



Departmental ADA Coordinators' Academy

Session III – April 10, 2015

**All About Reasonable Modifications and
Accommodations**

Presented by the
San Francisco Mayor's Office on **Disability**

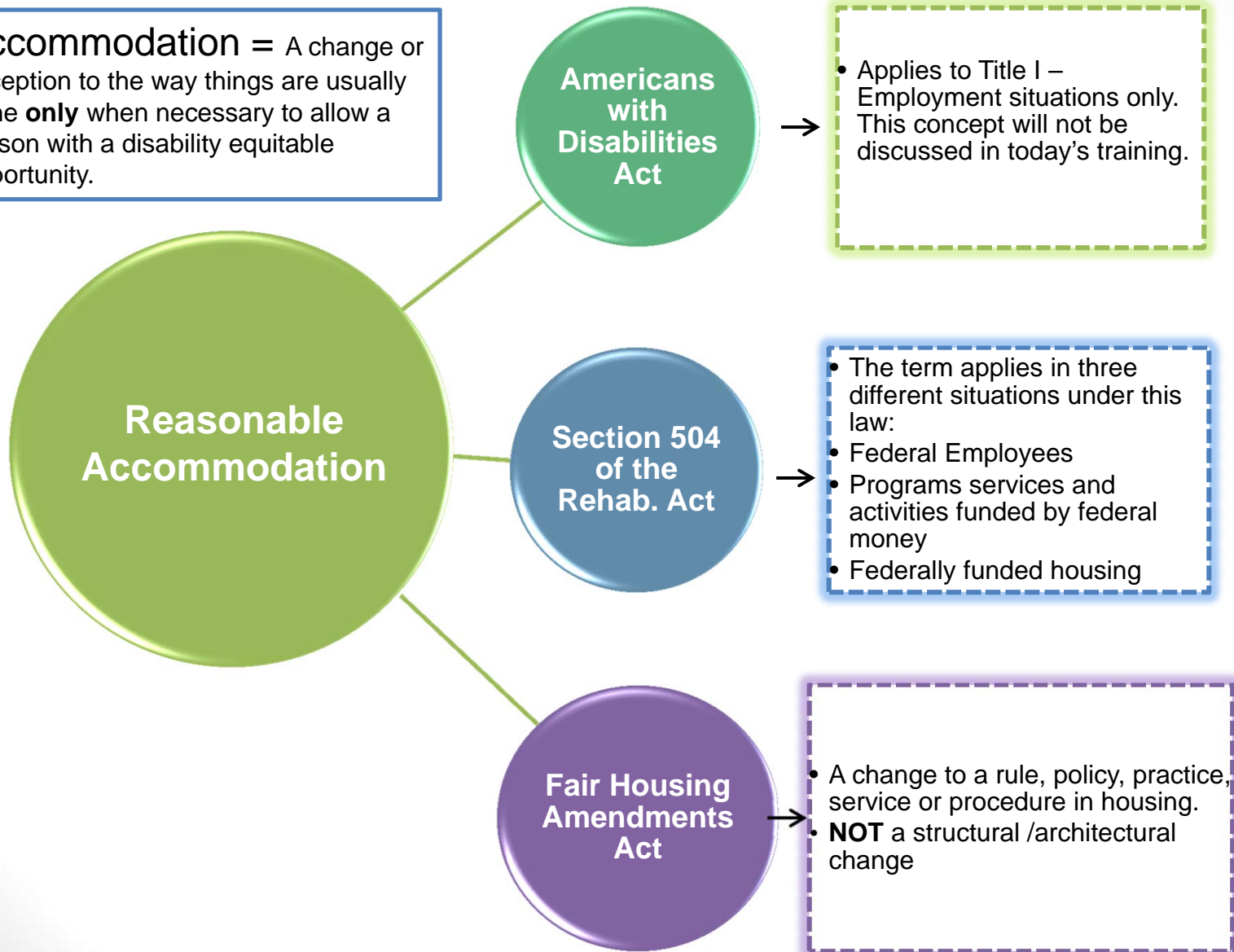


Today's Learning Objectives:

