

April 15, 2021, HUD guidance on assistance webinars.

\*\*\*\*\*DISCLAIMER!!!\*\*\*\*\*

THE FOLLOWING IS AN UNEDITED ROUGH DRAFT  
TRANSLATION FROM THE CART PROVIDER'S OUTPUT  
FILE. THIS TRANSCRIPT IS NOT VERBATIM AND HAS NOT  
BEEN PROOFREAD. THIS IS NOT A LEGAL DOCUMENT.  
THIS FILE MAY CONTAIN ERRORS.  
THIS TRANSCRIPT MAY NOT BE COPIED OR  
DISSEMINATED TO ANYONE UNLESS PERMISSION IS  
OBTAINED FROM THE HIRING PARTY.

SOME INFORMATION CONTAINED HEREIN MAY BE  
WORK PRODUCT OF THE SPEAKERS AND/OR PRIVATE  
CONVERSATIONS AMONG PARTICIPANTS. HIRING  
PARTY ASSUMES ALL RESPONSIBILITY FOR SECURING  
PERMISSION FOR DISSEMINATION OF THIS TRANSCRIPT  
AND HOLDS HARMLESS TEXAS CLOSED CAPTIONING  
FOR ANY ERRORS IN THE TRANSCRIPT AND ANY  
RELEASE OF INFORMATION CONTAINED HEREIN.

\*\*\*\*\*DISCLAIMER!!!\*\*\*\*\*

>> The broadcast is now starting. All attendees are

in listen-only mode.

>> Good afternoon, everyone. This is Kate Trace with the Texas Department of Housing and Community Affairs. I see we have a lot of attendees logging in and joining us. We're going to pausing in everyone gets set up with their audio. Make sure he everything is running smoothly.

Today we'll have two sign language interpreters and we've got captioning at the bottom. If you're having trouble accessing this information, please reach out. As I said, we'll get started at about 2:05. Until that time we'll put up a poll to see where everyone is joining us from. So from now until 2:05 it will be the poll and then we will get started and have our interpreters and our closed captioning going at that time.

>> Okay. Hello, everyone and welcome to this afternoon's webinar on HUD guidance on assistance animals. I'm Kate Trace with the Texas Department of Housing and Community Affairs. Thank you all for joining us this afternoon. We had had a poll up asking where everyone was from as we were getting everything set up. It looks about 40% of our attendees are from property management staff or compliance staff. A third of our

attendees here are from non-profits or advocacy organizations. And then the rest of the folks either didn't say, they weren't listed or they're with state and local government.

So welcome, everyone. Today's webinar is going to be presented by Nathan Darus from TDHCA and Geoffrey Riddle from the Texas Workforce Civil Rights Division.

I'll just go through a couple of administrative housekeeping slides and then I'll hand it over to the real subject matter experts that you all came here to listen to.

So first of all, just a quick disclaimer, we have a grant from HUD for education and outreach activities that is supporting some of the work that has gone into this webinar, so this is just our basic disclaimer up here saying if we misspeak it's not HUD's fault, they didn't approve that language. So just the legal jargon up there.

On the next slide, please before we start, we get this question all the time. All materials of this webinar, the recording and then if there's any handouts, will all be available after the webinar on the TDHCA website. If you are attending today you'll receive a link following the

webinar on where you can access that material.

During the webinar we'll have a questions box. If you have questions as they come up, please type all of your questions into the questions box. After each segment we'll try to answer as many questions as we can that refer to that specific segment.

If we see that there are a lot of questions kind of honing around one issue we'll take a lot of those together in some general topics. So if you feel like your question's not being answered get to it.

We should have plenty of time at the end of this webinar to answer lots of questions, so if you want to try to stump up, please feel free to throw questions out and we'll see if we can get as many of those as we can answered.

And then finally, if you're here with a TDHCA-funded property, I just want to mention that this training today does not count towards some of our requirements to receive five hours of training on Fair Housing issues when you're in a post-closing situation or a 10% test for our multi-family property.

If you don't know what that means it does not apply to you, don't worry, but we will not be issuing

certificates, we will not be having a test at the end of this webinar. This is just informal in celebration of Fair Housing month just to provide Fair Housing information on today's topic of assistance animals.

Next slide, please, Nathan.

Okay. So I am going to hand it over to our two subject matter experts. First I'll have Jeff Riddle from the Civil Rights Division at the Texas Workforce Commission introduce himself and then Nathan will start our presentation.

So Jeff, take it away.

>> Jeff: Thank you, Kate. As she mentioned my name is Jeff Riddle and I am with the training and outreach section of the Civil Rights Division that's embedded within the Texas Workforce Commission. I'm happy to be here today and helping to address any issues or answer any questions.

Nathan.

>> Nathan: I am Nathan Darus, the Fair Housing research specialist here at the Texas Department of Housing and Community Affairs. And I'm going to be doing most of the presenting, which is just the heavy lifting

today, and let our subject matter expert Geoffrey Riddle tag in on some tough questions.

So without further adieu, let's go ahead and get started.

So as of January 29th in 2020, HUD had estimated that nearly 60% of all Fair Housing complaints were regarding denial of reasonable accommodations or disability access.

And in Texas at least anecdotally, TDHCA, the Texas Workforce Commission and HUD, have noticed that was approximately the same here in state. So we mirror the country pretty well in that way.

We also noticed that there was a lot of confusion around the topic of assistance animals, service animals and Emotional Support Animal. So if you're one of the people who wasn't clear on it there's no reason to feel bad. You're not the only one.

Like I said, HUD estimated that 60% of their Fair Housing complaints had to do with reasonable accommodations and accessibility, and indications were that an increasing number of these complaints were specific to assistance animals.

In the State of Texas, 2019 analysis of impediments

to Fair Housing choice, TDHCA staff analyzed complaints in Texas and found a similar pattern, almost one in three Fair Housing complaints filed in Texas mention dead Nile of reasonable accommodations as one of the issues.

So this confusion was so widespread that again in January of 2020 HUD issued guidance on the topic of assistance animals as a reasonable accommodation. And that guidance is going to make up the bulk of this webinar.

We split it out into two major areas just like HUD did. First we'll talk about assessing a person's request for an assistance animal and second we'll talk about how to document the need for an assistance animal.

