HANDLING ASSISTANCE AND EMOTIONAL SUPPORT ANIMAL REQUESTS (an Aggressive Approach)

Texas Apartment Association Education Conference
April 27, 2017
R. David Fritsche
The Disclaimer!

The views expressed by the presenter should not be construed to be legal advice and do not constitute the views of the Texas Apartment Association; additionally, as with any area of the law, new judicial decisions, HUD regulations or interpretations of the common law may make change any aspect of this presentation at any time. This presentation includes advocacy recommendations that are extremely aggressive which may not be suitable for all housing providers; you should always contact competent counsel of your choice regarding requests for accommodation under the Fair Housing Act.

ASSISTANCE ANIMAL FIRESTORM

The Problem: In public places, airplanes and in rental housing, businesses are being overrun with “service animals,” “emotional support animals,” “companion animals” and “therapy animals.”

The Competing Policy Issues:

Avoiding the time and expense of defending a Fair Housing Act Claim and the potential liability versus

“Lowering the bar” for accommodation requests (e.g., accepting bogus verifications), being overrun with assistance animals and having to grant unreasonable requests for unrelated matters.
ASSISTANCE ANIMAL FIRESTORM

The Conservative Approach: Many owners and management companies take a very conservative approach regarding requests to accommodate assistance animals to avoid a claim; the NAA Toolkit advocates such an approach.

An Aggressive Approach: Some owners and management companies have elected to draw a line in the sand and “push back” against certain requests to accommodate assistance animals.

COMPETING APPROACHES

NAA Toolkit on Emotional Support Animals: Conservative guidance regarding requests for accommodation; with certain exceptions, will help avoid Fair Housing Complaints – the NAA Toolkit is provided is not covered here

Taking a More Aggressive Approach: This presenter has certain clients that want to take a more strident approach to requests to accommodate for emotional support animals and “draw a line in the sand” – this presentation addresses the more aggressive approach
THE RISKS WITH EITHER APPROACH

Problems with a Conservative Approach:
• “Lowers the bar” for all requests for accommodation you receive.
• Instructions in “Fill in the Blank” forms are regularly ignored by medical providers and result in pets being approved as “assistance animals.”
• Management personnel speaking directly with medical providers present obvious miscommunication issues.

The Aggressive Approach: Does not strictly follow April 25, 2013, “HUD Guidance” and can place community at risk of a Fair Housing Complaint.

PRACTICAL REASONS TO CONSIDER USING AN AGGRESSIVE APPROACH
• Avoiding an overabundance of “assistive animals” and the resulting issues with tenants, property condition and conflict
• Persons with actual disabilities that need an assistive animal rarely object to higher level of inquiry
• If you “lower the bar” in what you require for assistance animals, you “lower the bar” regarding all requests for accommodation or to allow modification
PRACTICAL REASONS TO CONSIDER USING AN AGGRESSIVE APPROACH

• Your communications occur solely with your tenant – the only person with whom you have a contractual or financial relationship
• You eliminate bogus requests
• Even if a Fair Housing Complaint is filed, the complainant must meet the threshold element of having a disability as that term is defined under the Fair Housing Act

DOWNSIDES TO TAKING AN AGGRESSIVE APPROACH

• Conflicts with NAA Toolkit and HUD Guidance
• Persons without actual disabilities that are subjected to a higher level of inquiry can still file a complaint (but at the end of the day they still must prove they have a “disability”)
• Cost and expense of defending a complaint if one is filed.
THE AGGRESSIVE APPROACH

• Understanding the definition of “disability” as that term is defined under the Fair Housing Act

• Understanding the verifications to which you are entitled and identifying bogus verifications

• Outline of “pushback” communication

KEY RESOURCE

• The HUD/DOJ Statement on Reasonable Accommodations
ASSISTANCE ANIMALS UNDER THE FAIR HOUSING ACT

“Service Animals” are only one type of animal that is covered under the Fair Housing Act; the better term of art is “Assistance Animals.”

Assistance Animals include:

Service Animals that are specifically trained to perform a service, such as a “seeing-eye” dog or an animal trained to fetch or detect the onset of an epileptic seizure or a blood sugar anomaly.

Emotional Support Animals provide “support” for someone with a mental disability who derive a sense of well-being, safety, or calm from the animal’s companionship and physical presence.
Examples of what *Could* be an Emotional Support Animal

- Dogs
- Pigs
- Cats
- Ferrets
- Parakeets
- Parrots
- Rabbits
- Miniature Horses

REQUESTS FOR ACCOMMODATIONS

An *accommodation* is a change in *rules, services, policies, practices or procedures* such as allowing an otherwise restricted breed dog or an animal in a “no pets” community.

The Fair Housing Act makes it unlawful for any person to refuse "to make *reasonable accommodations* in rules, policies, practices, procedures or services, when such accommodations may be necessary to afford ... person(s) [with disability(s)] an equal opportunity to use and enjoy a dwelling.”
REQUESTS FOR ACCOMMODATIONS

A resident may request an accommodation for themselves (as may an advocate), an authorized occupant or someone associated with the resident.

An accommodation does not have to be granted unless the person for whom the accommodation is requested has a disability (as that term is defined under the Fair Housing Act).

If a disability (as that term is defined under the Fair Housing Act) is not apparent, you are entitled to request verification of the disability.

If the nexus, or connection, between the disability (as that term is defined under the Fair Housing Act) and the accommodation is not apparent, you are entitled to verification of the need for the accommodation.

The verifications provided to you by the resident must be credible and reliable.

Prompt Response to any Request is Required

A request for a reasonable accommodation for an assistance animal made by a tenant or advocate, must be responded to promptly; you may NOT impose a requirement that the request be put in writing.

HUD/DOJ Statement, Paragraph No. 12.
ASSISTANCE ANIMAL TESTING

Fair Housing Initiative Programs are conducting even long distance telephonic testing regarding assistance animals and a property’s policies regarding:

• Granting an accommodation to have an assistance animal
• Pet rent, pet fees and pet insurance
• Use of amenities by the animal

ASSISTANCE ANIMAL TESTING (cont’d)

Be prepared to address questions concerning your policy.
Be prepared to communicate that if you don’t know the answer to the question, you or your supervisor will call them back.
Be prepared to communicate responses timely.
Document carefully your communications.
If you don’t know the answer to the question, then:
“‘We always make accommodations under the Fair Housing Act for persons with disabilities.’”
PUSH BACK POINT 1: Definition of Disability Under the Fair Housing Act

“A physical or mental impairment that substantially limits one or more major life activities.”

Breaking down the definition into its component parts informs the “pushback” communication we address later.

ELEMENT 1 of Definition of Disability: “Physical or Mental Impairment”

“Physical or mental impairment” includes, 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 retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.
ELEMENT 2 of Definition of Disability: “Major Life Activity”

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. This list of major life activities is not exhaustive. See e.g., *Bragdon v. Abbott*, 524 U.S. 624, 691-92 (1998) (holding that for certain individuals reproduction is a major life activity).

ELEMENT 3 of Definition of Disability: “Substantial Limitation”

“Substantially limits” suggests that the limitation is “significant” or “to a large degree.”
THE COMPLETE DEFINITION OF DISABILITY

A person (or an associate) who has, used to have, or, is regarded as having, a physical or mental impairment that substantially limits one or more major life activities.
PUSH BACK POINT 2:
The Nexus (or Connection) Requirement

To show that a requested accommodation (or modification) may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation (or modification) and the individual’s disability.

PUSH BACK POINT 3:
The Verification Requirement

When an accommodation is requested, or a request to allow a reasonable modification, there are three potential scenarios regarding the person with the disability:

1. The disability is apparent or already known;
2. The disability is apparent, but the disability-related need is not; or
3. The disability is not apparent or previously known.
When Disability is Not Apparent or Previously Known (as with ESAs)

The HUD/DOJ Statement on Reasonable Accommodations (included in NAA Toolkit) provides that you may request reliable disability-related information that:

1. Is necessary to verify the person is disabled;
2. Describes the needed accommodation; and
3. Shows the relationship, or nexus, between the person’s disability and the need for the requested accommodation.

