



The Arizona
Pet Project[™]
Supporting Families. Saving Pets.



Location: 7227 S Central Ave, Phoenix, AZ 85042 • **Mailing Address:** 3905 N 7th Avenue #7611, Phoenix, AZ 85011 • **Phone:** (602) 882-8627

Our Mission at The Arizona Pet Project is to reduce the number of dogs and cats entering Arizona shelters by providing the resources needed to keep pets and their families together. Consistent with that Mission, and our Values of Companionship, Empowerment, Compassion, Commitment, Respect, and Equity, we provide this resource on Assistance Animals for our Arizona housing provider partners.

This resource is primarily based upon guidance from the U.S. Department of Housing and Urban Development and the U.S. Department of Justice Civil Rights Division, regarding the Fair Housing Act and the Americans with Disabilities Act, respectively. Please note that, while we provide this guidance for general helpful tips about Assistance Animals, this guidance is not to be construed or otherwise interpreted as legal advice. Housing providers may want to consider consulting their own legal counsel for any questions arising out of this guidance or for any situation-specific questions regarding Assistance Animals, reasonable accommodations, and other obligations of housing providers under state and federal law.

I. HOUSING PROVIDER OBLIGATIONS

Individuals with disabilities may require, as a Reasonable Accommodation, an Assistance Animal that works, provides assistance, or performs tasks for the benefit of the individual, or that provides emotional support that alleviates one or more identified effects of the individual's disability.

A Reasonable Accommodation is generally a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for an individual with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, in both private housing and in federally-assisted

programs or activities. A Reasonable Accommodation request for an Assistance Animal may include, but not be limited to:

- A modification to a housing provider's "no-pets" policy, to permit an individual with a disability to live with an Assistance Animal at that property; or
- A waiver of a pet deposit, fee, or other rule as to an Assistance Animal.

Housing providers must allow a Reasonable Accommodation involving an Assistance Animal where all of the following conditions are met:

- An individual with a disability, or someone on the individual's behalf, made a request to the housing provider;
- The request was supported by reliable disability-related information, if the disability and the disability-related need for the Assistance Animal were not apparent and the housing provider requested such information; and
- The housing provider has not demonstrated that:
 - ◇ Granting the request would impose an undue financial and administrative burden on the housing provider;
 - ◇ The request would fundamentally alter the essential nature of the housing provider's operations;
 - ◇ The specific Assistance Animal in question would pose a direct threat to the health or safety of others, despite any other Reasonable Accommodations that could eliminate or reduce the threat; and
 - ◇ The request would not result in significant physical damage to the property of others, despite any other Reasonable Accommodations that could eliminate or reduce the physical damage.

Some notes:

- If a housing provider reasonably believes that a particular Assistance Animal's behavior is a direct threat to the health or safety of others, is acting out of control and the individual does not take action to correct its behavior, or would cause substantial physical damage to the property of others, then the housing provider has the right to exclude the animal from the dwelling.
- However, if the threat or damage can be reduced or eliminated by another Reasonable Accommodation, the housing provider must allow the Assistance Animal to stay on site.
- Also, just because the animal is a particular breed (e.g., pit bull), does not make it a direct threat. Nor is barking alone a direct threat. Finally, there is no direct threat if the individual takes immediate action to control the Assistance Animal.
- Each situation must be considered individually. In the event a housing provider excludes a particular Assistance Animal, it may not refuse service to the individual with a disability when the individual is not accompanied by that same animal.
- Depending on the seriousness of the Assistance Animal's conduct or repeated conduct, Assistance Animals may be excluded from the dwelling temporarily or permanently.
- Individuals who disregard instruction to remove or exclude an Assistance Animal may be subject to additional penalties, including being banned from the property or other fines and penalties under applicable city, county, or state rules, regulations, or laws.

II. ASSISTANCE ANIMALS

An Assistance Animal is an animal that works, provides assistance, or performs tasks for the benefit of the individual, or that provides emotional support that alleviates one or more identified effects of the individual's disability. An Assistance Animal is not a pet. An Assistance Animal can be a Service Animal or an Emotional Support Animal ("ESA").

Service Animals

- Service Animals are individually trained animals that perform tasks for individuals with disabilities.
- Service Animals are usually dogs, but they can also be miniature horses.
- A Service Animal is not a pet.
- Service Animals come in all breeds and sizes and need not be certified or licensed.

- Some, but not all, Service Animals wear special collars, tags, or harnesses.
- Some, but not all, are licensed or certified and/or have special identification papers.
- However, there is no legal requirement for Service Animals to wear a harness, a sign, or a symbol indicating that they are Service Animals, to be registered, or for the owner to carry any special documentation.
- Service Animals assist individuals with disabilities by:
 - ◇ Guiding individuals who are blind;
 - ◇ Providing balance and support for individuals with physical disabilities;
 - ◇ Alerting individuals who are deaf or hard of hearing to sounds;
 - ◇ Retrieving, carrying, and picking up items for individuals with limited use of their hands, arms, or legs;
 - ◇ Pulling wheelchairs;
 - ◇ Alerting individuals with medical conditions like seizures, protecting them if they fall and reviving them;
 - ◇ Alerting individuals with diabetes when their sugar level is high or low;
 - ◇ Alerting individuals to the presence of allergens;
 - ◇ Performing tasks for individuals with mental or psychiatric disabilities;
 - ◇ and many more examples.
- If a housing provider is unsure about whether an animal meets the definition of a Service Animal, then he or she may ask the individual only two questions:
 - ◇ "Is this a service animal required because of a disability?"
 - ◇ "What work or task has it been trained to perform?"
- Housing providers should not ask any further questions about the individual or the Service Animal. If the individual confirms that it is a Service Animal, then the housing provider should welcome the individual and Service Animal to the dwelling as it would any other individual.