Its first part will be especially useful for property managers, owners and residents and the second part will be helpful for tenants and tenant representatives or advocates.

So how should a property go about assessing a request for an assistance animal? Let's back up a little bit.

What exactly is an assistance animal? So which of these groups of animals are specifically allowed to be an assistance animal? We have dogs and cats only. Dogs only. Dogs, cats and miniature horses. Or could any

animal be an assistance animal?

You all heard -- probably have heard some story about an emotional support peacock or a monkey or arrested gerbil. The peacock was barred from being allowed on a plane. And if a peacock can't be a support animal on a plane, can it be in a home or in your apartment complex?

The answer is D, any animal could in theory be considered an assistance animal under the Fair Housing Act.

Right now I'm sure at least a handful of you are thinking this will be the wild west on your properties, but we do want to assure you that it's going to be okay and you're not going to be overrun by kangaroos and ocelots and elephants.

So let's start with what is an assistance animal. You might notice that throughout this webinar there are going to be a few bolded terms. We have bolded the words assistance animal, service animal and emotional support animal.

These words are bolded because this is where a lot of confusion occurs and people tend to use these terms interchangeably. So we're going to try to clear this up

over the next few slides. So very broadly speaking what is an assistance animal?

This is an animal that does work, performs tasks, assists or provides therapeutic emotional support and is not just a pet.

There are two major types of assistance animals. There are service animals and other animals that do those things that we just talked about, tasks or emotional therapeutic support or assistance that aren't service animals.

It's not a very helpful grouping, so let's take a little bit of a deeper dive here.

So most importantly let's figure out what an assistance animal is not. An assistance animal is not a pet and they should not be treated as a pet by housing providers. This means that you can't charge pet fees, pet deposits, pet rent for an assistance animal.

This also means that your breed and size restrictions, such as no pit bulls or only dogs under 45 pounds do not apply to assistance animals.

And this last part is also very important. Not all assistance animals are service animals, but all service

animals are assistance animals.

So while HUD does spend some time discussing is service animals specifically, we here at TDHCA found it easier to use the term assistance animal exclusively so that there is no confusion.

To try to help clear this up a little bit, we do have the following Venn Diagram. In the larger circle we do have all animals and within animals you can see that pets make up a small little portion of all animals. That makes sense, most animals live outside are our pets.

But within that there are assistance animals. You notice there is no overlap between assistance animals and pets. And that within assistance animals you see service animals and emotional support animals. And again, there is no overlap between those and pets.

So if an animal is a service animal it's an assistance animal. If an animal is a emotional support animal it is an assistance animal. If an animal is an assistance animal of any sort it is not a pet. So for the purposes of the Fair Housing Act specifically it makes sense to disregard the term service or emotional support and focus on assistance animals.

Then to get a little bit more of an idea of why there is this difference, there are different laws that are at work here. The Americans with Disabilities Act covers public accommodations and only requires that service animals be allowed in public accommodations. Notice we said service animals, not assistance animals.

People often assume this means the ADA applies to privately owned apartment complexes or properties because they have public or common areas. However, the Fair Housing Act requires reasonable accommodations be made to allow assistance animals in dwelling units such as apartment units or any common area is available to tenants of the apartment complex.

And this means that assistance animals, which is the more inclusive definition, must be allowed not just in the apartment unit of a tenant, but also in the mailroom, leasing office, common rooms and so on.

So while the ADA may apply to some areas of your apartment complex, notably the leasing office, the Fair Housing Act also applies to your leasing office and to nearly all parts of an apartment complex and places greater restrictions on the property as far as what it must

allow.

We also want to quickly bring up the Air Carriers Act and the guidance surrounding it. These have been in flux lately and in the news, but don't let that confuse you here.

Essentially to right now what happens on planes is not going to influence what happens in housing. So while you've heard that only dogs are allowed on some flights, that's not going to be the case in houses and apartments.

So when somebody asks to be able to have an assistance they aren't actually asking the property permission to own the animal. Instead, what they're really asking for here are changes to that property's policies regarding pets, including items like pet rent, pet deposits and breed or weight restrictions. This falls under the category of reasonable accommodations.

So what is a reasonable accommodation? It's a change, alteration or adjustment to a rule or policy or procedure or service or practice that may be necessary for a person with a disability to use and enjoy a dwelling and its public common use spaces.

It does not have to be written. There are no magic

words. A person doesn't need to say reasonable accommodation. If they ask to change a rule and mention that they have a disability or even describe a condition that a reasonable person would recognize as a disability, such as I have trouble seeing or I can't hear well, that is enough to constitute a request for a reasonable accommodation.

And at this point you should jump in to the following flow charts to help you determine what to do next. Best practice is always to keep a copy of any and all requests that you receive and to keep documentation provided along with or in response to the request.

Do not -- I'm going to repeat this several times. Do not share that information with others unless that person you are sharing it with is necessary to processing the reasonable accommodation request.

So we've already used the terms service and assistance animals. Let's clarify what we mean by those terms specifically and maybe show you why we can think about it only as assistance animals and think about the one small time where you may need to worry about the difference between a assistance animal and service animal.

So the ADA has a very specific definition of a service animal. Most importantly, the service animal can only be a dog and it must be trained to do work or perform tasks. You will notice that there are some items missing such as providing emotional therapeutic support. Emotional support animals are not considered service animals.

There is one exception to this definition. The Department of Justice has determined that in very specific circumstances that are unlikely to ever apply to typical multi-family apartment complexes, miniature horses can sometimes also be considered a service animal.

And additionally, and we'll cover this later, as a barnyard animal, miniature horses are not considered to be commonly kept animals, but we'll cover that later.

So the only reason for purposes of the Fair Housing Act you would need to consider the difference between an assistance animal and a service animal or whether an assistance animal is a service animal, is that there are specific types of questions that are allowed if the service animal is a service animal.

So this chart here will take you through this process step by step, but the simplest way to think about this is

in the form of a few easy questions. First, is the animal a dog? Second, is the animal obviously performing work or a task for an individual with a disability?

If you answer yes to both of those, stop, do not pass go, do not collect \$200 and do not ask more questions. The dog is clearly a service animal and further no more inquiry is not required and is inappropriate.

What does readily apparent mean, in the words of Justice Potter Stewart, you will know it when you see it we do have examples.