OBTAINING VERIFICATION

The information may be self-provided such as Disability SSI.

The information may also be provided by a doctor or other 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. The NAA Toolkit and some providers require a fill in the blank form from a physician.
TEN TELL TALE SIGNS YOU MAY NOT BE DEALING WITH RELIABLE VERIFICATION

• The verification provided to you is a “certificate” purporting to register a “service animal,” an “emotional support animal,” a “therapy animal” or a “companion animal.”

• The verification is a letter that solely uses the acronym “ADA” in the verification or advises that “under the ADA” a housing provider must allow a service animal or an assistance animal.

• The animal wears a cape that says, “Service Dog” or “Service Animal.”

• The verifier does not have genuine letterhead.

• The “prescription” for the animal has a time limitation.

TEN TELL TALE SIGNS YOU MAY NOT BE DEALING WITH RELIABLE VERIFICATION (cont’d)

• The verification merely says the tenant was “assessed” or “reported” as opposed to having been in a course of treatment for a stated period of time.

• The verification is written by an out of state provider.

• The verification is written by a person not licensed to practice in the State of Texas.

• The provider has no true office.

• The tenant gets extremely upset that you are questioning the verification – people who are truly disabled are usually very cooperative in providing info.
QUESTIONABLE VERIFICATIONS

Many applicants and tenants are obtaining bogus certificates and letters on line.

Most of the time, this information is obtained solely to get a pet into a “no pets” community or a “dangerous breed” into a “restricted breed community.”

The following are verifications that are likely bogus and which, in my opinion, should be vigorously challenged.
EMOTIONAL SUPPORT DOG IDENTIFICATION

**DOG NAME**

**HANDLER**

**REG. NO.**

ACCESS IS REQUIRED BY FEDERAL LAW

**USAR**

**USDR**

United States Service Dogs

Service Dog

Your dog is trained to assist you by performing tasks for your disability. Service dogs are allowed to accompany their handlers to most places that the general public is allowed.

Which registration is right for my dog?

Photo of a service dog

Emotional Support Dog

Your dog provides you with comfort and aids you with your emotional or psychiatric condition. Emotional support dogs are allowed to accompany their handlers during air travel and in housing that does not allow pets.
Service Dog Registration

- **Basic Service Dog ID Kit**
  - Get your certificate and ID card for your service dog for only $69.
  - View Kit

- **Standard Service Dog ID Kit**
  - Our upgrade to the basic kit: the service dog certificate, 2 identification cards, and a tag for your service dog.
  - View Kit

- **Basic Service Dog ID Kit + Vest**
  - Get a vest, too: the service dog certificate, identification card, and vest for your service dog.
  - View Package

- **Premium Service Dog ID Kit + Vest**
  - The complete package: the service dog certificate, 2 identification cards, vest, and service dog tag.
  - View Package

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Emotional Support Dog Registration

- **Basic Emotional Support Dog ID Kit**
  - Get your certificate and ID card for your emotional support dog for only $69.
  - View Kit

- **Standard Emotional Support Dog ID Kit**
  - Our upgrade to the basic kit: the emotional support dog certificate, 2 identification cards, and a tag.
  - View Kit

- **Basic Emotional Support Dog ID Kit + Vest**
  - Get a vest, too: the emotional support dog certificate, identification card, and vest.
  - View Package

- **Premium Emotional Support Dog ID Kit + Vest**
  - The complete package: the emotional support dog certificate, 2 identification cards, vest, and tag.
  - View Package
MEDICAL RECORD

Program Notes

NOTE DATED: 01/09/2016 14:44

LOCAL TITLE: EC-ADMINISTRATIVE NOTE

STANDARD TITLE: ADMINISTRATIVE NOTE

VISIT: 01/09/2016 14:00 EC-KNOW-90-P301

To whom it may concern:

[Document contains a note about a history of traumatic brain injury and mentions emotional support animals.]

Thank you.

Post-Deployment Primary Care Provider

Signed by: [signature]

PHYSICIAN ASSISTANT
Choose your Service Dog Registration package below and get started in minutes:

<table>
<thead>
<tr>
<th>Package</th>
<th>Price</th>
<th>Features</th>
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</thead>
<tbody>
<tr>
<td>Standard ID Kit</td>
<td>$59.99</td>
<td>Lifetime Registration, Instant Printable ID Cards, Certificate and ID Card 1 card, Electronic Certificate Optional, Service Dog Vest Optional</td>
</tr>
<tr>
<td>Full ID Kit</td>
<td>$99.99</td>
<td>Lifetime Registration, Instant Printable ID Cards, Certificate and ID Card 2 cards, Electronic Certificate Optional, Service Dog Vest Optional</td>
</tr>
<tr>
<td>Deluxe ID Kit</td>
<td>$149.99</td>
<td>Lifetime Registration, Instant Printable ID Cards, Certificate and ID Card 2 cards, Electronic Certificate Optional, Service Dog Vest Optional</td>
</tr>
<tr>
<td>Ultimate ID Kit</td>
<td>$199.99</td>
<td>Lifetime Registration, Instant Printable ID Cards, Certificate and ID Card 3 cards, Electronic Certificate Optional, Service Dog Vest Optional</td>
</tr>
</tbody>
</table>

FREE shipping included in price of all kits!
Yes, You Can Take Your Dog With You!

It’s no secret that many businesses simply aren’t pet-friendly, even though most of the population is. A large number of our clients register their dogs as certified service animals not just to accompany them into stores, restaurants, motels, or on airline flights (for no extra cost), but to successfully qualify for housing where pets aren’t allowed.

Our Service Dog Certification documents formalize and simplify these processes and make qualifying for special housing hassle-free. If you and your service dog become certified with NSAR, both of you are immediately protected under federal law (ADA).

We also specialize in registering dogs, cats, and other animals as Emotional Support Animals (ESA) for people with emotional or psychological disabilities. Although ESAs have fewer protections under federal law, they are allowed to fly in the cabin of an aircraft with their disabled handler and to qualify for “no pet” or “limited pet” housing. Click here to find out more.

Complete Service Animal Certification Kit - ONLY $64.95!

Not All Disabilities Are Visible

Most people think of a service dog as a large breed dog for the blind. Or for working with a person confined to a wheelchair. The reality is that the majority of certified service dogs are small dogs that perform tasks for otherwise normal people with disorders related to emotional, psychological, hearing, selective, diabetics, or for other medical issues - disabilities that are completely invisible. Many people aren’t aware that they qualify for a certified service dog or other animal because they don’t realize the problems they have are considered a disability.

Click here to see if you qualify as disabled.
National Service Animal Registry

This document attests that "TIGER" (NSAR database ID 82341. See attached photo) is certified as a qualified service dog and registered with National Service Animal Registry (NSAR) as the date listed below. This service dog has been trained to assist the confirmed disabled handler. The handler and service dog are listed in the National Service Animal Registry (NSAR) database and may be found on the following website: www.nesar.com/databases.html.

Service dogs are pets that are specifically trained to perform important life tasks for people who have difficulty performing or are unable to perform the task themselves. These tasks are directly related to the handler's disability. Service dogs are working animals, not pets.

Under the Americans with Disabilities Act (ADA), businesses and organizations that serve the public must allow pets with disabilities to bring their service animals into all areas of the facility unless customers are normally allowed to go. This facility is subject to all business open to the public, including restaurants, stores, buses, trains, taxis, zoos, zoos, clinics, schools, universities, colleges, post offices, libraries, museums, libraries, theaters, health clubs, all parks, government buildings, and sites.

For more information, please call the USDA – Animal and Plant Health Inspection Service (APHIS) at (800) 233-9267 or visit the USDA website. Connection on the USDA website.

