

FAQ for TDHCA monitored properties relating to Emotional Support Animals

Updated July 2026

This set of Frequently Asked Questions (FAQ) relates specifically to Emotional Support Animals (ESAs) and the guidance issued on May 22, 2026, by the **U.S. Department of Housing and Urban Development (HUD)**, the **Trainor Memo**, which permanently rescinded prior federal guidance regarding emotional support animals (ESAs) in housing as a disability accommodation under the Fair Housing Act. The Trainor Memo does not address accommodation requirements under Section 504 or the ADA, which would include developments awarded federal or state funds at any time, and Tax Credit or Bond Developments awarded after September 1, 2001, as those Developments are covered by Section 504 and should continue to follow Section 504. All Developments in TDHCA's portfolio must continue to follow 10 TAC §1.204.

Does the new 2026 guidance (the 2026 Trainor memo) mean ESAs are no longer protected as a reasonable accommodation under the Fair Housing Act?

This guidance document does not alter any current rules or statute. What the document does is to establish the standards by which HUD will decide whether a complaint about an assistance animal has cause. Previous guidance established more expansive inclusions of assistance animals that also included animals that "provide therapeutic emotional support." While the new guidance does not actually state that ESAs are not covered or protected under the Fair Housing Act, it does indicate that HUD will evaluate complaints using the ADA's 'training component,' meaning the animal must be individually trained to perform work or tasks directly related to a complainant's disability and will not pursue action in complaints where the assistance animal is untrained, as most ESAs are.

If ESAs are not protected as a reasonable accommodation under the Fair Housing Act, what types of animals are?

The 2026 Trainor memo indicates that HUD will only pursue action or find cause in complaints about assistance animals where the animal was individually trained to assist with a disability.

Can I start charging my tenants who have untrained ESAs with pet rent, pet deposits, and pet fees?

If your property is only subject to the Fair Housing Act and not a more restrictive local law and is not covered by 504, TDHCA recommends that properties that participate in its programs refrain from immediately assessing their standard pet fees, pet rent, or pet deposits on current tenants with ESAs that are in a current lease. This is because the lease serves as a contract between the property and the tenant, and no pet fees, deposits, or rent were agreed to in the current lease. Instead, TDHCA recommends that properties wait for the household's lease renewal and provide as much advance notice as possible. As part of the renewal process, the property should give the household with an ESA an opportunity to provide documentation or verification that the animal has been trained to assist with their specific disability. If the household can provide this documentation, per the 2026 Trainor memo, then the animal would be considered an individually trained assistance animal and not an untrained ESA.

No pet fees, pet rent, or pet deposits should be assessed for an animal that has documentation that it has been trained to assist with their disability. If the household cannot provide documentation of training, then the standard pet fees, pet rent, and pet deposits can be charged at the beginning of the new lease term.

We have a no pets policy. Can I remove or evict a tenant that has an ESA that does not have documentation, or require removal of the animal immediately?

A support animal is required to be considered as a reasonable accommodation under 10 TAC §1.204, and an Owner should not evict or provide a notice to vacate to a household that has an ESA while they are under a current lease. If your property is only subject to the Fair Housing Act, and not a more restrictive local law or covered by 504, a household should be informed that upon lease renewal they may be charged pet fees, pet rent, and pet deposits until and unless the household can provide documentation that the animal is individually trained to assist with their specific disability or unless the animal will no longer be in the unit by the start of the new lease term. This gives both tenants and owners or their designees appropriate time to provide and review documentation of the animal's training.

Are dogs the only allowable assistance animal under the 2026 Trainor memo?

The Trainor memo does not discuss this conclusively. While the stated intent of the memo and future rulemaking actions is to align Fair Housing Act guidance and regulations about assistance animals with Titles II and III of the Americans with Disabilities Act, the memo does not invoke this particular part of the ADA. It is, therefore, unclear if the intent of the memo is to restrict assistance animals to dogs. TDHCA does not recommend including any restrictions on the species of assistance animals, as the requirement to provide documentation of individual training to assist with a disability will likely exclude many animals that are untrainable or very difficult to train.

Are there any other rules or laws that might be relevant to assistance animals that are not mentioned in the 2026 Trainor memo?

The Trainor memo only makes changes to the way HUD will process assistance animal complaints under the Fair Housing Act. However, there may be local ordinances or state statutes that confer additional protections. Please consult an attorney to identify if any of these possibilities apply. Additionally, Section 504 of the Rehabilitation Act, which applies to any TDHCA-monitored property with federal or state funds, or to Low Income Housing Tax Credits or Bonds awarded after September 1, 2001, confers some additional restrictions. Specifically, Owners covered by Section 504 are required to make and pay for any accommodations that may be necessary for a person with a disability to enjoy meaningful access to its programs. The Trainor memo specifically states that this "guidance does not address how [HUD] will process complaints against housing providers under Section 504 of the Rehabilitation Act or the Americans with Disabilities Act (ADA)." If the household meets the requirements to grant a reasonable accommodation (including it not being an undue financial and administrative burden) and property is subject to Section 504, you will need to allow support animals at your property under 10 TAC §1.204(i) without charging the household. Please consult an attorney or with your organization's Section 504 coordinator to see what your Section 504 responsibilities may be regarding assistance/support animals. Additionally, the Trainor memo explicitly disclaims that it does not alter the right for any individual to seek redress via private action in the appropriate court of law. This means that in some individual cases,

a court may find that a specific animal may be a reasonable accommodation, even if it does not meet HUD's Trainor memo criterion for training.

What questions can I ask a household with an assistance animal?

ADA guidance identifies two questions that a housing provider may ask to a household with an assistance animal:

1. Is the animal required because of a disability?
2. What work or task is the animal trained to do in relation to the disability?

TDHCA strongly recommends not asking further questions. If additional information is required, you should ask the household/applicant to provide documentation that they have a disability (only if the disability is not readily apparent) as defined by the Fair Housing Act (a physical or mental impairment that substantially limits a major life activity), that the animal is necessary to alleviate one or more of the impairments, and that the animal is trained to perform a task or do work that alleviates that impairment. At no point should an Owner ask for information about any diagnosis or about the nature or severity of the disability beyond documentation that indicates that one or more major life activities are impaired and identifies what those activities are.

Where can I find more information and guidance regarding reasonable accommodations and assistance animals?

For additional clarification or information, please refer to the Joint Statement of the Department of Housing and Urban Development and the Department of Justice – Reasonable Accommodations under the Fair Housing Act

(https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf) and HUD's memorandum Enforcement Guidance – Assessing Requests for the Use of an Animal as a Reasonable Accommodation under the Fair Housing Act

(<https://www.hud.gov/sites/default/files/hudclips/documents/AS-Trainor-Enforcement-Guidance-Assessing-Requests-for-the-use-of-an-animal-as-a-reasonable-accommodation-under-the-fair-housing-act.pdf>)

For any additional questions about this or other Fair Housing inquiries related to TDHCA programs, please contact fair.housing@tdhca.texas.gov