A dog who is guiding an individual who is blind or low vision would be readily apparent. A dog is pulling a wheelchair or providing assistance with stability or balance to an individual with an observable mobility disability. Those are some examples and obviously those are not the full list of possibilities.

So if you answered yes that the animal is a dog, but no, it is not obviously performing work or a task for a person with a disability then you may ask essentially two questions. Is the animal required because of a disability and what work or task has the animal been trained to perform? The animal is required because of the

disability and the individual identifies at least one action the dog is trained to take, which is helpful to the disability, other than emotional support. It's a service dog and you should grant the reasonable accommodation and no further questions are required.

But even if you answered no to any or all of these questions, it does not mean that the animal is not another type of assistance animal. So what do we do then? Fortunately the process for determining whether or not to approve an assistance animal is basically the same as for a service animal. First, does the requester have a readily apparent impairment or disability? Or did you already know of the requester's disability?

Second, does the requester have information that reasonably supports the animal performs work or tasks, provides assistance, provides therapeutic emotional support with respect to disability?

If the answer is yes to both of those, great. We'll move on to the next step with you. But if the disability is not already known or readily apparent, then did the requester provide information that reasonably supports that the requester has a disability.

If so, they have information supporting the need for the animal as discussed already, then we'll move on to the next step.

If not, the housing provider is not required to grant the accommodation. That does not mean that you're done because you can't expect every requester is going to have all of their assistance ducks in a row when they come to you.

You do need to give them a reasonable opportunity to provide the necessary information, so a good rule of thumb here is if you haven't asked them for the information and given them a chance to bring it to you, then you can't deny the request yet.

While it is not required, HUD and TDHCA encourage you to let the requester know about the HUD guidance document, particularly the portion about documenting need, which we will cover later, but that document is in the handout, so please feel free to download that and have it available.

So what kind of information would reasonably establish that the individual has a disability?

When in doubt, government documents are always an acceptable source. Federal, state or local government

provides disability benefits or services to the requester and that is good enough to establish that a disability exists.

But that doesn't mean that that's the only source. Receiving Social Security disability income, Medicare or Supplemental Security Income while under 65 also counts. Also, veterans disability services or benefits.

If the person has a voucher for a housing program or receives housing assistance because after disability counted, an example of this would be TDHCA Section 811 program.

If a health care professional confirms the individual has a disability, also count it. And also note that this does not just mean doctors. It could be a social worker, nurse, nurse practitioner, physician's assistant, any health care professional who has a professional relationship with the individual and is in a position to know about their disability.

Also just because an individual does not qualify as having a disability for a benefit or program does not mean that they don't have a disability as defined by Federal Law.

So this list is a list of -- a list of impairments or disabilities identified by the Department of Justice as counting as a disability for the purposes of the Fair Housing Act. Please note that this list is non-exclusive and just because a condition is not listed here does not mean the condition is not considered a disability.

Individuals with disabilities that are not observable may voluntarily provide details about their disability. Sometimes these details will be more than the housing provider needs to make a decision on accommodation requests.

When given, this information should be considered by the housing provider.

So just because a disability isn't obvious or readily apparent doesn't mean it doesn't exist or isn't real.

Diabetes is an excellent example of this. One of the possible side effects of diabetes is called diabetic neuropathy. It is a dulling of the feeling in extremities. This can make it impossible to walk, open jars or perform other daily activities, however it's not readily apparent when an individual is diabetic or experiences diabetic neuropathy.

So even though it may not be clear to the housing provider, the provider is not entitled to know the individual's specific diagnosis, just that the individual has a disability.

This is one of the biggest concerns that TDHCA has heard about anecdotally and this is where I might want to tag you in, Jeff, to see if this is something that you have heard as well.

Which is that housing providers have come across those sites that advertise that they will make your dog or cat or weasel a certified emotional support animal for just a nominal fee.

I know that we've seen that quite a bit in the questions. Jeff, is that something that TWC has seen as well?

>> Jeff: Yes, it is something we have seen. It is also something that we look at we see it nationally as well. And there is no easy answer to this. There are agencies out there, I can think of one off the top of my head, where a tenant went online, filled out a survey questionnaire and never met with a therapist, but after they filled out the survey they had a letter saying their animal was now

an emotional support animal based off their survey questions and the fee they paid for that survey.

So best course of action that I can recommend here in looking into that is -- goes to that old saying, trust but verify. And you can verify the validity of the organization and that would be on the housing provider to do, not have your tenant provide more documentation than they've already received in order to verify the health care provider and where that is coming from, if that makes sense.

>> Nathan: Yep. So just like Jeff said, this documentation from the Internet alone is not sufficient to necessarily establish that the requester has a disability or to establish a disability-related need for the animal. But remember that the disability might not be readily observable, so if the disability is not observable, then it is acceptable to request documentation to reasonably indicate that the requester has a disability and the disability-related need for that animal.

Having a certificate saying that an animal is an emotional support animal or assistance animal only

indicates that the requester spent money on a certificate. It isn't even proof that the animal is really an assistance animal. The requester may have legitimately thought that assistance animals had to be certified. They don't. Assistance animals do not need to be certified by any external body.

Just like with determining whether the requester has a disability, a health care professional is one of the primary sources for supporting information on the disability-related need for an assistance. However, as we said before, if the disability and disability-related need are obvious or already known, don't ask for additional information. For example, if you have a requester who has already asked for grab bars in the shower and you installed them, then they come down in their wheelchair to the leasing office everyday to say hi to you, when they email you a request to allow an assistance dog to help them with mobility, you don't need to ask for any new information. You have all the information you would have needed to make that determination. The disability is obvious, there's previously known disability -- mobility needs and the request clearly says

the dog is to help with mobility.

The disability, the need, and the nexus between the assistance animal and the need is established.

But what if it's not a dog? What if it's not even a cat? What about a peacock?

There is one easy question that you can ask yourself in this situation: Is the animal the requester is asking about commonly kept in households? If the animal is commonly kept in household holds you don't have to -- households you have to ask any further questions about the therapeutic service it provides. Fish, turtles, rodents, that's gross, but normal, and you can have them. Even small birds like parakeets and finches also count as commonly kept animals.

While not expressly mentioned in the guidance, ferrets, which are not rodents, but are small domesticated animals that are kept in the home for pleasure, this means they would also be considered to be commonly kept.

