



Maine Human Rights Commission

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MAINE HUMAN RIGHTS COMMISSION

Public Guidance Statement RE: HUD's New Emotional Support Animal Enforcement Guidance and Maine Housing Providers' Continuing Obligations Under the Maine Human Rights Act

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What Has Changed at the Federal Level

On May 22, 2026, the U.S. Department of Housing and Urban Development (HUD) issued an enforcement memorandum announcing that it will no longer find reasonable cause in housing complaints involving emotional support animals (ESAs). In other words, animals that provide comfort, companionship, or otherwise mitigate the effects of a person's disability but have not been individually trained to perform specific disability-related tasks are no longer protected at the federal level. Going forward, HUD will pursue enforcement only where an animal has been trained to perform work or tasks directly related to a person's disability (essentially, HUD has imported the Americans with Disabilities Act's narrower "service animal" definition into Fair Housing Act enforcement).

HUD simultaneously rescinded its 2020 guidance, which had for years provided meaningful protections to individuals who rely on ESAs as part of their disability-related care. After 35 years without updating its regulations in this area, the federal government's chosen solution has been, perhaps unsurprisingly, to reduce protections rather than clarify them.

The Maine Human Rights Commission takes note of this development. We also take note that it changes nothing in Maine.

What Has NOT Changed: Your Rights Under the Maine Human Rights Act

The Maine Human Rights Act (MHRA), 5 M.R.S.A. ch. 337, is an independent state law. It is not subordinate to HUD's enforcement priorities, and it is not amended by a federal memorandum. The rights it guarantees to Maine residents with disabilities remain fully in effect.

The MHRA's definition of "assistance animal" expressly includes emotional support animals.

Under 5 M.R.S.A. § 4553(1-H), an "assistance animal" for purposes of the MHRA's Fair Housing subchapter means either:

- (A)** An animal that has been **determined necessary** for an individual with a physical or mental disability to mitigate the effects of that disability **by a physician, psychologist, physician associate, nurse practitioner, licensed social worker, licensed professional counselor, or other licensed health professional** with knowledge of the disability-related need; *or*
- (B)** An animal individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability.

This is a deliberate and meaningful distinction from federal law. Prong (A)—which describes the classic emotional support animal—requires no training whatsoever. It requires only that a qualified health professional determine that the animal is necessary for the individual to mitigate the effects of their disability. The Maine Legislature made this choice intentionally, and the Commission will honor it fully.

Maine housing providers have specific, mandatory obligations regarding assistance animals.

Under 5 M.R.S.A. § 4582-A, it is unlawful housing discrimination for any owner, lessor, sublessor, managing agent, or other person with the right to sell, rent, lease, or manage a housing accommodation to:

- **Refuse to make reasonable accommodations** in rules, policies, practices, or services when those accommodations are necessary to give a person with a physical or mental disability equal opportunity to use and enjoy the housing (§ 4582-A(2)); or
- **Refuse to permit the use of an assistance animal**, or otherwise discriminate against an individual with a physical or mental disability who uses an assistance animal, unless the housing provider can show that the animal poses a direct threat to the health or safety of others, would cause substantial physical damage to property, or would substantially interfere with others' reasonable enjoyment of the housing accommodation (§ 4582-A(3)).

Critically, § 4582-A(3) further provides that **the use of an assistance animal may not be conditioned on the payment of a fee or security deposit**, although the individual with a disability remains liable for any actual damage caused by the animal.

What This Means in Practice for Housing Providers

Regardless of what HUD will or will not now enforce at the federal level, Maine housing providers remain obligated to:

- Consider requests to accommodate assistance animals — including emotional support animals supported by documentation from a licensed health professional — on a good-faith, individualized basis;
- Refrain from categorically denying ESA accommodation requests on the grounds that the animal lacks formal task training;
- Refrain from charging pet fees, pet deposits, or other animal-related fees for approved assistance animals; and
- Limit follow-up documentation requests to what is genuinely reasonable under the circumstances, and do not use documentation requirements as a tool to discourage or obstruct legitimate requests.

Housing providers who violate these obligations may face a complaint filed with the Maine Human Rights Commission, a formal investigation, and—if the Commission finds reasonable grounds to believe a violation has occurred—a civil rights charge under Maine law. Complainants also retain the right to bring a private civil action in Maine Superior Court under 5 M.R.S.A. § 4621.

What This Means for Maine Residents with Disabilities

Your rights have not changed. If a housing provider denies or obstructs a reasonable accommodation request for an emotional support animal or attempts to charge you a pet fee for an approved assistance animal, you may file a complaint with the Maine Human Rights Commission. There is no fee to file.

For more than a decade, Maine law has recognized that a dog, cat, or other animal can be genuinely necessary to a person's ability to live with dignity and stability in their home—not because the animal has completed a training program, but because a qualified health professional who knows that person has determined it to be so. That recognition is codified in our statutes and will continue to be enforced.