February 25, 2016

Tim Livingood, MED. TED

The Official ESA Registration of America

Register your dog, cat or other animal, pet therapist listing, ID's, years & more

Easily register an emotional support animal, unlock benefits

Sign up to get certificates, letters & more

First Name:*  
Last Name:*  
Email:*  
Animal's Name:*  
Species:*  
Password:
Re-enter password:

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Register For Free

Quick and fool proof
1. Register your Emotional Support Animal
2. Get therapy letters, travel kits, and more
3. Reduce stress and anxiety

Hello there! Click to chat.

Click Here To Order!
## Who uses the Emotional Support Animal Registry?

All types of people with varying needs

<table>
<thead>
<tr>
<th>Depression, Anxiety / Mental Health Disorders</th>
<th>Veterans / Military</th>
<th>Autism / Aspergers</th>
<th>PTSD / Psychotic Disorders</th>
</tr>
</thead>
<tbody>
<tr>
<td>Learn more</td>
<td>Learn more</td>
<td>Learn more</td>
<td>Learn more</td>
</tr>
</tbody>
</table>

### Benefits

- ![FSC] Flying With Dad (No Hassles!)
- ![Homes] In Housing (No Hassles!)
- ![Air] On The Plane (No Hassles!)
- ![In] In Your Rental (No Hassles!)

### Testimonials

- **Jenna Latham, Eugene, OR**
  
  "I can't thank you guys enough! I am now able to travel with my cat and take her with me which I've needed badly because I suffer from anxiety and depression and now that I have Sammy with me I am a thousand times better off. Thanks again!"

- **Nancy R., Palos Verdes, CA**
  
  "Just finished our first flight with our little Penelope and it was so amazing being able to have her sitting right next to us the entire flight. Thanks so much!"

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![ESARA Certificate]

This certificate confirms that Spike has been properly registered with the ESARA by as of May 28, 2016.

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OFFICIAL SERVICE DOG REGISTRY
SIMPLY REGISTER YOUR DOG & PROTECT YOUR RIGHTS NOW!

PARTICIPANT'S RESPONSIBILITY AND RULES OF CONDUCT

We expect and hope that you will use this registry as intended and in a responsible and respectful manner. Registration is conducted under the honor system and we are not required to verify any disability or review any documentation to verify any disability, nor does any law require you to register, any individual found to abuse this registry will be expelled from the registry. The registry is not intended to be a certification process and we do not judge the proficiency of our registrants in any way, and nor would that be necessary under the law. Of course, we recognize that under the law you are allowed to train your own animal and we can not be responsible or liable for the actions of dog owners or their dogs either online or offline. Please obey all laws as they apply to your situation.

To Look Up A Dog & Verify - Registration Click Here

Get Started Here!
Please scroll and fill in the form below

All Registrations Are Searchable Within Our Database Instantly!

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Pricing Plan

**Combo Plan**
- No Expiration ESA Housing Letter
- No Expiration ESA Travel Letter
- Patients Are NOT Required To Be Re-Evaluated
- Discounted Fee For Renewals
- Most Popular Plan

$189

**Housing Plan**
- 1 Year ESA Housing Letter ONLY
- Expires 12 Months From Date of Approval
- Patient Must be re-evaluated every 12 Months.
- Does NOT Include ESA Travel Letter

$159

**Travel Plan**
- 1 Year ESA Travel Letter ONLY
- Expires 12 Months From Date of Approval
- Patient Must be re-evaluated every 12 Months.
- Does NOT Include ESA Housing Letter

$149
Emotional Support Animal Prescription Letter

EmotionalSupportPet.com has partnered with Keystone Psychological Services LLC in Laporte, Colorado to provide Psychological Evaluations and online counseling to our clients.

Keystone’s team of Licensed Mental Health Professionals will evaluate you online through an extensive battery of tests. The exam will take approximately 30 to 45 minutes to complete and is issued online (Step #1 at bottom of page).

A licensed therapist will review your evaluation and have your results within 2-3 business days. If a diagnosis can be made a prescription will be emailed to you with your results (as a PDF file to print at home) and the original prescription will be mailed to you by 1st class USPS.

If a diagnosis cannot be made and it is determined you do not qualify for an emotional support pet a full refund will be issued.

June 28, 2016

To: , Manager.

Re: Alle Diamond, MSW, LCSW, Keystone Psychological Services

Dear Ms.:

At the request of my client, , I have been given authorization to discuss her mental health diagnosis and the impact he has on her wellbeing.

Experiences symptoms related to the diagnosis of PTSD. 294.6 V code 300.81. Was initially diagnosed with Generalized Anxiety Disorder in 2005. Since that time, her life experiences and symptoms have worsened thus I have added the diagnosis of PTSD to her mental health profile.

Experiences emotional and physical symptoms related to PTSD. These symptoms are uncomfortable and unpredictable. When she is triggered, life becomes increasingly difficult for her. She doesn’t have just one, but several areas of her life that are deeply affected by her symptoms.

Relies on for emotional support. His presence not only helps to calm her, but also helps to motivate her when she is experiencing fear and anxiety related to her diagnosis. His presence is a primary relationship. His needs give purpose and keep her going when her symptoms are overwhelming. She has an obligation to him that represents her desire to maintain normalcy and stability despite the challenging experiences she has had. Needs are met by his innate ability to respond to her the way she needs to in order to meet her needs met. This is a mutually beneficial relationship; it is also clinically appropriate and deemed by me, as a disaster to be 100% necessary for her wellness and mental health stability.

I encourage you to allow to peacefully occupy your apartment unit according to the HUD Rule and Regulations related to the utilization of Emotional Support Animals as treatment for mental health related conditions.

Should you have any questions, you may contact me at the email below.

Regards,

Alle Diamond, MSW, LCSW, Keystone Psychological Services
allediamondlcsw@gmail.com

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Keystone Psychological Services, LLC.

June 7, 2016

To Whom It May Concern:

We have a mental health diagnosis recognized in the DSM-V, (specific diagnosis not disclosed here to protect HIPAA privacy rights). Her disorder substantially limits at least one major life activity.

Because of the severity of her condition, this disorder can be debilitating and cannot be anticipated. As the primary treatment to address her psychological disability, I recommend that she have her dog to serve as her emotional support animal. It is my professional opinion that the presence of this animal is a necessary treatment for the mental health of this patient because their presence will mitigate the symptoms she is currently experiencing by responding to cues for emotional support.

This patient meets the definition of disability under the Americans with Disabilities Act, the Fair Housing Act, and the Rehabilitation Act of 1973. Due to medical illness, this patient has certain limitations. In order to help alleviate these difficulties, and to enhance her ability to live independently and to fully use and enjoy the dwelling unit she can own and/or administer, I am prescribing that she have an emotional support animal that will assist her in coping with her disability.

Sincerely,

Allie Olaudow, MHSW, LCSW
Utah LCSW License #6251000-9838
Date LCSW Original License Issued: 08/15/2013
Date LCSW Current License Expires: 09/30/2014

Keystone Psychological Services, LLC
2530 South Main Street, Suite 110
Salt Lake City, UT 84106
Phone: 801-539-8999
Fax: 801-328-0930
keystoneservices@psychomediainc.com
Articles of Organization

filed pursuant to § 7-80-303 and § 7-80-304 of the Colorado Revised Statutes (C.R.S.)

1. The domestic entity name of the limited liability company is

ESA LLC

(Enter name of limited liability company, and state the form of organization (limited liability company, limited liability company-notice mailed, limited liability company-notice mailed - notice mailed on, "All", "None", "Yes", "No", or "Not Now.", see § 7-80-126. C.R.S.)

(Continued: The use of "carrots" in an address is restricted by law. Read instructions for more information)

2. The principal office address of the limited liability company's initial principal office is

Street address

1612 Hanover Ct.

Fort Collins

CO 80525

Mailing address

(enter blank if none in street address)

(Street number and name or principal office box)

(If applicable) (City)

(If applicable) (State)

(If applicable) (Zip code)

(If applicable) (Country)

3. The registered agent name and registered agent address of the limited liability company's initial registered agent are

Name

Westlin, Diana Elizabeth

Street address

1612 Hanover Ct.
June 7, 2016

To Whom It May Concern:

Just a mental health diagnosis recognized in the DSM V, (specific diagnosis not disclosed here to protect HIPAA privacy rights), her disorder substantially limits at least one major life activity.