Once you get outside of that group you start to fall into what are called barn yard or unique animals. And if the requester is asking for a monkey or peacock or horned lizard or elephant, then the requester has the burden of

showing the disability need for that specific type of animal.

Not only that, but they need to demonstrate that the same benefits could not be achieved by a different, commonly kept household animal. If the requester does not have that documentation upfront, don't deny the request right away, you still need to give them a reasonable opportunity to obtain that verification.

So all this is to say don't worry, you're probably never going to see an emotional support peacock in your property.

Some general considerations to think about here. What about dangerous dog breeds? Breeds of dogs are not inherently dangerous, but specific dogs might have a history of dangerous behavior that would pose a direct threat to the health and safety of others. Does that mean you can say no to all pit bulls and assistance animals? No, but can say no to that Chihuahua that has a documented history of biting.

When someone has a document requested for an assistance animal, HUD guidance shows that you should be able to handle the response within 10 days. Many times

10 days may be too long or not enough time. If the disability is obvious and the service animal is a dog it may not take 10 days, but in unique circumstances it may take longer when you are dealing with some of the more unique animals.

HOA rules are not exempt from reasonable accommodations, the same with zoning laws, land use laws or co-op rules.

If your HOA prohibits dogs of a certain breed that restriction does not apply to assistance animals. The same is true of local ordinances. A city with a breed restriction does not apply to assistance animals. A housing provider may not charge for processing or granting a reasonable accommodation. The requester may be responsible for paying for any structural modifications, but there may not be any fee, charge, deposit or surcharge for the reasonable accommodation itself.

A housing provider may however charge for damages caused by assistance animals. If they usually charge for damage caused by tenants. This can include deductions from security deposits if all tenants have to put down a deposit. Obviously if you're charging pet deposits, but

no security deposits, there would be no deposit for the security animal.

Housing providers are not responsible for taking care of an assistance animal. That responsibility falls on the person with the disability. That means family, friends or service providers, but does not mean the housing provider must care for the animal.

Even if denying the reasonable accommodation request for any reason, a housing provider should try to engage in an interactive process with the requester to try to identify alternative accommodations that can be made.

Finally, housing providers may not require specific types of evidence or forms to be used when requesting information from a requester and they should never require that a requester give their diagnosis. They may give that voluntarily and if they do that should be considered information related to the request, but it should never be shared with anybody not responsible for making the determination of whether to accept or deny a request.

So this might be a good place to take a minute to look at some of the questions that have been submitted so far.

>> Sure. So we've got a couple of questions

surrounding documentation. The first one goes back to who would you accept a letter or documentation from and the question asks what about a letter from a case manager who is not a licensed professional?

>> Nathan: So in that particular instance, that's a very specific set of circumstances, but if the case manager has a professional relationship with the requester and they would be in a position to know about the disability-related need, then that would likely be sufficient documentation. So that particular professional would probably be acceptable. Jeff?

>> Jeff: Yes, I'm in agreement with you on that as well. Though the case manager isn't a health care provider, they work with the providers and they're that linkage sometimes, especially nowadays with a lot of remote work, they're that linkage between a provider and that person with a disability.

>> Great. So just a couple more questions about the documentation piece. So Jeff, were you going to add a little bit more to the online question about can you accept registration certificates?

>> Jeff: It was just to reiterate that. I believe

Nathan covered it quite well, but just to ensure that the question was answered, it was what about online registration and certificates?

And as Nathan stated, an emotional support animal does not need to be registered or have a certificate because they do not serve a specific purpose as, say, a service animal does. So that in and of itself is not valid documentation to have for a person with an emotional support animal.

You still need to get documentation from that health care professional that shows the disability and that disability-related need, which is the emotional support animal.

So the online registration and certificates would not work and I would go with getting actual valid documentation.

Now, there is documentation online as we do remote, even health care now, so if it's something -- a letter from a doctor's office online, yes, take that. But registrations and certificates, no.

>> Okay. And then one more follow-up question to if you did receive documentation and you wanted to verify

that this information was accurate or it came from a legitimate source. But the housing provider was unable to verify it. If they couldn't get the registration phone number to work could they deny the request then?

>> Nathan: If I'm understanding this correctly, they may have just gotten -- they may have received a phone number to a medical professional that the number was incorrect. If it's just you got a wrong number, that's probably not sufficient to deny it. You might want to, you know, request that the -- have the requester give you a different phone number, say that one's not working. Or we do live in an age where you can Google just about anything. So I mean, if it's a wrong number, don't feel like you can only use that number, but you can certainly look up a new number for that individual.

Jeff, maybe I'm not getting the question properly.

>> Jeff: No I would not just deny a request because you can do a phone number, but if you can -- obviously if there's just no possibility, way of verifying a document is coming from a health care professional and you can see numerous attempts at how you have tried to verify this information, then that in and of itself would help should

a discrimination complaint comes against you as I've done my due diligence, I've sent these emails on these dates, I made phone calls on these dates.

But just stating oh, this phone number didn't work or is always busy, I'm going to deny your request, would not be sufficient so ensure you're doing your due diligence, the first roadblock I'm going to deny this request.

>> Nathan: Yeah. It looks like we did get a little verification. The address did not match up and when asked the respondent is nonresponsive.

At that time document the attempts you have made and then that's the best you can do in that situation.

If the verification -- you're not able to verify their information and you can't get new information, document it and then, Jeff, I would say you can probably deny it at that point.

>> Jeff: Correct. And if there is a complaint made, eventually -- we've had a complaint made where a tenant stated that they -- the provider did know about their disability and they were still trying to charge the tenant a pet deposit fee for their support animal. They filed a complaint. As the investigation was going along, come

to find out there was no correct documentation for that disability and that disability-related need, the support animal. The tenant provided the documentation and the matter was handled.

It can happen.

>> Okay. It looks like more questions are coming in, but maybe we can go back to the next topic and go back to more questions at the next break.

>> Nathan: This is a much shorter set of slides here so we will be able to get to a bunch of questions. Don't worry.

So let's change topics or change directions here a bit and cover some topics that individuals who are requesting an accommodation for an assistance animal might want to discuss.

