

Colorado House Bill 26-1045 and Assistance Animals in Municipal Housing

If you are an employee of a municipality or housing authority that owns, operates, manages, or administers residential housing,ⁱ then you are likely familiar with the existing legal framework governing access to housing by individuals with disabilities. You may also know that existing law may require your entity to make an exception to an otherwise applicable no-pets policy when an individual with a disability needs an assistance animal to have an equal opportunity to use and enjoy a dwelling.

For years, housing providers looked to the federal Fair Housing Act (FHA), its implementing regulations, and guidance from the U.S. Department of Housing and Urban Development (HUD) for help in determining when an animal-related accommodation was required and how a request should be evaluated. However, that framework became less certain on September 17, 2025, when HUD withdrew its 2013 and 2020 assistance animal notices.ⁱⁱ

In response to the withdrawal, the Colorado General Assembly found that the resulting absence of federal guidance had produced uncertainty, inconsistent interpretations, and litigation risk, and that state legislation was needed to restore clarity and predictability for housing providers and individuals with disabilities.ⁱⁱⁱ Accordingly, on May 19, 2026, the Colorado legislature passed House Bill 26-1045 (“HB 26-1045” or the “Act”) to amend the Colorado Anti-Discrimination Act, C.R.S. §§ 24-34-301 to -805 (“CADA”), with the expressed intention of restoring “the rescinded federal guidance by codifying it in state law.”^{iv} The Governor signed the bill on May 28, and the Act took effect on August 12, 2026.^v

This article summarizes the Colorado Act’s requirements as they apply to municipalities and municipal housing authorities that own, operate, manage, or administer housing.

GENERAL PROVISIONS OF THE ACT

The Colorado Act expressly includes animals that do work, perform tasks, assist, or provide therapeutic emotional support. The Act establishes specific standards for assistance-animal accommodations in housing. While the Act uses much of the FHA’s reasonable accommodation framework, it goes further in several respects. In addition to expressly including emotional-support animals, the Act presumes that permitting an assistance animal is a reasonable accommodation following a housing provider’s opportunity for an interactive process. The Act also treats blanket bans on assistance animals as presumptively discriminatory.^{vi} The Act further establishes standards for evaluating documentation regarding animal-specific conduct and applies not only to dwellings but also associated public and common-use areas.

THE ACT IS A HOUSING LAW

The Act is a housing law. It does not apply to municipal buildings such as the town or city hall, a recreation center, a library, a municipal court, or another non-housing program. Access to those facilities is governed principally by Title II of the Americans with Disabilities Act (ADA) and its narrower service-animal rules.^{vii} However, mixed-use facilities require special care, as the Act’s housing rules would govern dwelling units and residential common areas, while ADA rules would govern unrelated public services in the same building.

ASSISTANCE ANIMALS PRESUMED REASONABLE

Under CADA, it is unlawful for a housing provider to refuse to provide housing to an individual because of disability.

Furthermore, a housing provider is prohibited from refusing a reasonable accommodation when an exception or adjustment to a rule, policy, practice, or service may be necessary to afford a person with a disability an equal opportunity to use and enjoy housing.

The Act adds a presumption that permitting an assistance animal in housing is a reasonable accommodation, so long as the housing provider has been given an opportunity to engage in an interactive process with the individual requesting the accommodation. “Assistance animal” is defined in the Act as an “animal that does work, performs tasks, assists, or provides therapeutic emotional support to an individual with a disability.” The term expressly includes both trained service animals^{viii} and untrained emotional-support animals.^{ix} Unlike the ADA definition of service animal, the Act does not limit an assistance animal to a dog and expressly includes animals providing therapeutic emotional support.

The Act’s definition of “reasonable accommodation” expressly includes “public and common-use spaces,” which means an accommodation may extend to hallways, elevators, laundry rooms, community rooms, outdoor areas, and other spaces connected with use and enjoyment of the housing.