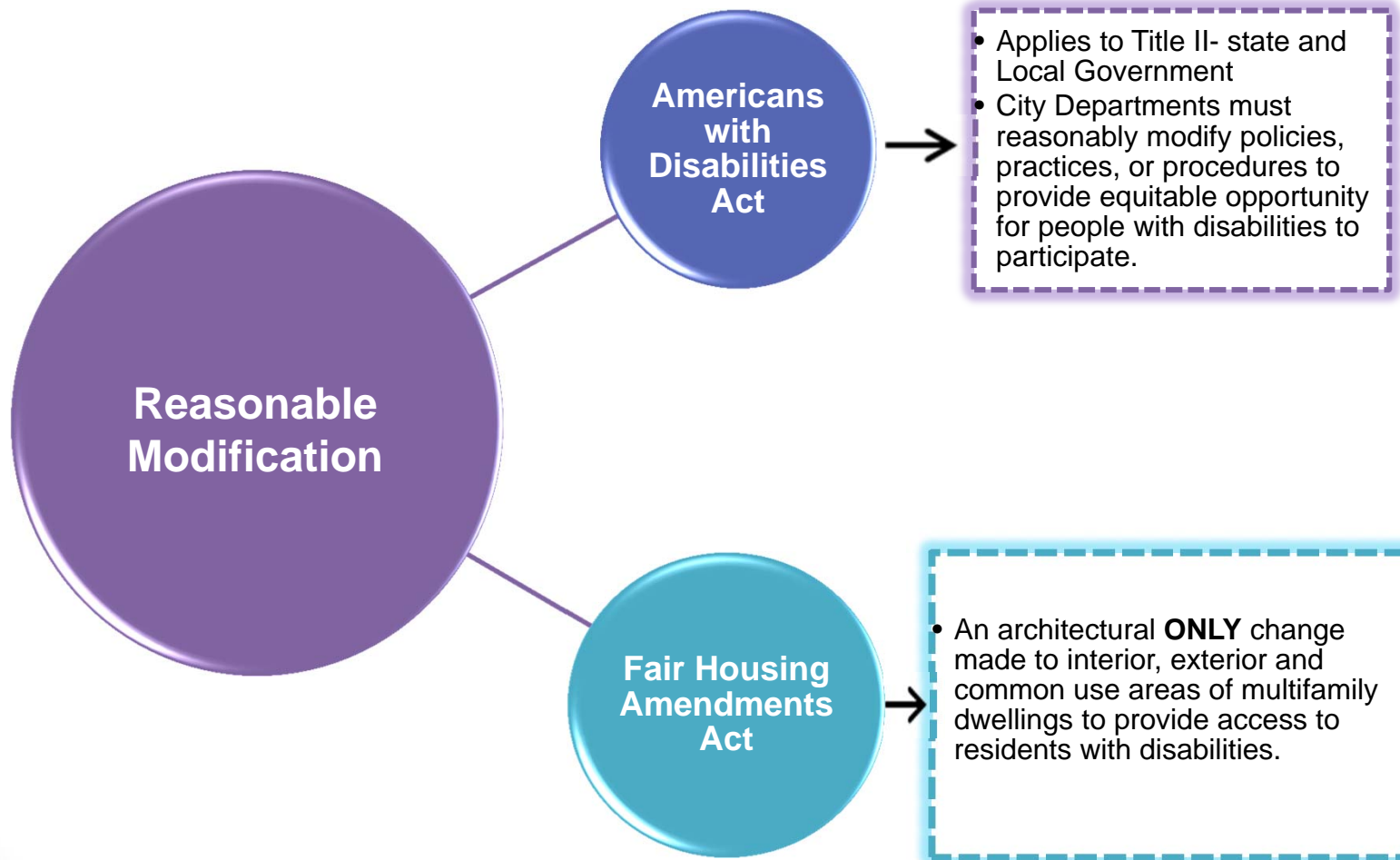
- ☐ Learn to apply the appropriate ADA principles when evaluating a request for a reasonable modification under Title II of the ADA.
- ☐ Understand the concept of reasonable accommodations & modifications under the Fair Housing Amendments Act (FHA) in City funded housing.
- ☐ Learn the specific rules as they apply to service and support animals.

Reasonable Accommodations Under Federal Disability Rights Laws

Accommodation = A change or exception to the way things are usually done **only** when necessary to allow a person with a disability equitable opportunity.