So at the heart of any reasonable accommodation there are three major things that you need to establish in order to qualify for a reasonable accommodation. You need to have a disability and demonstrate this to the housing provider. You need to tell the housing provider exactly what accommodation you need. What rule or procedure are you seeking a change or exception to? In the case of an

assistance animal you are usually asking for an exception to housing policies.

And then you need to establish a need for the accommodation because of the disability and this is called the disability-related need.

Just having a disability does not necessarily mean that you have a disability-related need for what you're asking for.

So for example, a requester may have epileptic seizures. The requester asks for an accommodation allowing an emotional support pig. In this case there is no relationship between the disability and the request. That is there is no disability need for the pig. However, there may be a disability need for an assistance animal such as a dog that is trained to get underneath an individual's head during a seizure to protect against brain damage.

Sometimes these three things are all readily apparent. And if a requester using a cane for the blind and requests an accommodation for a dog to help guide them, the individual has already established the existence of a disability and identified the needed accommodation and

connected the accommodation to a disability-related need.

This page is probably going to feel like a lot, but it's really not too bad when you think about it as this page is just telling us what HUD recommends. These are best practices and following these steps to the letter are going to help you get a faster response and will make it less likely that a request is denied incorrectly or mistakenly.

So what does HUD recommend? When speaking to your health care professional or your provider, service provider, ask them for a letter or a prescription that includes your name, stating that they treat you for a disability. They don't need to say what disability is. What kind of animal the accommodation will be for.

This covers the first two criteria from that last slide, documenting that you have a disability and identifying the accommodation that you need.

To cover the third and final criterion, HUD recommends that health care providers' recommendation or letter says how the animal is needed. How does it help alleviate the impairment.

You do not have to disclose your impairment, however

if you do, they may not share that with anybody else unless that person is needed to evaluate the request.

And let's say you are one of those very few times when a person really does need a peacock or an ant eater or a monkey or a pig. In this case you will have to provide a little more documentation.

HUD recommends that your documentation includes the last time your health care professional consulted with you, identifying the unique circumstances that justify the need for that particular animal. And if the health care professional has reliable information about this specific animal or whether they specifically recommended that animal or type of animal.

So that could seem like a lot, but let's move on to the next slide and this may help.

If you take this bulleted list with you to your health care provider and make sure that they answer each of these items, that will cover any reasonable accommodation request for any type of assistance animal.

Remember, this is your health care provider, so let them know what you need so that they can give you the answers you need so you can be in your home with your

assistance animal as quickly as possible and with the least amount of difficulty possible.

Get your health care provider to write a statement with your name and the date they last consulted with you, stating that they are responsible for your care in relation to an impairment that limits at least one major life activity.

What accommodation is needed. What type of animal the accommodation is for. The disability-related need for the animal. Does it perform a task, work or therapeutic emotional support that alleviates a symptom or effect of the disability or impairment.

And any unique circumstances justifying the need for that particular animal. If it's unique, add any information that explains that the health care professional has reliable information about this unique animal or that they specifically recommend that unique type of animal to you.

Taking this slide into your health care provider will make sure -- help make sure that you get the documentation you need so that you can get the assistance animal that you need quickly and smoothly.

That said, it is possible that your housing provider still denies your request. So what do you do if that happens?

First, don't be afraid to be your own advocate. Make sure that you calmly ask why the request was denied. Make sure that you have kept copies or originals of all the documentation that you submit to the housing provider.

I personally always recommend that you submit your request by email or in writing so that you can keep copies and that there is a paper trail. You don't have to do it in writing. You don't have to do it on a specific form. And the housing provider can't require it on a specific form. And they also may not require specific types of evidence.

If your documentation meets the requirements set out in the HUD guidance, then let the housing provider know this and put them to the HUD guidance or this webinar.

The housing provider may not require you have to your statement notarized or given under penalty of perjury. If they do require any of those things point them to this webinar or to the HUD guidance.

This might still might not be enough and the housing

provider might still deny your request.

Don't panic at this point. HUD administers a variety of housing programs in the United States and can direct or forward your complaint to the agency with jurisdiction.

Find out if the housing provider participates in any of TDHCA's programs such as the low income tax credit program, the HOME program, emergency solutions grants, Amy young barrier removal program, bootstrap program and so on.

You can always look in TDHCA's vacancy clearinghouse to see if they are listed here.

If they are part of a TDHCA administered program file a complaint with TDHCA and also with the Texas Workforce Commission Civil Rights Division. The Texas Workforce Commission is responsible for enforcing the Fair Housing Act in Texas.

Jeff, do you want to take a minute here to tubing more about your complaint and conciliation process real quick?

>> Jeff: Yeah. So if you make a complaint with the Texas Workforce Commission you can go online to [TWC.state.tx.us](http://TWC.state.tx.us) and you will find a link where you can make a housing complaint. You can either -- I recommend again

just documentation of everything, the best way to do it instead of calling is to go online, fill out the request form or use our email, which should be at the end of the presentation. If not I will make sure I put that into the chatbox so everybody can see it.

And have a registration of that. And when we have a complaint we have three days to look it over, make sure we have jurisdiction on it. We could be talking everybody across the State of Texas.

We handle all complaints within the State of Texas unless you live in the cities of Dallas, Fort Worth, Garland, Austin or Corpus Christi. Each one of those cities has their own Fair Housing assistance program and they will handle complaints. But if you give it to us and we don't have jurisdiction we will pass that along.

And then we will begin our investigation process. During this time here also we have a thing called conciliation. It is a form of mediation where the housing property manager and the person who made the complaint, the tenant, are invited to come together in a confidential setting to discuss their issues and hopefully come to an understanding, a resolution on that, and that runs

concurrently of our investigation process. So if conciliation works, the investigation stops. If conciliation does not work, the investigation is still going on concurrently and the investigation will finish.

And everything that happens during conciliation is confidential and not part of public record.

>> Nathan: Great. Thanks, Jeff. Here's the contact information for both agencies. We'll put that up on the screen for a minute here.

We'll give you a chance to write any of this down. And this is also a great chance to take a look at questions to see if we have any that came in that we can answer.

>> Sure. We've got a lot of great questions coming in.

I'll take them from the top here. So if an owner occupies one of the units of a fourplex, but uses a professional management company and licensed agent to lease the property, does he or she have to allow service animals or emotional support animals?

So the question is really speaking to the type of dwelling that the resident is in.

>> Nathan: Right. Jeff, if I'm not mistaken, at four

or more -- or is it four or less?

