

Chart Summarizing Significant Aspects of HUD’s 1/28/20 Guidance On Assistance Animals

Topic	Substance
1. General Guidance Provisions	
Notice & Citation	<p><i>Assessing a Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act</i>, FHEO-2020-01 (1/28/20), https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf</p>
Applicability	<p>Applicable to all housing providers subject to the federal FHAct. Responsibilities under Section 504 and the ADA are not addressed in this Notice.</p> <p>Supersedes prior assistance animal notices, specifically FHEO-2013-01.</p> <p>Should be read together with 24 C.F.R. Part 100 and <i>Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act</i> (“Joint Statement”) (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.</p> <p>HUD says individuals with disabilities and housing providers may reference the best practices provided in this Guidance in making and responding to reasonable accommodation requests within the scope of this guidance for as long as it remains in effect. HUD strongly encourages individuals with disabilities and housing providers to give careful attention to this guidance when making reasonable accommodation requests and decisions relating to animals.</p>

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	<u>HUD says that failure to adhere to this guidance does not necessarily constitute a violation by housing providers of the FHA or regulations promulgated thereunder.</u>
General Principle	Enforcing a “no pets” rule against an individual with a disability who needs an animal as a reasonable accommodation effectively deprives the individual of the benefits of the housing. <i>See, e.g., Majors v. Hous. Auth. of the Cnty. of DeKalb Georgia</i> , 652 F.2d 454, 457 (5th Cir. 1981) .
Effect of This Guidance Document	HUD says that, as a guidance document, this does not expand or alter housing providers’ obligations under the FHAct or HUD’s implementing regulations. It should be construed consistently with Executive Order 13891 (10/9/19); Executive Order 13892, (10/9/19); OMB Memo M-20-02, “DOJ Memo entitled “Limiting Use of Agency Guidance Documents in Affirmative Civil Enforcement Cases” (1/25/18); and DOJ Memo entitled “Prohibition on Improper Guidance Documents” (11/16/17).
FHAct Responsibility	Under the FHA, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with disabilities, or provide emotional support to alleviate a symptom or effect of a disability.

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Prior Requests	Housing providers should not re-assess requests for reasonable accommodations that were granted prior to the issuance of this guidance in compliance with the FHA.
Purpose of Notice	Provides housing providers with a set of best practices for complying with the FHA when assessing requests for reasonable accommodations to keep animals in housing.
2. Key Definitions & Concepts	
“Assistance animal”	Animals that do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities.
Types of Assistance Animals	Two types of assistance animals: (1) Service animals, and (2) Other trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities.
Allowable Animals	Common household animals: <i>e.g.</i> , dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes.
“Service animal”	Adopts ADA definition: “service animal means 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,

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	<p>psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.</p>
“Unique” Animals	<p>Reasonable accommodations may be necessary when the need for a unique animal involves unique circumstances such as:</p> <ul style="list-style-type: none"> • The animal is individually trained to do work or perform tasks that cannot be performed by a dog. • Information from a health care professional confirms that: <ul style="list-style-type: none"> ▪ Allergies prevent the person from using a dog; or ▪ Without the animal, the symptoms or effects of the person’s disability will be significantly increased. • The individual seeks to keep the animal outdoors at a house with a fenced yard where the animal can be appropriately maintained. <p>If the requestor wants to keep a unique type of animal that is not commonly kept in households then the requestor has the substantial burden of demonstrating a <u>disability-related therapeutic need for the specific animal or the specific type of animal.</u></p> <p>Examples:</p> <ul style="list-style-type: none"> • Miniature horse. <i>See Anderson v. City of Blue Ash</i>, 798 F.3d 338, 360-63 (6th Cir. 2015) (seeking a reasonable accommodation to keep a miniature horse as an assistance animal).