COMPLETE BANS PRESUMED DISCRIMINATORY

The Act provides that a “complete prohibition of assistance animals in housing is presumed to be discriminatory.” Thus, while a public housing provider could adopt a general “no pets” policy, the provider must ensure that the policy clearly distinguishes pets from assistance animals and establishes an accessible process for requesting a disability-related accommodation for an assistance animal. Providers should also review related eligibility criteria, lease provisions, and operating practices to ensure that they do not, individually or collectively, function as a categorical ban on assistance animals.

DIRECT THREATS REQUIRE ANIMAL-SPECIFIC EVIDENCE

CADA does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to health or safety or result in substantial physical damage to property. Here, again, the Act adds an animal-specific provision, stating that an assistance animal’s mere presence does not constitute a direct threat to health or safety and may not be presumed to result in substantial physical damage to property. Thus, generalized fears or assumptions based on the animal’s training, species, breed, or size are insufficient to establish a direct threat.

The Act further states, however, that a housing provider may consider documented, specific conduct by the particular animal that poses a direct threat to health or safety or substantial physical damage to property. Relevant documentation may include documented bite or attack incidents, animal-control or police reports, firsthand witness statements, photographs or video, and inspection records or repair invoices showing substantial damage caused by the animal.

While not an express requirement of the Act, before denying or withdrawing an assistance animal accommodation based on a direct threat, housing providers should consider whether a reasonable, less restrictive measure, such as leashing, sanitation requirements, or restricting the animal from a particular area, would eliminate or significantly reduce the threat. Adding this consideration to the direct threat assessment will strengthen the defensibility of the provider’s reasonable accommodation process and assure consistency with potentially applicable ADA Title II regulations and FHA guidance.^x

NEUTRAL RULES MAY REMAIN AVAILABLE

Once an assistance animal accommodation has been made, the Act does not expressly prohibit housing providers from applying neutral rules needed to protect residents and property. This, when viewed together with the direct threat exception, implies general authority to enforce reasonable, nondiscriminatory requirements concerning animal control,

waste disposal, noise, damage, and compliance with health and safety laws. However, such requirements must not be applied as a pretext for excluding assistance animals and must be modified when necessary to reasonably accommodate a person with a disability.

As a risk-management practice, public housing providers should separately document the basis for an assistance animal accommodation decision and any later enforcement of generally applicable lease requirements. Maintaining that separation can help demonstrate that subsequent enforcement rests on legitimate, nondiscriminatory grounds rather than the tenant's disability or request for accommodation.

REQUESTS FOR REASONABLE DOCUMENTATION AND THE INTERACTIVE PROCESS

Following a request for an assistance animal accommodation, a public housing provider does not commit an unfair or discriminatory housing practice solely by requesting reasonable documentation supporting the claimed disability or the disability-related need for the animal, or by engaging in a good-faith interactive process to evaluate the request, unless the disability or the disability-related need is obvious.

In other words, asking for documentation or participating in the interactive process is not per se unlawful. However, such inquiries must be tailored to what is not obvious. If it is obvious that the requester has a disability and has a disability-related need for the animal, then staff should not inquire about or request documentation related to the disability or need for the animal. If it is obvious that the requester has a disability but not obvious that the animal addresses a disability-related need, then staff should limit inquiries and requests for documentation to the disability-related need.

CHARGES AND DEPOSITS REQUIRE CAREFUL TREATMENT

Although the Act does not address pet-related deposits, fees or rent charges, municipal housing providers should not treat that silence as authorization to impose added costs for an approved assistance animal. First, a provision of CADA predating the Act expressly prohibits extra charges for *trained service animals*. Second, while neither federal nor Colorado law establishes a categorical pet fee prohibition for *emotional support animals*, a waiver of a pet-related charge may itself be required as a reasonable accommodation when the waiver is necessary to afford the individual an equal opportunity to use and enjoy the dwelling. However, housing providers may still hold a tenant responsible for actual damage caused by either type of assistance animal.

ADMINISTRATIVE ENFORCEMENT PROCESS

An individual with a disability alleging a housing provider's violation of the Act may file a housing discrimination charge with the Colorado Civil Rights Commission within one year after the alleged discriminatory practice occurred. After the charge is filed, the Colorado Civil Rights Division (on the Commission's behalf) provides notice to the respondent housing provider, investigates the charge, and determines whether probable cause exists.