>> Jeff: What this one is referring to is -- there are two exceptions that this could fall into and it's the three or more or the Mrs. Murphy exception where an owner does occupy the home and then leases out rooms in the home or the owner has three or less properties.

But in this situation with that question, tip through there are exemptions if you own or lease those properties and are owner occupied you have protection to any of the protections.

But in using a professional management company and a licensed agent means they're using brokered services, those exemptions no longer -- the person would not qualify for those exemptions any longer because they are using professional brokerage services.

>> Nathan: Yeah. I would also assume that in this case if you're using a professional management company they are advertising and at that moment that also I think would -- would stop the exemption.

>> Right, the advertisement and brokerage service would remove that. So they would have to allow for service animals or ESAs.

>> Great, thanks, guys.

So we have another question here. This is about the documentation of the animal itself. So I'll read out the question. Is there a combination of a certificate from a registered canine trainer and a service provider that will suffice for documentation of assistance?

That being said where would dogs being trained for service, therapy and protection dogs fall into which category?

So I think the person asking the question is looking for the type of documentation, whether it's a certificate from a trainer or that the dog being trained for a certain activity, but not necessarily from a medical provider.

>> Nathan: Right. So a canine trainer is not going to be an individual who is in a position to know about the requester's disability or disability-related need.

They would only be able to speak to abilities of the animal.

So in that particular case that would probably not be sufficient documentation as an assistance animal.

Good on them for getting the training, but unless I'm mistaken, Jeff, I don't think that meets -- that would

meet the requirements you would want to ask for -- for different verification at that point.

>> Jeff: Yeah, I agree with what you said. You need something that can show that nexus between the person's disability and the disability-related need. Just having a certificate saying this dog is trained to do X does not work for that documentation.

>> Nathan: Right. And then I want to touch on the last part of that question where they said that being said where would dogs trained for service, therapy and personal protection fall into which category?

So the first two, service and therapy -- okay. So there's a little bit to unpack here.

First, service dogs would fall under service animals and assistance animals. This would be the dogs that you see like we said leading individuals who are blind have a mobility disability. Therapy could be one of two different things here and there are therapy dogs that are used in, say, psychologists or psychiatrists, other medical settings, and they are meant to aid in therapy in professional therapy.

That is not quite the same thing as, say, an emotional

support animal, which is meant to provide therapeutic relief.

So in one case a therapy dog would not really be in any of the categories that we talked about, but in the case of one that is helping an individual -- one individual and that lives with them, that would be an emotional support animal, which would still be an assistance animal.

That last one is a personal protection dog. That would not be as far as I know I have never seen an example of this where it would count as an assistance animal. Personal protection dog would not be covered as an assistance animal I would not think. Jeff, you may have an example of it otherwise, but I've never seen it.

>> Jeff: No, I have not either.

And again, a personal protection dog would not -- I mean, to me -- we've not seen it because you can't really relate a disability to a personal protection.

>> Nathan: Right. I think that would be the really hard part of it would be connecting the need for protection to a disability I think is what would be really difficult.

>> Jeff: That also would not constitute a direct threat to also people.

>> Nathan: Right. That is the other thing. If it's meant for personal protection I would imagine that would make it very difficult to say that it doesn't have a history of violence.

>> Jeff: And by posing a direct threat -- you would have the right to deny a request due to a direct threat.

>> Nathan: Right. Good question, though.

>> Yeah, that was a really good question.

Do you want to take one more? We've got a couple of questions here that are kind of going around the numbers of animals folks are allowed to have or request.

>> Nathan: Yeah, I can talk about the number that you can have.

So the most important thing to note here is that when it comes to the number of assistance animals that a single household can have, it is usually only limited -- and there are some extreme cases where this may not be true, but it's going to be limited by the number of disability-related needs for those animals.

So you might need an emotional support animal for -- for any number of reasons. And so you have, say, a dog for that, but that dog hasn't been trained to help

you navigate stairs or inclines, so you have a mobility-related need.

There would be a separate need then for that as an assistance animal. So in that case there would be two. You can ask for verification of the emotional support animal and possibly, depending upon how readily apparent the mobility need is, you could possibly ask for verification for that. But there's not really a hard maximum until you start getting into there may be times when it becomes a health and safety risk to have so many animals in a small space.

I have never seen that. Jeff, have you?

>> Jeff: I haven't either, no.

>> Okay. Nathan, did you want to continue on with the slides or did you want to take another question?

>> Nathan: Oh, we can just do questions. We no more slides so we can just hit questions for the next half hour.

>> Excellent. Well, there are some really great questions coming in.

Someone is asking about the age of the documentation. Can you speak to what age of documentation would be accepted or recommended?

>> Nathan: Jeff, I'm going to defer to you on this one because this is one where I would -- yeah, I'm just going to defer to you on this one.

>> Jeff: Yes, no problem.

So if a tenant is providing documentation for their let's say emotional support animal, the documentation could be a couple of years old, couple of months old. One, you can still verify the information is still valid and up to date. I would say just as a rule of thumb because there is no specific guidance on this, but a good rule of thumb is if it's over a year you can ask for new documentation to be provided.

In addition for reviewing it, I believe that was a question or might be part of this one, another good rule of thumb is to as well relook of the documentation of the support animal yearly, which is about the time of a lease agreement.

You can re-verify that information at that time. So I would say about a year. But that's again general rule of thumb, not a specific rule, guidance from HUD or Department of Justice.

>> Okay, great, thank you, guys.

So the next question is about where animals could be allowed. The question reads: Pets are normally not allowed in the pool area of a complex. Someone with an emotional animal brings their dog into the pool area. What are their limits and are they not allowed in the pool area, not allowed off the leash, et cetera?

Could you guys speak to where assistance animals are allowed?

>> Nathan: Yeah, absolutely. So generally speaking, assistance animals are allowed in any common areas, and a pool could be considered a common area or the pool area would be considered a common area.

Something to keep in mind is that an assistance animal, you can -- it is required to be under the control of the individual at all times, so whether that's on leash or whether that is intense amounts of training that I will just tell you right now my dog would never be able to handle, where they are truly under control with voice, it's going to be rare to see a situation where an assistance animal shouldn't be on a leash or otherwise tethered or attached to a person in some way.