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	<ul style="list-style-type: none"> An individually trained capuchin monkey performs tasks for a person with paralysis caused by a spinal cord injury. The monkey has been trained to retrieve a bottle of water from the refrigerator, unscrew the cap, insert a straw, and place the bottle in a holder so the individual can get a drink of water. The monkey is also trained to switch lights on and off and retrieve requested items from inside cabinets. The individual has a disability-related need for this specific type of animal because the monkey can use its hands to perform manual tasks that a service dog cannot perform. <p>The requestor is encouraged to submit documentation from a health care professional confirming the need for this animal, which includes information of the type set out in the <i>Guidance on Documenting an Individual’s Need for Assistance Animals in Housing</i> portion of the Guidance.</p>
Disallowed Animals	Reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.
“Disability”	<p>A physical or mental impairment that substantially limits at least one major life activity. But addiction caused by <u>current, illegal use</u> of a controlled substance <u>does not</u> qualify as a disability.</p> <p>Housing providers are not entitled to know an</p>

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	individual’s specific diagnosis.
“Obvious” or “Observable Impairments”	<p>Some types of impairments will, in virtually all cases, be found to impose a substantial limitation on a major life activity resulting in a determination of a disability.</p> <p>Observable or obvious impairments do not need verification. They may include:</p> <ul style="list-style-type: none"> • Bipolar disorder • Blindness or low vision • Brain injury • Cancer • Cerebral palsy • Deafness or being hard of hearing • Diabetes • Epilepsy • Human Immunodeficiency Virus (HIV) • Intellectual impairments • Major depressive disorder • Mental illness • Mobility limitations, including those requiring the use of a wheelchair • Multiple sclerosis • Muscular dystrophy • Obsessive compulsive disorder • Partially or completely missing limbs • Post-traumatic stress disorder • Schizophrenia. • Traumatic brain injury • Other diseases or conditions that affect major life activities or bodily functions • Other types of impairments with observable symptoms or effects

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	<p><u>Observable impairments generally tend to be obvious and would not be reasonably attributable to non-medical causes by a lay person.</u></p> <p>Certain impairments, however, especially including impairments that may form the basis for a request for an emotional support animal, may not be observable. In those instances, <u>a housing provider may request information regarding both the disability and the disability-related need for the animal.</u></p>
3. Service Animals	
Definition of “service animal”	<p>Adopts ADA definition: “service animal means 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 service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.</p>
Applicability of non-service work or tasks	<p>Emotional support, comfort, well-being, and companionship are not a specific work or task for purposes of analysis of a “service animal.”</p>
Miniature horses	<p>HUD says they are not considered a “service animal” but DOJ has determined that the same type of analysis is applied to determine whether a miniature horse should be provided access, although additional considerations, beyond the scope of this guidance, apply. See 28 C.F.R. §§</p>

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	35.136(i); 36.302(c)(9).
“Readily apparent” service dogs	<p>A dog is a readily apparent service animal if the dog is observed:</p> <ol style="list-style-type: none"> 1. Guiding an individual who is blind or has low vision 2. Pulling a wheelchair 3. Providing assistance with stability or balance to an individual with an observable mobility disability
Permissible Inquiries of service animals	<p>To determine if an animal is a service animal a housing provider may ask in substance:</p> <ol style="list-style-type: none"> (1) “Is the animal required because of a disability (2) “What task has the animal been trained to perform?” <p>If the requestor identifies <u>at least one specific work/task/action</u> the <u>dog is trained to take</u> which is <u>helpful to the disability</u> other than emotional support, the dog should be considered a service animal and permitted in housing and public and common use areas. Housing providers should not make further inquiries.</p> <p>If no specific work or task is identified, the dog should not be considered a service animal but may be another type of animal for which a reasonable accommodation may be required.</p>

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Impermissible Inquiries of service animals	<p>Do not ask:</p> <ul style="list-style-type: none"> (1) About the nature or extent of the person's disability (2) For documentation <i>(Note: By this I believe HUD means that you can't ask for documentation of the animal's training).</i>
Lease/Housing Rules/ Agreement Provisions	<p>A housing provider, at its discretion, can make the truth and accuracy of information provided during the process part of the representations made by the tenant under a lease or similar housing agreement to the extent that the lease or agreement requires the truth and accuracy of other material information.</p>
Multiple Assistance Animals	<p>Requestors sometimes may need more than one animal – <i>e.g.</i>, person has a disability-related need for both animals, or two people living together each having a disability-related need for a separate assistance animal.</p>
Pets	<p>An animal that does not qualify as a service animal or other type of assistance animal <u>is a pet</u> for purposes of the FHA and may be treated as a pet for purposes of the lease and the housing provider's rules and policies.</p>
Applicability of Pet Fees	<p>A housing provider may exclude or charge a fee or deposit for pets in its discretion and subject to local law but not for service animals or other assistance animals.</p>