Because of the severity of her condition, this disorder can be debilitating and can’t be anticipated. As the primary treatment to address her psychological disability, I recommend that she have her dog to serve as her emotional support animal. It is my professional opinion that the presence of this animal is a necessary treatment for the mental health of this patient because their presence will mitigate the symptoms she is currently experiencing by responding to cues for emotional support.

This patient meets the definition of disability under the Americans with Disabilities Act, the Fair Housing Act, and the Rehabilitation Act of 1973. Due to medical illnesses, this patient has certain limitations. In order to help alleviate these difficulties, I am prescribing that she have an emotional support animal that will assist her in coping with her disability.

Sincerely,

Allie Osmund, MHS, LGW
LCWS License #6211008-3631
Date LGW Original License Issued: 08/15/2013
Date LGW Current License Expires: 09/30/2014

Keystone Psychological Services, LLC
To Whom It May Concern:

I am a licensed mental health professional who is currently seeing for emotional health condition, and I am familiar with the functional limitations that are caused by this illness. I have a disorder for which an emotional support animal (ESA) will help provide the relief that medication cannot. Due to these complications, I strongly believe that having an ESA is the most effective treatment to help keep me calm and to avoid any situations that may cause me to become overwhelmed.

Due to this emotional disability, I have diagnosed with having a particular medical condition that qualifies me as an emotional support animal under the Fair Housing Amendments Act of 1988. In order to help alleviate these difficulties, I am able to have a specially trained support animal in order to avoid specific situations. In this case, I have prescribed to have 2 dogs for emotional support. The presence of these animals is necessary for emotional mental health, because their presence will help mitigate the symptoms in which I experience.

I have a mental and/or emotional disability recognized in the Diagnostic and Statistical Manual of Mental Disorders - 4th Edition (DSM-IV) or 5th Edition (DSM-V). In accordance with the Air Carrier Access Act of 1986 (U.S.C. 41701 and 14 C.F.R. 382), please allow to be accompanied by emotional support animals in the cabin of the aircraft for the reasons stated herein.

Sincerely,

[Signature]

Carla J. Black, MA, MFT, ATR

License Number: 88338 (CA) | Issued: 4/18/2017

Patient ID Number:

Onsite Patient Verification: www.EARVerification.com
National Emotional Support Animal
Patient Verification Database

Disclaimer:
The National Emotional Support Animal Patient Verification Database is HIPAA compliant and protects patient privacy at all times. By utilizing this site you acknowledge that you have been given consent by the patient or that you are an authorized law enforcement authority in the pursuit of a legal investigation. The patient I.D. is confidential and may be given for the purposes of establishing a legal right to possession of an emotional support animal as authorized by a medical professional.

Airline and Housing ESA Verification Form

Please fill out the form below by supplying the patient's identification code and pressing "Verify."

Patent ID:
Enter Patient ID
Patent Name

Letter Issue Date
Month: [ ] Day: [ ] Year: [ ]

Verify

All fields are required

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National Emotional Support Animal
Patient Verification Database

Patient ID: [Redacted]

Patient Name: [Redacted]
Patient Birth Date: 10/18/2015
Date Letter Issued: 10/20/2015
Prescribing Doctor: Carla J. Black
Type of License: MA, MFT, ATR
Medical License Number: 44511
State In Which Medical License Was Issued: CA

To Whom It May Concern:

I am a licensed mental health professional who is currently treating [Patient Name] for a mental/ emotional health condition, and I am familiar with the functional limitations as they apply to the above individual. She has a disorder which causes severe emotional distress and significantly limits one or more major life activities, and is legally and professionally responsible for health and mental health treatment. The emotional support animal is necessary for the person's emotional health, and is responsible for the animal's well-being.

Due to the individual's disability, I have diagnosed

[Redacted]

with a condition that is a disability under the Americans with Disabilities Act (ADA). In order to help alleviate these difficulties, ensure her safety and productivity, and to help her live a better life, I have prescribed her to have an emotional support animal under the Fair Housing Amendments Act of 1989. The animal's presence is necessary for the person's mental health, because its presence will help relieve the emotional distress.

May 16, 2014

[Redacted] MA, MFT, ATR

[Redacted] MA, MFT, ATR

License Number: 44511 (CA) | Issued: 10/20/15

Mental Health | Psychotherapy
WHAT DO CARLA’S LETTERS MEAN?

To Whom it May Concern:

I am a licensed mental health professional who is currently treating [redacted] for emotional health condition, and I am familiar with the functional limitations that are imposed by this illness. I am prescribing [redacted] for [redacted] as part of a comprehensive treatment plan. [Redacted] is a prescribed medication that has been shown to be effective in the treatment of [redacted].

Due to this emotional disability, I have diagnosed [redacted] with having a particular medical condition that qualifies [redacted] for an emotional support animal under the Fair Housing Amendment Act of 1988. In order to help alleviate these disabilities, I have prescribed for [redacted] to have 2 dogs for emotional support. The presence of these animals is necessary for [redacted] mental health, because their presence will help mitigate the symptoms of [redacted].

Sincerely,

Carla J. Black, MA, MFT, ATR

Patient ID Number:

Online Patient Verification: www.patientverification.com
WHAT DO CARLA’S LETTERS MEAN?

MA: Master of Arts
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MA: Master of Arts (in what?)

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MFT:
WHAT DO CARLA’S LETTERS MEAN?

MA: Master of Arts (in what?)

MFT: Marriage and Family Therapist

ATR:
WHAT DO CARLA’S LETTERS MEAN?

MA: Master of Arts (in what?)

MFT: Marriage and Family Therapist

ATR: Registered Art Therapist

WHAT IS ART THERAPY?

• Art therapy uses art media, the creative process and the resulting artwork as a therapeutic and healing process.
• Clients – young, old and in-between – are able to explore their feelings, reconcile emotional conflicts, foster self-awareness, manage behavior, develop social skills, improve reality orientation, reduce anxiety and increase self-esteem.
• Art therapists are trained in both art and therapy. The process isn’t an art lesson – it is grounded in the knowledge of human development, psychological theories and counseling techniques.

- Art Therapy Credentialing Board, Inc.
To Whom It May Concern:

I am a licensed mental health professional who is currently treating [name] for emotional health condition, and I am familiar with the functional limitations that are imposed by [this behavior]. It has been determined that an emotional support animal (ESA) will help provide [name] with the assistance and support needed to live a more fulfilling and productive life.

I can attest to the fact that having an ESA is the most effective treatment to help [name] deal with [his/her] problems and to avoid any escalating situations that could cause further complications in [his/her] well-being.

Due to this emotional disability, I have diagnosed [name] with having a particular mental condition that poses a threat to [his/her] health. I have recommended that [name] be given support animal under the Fair Housing Amendments Act of 1988. In order to help alleviate these difficulties, enhance [his/her] ability to function in public settings, and to help [him/her] work and enjoy the workplace environment, I recommend [him/her] receive the assistance of a ESA.

I declare that [name] has received and/or emotional disability recognized in the Diagnostic and Statistical Manual of Mental Disorders - Fourth Edition (DSM IV) or Fifth Edition (DSM V). In accordance with the Federal Act 26790 of 1996 and 38 CFR 19.48, please allow this ESA to be accompanied by emotional support animals in the cabin of the aircraft for the reasons stated herein.

