



**CUMBERLAND HOUSING
GROUP**

ASSISTANCE ANIMAL POLICY

Purpose

The Cumberland Housing Group takes every effort feasible to serve the disabled applicants and residents of our housing communities and programs. This policy will define the qualifications and actions to be taken in the course of approving a tenant to have a Service or Emotional Support Animal.

The U.S. Department of Housing and Urban Development's (HUD) has certain regulations which prohibit discrimination because of disability. This policy explains certain obligations of Cumberland Housing under the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act with respect to animals that provide assistance to Individuals with disabilities.

The definition of a "service animal" under the Americans with Disabilities Act is limited to include only dogs, and further defines a "service animal" to exclude emotional support animals. This definition, however, does not limit the Cumberland Housing Group's obligations to make reasonable accommodations for assistance animals under the Fair Housing Act or Section 504. Persons with disabilities may request a reasonable accommodation for any assistance animal, including an emotional support animal, under both acts.

In situations where the Americans with Disabilities Act and the Fair Housing Act/Section 504 Act apply simultaneously, the Cumberland Housing Group must meet their obligation under both the reasonable accommodation standard of the Fair Housing Act/Section 504 Act and the service animal provisions of the Americans with Disabilities Act.

Definition of "Assistance Animal"

Assistance animals are sometimes referred to as "service animals," "assistive animals," "support animals," or "therapy 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.

Definition of "Emotional Support Animal"

Emotional Support Animals help individuals with emotional or psychological disorders. One of their essential roles is the recovery of people with mental illness. They provide affection, comfort, and security to people who need it. Although pets also comfort their owners, handlers of ESAs are assessed by a licensed health professional. The provider determines that the presence and comfort of the animal is necessary for their well-being.

The Fair Housing Act/Section 504 states that an individual with a disability may request a reasonable accommodation to have an animal in his/her home if the animal does not qualify as a service animal. Emotional Support Animals are not restricted to only dogs, they can be other types of domesticated animals commonly kept in a household. Unlike service animals, emotional support animals are not required to have a certification or training.

Definition of "Service Animal"

Americans with Disabilities Act (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. Thus, trained dogs are the only species of animal that may qualify as service animals under the ADA 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 Support animals under the Fair Housing Act 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 Fair Housing Act 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.

Determining a "Service Animal"

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?
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).

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.

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.

Tenant Responsibilities

An individual with a disability is responsible for feeding, maintaining, providing veterinary care, and controlling his or her assistance animal. The individual may do this on his or her own or with the assistance of family, friends, volunteers, or service providers.

Reasonable Accommodations

The reasonable accommodation provisions of the laws must be considered in situations where persons with disabilities use (or seek to use) Emotional Support animals where the Cumberland Housing Group forbids residents from having pets or otherwise imposes restrictions or conditions relating to pets and other animals.

For purposes of reasonable accommodation requests, neither the Fair Housing Act nor Section 504 requires an Emotional Support animal to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be Emotional Support animals. The Cumberland Housing Group is to evaluate a request for a reasonable accommodation to possess an Emotional Support 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:

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 Fair Housing Act and Section 504 do not require a modification to Pet Policy, and the reasonable accommodation request may be denied.

Where the answers to questions (1) and (2) are "yes," the Fair Housing Act and Section 504 require the Cumberland Housing Group to modify or provide an exception to the Pet Policy to permit a person with a disability to live with and use an Emotional Support 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;

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.
3. The Cumberland Housing Group will not require a pet deposit or monthly fee for an assistance animal. The Cumberland Housing Group will require a tenant to cover the costs of repairs for damage the animal causes to the tenant's dwelling unit or the common areas less reasonable wear and tear.

The Cumberland Housing Group 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 Emotional Support animal. The Cumberland Housing Group may ask individuals who have disabilities that are not readily apparent or known to The Cumberland Housing Group to provide a name and address for a location in which to send a "Required Need for an Assistance Animal" verification form in order 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. The Cumberland Housing Group is not obligated to accept online certifications, registrations, licensing documents, or animal gear as a form of verification that an assistance animal is needed.

The Cumberland Housing Group 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. The Cumberland Housing Group 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.

Applying Multiple Laws

The Cumberland Housing Group is subject to both the service animal requirements of the ADA and the reasonable accommodation provisions of the Fair Housing Act and/or Section 504. As noted above, compliance with the Fair Housing Act and Section 504 does not ensure

compliance with the ADA. Similarly, compliance with the ADA's regulations does not ensure compliance with the Fair Housing Act or Section 504.

ADA regulations also do not change the reasonable accommodation analysis under the Fair Housing Act or Section 504. They specifically note that under the Fair Housing Act/Section 504 "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." In addition, the 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 Fair Housing Act.

In cases where all three statutes apply, to avoid possible ADA violations the Cumberland Housing Group will 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 does not meet the ADA service animal test, then the Cumberland Housing Group must evaluate the request in accordance with the guidance provided in the Reasonable Accommodations section of this notice.

Conclusion

The definition of "service animal" contained in the ADA regulations does not limit the Cumberland Housing Group obligations to grant reasonable accommodation requests for Emotional Support Animals in housing under either the Fair Housing Act or Section 504. Under these laws, rules, policies, or practices must be modified to permit the use of an Emotional Support 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.