Reasonable Modifications Under Federal Disability Rights Laws





REASONABLE MODIFICATIONS For City Departments

Reasonable Modification for City Programs, Services & Activities

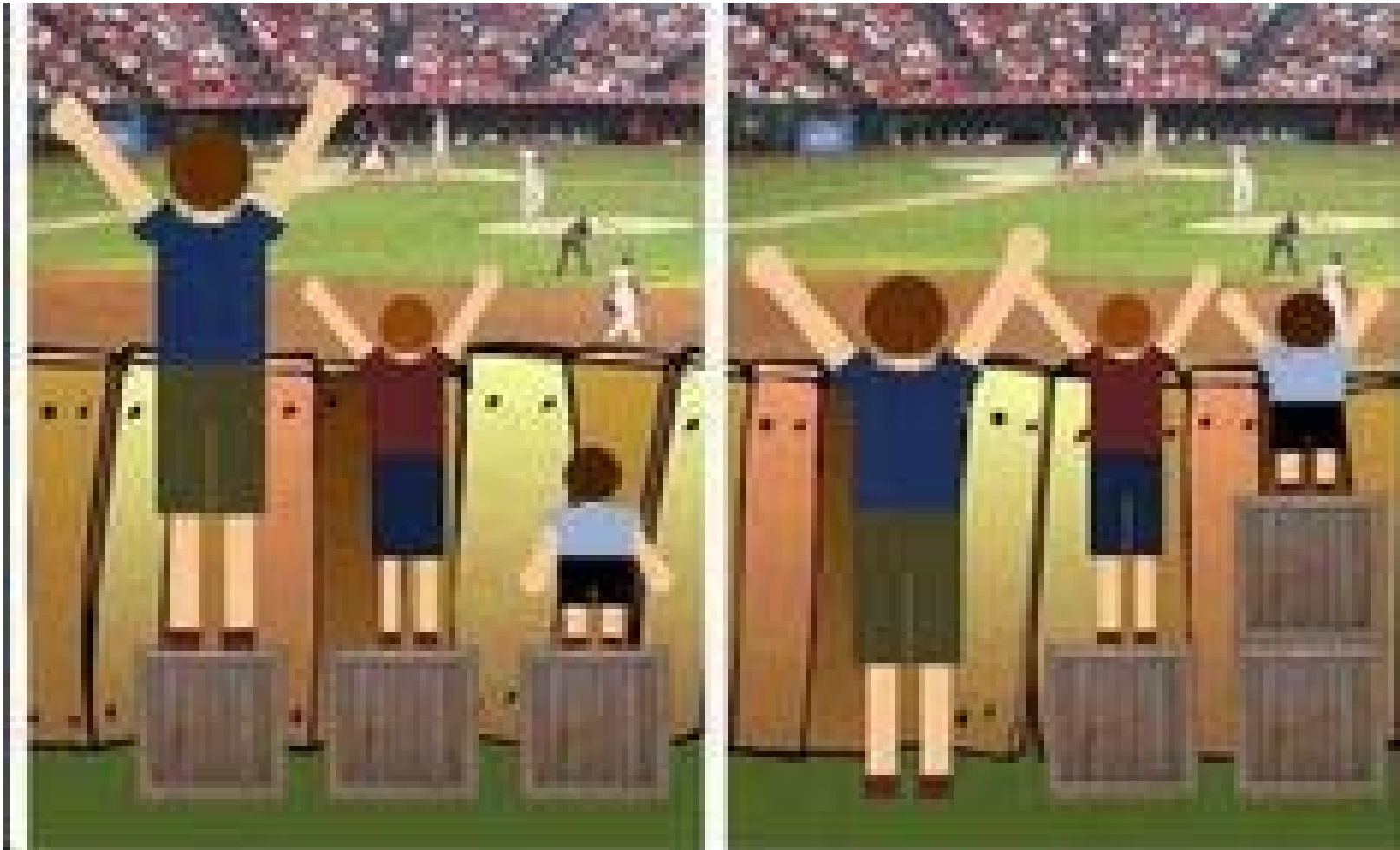
- A reasonable modification is a change or exception to a policy, practice, or procedure that allows people with disabilities to have equitable access to programs, services and activities. Reasonable modifications must always be related to the individual's specific limitation caused by the disability.