Sincerely,

[Signature]

Carla J. Black, MA, MFT, ATR

Patient ID Number:

Online Patient Verification: www.PatientVerification.com
From FOX6 News, Milwaukee, WI

Baaad medicine: Abuse of ‘emotional support animals’ concerns advocates for the disabled

Carla Black

The psychotherapist who wrote the letter, Carla Black of Los Angeles, California, said she usually Skype conversations or emails with a person before diagnosing them. She did neither of those things with Bryan Polocyn. Black said that’s because Polocyn’s questionnaire was complete and informative. Black defended what she calls “online therapy,” saying that it is just as easy to lie in person — and just as hard to detect. She writes that “any industry can be abused.”
Those Ubiquitous Capes

![Dog in a caped vest]

![Dog in a caped vest]
Aggressive Pushback Outline for Requesting Verification

**CAUTION:** The following outline should be used only if:

- You are certain that the tenant requesting the accommodation of an assistance animal:
  - has not previously established or verified the disability in question, and
  - you have not been provided verification of the “nexus” between the request for accommodation and the specific need for the animal

- You are authorized to draft and deliver “pushback” communications in the context of requests to accommodate emotional support or other assistance animals
Practical Tips for Requesting Verifications (an alternative aggressive approach)

**Tip 1:** I do not advocate the use of “Fill in the Blank Forms” for the tenant or the verifier. Why? Your relationship is with the tenant and it is the tenant’s responsibility to provide the verification; physicians are not diligent in following the instruction in the forms.

**Tip 2:** The request for verification should be delivered only to the tenant making the request for the assistance animal, not to the physician, other medical service provider, peer support group or other reliable party.

**Tip 3:** Prepare the request for verification in writing and hand deliver (with a witness) to the tenant making the request.

**Tip 4:** In your request, first acknowledge receipt of the request and then state that the property “expressly follows the Fair Housing Act and the HUD/DOJ Statement on Reasonable Accommodations.”

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Practical Tips for Requesting Verifications (cont’d)

**Tip 5:** If the disability is not apparent or otherwise previously established, make the following inquiries:

1. What is the tenant’s physical or mental impairment?
2. What is the major life activity or activities that are limited by such impairment?
3. How is/are those major life activities substantially limited?

(These are the component elements of the definition of disability)
Practical Tips for Requesting Verifications (cont’d)

**Tip 6:** Ask: “What is the connection between the disability and the need for the specific animal?”

**Tip 7:** State: “Please be advised that under the Fair Housing Act, all information you provide regarding the verification requested will be kept strictly confidential.”

**Tip 8:** In closing, “leave the interactive process open” with a statement to the effect of:

“We will be happy to further consider your request for accommodation upon receipt of the verification we have requested.”

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**Remember:**

- Using the previous set of tips carries risk of receiving a Fair Housing Complaint
- You should only use the outline with concurrence of persons in your business that are authorized to “push back”
- Always consult with an attorney of your choice when changing your policy regarding requests for accommodation under the Fair Housing Act
- The change in administrations may effect a significant change in how complaints are handled
To Whom It May Concern:

My patient, has been diagnosed with depression. I am intimately familiar with her history and with the functional limitations imposed by disability. This includes: lack of concentration, guilt, isolation, daytime somnolence, loss of appetite, fatigue, and social isolation. These impairments substantially limit from performing life tasks that are vital to health. When experiencing a major depressive episode, is unable to work, eat, socialize, and exercise.

Due to my patient’s depressive disorder, has been prescribed an Emotional Support Animal (ESA) to enhance ability to live independently and to fully enjoy the dwelling unit you own and/or administer. The presence of this animal is necessary for the mental and physical health of because it will alleviate symptoms and is part of treatment plan.

The designated ESA, is a bond. ’s relationship is one to be unchallenged. With , my patient can become more active in life. Creating a daily routine with has allowed my patient to form a positive relationship. By doing so, has helped him become more active and social.

Thank you for taking the time to correspond with me,
Baylor Scott & White Health and Canine Companions for Independence Celebrate Grand Opening of Campus in Irving, Texas

November 9, 2015

Largest provider of highly trained assistance dogs opens flagship Texas training center in first-ever collaboration with a health care system

Today, Canine Companions for Independence at Baylor Scott & White Health – Kinkeade Campus opened as the first assistance dog training center campus in the nation connected to a health care system. The campus will provide highly trained assistance dogs and ongoing support cost-free to individuals with physical and developmental disabilities who qualify through the application process.
All Bases On Which You May Deny a Request Under the Fair Housing Act

A request for an accommodation or to allow a modification may be denied if:

i. There is no disability (as that term is defined under the Fair Housing Act);

ii. The nexus requirement is not met because:
    a. There is no relationship between disability and need; or
    b. Verification is insufficient;

iii. Granting the request would impose an undue financial or administrative burden on the community;

iv. Granting the request would fundamentally alter the nature of the community’s operations;

v. Granting the request would pose a direct threat to persons or property;

vi. The accommodation or modification requested is not reasonable; or

vii. Granting the request does not afford a person with a disability an equal opportunity to use and enjoy a dwelling.
Emotional Support Animal Registration of America

This certificate confirms that

**Muffin Top**

has been properly registered with the ESARA by

**Dr Gary**

as an Emotional Support Animal

as of August 1, 2014

*ESA’s Are Protected Under the Federal Laws ACAA/FHA*

In the U.S., two federal laws grant rights to owners of Emotional Support Animals (ESAs): The Americans with Disabilities Act (ACAA) and the Fair Housing Act (FHA). These laws allow people with disabilities to keep and use a support animal. The ACAA allows the mentally or emotionally disabled persons to be accompanied on flights by an ESA. The FHA and Section 504 of the Rehabilitation Act of 1973 protects the rights of people who have emotional disabilities. This means that since ESAs are considered pets and not the average pet, landlords must make a reasonable effort to provide housing for the tenant and pet.

The FHA does not require the owner to prove the source of the disability or the need for the pet.

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Introduction

The Department of Justice ("DOJ") and the Department of Housing and Urban Development ("HUD") are jointly responsible for enforcing the federal Fair Housing Act [1] (the "Act"), which prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, and disability. [2] 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 may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling. [3] HUD and DOJ frequently respond to complaints alleging that housing providers have violated the Act by refusing reasonable accommodations to persons with disabilities. This Statement provides technical assistance regarding the rights and obligations of persons with disabilities and housing providers under the Act relating to reasonable accommodations. [4]

Questions and Answers

1. What types of discrimination against persons with disabilities does the Act prohibit?

The Act prohibits housing providers from discriminating against applicants or residents because of their disability or the disability of anyone associated with them [5] and from
treatment of persons with disabilities less favorably than others because of their disability. The Act also makes it unlawful for any person to refuse "to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford ... person(s) [with disabilities] equal opportunity to use and enjoy a dwelling." The Act also prohibits housing providers from refusing residency to persons with disabilities, or placing conditions on their residency, because those persons may require reasonable accommodations. In addition, in certain circumstances, the Act requires that housing providers allow residents to make reasonable structural modifications to units and public/common areas in a dwelling when those modifications may be necessary for a person with a disability to have full enjoyment of a dwelling.

With certain limited exceptions (see response to question 2 below), the Act applies to privately and publicly owned housing, including housing subsidized by the federal government or rented through the use of Section 8 voucher assistance.

2. Who must comply with the Fair Housing Act's reasonable accommodation requirements?

Any person or entity engaging in prohibited conduct - i.e., refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling - may be held liable unless they fall within an exception to the Act's coverage. Courts have applied the Act to individuals, corporations, associations and others involved in the provision of housing and residential lending, including property owners, housing managers, homeowners and condominium associations, lenders, real estate agents, and brokerage services. Courts have also applied the Act to state and local governments, most often in the context of exclusionary zoning or other land-use decisions. See e.g., City of Edmonds v. Oxford House, Inc., 514 U.S. 725, 729 (1995); Project Life v. Glendening, 139 F. Supp. 703, 710 (D. Md. 2001), aff'd 2002 WL 2012545 (4th Cir. 2002). Under specific exceptions to the Fair Housing Act, the reasonable accommodation requirements of the Act do not apply to a private individual owner who sells his own home so long as he (1) does not own more than three single-family homes; (2) does not use a real estate agent and does not employ any discriminatory advertising or notices; (3) has not engaged in a similar sale of a home within a 24-month period; and (4) is not in the business of selling or renting dwellings. The reasonable accommodation requirements of the Fair Housing Act also do not apply to owner-occupied buildings that have four or fewer dwelling units.

