

Reasonable Accommodations and Reasonable Modifications

DISCLAIMER: Although this guide contains legal information as well as suggestions for policies and practices, it is intended only as a reference. Co-ops must use their best judgment in deciding how to implement reasonable accommodation and modification procedures. Individual cases and circumstances vary widely, and the law is always subject to change through legislative or judicial action. This guide is not intended to serve as a substitute for legal advice or to establish any lawyer-client relationship.

What is Reasonable Accommodation & Reasonable Modification?

It is a violation of the Fair Housing Act for any person to refuse to make a reasonable accommodation in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit, including public and common use areas. This means that the Board and management of any housing cooperative must allow an exception to a rule or policy if it would afford a residents with disabilities an equal opportunity to use and enjoy their housing unit and common areas in the Co-op. An accommodation that permits disabled tenants to experience the full benefit of tenancy must be made unless the accommodation imposes an undue financial or administrative burden on a housing provider or requires a fundamental alteration in the nature of its programs.

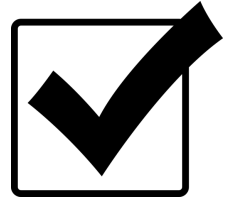
Regarding a disabled tenant or disabled applicant's reasonable accommodation request, the Board or manager of the Co-op can request verification that the resident or applicant is disabled and needs the requested accommodation to use and enjoy their lot and/or the community. However, the Board or manager cannot request information about the nature, extent, or severity of a person's disability. If the Board/management delays responding to the request after a disabled tenant makes a reasonable accommodation request, after a reasonable amount of time, that delay may be construed as a failure to provide a reasonable accommodation.

Reasonable Accommodation rules also prohibit housing providers from refusing residency to persons with disabilities or placing conditions on their residency, because those persons may require reasonable accommodations or modifications due to interruptions of major life activities including: vision, hearing, walking, sleeping, breathing, learning, speaking, performing manual tasks, caring for one's self, etc.

Reasonable Accommodations	Reasonable Modifications
<p>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.</p> <p>To show that the requested accommodation may be necessary, there must be an identifiable relationship, or nexus between the requested accommodation and the individual's disability.</p>	<p>A structural change made to existing premises occupied (or to be occupied) by a person with a disability in order to afford such a person full enjoyment of the premises.</p> <p>A request for a reasonable modification can be made at any time during a residency.</p> <p>Modification is not limited to the actual residential unit, but extends to all the common use areas of the facility.</p>

Steps to Comply with Reasonable Accommodation & Modification Rules

Identify Legal Help. Does your Co-op's existing legal team have the expertise to respond to questions you may have about Reasonable Accommodation requests in the future? Even if your Co-op has not yet had to respond to Reasonable Accommodation requests, make sure you have the legal resources in place should you have questions down the road.



Educate Board and Onsite Staff. All Board Members, onsite staff, and other people who respond in an official capacity to residents should understand Reasonable Accommodation and Modification Rules and be able to respond to requests appropriately.

Provide Notice in Community Rules and Onsite Office. Notice of residents' right to Reasonable Accommodation should be available in the onsite office and listed explicitly in the Community Rules. Co-ops should periodically revisit their Community Rules to make sure they are complying with Reasonable Accommodation and Modification rules, FHA, Section 504, and the ADA. Notice of rights should be posted in all major languages spoken in the community.

Document Appropriately & Use Proper Forms. Co-ops should document any requested accommodations in writing using a Reasonable Accommodation Form. The Board may request verification of the accommodation, using a Reasonable Accommodation Verification and Release to Permit Follow-up Form. The resident requesting the modification can sign the form, take to their health care provider, and return to onsite management. Forms should be translated into all major languages spoken in the community.

***Note:** Some landlords suggest having the resident sign the verification form before they take it to their health care provider to avoid issues with forgery of health care provider signatures.*

Understand the Cost of Reasonable Accommodations and Modifications. A Co-op does not have to pay for the reasonable accommodation or modification requested unless the property is directly federally funded (through certain USDA or HUD funds, such as HOME). Privately funded properties are only responsible to *allow* reasonable accommodation. The resident is responsible for returning the property back to the original condition upon moving out. Management can document this requirement in writing.