As far as in the pool, yeah, you can -- at least from

what I have seen, there are circumstances where you could say no to the actual animal being in the pool. But on the pool deck or in the pool area, you really can't keep them from being there.

Jeff, do you have any insight in that?

>> Jeff: Yes. So the idea behind that is -- and you can't deny them from being in the pool area because by denying that person has an emotional support animal and a disability, access to pool area is now denying them equitable use of a common area within the complex based on their disability. So you would have to allow them in the area as he was stating. And that's the reason why is because it's allowing that equitable use of a person with a disability without refusing them of that common use service.

But yes, they still have to be on a leash and -- or controllable, just not running free and pooping everywhere and such and such.

>> Okay. Great, thank you, guys for that.

Next question I think a lot of people might want to hear. Are housing providers allowed to charge a monthly pet rent and/or pet deposit for an assistance animal?

>> Nathan: I can answer that, no.

>> Good answer.

>> Jeff: They are not pets. They are an emotional support animal or a service animal so they do not fall under pet fees.

>> Nathan: Right. I will tie this into a question I did see come in, which is what rules can you have for an assistance animal? Because the answer isn't none, right?

You can, for instance, require that the animal receive whatever vaccines or registrations that are required of that animal by local ordinance. Most of the time it's just going to be vaccination requirements. But you can require proof of proper vaccination as long as it is covered in local ordinance. You can require that an assistance animal always be under the control of somebody in the household or always under control. I suppose somebody who doesn't live in the household could be contracted to help take the animal in and out to take care of animal business.

So those sorts of rules you can have, but things regarding, like we said, pet rent, pet deposit, pet fees, no.

>> Okay. So I'll read off another question. If an assistance animal becomes aggressive, are the procedures for removal of the animal the same as for a pet? If the animal is not removed, would the eviction process be the same?

>> Nathan: Uh, that is a great question and would, A, partially depend upon whether or not it participates in any of TDHCA's programs, I would think.

So I think it's basically the same, right? If it is aggressive, the animal needs to be removed. I don't think that there's a different process for it. Jeff?

>> Jeff: No, not that I am aware of. If you can show documentation, the animal poses a direct threat to, you know, to others within that complex housing area, this animal is posing a direct threat, you provide notification that due to these reasons. We actually have seen that where a person had an emotional support lemur and the lemur had bitten people not only in the complex, but in the general public.

So they told this person they couldn't have their emotional support lemur anymore. They filed a complaint. All documentation was shown where this lemur was a direct

threat and the person lost their complaint.

So all the other services would remain -- your policies and procedures would remain the same. There wouldn't be anything different.

>> Okay. We've got a couple of questions coming in I think after the -- after the previous question about pet waste or waste from an animal, who is responsible for it. If someone isn't picking up what are the actions the housing provider could take. Could one of you address that, please?

>> Nathan: Yeah, I can take care of that one.

The owner of the property -- so you, the property management staff or property ownership, are not responsible for the care of an assistance animal. So that responsibility falls to the requester, the person with the assistance animal.

Now, does it have to specifically be that person who requires the assistance? No, it could be a family member or a friend or maybe a service provider or maybe they pay somebody to come and take care of the dog.

But they have to make the arrangements to take care of all the dog doo. That is on the owner -- that is on

the owner of the assistance animal.

>> Okay. We have a couple of questions also about animals being on leashes. One says I have a resident with a service dogs and probably weighs about 20 pounds, so he's a smaller dog, and he never has it on a leash and tells me he doesn't have to.

What should the housing provider do in this scenario?

>> Nathan: Is the animal under control is the question you should ask?

I mean, I think it would be hard to -- it would be hard to find an example of an assistance animal that is so well trained -- I mean, it could be -- so service animals it's very possible that they may not necessarily need to be on a leash because they would be under control. I would say that up until the point that the property management staff there sees that the animal is not in control -- not under control, then probably he doesn't necessarily need to have it on a leash, but as soon as it looks like the animal is not under control then they can require the leash.

Jeff, that's the best I can come up with there.

>> Jeff: Yes. And it comes down to -- because again, everything is very general in the words. It's not

specific like has to be on a leash it just does state the controlling their assistance animal, controlling. And the controlling is not the dog running around to every guest that walks up to them, that's not controlling if an animal is running around free.

So again, if you see that and you're a provider and that emotional support animal, service animal is not looking like it's being properly controlled, you know, start -- soft measures first, right? Hey, can you do this? Some verbal things and maybe some written requirements later. Were you trying to show that the dog is -- I say dog because my mind defaults there. But the emotional support animal, assistance animal, is not being properly controlled and these are the reasons why. Documentation, which always helps.

>> And a similar question and this is about an aggressive breed. Can there be other steps taken by a tenant to minimize the direct threat? So could you ask the tenant to muzzle the dog, maybe cage the dog when an office staff enters a unit?

Could you guys talk about some of the other steps that might be taken before requesting removal of an animal.

>> Nathan: Any steps that a property is going to take prior to requiring removal of the animal, that's -- I think that's all gravy. Jeff?

>> Jeff: , no I can't think of a good example, but with any kind of animal usually there is -- obviously there's a connection between the owner and that animal and there are some -- it doesn't matter what kind of animal that may not like other people coming in. So in order to reduce it or uncomfortable situations that could come up if somebody is coming in, maintenance workers or something, there could be that ask.

And that's the important thing I think to have the discussion between that provider and that tenant and not just ordering rules and regulations, but to have that interactive process where a lot of these issues might not become issues because there is that interactive process between providers and consumers.

>> Great. So another question, this is about insurance for an animal. Our policy states that tenants owning an animal under the Fair Housing Act require insurance. ADA service animals are not required to obtain insurance. Is this differentiation okay?

>> Nathan: That's another easy one. Jeff, do you want it or do you want me to take it?

>> Jeff: I mean, I think both of our answers are going to be the same where it doesn't matter if it's an emotional support animal or a service animal, they are assistance animals so you cannot differentiate between the two and require insurance for one, but not for the other. They are assistance animals and they are free from all of those specific guidelines.

>> Nathan: Right. If you're making a differentiation between the ADA and the Fair Housing Act for things that go on in the tenant's apartment, that's a good reason to stop and maybe rethink that policy because there's really no -- I can't think of any situation where that differentiation would be necessary or acceptable.