3. Who qualifies as a person with a disability under the Act?

The 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.

The term "physical or mental impairment" includes, 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 retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

The term "substantially limits" suggests that the limitation is "significant" or "to a large degree."

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. This list of major life activities is not exhaustive. See e.g., Bragdon v. Abbott, 524 U.S. 624, 691-92 (1998) (holding that for certain individuals reproduction is a major life activity).

4. **Does the Act protect juvenile offenders, sex offenders, persons who illegally use controlled substances, and persons with disabilities who pose a significant danger to others?**

No, juvenile offenders and sex offenders, by virtue of that status, are not persons with disabilities protected by the Act. Similarly, while the Act does protect persons who are recovering from substance abuse, it does not protect persons who are currently engaging in the current illegal use of controlled substances.

Additionally, the Act does not protect an individual with a disability whose tenancy would constitute a "direct threat" to the health or safety of other individuals or result in substantial physical damage to the property of others unless the threat can be eliminated or significantly reduced by reasonable accommodation.

5. **How can a housing provider determine if an individual poses a direct threat?**

The Act does not allow for exclusion of individuals based upon fear, speculation, or stereotype about a particular disability or persons with disabilities in general. A determination that an individual poses a direct threat must rely on an individualized assessment that is based on reliable objective evidence (e.g., current conduct, or a recent history of overt acts). The assessment must consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate the direct threat. Consequently, in evaluating a recent history of overt acts, a provider must take into account whether the individual has received intervening treatment or medication that has eliminated the direct threat (i.e., a significant risk of substantial harm). In such a situation, the provider may request that the individual document how the circumstances have changed so that he no longer poses a direct threat. A provider may also obtain satisfactory assurances that the individual will not pose a direct threat during the tenancy. The housing provider must have reliable, objective evidence that a person with a disability poses a direct threat before excluding him from housing on that basis.
Example 1: A housing provider requires all persons applying to rent an apartment to complete an application that includes information on the applicant's current place of residence. On her application to rent an apartment, a woman notes that she currently resides in Cambridge House. The manager of the apartment complex knows that Cambridge House is a group home for women receiving treatment for alcoholism. Based solely on that information and his personal belief that alcoholics are likely to cause disturbances and damage property, the manager rejects the applicant. The rejection is unlawful because it is based on a generalized stereotype related to a disability rather than an individualized assessment of any threat to other persons or the property of others based on reliable, objective evidence about the applicant's recent past conduct. The housing provider may not treat this applicant differently than other applicants based on his subjective perceptions of the potential problems posed by her alcoholism by requiring additional documents, imposing different lease terms, or requiring a higher security deposit. However, the manager could have checked this applicant's references to the same extent and in the same manner as he would have checked any other applicant's references. If such a reference check revealed objective evidence showing that this applicant had posed a direct threat to persons or property in the recent past and the direct threat had not been eliminated, the manager could then have rejected the applicant based on direct threat.

Example 2: James X, a tenant at the Shady Oaks apartment complex, is arrested for threatening his neighbor while brandishing a baseball bat. The Shady Oaks' lease agreement contains a term prohibiting tenants from threatening violence against other residents. Shady Oaks' rental manager investigates the incident and learns that James X threatened the other resident with physical violence and had to be physically restrained by other neighbors to keep him from acting on his threat. Following Shady Oaks' standard practice of strictly enforcing its "no threats" policy, the Shady Oaks rental manager issues James X a 30-day notice to quit, which is the first step in the eviction process. James X's attorney contacts Shady Oaks' rental manager and explains that James X has a psychiatric disability that causes him to be physically violent when he stops taking his prescribed medication. Suggesting that his client will not pose a direct threat to others if proper safeguards are taken, the attorney requests that the rental manager grant James X an exception to the "no threats" policy as a reasonable accommodation based on James X's disability. The Shady Oaks rental manager need only grant the reasonable accommodation if James X's attorney can provide satisfactory assurance that James X will receive appropriate counseling and periodic medication monitoring so that he will no longer pose a direct threat during his tenancy. After consulting with James X, the attorney responds that James X is unwilling to receive counseling or submit to any type of periodic monitoring to ensure that he takes his prescribed medication. The rental manager may go forward with the eviction proceeding, since James X continues to pose a direct threat to the health or safety of other residents.

6. What is a "reasonable accommodation" for purposes of the Act?

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 an equal
opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. The Act makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling.

To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

Example 1: A housing provider has a policy of providing unassigned parking spaces to residents. A resident with a mobility impairment, who is substantially limited in her ability to walk, requests an assigned accessible parking space close to the entrance to her unit as a reasonable accommodation. There are available parking spaces near the entrance to her unit that are accessible, but those spaces are available to all residents on a first come, first served basis. The provider must make an exception to its policy of not providing assigned parking spaces to accommodate this resident.

Example 2: A housing provider has a policy of requiring tenants to come to the rental office in person to pay their rent. A tenant has a mental disability that makes her afraid to leave her unit. Because of her disability, she requests that she be permitted to have a friend mail her rent payment to the rental office as a reasonable accommodation. The provider must make an exception to its payment policy to accommodate this tenant.

Example 3: A housing provider has a "no pets" policy. A tenant who is deaf requests that the provider allow him to keep a dog in his unit as a reasonable accommodation. The tenant explains that the dog is an assistance animal that will alert him to several sounds, including knocks at the door, sounding of the smoke detector, the telephone ringing, and cars coming into the driveway. The housing provider must make an exception to its "no pets" policy to accommodate this tenant.

7. Are there any instances when a provider can deny a request for a reasonable accommodation without violating the Act?

Yes. 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. If an alternative accommodation would effectively meet the requester's disability-related needs and is reasonable, the provider must grant it. An interactive process in which the housing provider and the requester discuss the requester's disability-related need for the requested accommodation and possible alternative accommodations is helpful to all concerned because it often results in an effective accommodation for the requester that does not pose an undue financial and administrative burden for the provider.

**Example:** As a result of a disability, a tenant is physically unable to open the dumpster placed in the parking lot by his housing provider for trash collection. The tenant requests that the housing provider send a maintenance staff person to his apartment on a daily basis to collect his trash and take it to the dumpster. Because the housing development is a small operation with limited financial resources and the maintenance staff are on site only twice per week, it may be an undue financial and administrative burden for the housing provider to grant the requested daily trash pick-up service. Accordingly, the requested accommodation may not be reasonable. If the housing provider denies the requested accommodation as unreasonable, the housing provider should discuss with the tenant whether reasonable accommodations could be provided to meet the tenant's disability-related needs - for instance, placing an open trash collection can in a location that is readily accessible to the tenant so the tenant can dispose of his own trash and the provider's maintenance staff can then transfer the trash to the dumpster when they are on site. Such an accommodation would not involve a fundamental alteration of the provider's operations and would involve little financial and administrative burden for the provider while accommodating the tenant's disability-related needs.

There may be instances where a provider believes that, while the accommodation requested by an individual is reasonable, there is an alternative accommodation that would be equally effective in meeting the individual's disability-related needs. In such a circumstance, the provider should discuss with the individual if she is willing to accept the alternative accommodation. However, providers should be aware that persons with disabilities typically have the most accurate knowledge about the functional limitations posed by their disability, and an individual is not obligated to accept an alternative accommodation suggested by the provider if she believes it will not meet her needs and her preferred accommodation is reasonable.

**8. What is a "fundamental alteration"?**

A "fundamental alteration" is a modification that alters the essential nature of a provider's operations.
**Example:** A tenant has a severe mobility impairment that substantially limits his ability to walk. He asks his housing provider to transport him to the grocery store and assist him with his grocery shopping as a reasonable accommodation to his disability. The provider does not provide any transportation or shopping services for its tenants, so granting this request would require a fundamental alteration in the nature of the provider's operations. The request can be denied, but the provider should discuss with the requester whether there is any alternative accommodation that would effectively meet the requester's disability-related needs without fundamentally altering the nature of its operations, such as reducing the tenant's need to walk long distances by altering its parking policy to allow a volunteer from a local community service organization to park her car close to the tenant's unit so she can transport the tenant to the grocery store and assist him with his shopping.

