's existing disability?

If the answer to question (1) **or** (2) is “no,” then the FHAct and Section 504 do not require a modification to a provider’s “no pets” policy, and the reasonable accommodation request may be denied.

Where the answers to questions (1) **and** (2) are “yes,” the FHAct and Section 504 require the housing provider to modify or provide an exception to a “no pets” rule or policy to permit a person with a disability to live with and use an assistance animal(s) in all areas of the premises where persons are normally allowed to go, unless doing so would impose an undue financial and administrative burden or would fundamentally alter the nature of the housing provider’s services. The request may also be denied if: (1) the specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation, or (2) the specific assistance animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation. Breed, size, and weight limitations may not be applied to an assistance animal. A determination that an assistance animal poses a direct threat of harm to others or would cause substantial physical damage to the property of others must be based on an individualized assessment that relies on objective evidence about the specific animal’s actual conduct – not on mere speculation or fear about the types of harm or damage an animal may cause and not on evidence about harm or damage that other animals have caused. Conditions and restrictions that housing providers apply to pets may not be applied to assistance animals. For example, while housing providers may require applicants or residents to pay a pet deposit, they may not require applicants and residents to pay a deposit for an assistance animal.⁶

A housing provider may not deny a reasonable accommodation request because he or she is uncertain whether or not the person seeking the accommodation has a disability or a disability-related need for an assistance animal. Housing providers may ask individuals who have disabilities that are not readily apparent or known to the provider to submit reliable documentation of a disability and their disability-related need for an assistance animal. If the disability is readily apparent or known but the disability-related need for the assistance animal is not, the housing provider may ask the individual to provide documentation of the disability-related need for an assistance animal. For example, the housing provider may ask persons who are seeking a reasonable accommodation for an assistance animal that provides emotional

⁶ A housing provider may require a tenant to cover the costs of repairs for damage the animal causes to the tenant’s dwelling unit or the common areas, reasonable wear and tear excepted, if it is the provider’s practice to assess tenants for any damage they cause to the premises. For more information on reasonable accommodations, see the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, *Reasonable Accommodations Under the Fair Housing Act*, <http://www.hud.gov/offices/lheo/library/huddojstatement.pdf>.

support to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal provides emotional support that alleviates one or more of the identified symptoms or effects of an existing disability. Such documentation is sufficient if it establishes that an individual has a disability and that the animal in question will provide some type of disability-related assistance or emotional support.

However, a housing provider may not ask a tenant or applicant to provide documentation showing the disability or disability-related need for an assistance animal if the disability or disability-related need is readily apparent or already known to the provider. For example, persons who are blind or have low vision may not be asked to provide documentation of their disability or their disability-related need for a guide dog. A housing provider also may not ask an applicant or tenant to provide access to medical records or medical providers or provide detailed or extensive information or documentation of a person's physical or mental impairments. Like all reasonable accommodation requests, the determination of whether a person has a disability-related need for an assistance animal involves an individualized assessment. A request for a reasonable accommodation may not be unreasonably denied, or conditioned on payment of a fee or deposit or other terms and conditions applied to applicants or residents with pets, and a response may not be unreasonably delayed. Persons with disabilities who believe a request for a reasonable accommodation has been improperly denied may file a complaint with HUD.⁷

Section II: The ADA Definition of "Service Animal"

In addition to their reasonable accommodation obligations under the FHAct and Section 504, housing providers may also have separate obligations under the ADA. DOJ's revised ADA regulations define "service animal" narrowly 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. The revised regulations specify that "the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition."⁸ Thus, trained dogs are the only species of animal that may qualify as service animals under the ADA (there is a separate provision regarding trained miniature horses⁹), and emotional support animals are expressly precluded from qualifying as service animals under the ADA.

The ADA definition of "service animal" applies to state and local government programs, services activities, and facilities and to public accommodations, such as leasing offices, social service center establishments, universities, and other places of education. Because the ADA requirements relating to service animals are different from the requirements relating to assistance animals under the FHAct and Section 504, an individual's use of a service animal in an ADA-covered facility must not be handled as a request for a reasonable accommodation under the FHAct or Section 504. Rather, in ADA-covered facilities, an animal need only meet the definition of "service animal" to be allowed into a covered facility.

⁷ Ibid.

⁸ 28 C.F.R. § 35.104; 28 C.F.R. § 36.104.

⁹ 28 C.F.R. § 35.136(i); 28 C.F.R. § 36.302(c)(9).

