

HUD Memo: Enforcement Guidance – Assessing Requests for the Use of an Animal as a Reasonable Accommodation Under the Fair Housing Act

May 22, 2026

Q&A

1) What does this guidance change?

This guidance states that going forward, FHEO (the fair housing enforcement division of HUD) will no longer consider denial of an untrained ESA to be a violation of the federal Fair Housing Act. New complaints filed with FHEO involving the denial of an untrained emotional support animal (ESA) will be dismissed and/or receive a no-cause finding.

HUD will be aligning assistance animal regulations under the Fair Housing Act with some specific language included in the Americans with Disabilities Act (ADA). The ADA, which applies to areas of public accommodation, only acknowledges service dogs that have been “individually trained to work or perform tasks for the benefit of an individual with a disability.” The ADA does not and has never recognized emotional support animals. HUD will not limit assistance animals under the Fair Housing Act only to dogs like the ADA does, but will be limiting assistance animals to only those that have been individually trained to perform tasks for a disabled resident. Untrained animals that provide comfort, companionship, and emotional support (i.e. ESAs) will no longer be recognized as assistance animals by FHEO.

2) Does this mean that housing providers must deny all requests for emotional support animals?

No. The guidance does not require denial of ESA requests. It simply states that FHEO does not consider it to be a violation of the law to do so.

3) What about the existing animals at my property that have already been designated as ESAs?

The memo does not address this, but there is no reason to alter the designation of previously approved ESAs, as they were properly approved under the applicable standard at the time.

4) Is this HUD memo considered to be a change in law?

No, agency guidance does not establish new law. HUD states in this Memo that it intends to engage in the rulemaking process, which, when finalized, would result in a new regulation establishing standards for assistance animals. No such regulation currently exists. If/when this occurs, it would legally establish a new federal standard.

5) What if my state has a state law about emotional support animals?

Most states have adopted laws that explicitly recognize emotional support animals and prohibit discrimination against individuals who require ESAs. It is important to know if you operate in one of these states, because regardless of how FHEO will be handling these complaints going forward, residents have the option of filing a complaint directly with the state enforcement agency. State enforcement agencies process and investigate potential violations of the state fair housing law(s), and HUD guidance and/or regulations do not impact that right.

If a new assistance animal regulation is published by HUD, some states may follow suit and amend their laws to include only trained animals in their definition of assistance animals. However, states are not required to do so, and may choose to maintain their assistance animal law that is more stringent than the federal standard.

6) Are there any other risks to denying ESA requests at my property?

Even if you operate in a state that has no law recognizing emotional support animal protections, there is still a legal risk associated with denying ESA requests. Residents are not limited to filing a complaint with HUD or their state enforcement agency when they feel that their rights have been violated. They also have the right to file a lawsuit in state or federal court. Most case precedent in both federal and state courts recognizes the right of a disabled individual to have an ESA. It is possible that federal courts may be persuaded to veer from their established precedent if/when HUD creates a new regulation, but as of now, there is no timeline for when this may occur.

7) Does it matter if a property is federally funded?

This HUD memo specifically states that it will not address how FHEO will process complaints against housing providers that are covered by Section 504. Therefore, absent any indication to the contrary, it is safe to assume that the standard for assistance animals will not change for residents residing in federally funded communities.

8) Since HUD is no longer recognizing untrained ESAs, could service animals still include animals that have been trained to assist with mental disabilities?

Yes, HUD states that it intends to use the definition of “service animal” found in the ADA, which is an animal 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.” There are already websites that sell documentation for psychiatric service dogs, so it remains to be seen whether these websites will continue to thrive under this new HUD standard, or whether training requirements will successfully differentiate between legitimate and illegitimate requests.

9) I want to start denying ESAs at my property immediately. What should my new verification process look like?

The HUD memo does not address verification under the new proposed standard, or whether proof of training can/should be required. It is recommended that your company consult with counsel before implementing a new process or changing your policy.