9. **What happens if providing a requested accommodation involves some costs on the part of the housing provider?**

Courts have ruled that the Act may require a housing provider to grant a reasonable accommodation that involves costs, so long as the reasonable accommodation does not pose an undue financial and administrative burden and the requested accommodation does not constitute a fundamental alteration of the provider's operations. The financial resources of the provider, the cost of the reasonable accommodation, the benefits to the requester of the requested accommodation, and the availability of other, less expensive alternative accommodations that would effectively meet the applicant or resident's disability-related needs must be considered in determining whether a requested accommodation poses an undue financial and administrative burden.

10. **What happens if no agreement can be reached through the interactive process?**

A failure to reach an agreement on an accommodation request is in effect a decision by the provider not to grant the requested accommodation. If the individual who was denied an accommodation files a Fair Housing Act complaint to challenge that decision, then the agency or court receiving the complaint will review the evidence in light of applicable law and decide if the housing provider violated that law. For more information about the complaint process, see question 19 below.

11. **May a housing provider charge an extra fee or require an additional deposit from applicants or residents with disabilities as a condition of granting a reasonable accommodation?**

No. Housing providers may not require persons with disabilities to pay extra fees or deposits as a condition of receiving a reasonable accommodation.

**Example 1:** A man who is substantially limited in his ability to walk uses a motorized scooter for mobility purposes. He applies to live in an assisted living facility that has a policy prohibiting the use of motorized vehicles in buildings and elsewhere on the premises. It would be a reasonable accommodation for the facility to make an exception
to this policy to permit the man to use his motorized scooter on the premises for mobility purposes. Since allowing the man to use his scooter in the buildings and elsewhere on the premises is a reasonable accommodation, the facility may not condition his use of the scooter on payment of a fee or deposit or on a requirement that he obtain liability insurance relating to the use of the scooter. However, since the Fair Housing Act does not protect any person with a disability who poses a direct threat to the person or property of others, the man must operate his motorized scooter in a responsible manner that does not pose a significant risk to the safety of other persons and does not cause damage to other persons' property. If the individual's use of the scooter causes damage to his unit or the common areas, the housing provider may charge him for the cost of repairing the damage (or deduct it from the standard security deposit imposed on all tenants), if it is the provider's practice to assess tenants for any damage they cause to the premises.

**Example 2:** Because of his disability, an applicant with a hearing impairment needs to keep an assistance animal in his unit as a reasonable accommodation. The housing provider may not require the applicant to pay a fee or a security deposit as a condition of allowing the applicant to keep the assistance animal. However, if a tenant's assistance animal causes damage to the applicant's unit or the common areas of the dwelling, the housing provider may charge the tenant for the cost of repairing the damage (or deduct it from the standard security deposit imposed on all tenants), if it is the provider's practice to assess tenants for any damage they cause to the premises.

12. **When and how should an individual request an accommodation?**

Under the Act, a resident or an applicant for housing makes a reasonable accommodation request whenever she makes clear to the housing provider that she is requesting an exception, change, or adjustment to a rule, policy, practice, or service because of her disability. She should explain what type of accommodation she is requesting and, if the need for the accommodation is not readily apparent or not known to the provider, explain the relationship between the requested accommodation and her disability.

An applicant or resident is not entitled to receive a reasonable accommodation unless she requests one. However, the Fair Housing Act does not require that a request be made in a particular manner or at a particular time. A person with a disability need not personally make the reasonable accommodation request; the request can be made by a family member or someone else who is acting on her behalf. An individual making a reasonable accommodation request does not need to mention the Act or use the words "reasonable accommodation." However, the requester must make the request in a manner that a reasonable person would understand to be a request for an exception, change, or adjustment to a rule, policy, practice, or service because of a disability.

**Although a reasonable accommodation request can be made orally or in writing,** it is usually helpful for both the resident and the housing provider if the request is made in writing. This will help prevent misunderstandings regarding what is being requested, or whether the request was made. To facilitate the processing and consideration of the request, residents or prospective residents may wish to check with a housing provider in
advance to determine if the provider has a preference regarding the manner in which the request is made. However, housing providers must give appropriate consideration to reasonable accommodation requests even if the requester makes the request orally or does not use the provider's preferred forms or procedures for making such requests.

**Example:** A tenant in a large apartment building makes an oral request that she be assigned a mailbox in a location that she can easily access because of a physical disability that limits her ability to reach and bend. The provider would prefer that the tenant make the accommodation request on a pre-printed form, but the tenant fails to complete the form. The provider must consider the reasonable accommodation request even though the tenant would not use the provider's designated form.

13. **Must a housing provider adopt formal procedures for processing requests for a reasonable accommodation?**

No. The Act does not require that a housing provider adopt any formal procedures for reasonable accommodation requests. However, having formal procedures may aid individuals with disabilities in making requests for reasonable accommodations and may aid housing providers in assessing those requests so that there are no misunderstandings as to the nature of the request, and, in the event of later disputes, provide records to show that the requests received proper consideration.

A provider may not refuse a request, however, because the individual making the request did not follow any formal procedures that the provider has adopted. If a provider adopts formal procedures for processing reasonable accommodation requests, the provider should ensure that the procedures, including any forms used, do not seek information that is not necessary to evaluate if a reasonable accommodation may be needed to afford a person with a disability equal opportunity to use and enjoy a dwelling. See Questions 16 - 18, which discuss the disability-related information that a provider may and may not request for the purposes of evaluating a reasonable accommodation request.

14. **Is a housing provider obligated to provide a reasonable accommodation to a resident or applicant if an accommodation has not been requested?**

No. A housing provider is only obligated to provide a reasonable accommodation to a resident or applicant if a request for the accommodation has been made. A provider has notice that a reasonable accommodation request has been made if a person, her family member, or someone acting on her behalf requests a change, exception, or adjustment to a rule, policy, practice, or service because of a disability, even if the words "reasonable accommodation" are not used as part of the request.

15. **What if a housing provider fails to act promptly on a reasonable accommodation request?**
A provider has an obligation to provide prompt responses to reasonable accommodation requests. An undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation.

16. What inquiries, if any, may a housing provider make of current or potential residents regarding the existence of a disability when they have not asked for an accommodation?

Under the Fair Housing Act, it is usually unlawful for a housing provider to (1) ask if an applicant for a dwelling has a disability or if a person intending to reside in a dwelling or anyone associated with an applicant or resident has a disability, or (2) ask about the nature or severity of such persons' disabilities. Housing providers may, however, make the following inquiries, provided these inquiries are made of all applicants, including those with and without disabilities:

- An inquiry into an applicant's ability to meet the requirements of tenancy;
- An inquiry to determine if an applicant is a current illegal abuser or addict of a controlled substance;
- An inquiry to determine if an applicant qualifies for a dwelling legally available only to persons with a disability or to persons with a particular type of disability; and
- An inquiry to determine if an applicant qualifies for housing that is legally available on a priority basis to persons with disabilities or to persons with a particular disability.

**Example 1:** A housing provider offers accessible units to persons with disabilities needing the features of these units on a priority basis. The provider may ask applicants if they have a disability and if, in light of their disability, they will benefit from the features of the units. However, the provider may not ask applicants if they have other types of physical or mental impairments. If the applicant's disability and the need for the accessible features are not readily apparent, the provider may request reliable information/documentation of the disability-related need for an accessible unit.

**Example 2:** A housing provider operates housing that is legally limited to persons with chronic mental illness. The provider may ask applicants for information needed to determine if they have a mental disability that would qualify them for the housing. However, in this circumstance, the provider may not ask applicants if they have other types of physical or mental impairments. If it is not readily apparent that an applicant has a chronic mental disability, the provider may request reliable information/documentation of the mental disability needed to qualify for the housing.