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4. Examples of Assistance Animal Work and Tasks	
Service animal work and tasks	<ul style="list-style-type: none"> • Assisting individuals who are blind or have low vision with navigation and other tasks • Alerting individuals who are deaf or hard of hearing to the presence of people or sounds • Providing non-violent protection or rescue work, • Pulling a wheelchair • Alerting a person with epilepsy to an upcoming seizure and assisting the individual during the seizure • Alerting individuals to the presence of allergens • Retrieving the telephone or summoning emergency assistance • Providing physical support and assistance with balance and stability to individuals with mobility disabilities <p><i>See 28 C.F.R. §§ 35.136(f); 36.302(c)(6).</i></p>
Other assistance animal work and tasks	<ul style="list-style-type: none"> • Helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors • Reminding a person with mental illness to take prescribed medication • Alerting a person with diabetes when blood sugar is high or low • Taking an action to calm a person with post-traumatic stress disorder (PTSD) during an anxiety attack • Assisting the person in dealing with disability-related stress or pain

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	<ul style="list-style-type: none"> • Assisting a person with mental illness to leave the isolation of home or to interact with others • Enabling a person to deal with the symptoms or effects of major depression by providing a reason to live • Providing emotional support that alleviates at least one identified symptom or effect of a physical or mental impairment.
5. Requests For Assistance Animals	
Form of Written Requests for assistance animal RAs	<p>While it is <u>not necessary</u> to submit a written request or to use the words “reasonable accommodation,” “assistance animal,” or any other special words to request a reasonable accommodation under the FHA, persons making a request are encouraged to do so in order to avoid miscommunication.</p> <p>See Joint Statement, Q and A 12 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.</p>
Maintaining List of RA Requests	<p>HUD says housing providers <u>may find it helpful</u> to have a consistently maintained list of reasonable accommodation requests.</p>
Who can request an RA	<p>An RA may be made by the individual or others on behalf of the individual, including a person legally residing in the unit with the requesting individual or a legal guardian or authorized representative.</p> <p>See Joint Statement, Q and A 12 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.</p>

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Requestor must make a “request”	<p>An applicant or requestor is not entitled to receive a reasonable accommodation unless she requests one. However, the FHAct does not require that a request be made in a particular manner or at a particular time.</p> <p>An individual making a reasonable accommodation request does not need to mention the FHAct 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.</p> <p>See Joint Statement, Q and A 12 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.</p>
Timing of Request	<p>A requestor may request, and the HA must consider, an RA at any time <u>either before or after acquiring the assistance animal</u>. In support HUD cites to Joint Statement, Q and A 12 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf. It states:</p> <p>In further support HUD cites 24 C.F.R. § 100.204(a) which merely states: <i>“It shall be unlawful for any person to refuse to make reasonable accommodations 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.”</i></p>

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	<p>An accommodation also <u>may be requested after a housing provider seeks to terminate the requestor's lease or tenancy because of the animal's presence, although such timing may create an inference against good faith on the part of the person seeking a reasonable accommodation.</u></p>
How to request an RA	<p>Under the FHAct, a requestor makes a reasonable accommodation request whenever she makes clear to the housing provider that she is <u>requesting an exception, change, or adjustment to a rule, policy, practice, or service because of her disability.</u></p> <p>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.</p> <p>See Joint Statement, Q and A 12 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.</p>
Written vs. Verbal Requests	<p>Although a reasonable accommodation request can be made orally or in writing, it is usually helpful for both the requestor 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.</p>