If the Division finds probable cause, the Commission issues a notice and complaint and must order the charging party and respondent to participate in compulsory mediation to attempt to eliminate the alleged discriminatory practice through "conference, conciliation, and persuasion." If settlement efforts fail, the charge proceeds to a formal administrative hearing unless the charging party, respondent, or another aggrieved person on whose behalf the charge was filed elects to have the charge decided in state district court.

If a party makes that election, the Attorney General prosecutes the charge and available relief includes orders requiring the provider to make housing available or take other affirmative action, reimburse unlawfully charged fees and specified housing-related expenses, pay actual damages and civil penalties,^{xi} and appropriate injunctive or other equitable relief. This

relief is authorized in addition to the relief authorized in private civil actions (discussed below).

SEPARATE PRIVATE RIGHT OF CIVIL ACTION

CADA separately establishes a private right of action that allows an aggrieved individual with a disability to bring a civil suit against the defendant housing provider in state or federal court within two years^{xii} after the discriminatory housing practice occurred or ended. The private civil suit may be commenced regardless of whether the aggrieved party has filed a housing-discrimination charge with the Commission (as outlined in the administrative enforcement process above). The private civil suit proceeds without regard to the status of the administrative charge except in situations where administrative proceedings have already progressed to a hearing or conciliation agreement.

Remedies available to a successful plaintiff in a civil suit can include actual and punitive damages,^{xiii} injunctive or other equitable relief, and reasonable attorney fees and costs. As an alternative to actual damages, the plaintiff may seek a statutory fine of \$3,500^{xiv} for each violation.

Lastly, the Attorney General may intervene in cases of general public importance and may independently pursue pattern-or-practice cases, matters presenting issues of general public importance, Commission referrals, and breaches of conciliation agreements.

RETALIATION INDEPENDENTLY PROHIBITED

CADA separately prohibits a housing provider from discriminating against a person because the person opposed conduct prohibited as disability discrimination or filed a charge, testified, assisted, or otherwise participated in a CADA investigation, proceeding, or hearing. Accordingly, public housing provider staff should not deny or decline to renew a lease, impose unwarranted lease violations or charges, reduce services, threaten eviction, or otherwise treat a resident adversely because the resident challenged the handling of an accommodation request, filed a discrimination charge, supplied information during an investigation, or assisted another person in asserting CADA rights.

CONCLUSION

HB 26-1045 adds several impactful provisions to Colorado law governing assistance animals in housing. These include an express presumption favoring assistance animal accommodations, protections for emotional-support animals, specific standards for evaluating direct threats, and rules governing disability-related inquiries and requests for supporting documentation.

A consistent, well-documented approach will help municipalities and municipal housing authorities that operate, manage, or administer residential housing meet their obligations to individuals with disabilities while appropriately managing health and safety, property, and operational concerns.

Public housing providers should, therefore, review and update existing policies and procedures, forms, lease provisions, staff practices, and documentation to ensure consistency with the Act. They should also designate the employees responsible for receiving and evaluating assistance animal accommodation requests and ensure those employees are familiar with the Act and understand how to administer the organization's policies and procedures in response to a request, including when an issue should be elevated for supervisory review.

Finally, because assistance-animal issues often involve overlapping state and federal requirements, staff should seek legal advice from the organization's attorney in updating policies and procedures, and whenever confronted with potential direct threats or a proposed denial or withdrawal of an accommodation.

If you have questions about this article, contact CIRSA's Associate General Counsel, Nick Cotton-Baez at nickc@cirsa.org.