In some instances, a provider may also request certain information about an applicant's or a resident's disability if the applicant or resident requests a reasonable accommodation. See Questions 17 and 18 below.
17. What kinds of information, if any, may a housing provider request from a person with an obvious or known disability who is requesting a reasonable accommodation?

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 about the requester's disability or the disability-related need for the accommodation.

If the requester's disability is known or readily apparent to the provider, but the need for the accommodation is not readily apparent or known, the provider may request only information that is necessary to evaluate the disability-related need for the accommodation.

Example 1: An applicant with an obvious mobility impairment who regularly uses a walker to move around asks her housing provider to assign her a parking space near the entrance to the building instead of a space located in another part of the parking lot. Since the physical disability (i.e., difficulty walking) and the disability-related need for the requested accommodation are both readily apparent, the provider may not require the applicant to provide any additional information about her disability or the need for the requested accommodation.

Example 2: A rental applicant who uses a wheelchair advises a housing provider that he wishes to keep an assistance dog in his unit even though the provider has a "no pets" policy. The applicant's disability is readily apparent but the need for an assistance animal is not obvious to the provider. The housing provider may ask the applicant to provide information about the disability-related need for the dog.

Example 3: An applicant with an obvious vision impairment requests that the leasing agent provide assistance to her in filling out the rental application form as a reasonable accommodation because of her disability. The housing provider may not require the applicant to document the existence of her vision impairment.

18. If a disability is not obvious, what kinds of information may a housing provider request from the person with a disability in support of a requested accommodation?

A housing provider may not ordinarily inquire as to the nature and severity of an individual's disability (see Answer 16, above). However, in response to a request for a reasonable accommodation, a housing provider may request reliable disability-related information that (1) is necessary to verify that the person meets the Act's definition of disability (i.e., has a physical or mental impairment that substantially limits one or more major life activities), (2) describes the needed accommodation, and (3) shows the relationship between the person's disability and the need for the requested accommodation. Depending on the individual's circumstances, information verifying that
the person meets the Act's definition of disability can usually be provided by the individual himself or herself (e.g., proof that an individual under 65 years of age receives Supplemental Security Income or Social Security Disability Insurance benefits). A doctor or other 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.

Once a housing provider has established that a person meets the Act's definition of disability, the provider's request for documentation should seek only the information that is necessary to evaluate if the reasonable accommodation is needed because of a disability. Such information must be kept confidential and must not be shared with other persons unless they need the information to make or assess a decision to grant or deny a reasonable accommodation request or unless disclosure is required by law (e.g., a court-issued subpoena requiring disclosure).

19. If a person believes she has been unlawfully denied a reasonable accommodation, what should that person do if she wishes to challenge that denial under the Act?

When a person with a disability believes that she has been subjected to a discriminatory housing practice, including a provider's wrongful denial of a request for reasonable accommodation, she may file a complaint with HUD within one year after the alleged denial or may file a lawsuit in federal district court within two years of the alleged denial. If a complaint is filed with HUD, HUD will investigate the complaint at no cost to the person with a disability.

There are several ways that a person may file a complaint with HUD:

- By placing a toll-free call to 1-800-669-9777 or TTY 1-800-927-9275;
- By completing the "on-line" complaint form available on the HUD internet site: [www.hud.gov](http://www.hud.gov); or
- By mailing a completed complaint form or letter to:

  Office of Fair Housing and Equal Opportunity  
  Department of Housing & Urban Development  
  451 Seventh Street, S.W., Room 5204  
  Washington, DC 20410-2000

Upon request, HUD will provide printed materials in alternate formats (large print, audio tapes, or Braille) and provide complainants with assistance in reading and completing forms.
The Civil Rights Division of the Justice Department brings lawsuits in federal courts across the country to end discriminatory practices and to seek monetary and other relief for individuals whose rights under the Fair Housing Act have been violated. The Civil Rights Division initiates lawsuits when it has reason to believe that a person or entity is involved in a "pattern or practice" of discrimination or when there has been a denial of rights to a group of persons that raises an issue of general public importance. The Division also participates as amicus curiae in federal court cases that raise important legal questions involving the application and/or interpretation of the Act. To alert the Justice Department to matters involving a pattern or practice of discrimination, matters involving the denial of rights to groups of persons, or lawsuits raising issues that may be appropriate for amicus participation, contact:

U.S. Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section - G St.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

For more information on the types of housing discrimination cases handled by the Civil Rights Division, please refer to the Housing and Civil Enforcement Section's website at http://www.usdoj.gov/crt/housing/hcehome.html.

A HUD or Department of Justice decision not to proceed with a Fair Housing Act matter does not foreclose private plaintiffs from pursuing a private lawsuit. However, litigation can be an expensive, time-consuming, and uncertain process for all parties. HUD and the Department of Justice encourage parties to Fair Housing Act disputes to explore all reasonable alternatives to litigation, including alternative dispute resolution procedures, such as mediation. HUD attempts to conciliate all Fair Housing Act complaints. In addition, it is the Department of Justice's policy to offer prospective defendants the opportunity to engage in pre-suit settlement negotiations, except in the most unusual circumstances.


2. The Act uses the term "handicap" instead of the term "disability." Both terms have the same legal meaning. See Bragdon v. Abbott, 524 U.S. 624, 631 (1998) (noting that definition of "disability" in the Americans with Disabilities Act is drawn almost verbatim "from the definition of 'handicap' contained in the Fair Housing Amendments Act of 1988"). This document uses the term "disability," which is more generally accepted.


4. Housing providers that receive federal financial assistance are also subject to the requirements of Section 504 of the Rehabilitation Act of 1973. 29 U.S.C. § 794. Section
504, and its implementing regulations at 24 C.F.R. Part 8, prohibit discrimination based on disability and require recipients of federal financial assistance to provide reasonable accommodations to applicants and residents with disabilities. Although Section 504 imposes greater obligations than the Fair Housing Act, (e.g., providing and paying for reasonable accommodations that involve structural modifications to units or public and common areas), the principles discussed in this Statement regarding reasonable accommodation under the Fair Housing Act generally apply to requests for reasonable accommodations to rules, policies, practices, and services under Section 504. See U.S. Department of Housing and Urban Development, Office of Public and Indian Housing, Notice PIH 2002-01(HA) http://www.hud.gov/offices/fheo/disabilities/PIH02-01.pdf and "Section 504: Frequently Asked Questions," (www.hud.gov/offices/fheo/disabilities/sect504faq.cfm#anchor272118).


6. 42 U.S.C. § 3604(f)(3)(B). HUD regulations pertaining to reasonable accommodations may be found at 24 C.F.R. § 100.204.

7. This Statement does not address the principles relating to reasonable modifications. For further information see the HUD regulations at 24 C.F.R. § 100.203. This statement also does not address the additional requirements imposed on recipients of Federal financial assistance pursuant to Section 504, as explained in the Introduction.

8. The Supreme Court has questioned but has not yet ruled on whether "working" is to be considered a major life activity. See Toyota Motor Mfg. Kentucky, Inc. v. Williams, 122 S. Ct. 681, 692, 693 (2002). If it is a major activity, the Court has noted that a claimant would be required to show an inability to work in a "broad range of jobs" rather than a specific job. See Sutton v. United Airlines, Inc., 527 U.S. 470, 492 (1999).

9. See, e.g., United States v. Southern Management Corp., 955 F.2d 914, 919 (4th Cir. 1992) (discussing exclusion in 42 U.S.C. § 3602(h) for "current, illegal use of or addiction to a controlled substance")

10. Persons who meet the definition of disability for purposes of receiving Supplemental Security Income ("SSI") or Social Security Disability Insurance ("SSDI") benefits in most cases meet the definition of disability under the Fair Housing Act, although the
converse may not be true. See e.g., Cleveland v. Policy Management Systems Corp., 526 U.S. 795, 797 (1999) (noting that SSDI provides benefits to a person with a disability so severe that she is unable to do her previous work and cannot engage in any other kind of substantial gainful work whereas a person pursuing an action for disability discrimination under the Americans with Disabilities Act may state a claim that "with a reasonable accommodation" she could perform the essential functions of the job).

5/13/04