Examples of Reasonable Modifications to Policies, Practices & Procedures

- City Hall modifies its “no pet” policy in order to allow individuals with service and support animals to enter the premises.
- Allowing an exception to the City’s zoning setback rule to allow an individual to install a wheelchair ramp in front of their residential property.
- Assisting someone with a cognitive disability in understanding and filling out a form to receive public assistance benefits.

Same versus “Equal”



Extra Time?



Lilian Stuart contacts the Clerk of the Board of Supervisors to request that she receives extra time to speak during public comment at the next Board of Supervisors' meeting. Ms. Stuart

explains that she has a speech impairment and stutters when she speaks in public which makes it difficult for her to relay what she wants to say in a timely manner. She requests 6 minutes instead of the 3 minutes allocated for public comment.

- How would you begin to analyze this request?
- Does this request raise any concerns?
- What about documentation?
- Should the request be granted; why or why not?
- Are there other alternatives to the requested accommodation?

Evaluating Reasonable Accommodation (RA) / Reasonable Modification (RM) Requests

- **Disability:** Does the person have a disability?
- **Ask:** Did the client ask for an RA or RM verbally or in writing?
- **Nexus:** what is the nexus (connection) between the disability and the requested RA/RM?
- **Change:** Does the RA/RM fundamentally change the program?
- **Excessive:** Does it result in excessive administrative or financial burden?

When can a request for a Reasonable Modification be denied?

- If the public entity can demonstrate that the modification would **fundamentally alter** the nature, service, program, or activity.
- If the requested modification results in a direct threat to self or others.
- Disability access physical or programmatic **DOES NOT** trump health and safety considerations!

The threat assessment, however, must be based on research and documented fact, not simple assumptions.

Examples of Fundamental Alterations

- A patron at a City cultural center requests that a wheelchair be reserved for his personal use. The wheelchairs are available to patrons on a first-come, first-serve basis.
- A patron at a City funded facility requests that the restrooms have a higher quality toilet paper due to the patron's sensitivities and her need to use the restroom more frequently due to her disability.
- A paratransit customer requests that the paratransit drivers operating a shared ride service with multiple destinations, route their rides specifically to the customer's need to avoid hills due to her disability.

Permission to record?

Marco DuPont who is hard of hearing and a client at the XYZ City funded shelter contacts the ADA Coordinator to request that he be provided a recording device and be granted permission to record conversations that he has with staff and other shelter clients. He says that due to the difficulty that he has hearing in noisy settings, he needs the device to playback conversations so he can verify what was said in the conversation.

- Does this request raise any concerns?
- What about documentation?
- Should the request be granted; why or why not?
- Are there other alternatives to the requested accommodation?



To Plant a Tree...

Mr. Jackson is doing a major renovation to the frontage of his house, costing hundreds of thousands of dollars. As part of a City Code, he is required to plant trees in front of his sidewalk or to pay a fee that amounts to approximately \$1,700. He requests a reasonable modification to be exempted from planting the trees **AND** waive the fee due to a respiratory disability.



- Given everything you've learned so far, how would you respond to Mr. Jackson's request?
- What questions will you ask?
- What about documentation?
- What other options might you be able to offer?



REASONABLE ACCOMMODATIONS

For City & Federally Funded Housing Providers

Fair Housing Amendments Act (FHAA)

- It applies to multi family dwellings of 3 or more units.
- It applies to renting, buying, or securing financing for any housing.
- It prohibits discrimination due to race, color, national origin, religion, sex, disability and the presence of children.



Reasonable Accommodations Under the FHAA

- A change to a policy, practice or procedure during the application, tenancy and eviction process related to a person's disability.

Examples:

- Allowing mail in applications for housing instead of standing in line.
- Amending the lease to allow a person needing a 24-hour caregiver to have an extra person stay in the premises.
- Entering into a behavioral contract for a person with hoarding and cluttering to allow him/her time for therapy and assistance before moving to full eviction.

Park It!



