

Your Right to a Service or Emotional Support Animal as a Tenant with a Mental Health Disability

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For Mental Health Consumers & Families

1. What is a “reasonable accommodation” in housing?

A person with a disability in California has the right under state and federal law,¹ to be free from discrimination in the sale or rental of housing. This right means that a landlord,² owner or other housing provider, or realtor, may not refuse to rent or sell to you, or engage in any other type of discrimination against you, because you have a mental or a physical disability. A housing provider must also provide “reasonable accommodations” to tenants with mental health disabilities. This means that the housing provider must take reasonable steps to change its rules, policies or practices in order to allow a person with a mental health disability to use and enjoy the housing.

For more information about the rights of people with disabilities to reasonable accommodations in housing, see Disability Rights California Fact Sheet: Tenants with Mental Health Disabilities: The Right to Reasonable Accommodations in Housing.

¹ The California Fair Employment and Housing Act uses the term “handicap” instead of “disability,” but the meaning is the same.

² The only exception is for landlords who own a single-family home, live in that home, and rent out only one room to a boarder.

2. What is the difference between an emotional support animal and a service animal?

A service animal is an animal that is trained to do specific tasks that help a person with a physical or mental health disability. For example, a dog might be trained to recognize when its handler is about to have a psychiatric episode, and to respond in a way that keeps the person safe until the episode subsides. An emotional support (or “companion”) animal is an animal that provides comfort to a person with a mental health disability, without being trained to perform specific tasks to help that person.

3. Can I ask my landlord to waive a no-pets rule in order to allow my emotional support or service animal to live with me?

Yes. California’s Disabled Persons Act allows tenants and housing applicants with disabilities have the right to bring a service animal into housing unless the dog would 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 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.

A landlord or other housing provider may also be required to waive a “no-pets” rule as a reasonable accommodation in order to allow a tenant with a disability to live with a service or emotional support animal.³ However, the accommodation will not be considered reasonable if the animal would: pose a direct threat to other tenants; cause substantial physical harm to property; impose an undue financial or administrative burden on the landlord; or fundamentally alter the nature of the services that the landlord provides. As the owner of a service or emotional support animal, you are responsible for taking care of that animal. You

³ In 2011, regulations under the Americans with Disabilities Act became effective that require restaurants, stores and other businesses to allow only service dogs, and not companion animals or other types of service animals, as reasonable accommodations for customers with disabilities. However, these regulations do not affect the right of tenants with disabilities to service animals other than dogs, or companion animals, in housing.

must also ensure that the animal complies with state and local animal control laws, and is not a danger or a nuisance to the community.

4. How should I make a request to keep my animal as a reasonable accommodation?

If possible, you should make your request to keep a service or emotional support animal in writing. In the request, you should explain that you are a person with a disability, and why you need the animal to live with you as a reasonable accommodation to a no-pets policy. You should ask the housing provider to get back to you before a certain date.

In response to your request, the housing provider may ask for a letter from your doctor or other medical professional confirming that you have a disability, and stating why you need a service or emotional support animal to live with you. However, the housing provider does not have the right to demand a copy of your medical records, a specific diagnosis, or permission to speak with your health care provider directly.

5. How can I learn more?

If you have questions about your rights or obligations under state and federal laws that protect people with disabilities from housing discrimination, contact Disability Rights California:

Tel: 800-776-5746

TTY: 800-649-0154

www.disabilityrightsca.org

We want to hear from you! After reading this fact sheet please take this short survey and give us your feedback.

English version: <http://fs12.formsite.com/disabilityrightsca/form54/index.html>

Spanish version: <http://fs12.formsite.com/disabilityrightsca/form55/index.html>

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