



California's protection & advocacy system

Fact Sheet: Rights to Assistance Animals in Housing

February 2018, Pub. #F115.01

Introduction

This fact sheet discusses the rights of people with disabilities to keep assistance animals in housing that does not allow pets.

The term “assistance animal” (or “assistive animal”) refers to an animal that a person with a disability needs in order to use and enjoy the housing. An assistance animal can be either a service animal (a dog or miniature horse that is trained to perform disability-related work or tasks), or an emotional support animal (any animal that eases the effects of a person’s disability by providing comfort or support).

Rights to Assistance Animals in Housing

A. Do I have the Right to Keep my Service Animal in my Home, even if My Landlord or Homeowners’ Association has a No-Pets Policy?

Tenants and housing applicants with disabilities have the right to keep a service animal in housing under California’s Unruh Civil Rights Act (Unruh Act) (Civil Code Section 51) and Disabled Persons Act (CDPA) (Civil Code Sections 54.1 and 54.2). The Unruh Act and CDPA allow a person with a disability to bring a service animal, defined as a dog (or, in some cases, a miniature horse) that is individually trained to provide disability-related work or tasks, into housing, business and public spaces. To be covered under these state laws, a service animal must not present a direct threat to others or fundamentally alter the nature of the housing. Unless there is a reason to believe that an animal poses a direct threat, a housing provider can ask only two questions to determine whether an animal qualifies as a service

animal: 1) whether the animal is required because of the handler's disability; and 2) what work or task the animal has been trained to perform.

The right to access under the Unruh Act and CDPA applies only to service animals – not to emotional support animals. As discussed below, state and federal fair housing laws also provide rights to all types of assistance animals (including emotional support animals) in housing as reasonable accommodations for a tenant's or housing applicant's disability. It may be wise to alert a landlord, homeowners' association or other housing provider of the presence of a service animal, even if the animal is not requested as a reasonable accommodation.

If you live in, or are applying to, housing that receives funding from the U.S. Department of Housing and Urban Development (HUD) or other federal financial assistance, you also have a right to keep a service animal under Section 504 of the federal Rehabilitation Act of 1973. Like the state law right to an assistance animal under the CDPA, if your animal qualifies as a service animal, it should be allowed into the housing on your representation that the animal performs disability-related work or tasks. You do not need to request for reasonable accommodation or obtain a support letter from a treating professional.

B. What are My Rights under Fair Housing Laws to Keep my Assistance Animal in My Home?

In addition to the laws discussed above, housing discrimination against people with disabilities is prohibited under federal law in the Fair Housing Amendments Act (FHAA) (42 U.S.C. Sections 3601-3631) and under California law in the Fair Employment and Housing Act (FEHA) (Government Code Sections 12955-12956.2). These laws cover housing providers including landlords, homeowners associations, realtors, housing lenders and owners and property managers of long-term housing including board and care homes, group homes, independent living homes, homeless shelters and, in some cases, nursing facilities (collectively, "housing providers"). In the housing context, access for service and emotional support animals (referred to collectively as "assistance animals") is allowed as a reasonable accommodation to a landlord's or homeowners association's no-pets policy.

State and federal fair housing laws require that housing providers make reasonable accommodations for tenants and housing applicants who have disabilities. Reasonable accommodations are exceptions to rules or policies

that are necessary to allow people with disabilities an equal opportunity to use and enjoy their housing. The obligation to make reasonable accommodations includes a requirement that housing providers make exceptions to a “no-pets” policy to permit persons with disabilities to use and live with either a service or emotional support animal.

Under California and federal law, assistance animals must be allowed in housing as a reasonable accommodation for a tenant’s disability. Any kind of animal can be an assistance animal, as long as it alleviates symptoms of the handler’s disability. There must be a connection between the individual’s disability and the service, comfort or companionship that the animal provides.

There is no requirement that an assistance animal be specially trained or certified in order to be allowed as a reasonable accommodation in housing. However, the animal cannot pose a direct threat to other people or property, impose an undue financial or administrative burden, or fundamentally alter the nature of the services that the landlord or homeowners association provides. For example, asking a landlord to feed, walk, or clean up after a service animal might be considered a fundamental alteration in the service that the landlord provides. A direct threat must be determined by an individual assessment of the animal’s behavior, not stereotypes about the breed. Handlers must ensure that their assistance animal complies with state and local animal control laws and is not a danger or nuisance to the community. (See, California Food & Agriculture Code § 30851.)