Ensure Accessibility of All Common Areas. Any public access dwelling (onsite offices, storm shelters, etc.) must have accommodations that comply with the accessibility laws outlined in the Americans with Disabilities Act (ADA). ADA accessibility laws are incorporated in Fair Housing. For more information about the ADA, please visit:

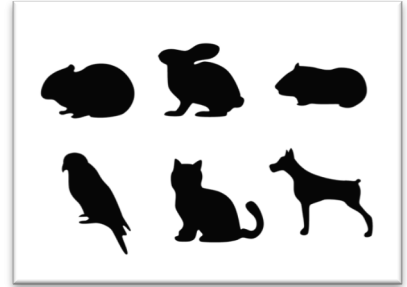
<https://adata.org/learn-about-ada>

Additional Resources

- U.S. Dept. of Housing and Urban Development (HUD): https://www.hud.gov/program_offices/fair_housing_equal_opp/ReasonableAccommodations15
- Law Help MN: <http://www.lawhelpmn.org/resource/reasonable-accommodations-in-housing>
- The Directory of Accessible Housing: <http://www.accessiblehousing.org/rights/accommodations.asp>

Reasonable Accommodation and Companion Animals

One of the most common discrimination complaints that the Department of Housing and Urban Development (HUD) receives under Reasonable Accommodation is related to companion animals. Under Fair Housing's Reasonable Accommodation rules, housing providers must provide reasonable accommodation to people with disabilities who require companion animals (also referred to as "assistance animals" or "emotional support animals" (ESA's).



Pet restrictions cannot be used to deny or limit housing to people with disabilities who require the use of a companion animal because of their disability. Housing providers must grant reasonable accommodations in such instances, in accordance with the law.

Two threshold questions must be addressed when a resident asks for a companion animal:

- 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 a companion 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 law does not require a modification of an existing "no pets" policy, and the reasonable accommodation request may be denied.

However, if the answer to these questions is "yes", the Co-op must modify or provide an exception to a "no pets" policy to permit a person with a disability to live with and use an assistance animal(s) in all areas of the premises where persons with pets are normally allowed to go.

A request for companion animal also may be denied if:

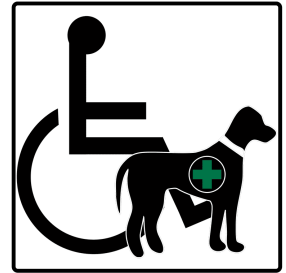
- 1) the specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation, or
- 2) the specific assistance animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation. Breed, size, and weight limitations may not be applied to a companion animal, unless the breed or size would impose an undue financial and administrative burden or would fundamentally alter the nature of the housing provider's services.

Important Notes on How to Respond to Requests for Companion Animals

- Companion animals must follow the same reasonable rules that apply to pets as far as waste, leash restrictions damage, noise, and safety. Co-ops should have a separate Animal Policy or Occupancy Agreement Addendum.
- Co-op Boards may have some say in setting limits on size, species, breed, and especially the number of companion animals. For example, courts may find a single cat as a companion animal, whereas five cats might easily be considered unreasonable.
- CO-OPs cannot charge pet deposits or pet fees for companion animals
- Co-ops can request residents to fill out a Verification Form and Release to Permit Follow-up Form to confirm the need for a companion animal
- Co-ops can require health and wellness documentation for companion animals, such as licensing and immunization/vaccination records
- Co-ops can still write warnings, deliver official notices or even evict the resident and companion animal for things like excessive noise, property damage, behavior issues, or if the companion animal poses a health and safety threat to other residents
- Co-ops can refuse to allow certain companion animals if the animal will present undue hardship or expense for the co-op. An example would be if the co-op's insurance company will raise rates or drop coverage for certain dog breeds to live on the property that are considered aggressive (like pit bulls).

Service Animals

Another important factor to understand in dealing with tenant requests for assistance animals is to understand the difference between service animals and companion animals. According to the Americans with Disabilities Act (ADA), a service animal is a dog trained to provide assistance to the owner who has a disability. **Dogs are generally the only animals that can legally be called service animals.**



Service animals provide a function that the owner cannot do on their own. You may be most familiar with seeing eye dogs or guide dogs who help people with blindness get around. Other examples of service dogs include those for hearing impaired owners or dogs that are trained to alert owners of impending medical conditions like seizures.