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	See Joint Statement, Q and A 12 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf .
Use of PHA’s forms/procedures	<p>Need not follow. Housing providers must give appropriate consideration to reasonable accommodation requests even if the requester does not use the provider's preferred forms or procedures for making such requests.</p> <p>See Joint Statement, Q and A 12 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.</p>
6. Documentation	
<i>See the Guidance on Documenting an Individual’s Need for Assistance Animals in Housing</i> portion of the Guidance beginning on page 16.	
Forms of Documentation	HUD only addresses “one reliable form of documentation” - a note from a person’s <u>health care professional</u> that confirms a person’s disability and/or need for an animal when <u>the provider has personal knowledge of the individual</u> .
Forms of documentation housing providers cannot require	<p>Housing providers <u>may not require</u>:</p> <ul style="list-style-type: none"> • A health care professional to use a specific form (including this Guidance) • Notarized statements • To make statements under penalty of perjury • Provide an individual’s diagnosis or other detailed information about a person’s

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	physical or mental impairments.
Personal Knowledge	When providing this information, health care professionals should use personal knowledge of their patient/client – <i>i.e.</i> , the knowledge used to diagnose, advise, counsel, treat, or provide health care or other disability-related services to their patient/client.
Confidentiality	Information relating to an individual’s disability and health conditions must be kept confidential and cannot be shared with other persons unless the information is needed for evaluating whether to grant or deny a reasonable accommodation request or unless disclosure is required by law.
Who can provide documentation?	Reasonably supporting information often consists of information from a <u>licensed health care professional</u> – e.g., physician, optometrist, psychiatrist, psychologist, physician’s assistant, nurse practitioner, or nurse .
Specificity of documentation	<p>Information provided should be general to the condition but specific as to the individual with a disability and the assistance or therapeutic emotional support provided by the animal.</p> <p>The housing provider may not insist on specific types of evidence if the information which is provided or actually known to the housing provider meets the requirements of this guidance</p> <p>A relationship or connection between the disability and the need for the assistance animal must be</p>

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	<p>provided. This is particularly the case where the disability is non-observable, and/or the animal provides therapeutic emotional support.</p> <p>For non-observable disabilities and animals that provide therapeutic emotional support, a housing provider may ask for information that is consistent with that identified in the <i>Guidance on Documenting an Individual’s Need for Assistance Animals in Housing</i> (*see Questions 6 and 7) portion of the Notice in order to conduct an individualized assessment of whether it must provide the accommodation under the FH Act.</p> <p>The lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation.</p>
Content of Documentation	<p>HUD says the documentation should contain:</p> <ul style="list-style-type: none"> • The patient’s name, • Whether the health care professional has a professional relationship with that patient/client involving the provision of health care or disability-related services, and • The type of animal(s) for which the reasonable accommodation is sought (<i>i.e.</i>, dog, cat, bird, rabbit, hamster, gerbil, other rodent, fish, turtle, other specified type of domesticated animal, or other specified unique animal). • Whether the patient has a physical or mental impairment, • Whether the patient’s impairment(s) substantially limit at least one major life

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	<p>activity or major bodily function, and</p> <ul style="list-style-type: none"> • Whether the patient needs the animal(s) (because it does work, provides assistance, or performs at least one task that benefits the patient because of his or her disability, or because it provides therapeutic emotional support to alleviate a symptom or effect of the disability of the patient/client, and not merely as a pet). • Professional’s name, signature, contact information, and professional licensing information
Content of Documentation For Unique Animals	<p>If the animal is not a household pet (e.g., dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes), it may be helpful for patients to ask health care professionals to provide the following additional information:</p> <ul style="list-style-type: none"> • The date of the last consultation with the patient • Any unique circumstances justifying the patient’s need for the particular animal (if already owned or identified by the individual) or particular type of animal(s), and • Whether the health care professional has reliable information about this specific animal or whether they specifically recommended this type of animal
Previously Documented Information About Disability	<ul style="list-style-type: none"> • A determination of disability from a federal, state, or local government agency • Receipt of disability benefits or services