Ms. Grace Li, a woman with rheumatoid arthritis, has lived in your building for 8 years. You are the landlord of the building where there is unassigned parking spaces available for all tenants, on a first come-first served basis. Ms. Li comes to you requesting a parking spot closer to her unit so that she doesn't have to walk as far to her unit. You have known her for the 8 years she has lived here. She doesn't use a walker or a wheelchair, so you are suspicious about her need for an assigned space closer to her unit.

- Would this be considered a request for a reasonable accommodation or reasonable modification?
- What documentation, if any, can you ask her to provide?
- Can you deny the requested accommodation because you don't think Ms. Li has a "legitimate" disability?

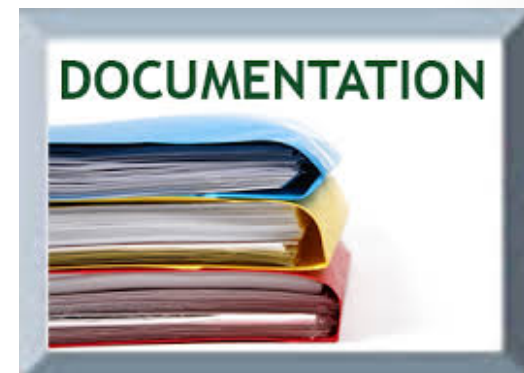
Reasonable Modifications under the FHAA

- Landlords must allow tenants with disabilities to make reasonable architectural modifications to their dwelling or common use areas to provide access.
- In general, the landlord has the right to only permit the change if the tenant agrees to restore the property to its original condition once they move.
- In federally funded housing or City contracted supportive housing programs, the tenant **DOES NOT** pay for the cost of the modification.
- Examples of such modifications include: grab bars, roll-in shower, lever handles, ramps, etc.

Disability-Related Questions under the FHAA

The housing provider has the right to request a limited amount of documentation from a qualified professional only if:

- The documentation is limited in nature to only verify that there is an impairment and the nexus (connection) between disability and the accommodation.
- Inquiries related to medications, diagnosis or medical status **are strictly prohibited**.



Grab Bars?



Mr. Greg Troutman, a person with a disability, has lived at a supportive housing program, funded through HSA, for 2 years. He previously used a walker, but now he uses a wheelchair. Mr. Troutman has asked that grab bars be installed in his bathroom near the toilet.

- Would this be considered a request for a reasonable accommodation or reasonable modification?
- What documentation, if any, can you ask Mr. Troutman to provide?
- Who pays for the installation of the grab bars?

Additional Tips for Providing RM in City Services or RA in Housing

- **If it is easy, just do it!**
- Before you decide, you **MUST** get information & discuss options with customer /tenant (interactive process).
- You can choose what type of RM or RA to provide as long as it is effective.
- The timeline for responding to RM / RA is **ASAP!**
Within 3 days you must provide a response with an anticipated decision date, not to exceed 30 days.



ALL ABOUT ANIMALS...

Service, Support & Assistance Animals

Service and Support Animals Defined Under Federal Disability Rights Laws

Disability Rights Laws	Service Animals	Support Animals	Assistance Animals
Section 504 of the Rehabilitation Act	Term is not used	Term is not used	Is an animal that performs tasks for the benefit of a person with a disability, or provides emotional support to alleviate disability symptoms.
Americans with Disabilities Act	As defined under Title II and III of the ADA. <ul style="list-style-type: none"> • A dog (or miniature horse) ONLY • Individually trained to do work or perform tasks for a person with a disability. 	Are NOT covered under Title II and III of the ADA.	Term is not used
Fair Housing Amendments Act	Term is not used	Term is not used	Is an animal that performs tasks for the benefit of a person with a disability, or provides emotional support to alleviate disability symptoms.

Service Animals Under Title II of the ADA

- DOJ's revised ADA regulations define “service animal” as any **dog** that is **individually trained to do work or perform tasks** for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.



- Examples: Guide Dog, Seizure Response Dog, Hearing or Signal Dog, Psychiatric Service Dog, SsigDOG (sensory signal dogs or social signal dogs)



- In some cases, where reasonable, miniature horses might be allowed.

Service Animal Inquiries

- Service animals are not required to have specific harnesses, vests or identification tags.
- The ADA allows only limited inquiries about service animals even if their function is not obvious:
 1. Is the dog a service animal required because of a disability?
 2. What task has the dog been trained to perform?
- You cannot ask about the person's disability.
- You cannot ask the person to have their service animal demonstrate a task.



