



ANIMAL ACCOMMODATIONS IN HOUSING

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Using animals to assist people with disabilities is a well-established practice. Many veterans use animals in some capacity to help manage or alleviate the symptoms of physical or psychological disabilities. If you are one of them, it's important to know your housing rights.

Two different categories of animals are defined under the law: service animals and emotional support animals. A service animal, which must be accommodated by all businesses and other public accommodations, is defined under the Americans with Disabilities Act (ADA) as "dogs trained to perform a task to benefit an individual with a disability." Guide dogs and signal dogs, which assist with hearing impairment, fall under the service animal category.

Emotional support animals are those that, by their mere presence, provide comfort to their owner by lowering anxiety or improving the mental state of the owner. While not accommodated under the ADA, emotional support animals can be beneficial for individuals suffering from psychological trauma or disability.

The distinction between whether an animal is a service or support animal can be subtle. A dog will qualify as a service animal if it performs a specific task, such as retrieving dropped items, reminding individuals to take medicine, providing safety checks for individuals with post-traumatic stress disorder (PTSD), and interfering to stop damaging behavior. Recognition of a symptom of the owner's disability coupled with a specific response by the animal are the key elements.

In contrast, the benefit of an emotional support animal comes not from its performance of a task, but from the comfort provided by its mere presence. Emotional support animals have benefited many people by providing them with comfort, motivating them to be more active, and helping to "ground" them in the case of anxiety or bouts of depression. Additionally, emotional support animals can be species other than dogs or miniature horses; cats or birds have also been known to effectively serve this purpose.

For tenants, making this distinction is largely unnecessary when requesting accommodation of an animal in housing. The federal Fair Housing Act and California's Fair Employment and Housing Act (FEHA) both require waiver of "no pet" policies and associated fees where accommodation of an animal is necessary for the purpose of alleviating a disability. Further, both allow for broader accommodations than are mandated under ADA.

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Whereas public accommodations must accommodate only animals that are “service animals” for the purposes of the ADA, housing law further includes emotional support animals in the scope of “reasonable accommodations” by landlords and housing providers.

To be reasonably accommodated in housing, a tenant need only provide a doctor’s note indicating that the tenant suffers from a disability, and that this disability will be alleviated or improved by the presence of the service or support animal. Under current law, a minor psychological disability, such as anxiety, is sufficient to justify a request for accommodation of a support animal. Once this information has been provided, the burden is on a landlord to show that the accommodation

would not have been reasonable, due to safety or other concerns, or to accommodate the animal. Accommodation is generally reasonable, provided that the animal is well-behaved and presents no threat to the safety of other tenants. No broad prohibition of animals on the basis of species, breed, or other factor is permitted; each request for accommodation of a service or emotional support animal must be evaluated on a case-by-case basis.

If a tenant has been denied accommodation of a service or support animal by the housing provider, this may constitute discrimination on the basis of disability under the FEHA. The Department of Fair Employment and Housing (DFEH) can receive, investigate, conciliate, mediate and prosecute such meritorious

complaints. Complaints can be filed online through the Department’s website, <http://www.dfeh.ca.gov>, by calling (800) 884-1684, or e-mailing contact.center@dfeh.ca.gov. Persons with hearing impairment can also use the Videophone at (916) 226-5285 or TDD at (800) 700-2320.

Under a work share agreement, nearly all housing discrimination claims are jointly filed between the DFEH and the U.S. Department of Housing and Urban Development, so filing with one of these agencies is sufficient. For additional information on California’s housing anti-discrimination laws, go to www.dfeh.ca.gov/Publications/StatLaws_DisabHous.htm.

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