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- i. CADA defines "housing" broadly to include a building, structure, vacant land, or part thereof that is offered for sale, lease, rent, or transfer of ownership. C.R.S. § 24-34-501(2).
 - ii. HUD's withdrawal of its 2013 and 2020 assistance animal notices—and the subsequent adoption of HUD's May 2026 enforcement memorandum (discussed in endnote v, below)—do not alter the requirements of 24 C.F.R. § 5.303. For housing projects designated for the elderly or persons with disabilities, project owners and public housing agencies may not enforce pet policies adopted under 24 C.F.R. part 5, subpart C against an animal necessary as a reasonable accommodation for a resident or visitor with a disability. This may include an animal that provides disability-related emotional support. See 24 C.F.R. § 5.303(a); HUD, *Pet Ownership for the Elderly and Persons With Disabilities*, 73 Fed. Reg. 63834, at 63836 (Oct. 27, 2008).
 - iii. HB 26-1045, sec. 1(1)(c)–(d), 2026 Colo. Sess. Laws ch. 202.
 - iv. See *supra* endnote iii.
 - v. While HUD issued a new enforcement memorandum on May 22, 2026—after HB 26-1045's final legislative passage but before the governor signed the bill into law—the memorandum adopts a narrower federal enforcement position than in the past. HUD, *Enforcement Guidance—Assessing Requests for the Use of an Animal as a Reasonable Accommodation Under the Fair Housing Act* (May 22, 2026). While the HUD enforcement memorandum does not alter a party's right to bring a private FHA action in federal court, it directs HUD staff to pursue enforcement only in cases involving animals trained to provide disability-related assistance. In light of this narrowing of federal enforcement, the Colorado Act is likely to become a focal point for compliance and enforcement issues going forward.
 - vi. The FHA and its implementing regulations do not expressly establish these animal-specific presumptions in comparable text.
 - vii. "Service animal" is defined in the implementing regulations of Title II of the ADA as a dog 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. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of the definition. Emotional support, comfort, or companionship alone is not work or a task. 28 C.F.R. § 35.104. Another Title II regulation separately requires reasonable modifications for qualifying miniature horses, subject to specified assessment factors. 28 C.F.R. § 35.136(i).
 - viii. CADA borrows its definition of "service animal" from the implementing regulations of Title II of the ADA. C.R.S. § 24-34-301(23) (cross-referencing 28 C.F.R. § 35.104).
 - ix. An "emotional support animal" provides "solely emotional support to an individual to alleviate a symptom or effect of a disability." C.R.S. § 24-34-301(8.5).
 - x. An ADA Title II regulation and joint HUD–DOJ FHA guidance call for an individualized direct threat assessment that considers whether reasonable measures would eliminate the threat. 28 C.F.R. § 35.139(b); HUD & DOJ, *Joint Statement on Reasonable Accommodations Under the Fair Housing Act*, Question 5, at 4–5 (May 17, 2004). Both address threats posed by *individuals*, so their application to *animals* is uncertain, particularly for untrained emotional support animals given HUD's current enforcement approach. Even so, the federal framework may inform whether denial of an assistance animal is defensible under CADA, given HB 26-1045's reasonable accommodation presumption and Colorado's rule treating pertinent federal guidance as persuasive in administrative proceedings. 3 CCR 708-1, Rule 10.13(C); see also HB 26-1045, § 1 (legislative declaration).
 - xi. Not to exceed \$10,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice; not to exceed \$25,000 if the respondent has been adjudged to have committed any other discriminatory housing practice during the five-year period ending on the date of the filing of the charge; and not to exceed \$50,000 if the respondent has been adjudged to have committed two or more discriminatory housing practices during the seven-year period ending on the date of the filing of the charge.
 - xii. The limitations period is tolled while a related administrative proceeding is pending. C.R.S. § 24-34-505.6(1)–(3).
 - xiii. Which remedies may be recovered against a municipality or public authority can be affected by the Colorado Governmental Immunity Act, or other laws applicable to public entities. Thus, public entity counsel should analyze those issues while evaluating CADA's remedy provisions.
 - xiv. A public housing provider with twenty-five or fewer employees and no more than three million five hundred thousand dollars in annual gross income is entitled to a fifty percent reduction in the statutory fine if it corrects the accessibility violation within thirty days after the filing of the complaint, unless the defendant provider knowingly or intentionally made or caused to have made the access barrier that caused the accessibility violation. The reduction is applicable only to the statutory fine and is not applied to reduce an award of actual monetary damages.

Published on 09/29/2026