ADA Service Animal Rules

- Staff can not refuse service to people using service animals due to allergies and fear of dogs.
- **A service animal can be removed if:**
 1. The animal **is out of control** and the handler does not take effective action to control it.
 2. The animal **is not housebroken**.
 3. The animal **poses a direct threat** to the health or safety of others .
- Places that sell or prepare food must allow **service animals** in public areas even if state or local health codes prohibit animals on the premises.
- People with disabilities who use service animals cannot be isolated from others or treated less favorably than others.
- Staff are not required to provide care or food for a service animal.

Support Animals – **NOT** Covered under the ADA

- A support animal does not perform a disability specific task but its mere presence offers an individual with a disability emotional comfort.
- It primarily provides assistance for people with psychological disabilities such as depression, anxiety or agoraphobia.
- A support dog is different than a Psychiatric Service Dog, it has not been specifically trained.
- Support animals can be other species i.e. cats, birds, reptiles etc.



Assistance Animals Under the Fair Housing Amendments Act and Section 504

- Includes both animals that are trained to perform a specific task for a person with a disability and animals that provide emotional support or are therapy animals.
- The species of the animal is not limited to dogs.



Assistance Animal Inquiries in Housing

- Documentation requests for assistance animals apply **ONLY** in housing (FHAA).
- If the disability is obvious, no further inquiries are necessary (i.e. a guide dog for a blind person).
- If the nexus is not apparent or known, then the provider can request limited documentation related to verification of a disability, and need for the assistance animal.

Assistance Animals Exclusions

- The assistance animal **CAN be excluded when:**
 - it poses a **direct threat** to the health and safety of others
 - it would **result in substantial physical damage** to property
 - there is an **Undue Financial and Administrative Burden**
 - it would result in a **Fundamental Alteration**

Examples:

- The dog is aggressive and has lunged at other tenants.
- The dog is not housebroken and is defecating all over the housing complex.
- The rental property insurance costs would substantially increase based on the breed of the animal and there are no other insurance options.

Service and Support Animals in CCSF

- Individuals with disabilities that use service AND / OR support animals are allowed equal access to all City sponsored programs, facilities, services, and activities.
- Service and Support Animals must adhere to behavioral guidelines.
- Cannot be more restrictive than what is outlined under State and Federal law but can provide greater access.

**Service and Support Animals Welcome**

Your Animal Must:

-  • BE under your control AND on a short leash or in a carrier
-  • BE house-trained
-  • NOT be disruptive or aggressive
-  • NOT be on furniture
-  • NOT be fed or watered indoors

You Are Responsible for Your Animal's Behavior!

What about the Dog?

A city contracted housing provider has a “no pets” policy at their SRO Hotel. The housing provider learns through a neighbor, that Lupe Gonzales has been keeping a Pit Bull Terrier in her unit. The neighbor reports that when Ms. Gonzales leaves, the dog barks all day until she comes home. The neighbor also says that Ms. Gonzales takes the dog off leash late at night to run up and down the hotel’s hallway. He explained that he has been having allergies because of the dog and he is also concerned that the animal is vicious.



After an impromptu visit you find out about the dog and issue a lease violation notice. Ms. Gonzales responds that her dog is a service animal needed for her disability. You do not believe her because she has never claimed that she has a disability before.

- How would you respond?
- What would be your next steps?
- Can you deny the accommodation based on reports that the dog is vicious and the neighbor has an allergic reaction?
- If the request is granted, can the housing provider require Ms. Gonzales to pay an extra deposit for the animal?

Thank You!

For more questions & information contact:

Joanna Fraguli, Deputy Director for Programmatic Access

Tel: 415.554.6750 or Joanna.Fraguli@sfgov.org

Heather Kittel, ADA Grievance & Intake Coordinator

Tel: 415.554.6060 or Heather.Kittel@sfgov.org

Donna Adkins, Programmatic Access Specialist

Tel. 415.554.6703 or Donna.Adkins@sfgov.org



San Francisco Mayor's Office on **Disability**
www.sfgov.org/mod