>> Jeff: I can add an addendum to that too.

If anybody is out there and they would like us at the Civil Rights Division to do a policy review for you, we do provide that service and you can reach out to us at that email you see at the top, CRD training.

So in situations like this where there could potentially be an issue, we could help adjust that so there

wouldn't be conflict later down the road.

>> Nathan: Yeah. Let me go ahead and drop a little plug in here too for us. If you are a TDHCA monitored property, we can do the same thing for you. Your tenant selection criteria or written policies and procedures, resident selection criteria, whatever you want to call it, you know, you can request that we perform a review on it because as Jeff said, we want to not have the problems to solve, we want to avoid having the problems in the first place. And one of the best ways to do that is to go ahead and submit your tenant selection criteria to us and we'll take a look at things like this for you.

>> Great. So we have a couple of questions about vaccinations for animals.

One of our askers says that they have people that do not vaccinate their pets due to harmful chemicals. Can they show proof from the vet that the pet is healthy, proof of vaccination records or otherwise something else from the veterinary records?

>> Nathan: I'll take a shot at answering this, Jeff, you about I may have to -- go ahead if you want to take it.

>> Jeff: Yeah. And it's just because I have it pulled up. The HUD assistance animal which is in the handouts, it does state in there a person with a disability is responsible for feeding, maintaining, providing veterinary care and controlling his or her assistance animal.

So it does not state they need to have up to date vaccinations against parvo and -- I have a whole bunch of dogs. Rabies and everything.

But providing veterinary care. So if there is documentation from a veterinarian that this dog or cat or any animal is healthy, supply the information.

>> Nathan: I'm going to ask a question here instead of answering one, which is that if the local government owe sew it has an ordinance requiring specific vaccinations, does what you say hold? This is why I didn't really want to answer the question.

>> That is a good point. Off the top of my head, again, those local ordinances, you know, don't exempt -- local ordinance, animals, dogs, whatever, need to have shots, vaccinations -- yep, I will have to do some research on that one. You stumped me on that one.

>> Nathan: I was wondering if --

>> Jeff: It's almost a hornet's nest, an ant hill of ins and outs. Then you're fighting a city ordinance over anything that has to do with Fair Housing.

>> Nathan: Right. So I will say that because -- you would have to have a reasonable accommodation to the local ordinance in which you would probably have to show your own disability related need for an animal that did not receive a vaccine.

That would be -- where I think it would end up.

>> Jeff: Right. And honestly, I think it would end up not -- again, probably more of a complaint against, you know -- not a Fair Housing complaint if you can probably show -- because the memorandum -- it does just state veterinary care. And if you're going to challenge that by this local city requires all animals have rabies shots, then you're going against a local ordinance over a Fair Housing law.

>> Nathan: Right.

That one's tough. I don't know that there's a good clean answer to it right now.

>> Let me guys maybe an easier question to answer. If

someone inherits a service animal, is it still a service animal?

>> Nathan: Does the person who inherited it -- does the person who inherited it have a disability related need for the service animal? If not, then no.

>> Jeff: It's just a trained animal at that point.

>> Nathan: Yeah, it's a pet. At that point it becomes a pet.

>> We've got a couple more questions come in again about the number of service animals or assistance animals. So could one person have three animals if there's five or six animals in an apartment? Could you go over again what you said about having multiple assistance animals or assistance animals and pets?

>> Nathan: Yeah. So let's assume for the moment for this question, and I know that of course it's never going to be this simple in real life, that all of this household's disabilities are not readily apparent.

If they are attempting to have or asking requesting to have five assistance animals, they would need to verify -- have verification for the disability, disability-related need for each of those animals.

So in the case of five assistance animals they're going to need verification for each one of those five, not just one of them and it doesn't apply to all of them.

So at that point in time I'm just going to say it's really unlikely that that happens, that there is a verifiable need for five assistance animals from one person.

I haven't seen it. Jeff, have you?

>> Jeff: I haven't either, no.

So let's go ahead and say that okay, maybe two of those five are needed, are -- have a verified -- a verifiable-related need for two of those animals. The other three would be considered pets. So all of the pet deposit, pet rent rules apply to those three, but not the first two that are assistance animals. And I think that should answer the question, I hope it answers the question.

>> We'll see if there's any follow-up questions to that.

Let's go back to record-keeping. As a housing provider can we ask for specific assistance animal information for record-keeping purposes, such as breed or

color, age, weight, shot records, et cetera.

This information may be helpful should the animal be found alone or should an incident occur.

>> That would be right on the line, Jeff, wouldn't it.

>> Jeff: I completely recommend having that for those reasons stated. If there's something happen it's good to have that record. Just the same as if anybody was in our previous webinars if you're asking for a reasonable accommodation request it doesn't have to mean writing it in specific, but it is good to document that information. So I do recommend that. I do not see where you can force that information, but then at the same time you can see the dog as a property manager and be like, I'm just going to make a note in the record that you have a golden labrador retriever that looks to be about 30 pounds.

>> Nathan: Yeah, that's what I was thinking is that sure, you can have that information, but you can't require that information to be divulged.

>> Jeff: And for most responsible animal owners, whether they are dogs or cats or anything, it is good to have that interactive process because you can show that you care. Like hey, tenant, is your animal chipped that

we can put in our file that if it gets out we are able to assist you in getting that animal back to you because we have that CHIP on file? And somebody is like, hey, is this animal on file at your complex because we found it in the area?

Yes, that belongs to the tenant in 2B, Mr. Smith.

And if you have that interactive process where you're showing you actually care and you want to work with your tenant, then you should be able to get that information.

>> Nathan: Yeah.

>> Great.

Okay. Well, we are just at the end of our scheduled time for today so we've got a lot of great questions that have come in that we were not able to get to. If you submitted something we'll follow up directly with you to get you an answer. If you needed more clarification on something that we attempted to answer, please reach out to us. The contact information was up on the previous slide and it will be sent out with all of the materials as well.

So I want to thank Nathan and Jeff for all of the great information that they've provided. I think to our sign

language interpreters and the captioner. With that I'll wrap it up and again contact us with any questions. We are always happy to be stumped and try to look for an additional answer that we've never come across before. So thank you again and we hope to see you at our next scheduled Fair Housing trainings. Links to those will be coming out in a follow-up email as well.