Service Animals in Training

- Individuals who are in the process of training a Service Animal must be treated like an individual with a Service Animal (see above).
- A Service Animal in training is not a pet.



- However, a Service Animal in training must be tagged or have some identification that it is a Service Animal, signal dog, or guide dog (or miniature horse).

Emotional Support Animals

- An Emotional Support Animal (“ESA”) is an animal that is needed by a person to provide companionship and emotional support to an individual to alleviate one or more identified effects of an individual’s disability.
- While ESAs are used as part of some treatment plans for mental health, they are not considered Service Animals under the Americans with Disabilities Act (“ADA”).
- As their name indicates, ESAs provide support for those suffering from mental or emotional distress, and they can be any type of animal.
- Also, they do not have special training; they merely provide companionship and support.
- An ESA is not a pet.
- To bring an ESA into a dwelling, the individual must be diagnosed with a mental or emotional condition as stated in the ADA (though a housing provider may not inquire about the type of condition). To establish this, the individual must provide a letter from a licensed healthcare professional on letterhead stating the need for an ESA. There is no official registration system for ESAs.

III. THE DOs and DON'Ts

Housing providers should generally comply with the following rules:

- Do not ask individuals questions about their disability. Their disability is a private matter.
- Do not ask individuals to show a license, certification, or a special ID card as proof of their animal’s training or registration.
- Do not pet or touch the Assistance Animals; they are not pets.
- Do not feed the Assistance Animals.
- Do not disturb or startle the Assistance Animals

(e.g. no whistling, snapping fingers, barking, meowing, etc.).

- Do not attempt to separate the Assistance Animals from their owners.
- Do not charge an additional fee to individuals with Assistance Animals.
- Do not coerce, intimidate, threaten, or interfere with an individual with a disability exercising his or her right to be accompanied by an Assistance Animal or Service Animal in training.
- Do permit Assistance Animals to accompany individuals with disabilities to all areas of the dwelling normally used by other individuals.
- Do provide equal accommodations to individuals with Assistance Animals.
- Do treat individuals with Assistance Animals with the same courtesy and respect given to all individuals.

IV. INDIVIDUAL OBLIGATIONS

- Individuals with Assistance Animals are responsible for the Assistance Animals and must ensure that they are well-behaved and housebroken.
- Individuals must keep their Assistance Animals under their direct control at all times, such as by harness, leash, or other tether; however, if the use of a harness, leash, or other tether interferes with the Assistance Animal’s safe, effective performance of work or tasks, or if the individual’s disability prevents the use of such devices, then the Assistance Animal must be under the individual’s control through voice control, signals, or other effective means.
- Individuals are responsible for damage or injury caused by their Assistance Animals.
- Individuals also must clean up after their Assistance Animals, unless unable to do so because of their disability. If an individual is unable to clean up after an animal because of a disability, then the animal waste should be cleaned up immediately by housing provider personnel.



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FREQUENTLY ASKED QUESTIONS

Do ESA requirements apply to homeless shelters and congregate housing Providers?

The Fair Housing Act (FHA) generally applies to homeless shelters and congregate housing providers. Therefore, in most instances Homeless Shelters and Congregate Housing Providers should allow Emotional Support Animals.

That said the specific application can be complex and depends on various factors:

Homeless Shelters: The FHA applies to facilities that qualify as a “dwelling.” Whether a shelter qualifies as a “dwelling” under the FHA is determined on a case-by-case basis. If a shelter is intended and used for long-term stay, then the FHA would likely apply. [If a shelter is more transient in nature, then Title III of the Americans with Disabilities Act \(ADA\) would apply.](#)

Congregate Housing Providers: The FHA prohibits discrimination in housing against individuals with disabilities, including individuals with mental health, intellectual, or developmental disabilities. This includes congregate housing providers who offer housing to these individuals.

Who can write an ESA letter?

An Emotional Support Animal (ESA) letter should typically be written by a licensed healthcare professional. This can include:

1. Licensed Psychiatrists
2. Licensed Psychologists
3. Licensed Clinical Social Workers
4. Licensed Professional Counselors
5. Licensed Marriage and Family Therapists

[The letter must include the individual’s name and a statement of need for the ESA from the licensed healthcare professional who writes it on official letterhead with their signature.](#) The professional writing the ESA letter needs to know the individual well enough to understand the need for an emotional support animal.

Are providers who write the ESA letters opening themselves up to potential liability in the event of a bite or other issue that may arise with the ESA?

No. The provider’s input is limited to the individual’s need for an ESA and is not related to any particular animal. The owner of the animal is in control of and liable for the actions of the animal, not the provider.

Is there a limit on the number of ESAs a person may have?

There is no specific limit on the number of ESAs a person may have. Documentation may be requested for each animal and each animal must address a different need/diagnosis of the individual requesting multiple ESAs.