To determine if an animal is a service animal, a covered entity shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A covered entity may ask: (1) Is this a service animal that is required because of a disability? and (2) What work or tasks has the animal been trained to perform? A covered entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. These are the only two inquiries that an ADA-covered facility may make even when an individual's disability and the work or tasks performed by the service animal are not readily apparent (*e.g.*, individual with a seizure disability using a seizure alert service animal, individual with a psychiatric disability using psychiatric service animal, individual with an autism-related disability using an autism service animal).

A covered entity may not make the two permissible inquiries set out above when it is readily apparent that the animal is trained to do work or perform tasks for an individual with a disability (*e.g.*, the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability). The animal may not be denied access to the ADA-covered facility unless: (1) the animal is out of control and its handler does not take effective action to control it; (2) the animal is not housebroken (*i.e.*, trained so that, absent illness or accident, the animal controls its waste elimination); or (3) the animal poses a direct threat to the health or safety of others that cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices and procedures.¹⁰ A determination that a service animal poses a direct threat must be based on an individualized assessment of the specific service animal's actual conduct – not on fears, stereotypes, or generalizations. The service animal must be permitted to accompany the individual with a disability to all areas of the facility where members of the public are normally allowed to go.¹¹

Section III. Applying Multiple Laws

Certain entities will be subject to both the service animal requirements of the ADA and the reasonable accommodation provisions of the FHAct and/or Section 504. These entities include, but are not limited to, public housing agencies and some places of public accommodation, such as rental offices, shelters, residential homes, some types of multifamily housing, assisted living facilities, and housing at places of education. Covered entities must ensure compliance with all relevant civil rights laws. As noted above, compliance with the FHAct and Section 504 does not ensure compliance with the ADA. Similarly, compliance with the ADA's regulations does not ensure compliance with the FHAct or Section 504. The preambles to DOJ's 2010 Title II and Title III ADA regulations state that public entities or public accommodations that operate housing facilities "may not use the ADA definition [of "service animal"] as a justification for reducing their FHAct obligations."¹²

¹⁰ 28 C.F.R. § 35.136; 28 C.F.R. § 36.302(c).

¹¹ For more information on ADA requirements relating to service animals, visit DOJ's website at www.ada.gov.

¹² 75 Fed. Reg. at 56166, 56240 (Sept. 15, 2010).

The revised ADA regulations also do not change the reasonable accommodation analysis under the FHAct or Section 504. The preambles to the 2010 ADA regulations specifically note that under the FHAct, "an individual with a disability may have the right to have an animal other than a dog in his or her home if the animal qualifies as a 'reasonable accommodation' that is necessary to afford the individual equal opportunity to use and enjoy a dwelling, assuming that the use of the animal does not pose a direct threat."¹³ In addition, the preambles state that emotional support animals that do not qualify as service animals under the ADA may "nevertheless qualify as permitted reasonable accommodations for persons with disabilities under the FHAct."¹⁴ While the preambles expressly mention only the FHAct, the same analysis applies to Section 504.

In cases where all three statutes apply, to avoid possible ADA violations the housing provider should apply the ADA service animal test first. This is because the covered entity may ask only whether the animal is a service animal that is required because of a disability, and if so, what work or tasks the animal has been trained to perform. If the animal meets the test for "service animal," the animal must be permitted to accompany the individual with a disability to all areas of the facility where persons are normally allowed to go, unless (1) the animal is out of control and its handler does not take effective action to control it; (2) the animal is not housebroken (i.e., trained so that, absent illness or accident, the animal controls its waste elimination); or (3) the animal poses a direct threat to the health or safety of others that cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices and procedures.¹⁵

If the animal does not meet the ADA service animal test, then the housing provider must evaluate the request in accordance with the guidance provided in Section I of this notice.

It is the housing provider's responsibility to know the applicable laws and comply with each of them.

Section IV. Conclusion

The definition of "service animal" contained in ADA regulations does not limit housing providers' obligations to grant reasonable accommodation requests for assistance animals in housing under either the FHAct or Section 504. Under these laws, rules, policies, or practices must be modified to permit the use of an assistance animal as a reasonable accommodation in housing when its use may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling and/or the common areas of a dwelling, or may be necessary to allow a qualified individual with a disability to participate in, or benefit from, any housing program or activity receiving financial assistance from HUD.

¹³ 75 Fed. Reg. at 56194, 56268.

¹⁴ 75 Fed. Reg. at 56166, 56240.

¹⁵ 28 C.F.R. § 35.136; 28 C.F.R. § 36.302(c).

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, telephone 202-619-8046.



John Trasviña, Assistant Secretary for
Fair Housing and Equal Opportunity