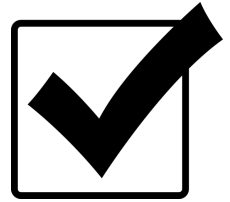
The factor that distinguishes a service animal over a companion animal or pet is training and documentation. Service animals are carefully trained by experts or their owners to do their tasks. A service animal's owner might possess identification papers and the animal often wears some kind of identification collar or harness (though not always). Service animals are typically well trained and behave as if they are performing a "job."

Important Notes on How to Respond to Requests for Service Animals

- Co-ops cannot charge pet deposits or pet fees for service animals
- Service animals are allowed anywhere a person would go, including common areas where pets are normally prohibited.
- Landlords can request residents to fill out a Verification and Release to Permit Follow-up Form to confirm the need for a service animal
- Co-ops can require health and wellness documentation for service animals, such as licensing and immunization/vaccination records
- Co-ops can write warnings, deliver official notices or even evict the resident and service animal for things like excessive noise, property damage, behavior issues, or if the service animal poses a health and safety threat to other residents

How to Comply with Reasonable Accommodation Requests of Companion and Service Animals

- **Institute an Animal Policy.** In addition to a Pet Policy or a Pet Addendum to the Occupancy Agreement, co-ops should have a separate Animal Policy or Addendum that governs companion and service animals requested under Reasonable Accommodation.
 - *Note: co-ops cannot use a Pet Policy to govern Companion or Service Animals.*
- **Use Appropriate Forms.** If a resident requests a service animal, they must complete the same Reasonable Accommodation Form as other requests. The Board may request verification using the same Verification and Release to Permit Follow-up Form as well.
- **Understand Difference Between Companion Animals and Service Animals.** Those eligible to have a companion animal include: 1) individuals with disabilities, 2) individuals who have a person(s) residing with them that have a disability, and 3) a person who visits a resident that has a disability.
 - Companion/Assistance Animals are defined under FHA and Section 504. Assistance Animal(s):
 - Provide support, assistance, or services
 - Include emotional support or therapy animals
 - Is not only limited to dog(s)
 - Not required to be individually trained or certified (only service animals must be certified)
 - No breed, weight, or size restriction, except if the type or breed of animal will create an unreasonable financial hardship on the co-op
 - Service Animals are defined by the ADA as:
 - "Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not considered service animals." <http://adata.org/factsheet/service-animals>
- **Identify Legal Help.** Does your co-op's existing legal team have the expertise to respond to questions you may have about Reasonable Accommodation requests in the future? Even if your co-op has not yet had to respond to Reasonable Accommodation requests, make sure you have the legal resources in place should you have questions down the road.



Is it a Pet, Companion Animal, or Service Animal?

	Pet	Companion Animal	Service Animal
Provides companionship (NOT for a medically identified reason or disability)	X		
May be a dog, cat, bird, or other animal	X Depends on the co-op's pet policy/addendum	X	
Provides assistance or support that alleviates one or more medically-identified symptoms or effects of a person's existing disability		X	
Is almost always a dog			X
Provides a function or service the owner cannot perform on their own			X
Is specially trained and has certification or other documentation			X
Wears a "working dog" collar or harness			X

Differences in Governance for Pets, Companion, and Service Animals

	Pet	Companion Animal	Service Animal
Co-op may charge a deposit or fees	X		
Co-op must allow the animal to go anywhere a person would go			X
Resident must fill out a Reasonable Accommodation Form		X	X
Co-op can request a verification form from a doctor		X	X
Co-op can request health and wellness documentation	X	X	X
Co-op can write warnings and notices; may evict resident/animal if healthy and safety issue	X Follow pet policy/addendum	X Follow animal policy/addendum	X Follow animal policy/addendum
Co-op may limit number of animals	X As laid out in pet policy/addendum	X As laid out in animal policy/addendum	X As laid out in animal policy/addendum
Co-op may institute breed restrictions	X	X Only if breed represents unreasonable financial hardship to the Co-op	X Only if breed represents unreasonable financial hardship to the Co-op