



The U.S. Department of Housing and Urban Development Redefines “Assistance Animals”: What Housing Providers Need to Know

On May 22, 2026, the U.S. Department of Housing and Urban Development’s (“HUD”) Office of Fair Housing and Equal Opportunity (“FHEO”) issued a memorandum that fundamentally changes how animal-related reasonable accommodation requests will be evaluated under the Fair Housing Act. The memorandum permanently rescinds prior HUD guidance on emotional support animals and adopts new enforcement standards aligned with the Americans with Disabilities Act (“ADA”). For housing providers, this represents a significant shift in legal exposure and compliance obligations.

The Old Standard: Broad ESA Protections

Under the prior framework established by HUD guidance issued in 2013 and 2020, housing providers were generally required to accommodate both trained service animals and untrained emotional support animals (“ESAs”). The guidance declared that animals providing “emotional support,” as well as trained service animals, “are not pets,” meaning that pet fees could not be assessed and pet restrictions could not be applied. The guidance purported to delineate the documentation a housing provider could request to verify a disability and support an ESA accommodation request.

This broad interpretation originated in 2008, when HUD narrowed the definition of “pets” in public housing regulations to exclude “animals that are used to assist, support, or provide service to persons with disabilities.” Although that rule applied only to HUD-assisted public housing, courts began extending its reasoning to private housing providers. By 2013, HUD issued sub-regulatory guidance pronouncing that “any assistance animal,” trained or untrained, must generally be accommodated without pet restrictions or fees.

The result was a legal landscape that diverged sharply from the ADA. An entire industry emerged to convert pets into emotional support animals through online letters, and housing providers who denied ESA requests or asked follow-up questions risked fair housing complaints, even when acting in compliance with HUD guidance. Over 20% of FHEO’s fair housing complaints came to involve untrained ESAs.

The New Standard: Training Required

The new memorandum aligns FHEO enforcement with the ADA’s definition of “service animal.” Under the ADA, a service animal must be “individually trained to do work or

perform tasks for the benefit of an individual with a disability.” The tasks performed “must be directly related” to the disability. Examples include assisting individuals who are blind with navigation, alerting deaf individuals to sounds, assisting during seizures, retrieving items, and providing physical support with balance and stability. Critically, the ADA expressly provides that “the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks” sufficient to qualify an animal as a service animal.

Going forward, FHEO will find reasonable cause and recommend charges of discrimination only where the animal has been individually trained to perform work or tasks directly related to the complainant’s disability.

Key Differences: Old vs. New

The practical differences are significant. Under the old guidance, requests to waive pet policies for untrained ESAs were treated as presumptively valid accommodations. Under the new guidance, only requests involving trained assistance animals are presumptively reasonable. Housing providers may now ask whether an animal has been trained to perform specific disability-related tasks, which was a question that would have risked a fair housing complaint under the prior framework.

The memorandum relies in part on *Henderson v. Five Properties LLC*, a July 2025 federal district court decision that found HUD’s prior guidance “unpersuasive” under the *Skidmore* standard. The court held that waiver of a \$400 pet fee for an emotional support animal was neither reasonable nor necessary under the Fair Housing Act, particularly where the landlord had offered a payment plan alternative.

What This Means for Housing Providers

Housing providers should review their accommodation policies in light of this guidance. Providers may now inquire whether an animal has been trained to perform disability-related tasks, and ESA requests supported only by online form letters will no longer trigger the same enforcement exposure. However, the Fair Housing Act still permits private civil actions in federal or state courts within two years of an alleged discriminatory practice, regardless of FHEO’s enforcement posture. HUD has announced plans to engage in notice and comment rulemaking to formally harmonize its regulations with the ADA.

Unlike the prior guidance, which was issued without notice and comment, the forthcoming rulemaking will provide housing providers with an opportunity to participate in shaping the final regulatory framework.

For further information on these developments, please contact [Colby Binford](#).