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	<p>(Social Security Disability Income (SSDI)), Medicare or Supplemental Security Income (SSI) for a person under age 65, veterans’ disability benefits, services from a vocational rehabilitation agency, or disability benefits or services from another federal, state, or local agency</p> <ul style="list-style-type: none"> • Eligibility for housing assistance or a housing voucher received because of disability. <p>A determination that an individual does not qualify as having a disability for purposes of a benefit or other program does not necessarily mean the individual does not have a disability for purposes of the FHA, Section 504, or the ADA.</p>
<p>Website Documentation – For Sale v. Remote Delivery</p>	<p>Some websites sell certificates, registrations, and licensing documents for assistance animals to anyone who answers certain questions or participates in a short interview and pays a fee.</p> <p>In HUD’s experience, such documentation from the internet is not, by itself, sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal.</p> <p>By contrast, many legitimate, licensed health care professionals deliver services remotely, including over the internet.</p>

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7. Determinations	
Time For Determination	As a best practice, the housing provider should make a determination <u>promptly, generally within 10 days of receiving documentation.</u>
<u>Necessary Inquiries:</u>	
Inquiry #1:	Does the person have an <u>observable disability</u> or does the housing provider (or its agent) <u>already have information</u> giving them reason to believe that the person has a disability?
Inquiry #2:	<p>Has the person requesting the accommodation <u>provided information that reasonably supports that the person seeking the accommodation has a disability?</u></p> <p>A housing provider is not required to grant the accommodation unless this information is provided but <u>may not deny the accommodation on the grounds that the person requesting the accommodation has not provided this information until the requester has been provided a reasonable opportunity to do so.</u> <i>Note: The time for "reasonable opportunity" is not defined.</i></p> <p>To assist the person requesting the accommodation to understand what information the housing provider is seeking, the housing provider is <u>encouraged to direct the requester to the <i>Guidance on Documenting an Individual's Need for Assistance Animals in Housing.</i></u></p>

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Inquiry #3	<p>Has the person requesting the accommodation provided information which reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual’s disability?</p> <p><i>See Guidance on Documenting an Individual’s Need for Assistance Animals in Housing portion of the Guidance.</i></p>
Denials	<p>Denials of the RA for the assistance animal may be based upon a <u>fundamental alteration or an undue financial and administrative burden</u> to the housing provider.</p> <p>For guidance on what constitutes a fundamental alteration or an undue financial and administrative burden, refer to the HUD/DOJ Joint Statement on Reasonable Accommodation under the Fair Housing Act, available at https://www.hud.gov/sites/documents/huddojstatement.pdf.</p>
Interactive Process	<p>Before denying a reasonable accommodation request due to lack of information confirming an individual’s disability or disability-related need for an animal, the housing provider is encouraged to engage in a good-faith dialogue with the requestor called the “interactive process.”</p> <p>If an RA request provided under the framework of this guidance is denied because it would impose a fundamental alteration to the nature of the provider’s operations or impose an undue financial</p>

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	and administrative burden, the housing provider should engage in the interactive process to discuss whether an alternative accommodation may be effective in meeting the individual’s disability-related needs.
8. Rejection of Specific Animals	
Direct Threat/Fundamental alteration	<p>The FHAct does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. So a housing provider <u>may reject an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through actions the individual takes to maintain or control the animal</u> (e.g., keeping the animal in a secure enclosure).</p> <p>A housing provider can reject an animal based on specific issues with the animal’s conduct because it poses a direct threat or a fundamental alteration.</p>

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Other Guidance	
Restrictions on Animal	Pet rules do not apply to service animals and support animals. Thus, housing providers may not limit the breed or size of a dog used as a service animal or support animal just because of the size or breed. <i>See, e.g., Bhogaita v. Altamonte Heights Condo. Ass’n, 765 F.3d 1277 (11th Cir. 2014) (reasonable accommodation to a housing provider’s rule that all dogs must be under 25 pounds). Note: Other pet restrictions or limitations also may not apply – e.g., limitations on multiple animals, animal’s access on property, etc.</i>
Deposits/Fees/Surcharges	A housing provider may not charge a deposit, fee, or surcharge for an assistance animal.
Damage Caused by animal	A housing provider may charge a tenant for damage an assistance animal causes if it is the provider’s usual practice to charge for damage caused by tenants (or deduct it from the standard security deposits imposed on all tenants).
Animal care	A person 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.