

# “Evaluating Requests for Service and Emotional Support Animals,” FLCAJ Magazine

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As a community association attorney who focuses her practice on Fair Housing issues, I can state that one of the most difficult issues facing community association board members is how to evaluate and address requests for accommodations for service and emotional support animals (ESA). Over the last two years, we have seen changes regarding how to evaluate these requests. Notably, HUD issued FHEO-2020-01 on January 28, 2020. This is considered HUD’s “best practices” for evaluating requests for service and support animals. FHEO-2020-01, titled “Assessing a Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act,” provides guidance for evaluating these requests. Florida also enacted statutory amendments to address these requests.

HUD’s “best practices” suggests that requests for service animals should be treated in the same manner as requests for service animals under the Americans with Disabilities Act (ADA). HUD recommends that associations only ask two questions when a service animal request is made.

- (1) Is the animal required because of a disability?
  - (2) What work or task has the animal been trained to perform?
- If proper answers are provided, approve the service animal.

This oversimplifies the process and would require an approval of a service animal in virtually every case. In my opinion, since the “best practices” says it should be read in conjunction with the FHA, 24 CFR 100 and the joint statement, all of which define disability in the same manner, arguably, an association can still require documentation for service animals. HUD’s “best practices” also state that a “[f]ailure to adhere to this guidance does not necessarily constitute a violation by housing providers of the FHA or regulations promulgated thereunder.” When an association is skeptical of a request, it should be able to seek clarifying information and/or documentation to conduct a meaningful review of the request.

Turning to requests for ESAs, for the most part, mental disabilities are not as open and obvious as compared to many physical disabilities. Combine this with the number of websites and individual medical professionals that advertise to write letters after a one-time evaluation, or worse yet, an online “test,” and you have a situation in which a community association is in a very difficult position. If the association approves the animal, the residents are forced to live with an animal

despite having severe allergies and/or phobias. If an animal is denied, associations are subject to lawsuits and HUD complaints.

To read the original FLCAJ Magazine article, please [click here](#).