C. What can my Landlord or Homeowners Association Request in Order to Show that my Animal is an Assistance Animal?

If you are seeking a reasonable accommodation for an assistance animal in housing that is not federally-funded, a landlord or homeowners association may ask for documentation that you have a disability and that you have a disability-related need for the animal. However, the housing provider should not request documentation if your disability and your disability-related need for the service or support animal are apparent. If the housing provider does not have reason to know about the individual’s need for an assistance animal, the request should be limited to the information that is necessary to establish the need. A housing provider may not ask a housing applicant or tenant to provide access to medical records or medical providers or provide detailed or extensive information or documentation of a person’s physical or mental disability. Sample assistance animal request and support letters are below.

D. Can A Landlord Make Me Pay A Fee To Keep an Assistance Animal?

A housing provider may not require an applicant or tenant to pay a fee or a security deposit or to buy insurance for the animal as a condition of allowing the person to keep an assistance animal. However, the housing provider can charge the individual for repairing any damage that the animal causes to the unit or common areas.

Complaints and Lawsuits

If a landlord, condominium association or other housing provider refuses to allow your assistance animal as a reasonable accommodation, you can file a lawsuit or an administrative complaint.

You can file an administrative complaint with the California Department of Fair Employment and Housing (DFEH) within one year of the most recent date of discrimination. Information on how to file a complaint with DFEH can be found at <https://www.dfeh.ca.gov/filing-a-complaint-online/>, or by calling (800) 884-1684 (voice) or (800) 700-2320 (TTY).

You can file an administrative a complaint with U.S. Department of Housing and Urban Development (HUD) under the Fair Housing Amendments Act, also within one year after the discrimination. Information on how to file a HUD complaint can be found at 1-800-669-9777 or: https://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination.

Violations of the laws discussed above may also be enforced through private lawsuits. Please be aware that statutes of limitations restrict the timeframe for filing litigation and that you could potentially lose claims if you do not act within the applicable statute of limitations. These deadlines can be as short as two years from the date of discrimination. If you are interested in pursuing litigation, you should consult with an attorney as soon as possible.

If you are seeking less than \$10,000 in money damages, another option is to file a discrimination case in Small Claims Court. The statutes of limitations discussed above will apply. You cannot use a lawyer if you go to small claims court. For more information, see Disability Rights California, *A Guide to Small Claims Court: How to Sue if a Business or Landlord Discriminates Against You Because of Your Disability*, at: <http://www.disabilityrightsca.org/pubs/520601.pdf>.

Sample Letter to Housing Provider Requesting Assistance Animal

[Date]

Dear [Landlord, Housing Authority, Homeowners Association]

I am writing to request an assistance animal as a reasonable accommodation for my disability/disabilities.

I live at/am applying to rent your property at [address]. Because of my disability, I need to keep an assistance animal as a reasonable accommodation.

My physician/psychiatrist/psychologist/therapist/social worker/occupational therapist /other individual [describe] has deemed this accommodation necessary in light of my disability. Please see the attached letter from [doctor or professional's name].

Federal and state law require that a housing provider reasonably accommodate tenants/occupants and applicants who have disabilities. Please respond to this request by [date]. Feel free to contact me at [your phone number and/or e-mail address] if you have any questions. Thank you.

Sincerely,

[Your name]

[Your address]

Sample Verification Letter

[Date]

To [Landlord, Housing Authority, and Homeowners Association]:

I am the physician/psychiatrist/psychologist/therapist/social worker/occupational therapist for [Your name], and am familiar with his/her condition. (S)he has a disability that causes certain functional limitations. These limitations include [list functional limitations that require the requested accommodation].

An assistance animal is necessary for _____ to live in the community and use and enjoy his/her dwelling by [describe how the animal will assist or support the individual].

Thank you for providing this reasonable accommodation for [Name].

Sincerely,

[Name and Title]

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Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.