

Service & (Emotional) Support Animals

What does the law require?

Federal and California fair housing laws require equal treatment of an expansive list of protected classes in the renting of residential dwelling. For persons with disability, as a protected class, that means being allowed to be accompanied by and reside with their service animal or support animal (collectively known as assistance animal) to have an equal use and enjoyment of their dwelling.

What is an assistance animal?

An assistance animal may be any type- breed, size or species- of animal. Legally, such animal is not considered as a pet.

What is a service animal?

A service animal has been specifically trained to assist a person with disability with their disability-related tasks. Service animals are not subject to reasonable accommodation requests like support animals. Instead, the disabled person has a right to be accompanied by their service animal as a civil right. To verify a service animal, only two questions may be asked:

- 1) Does the person have a disability?
- 2) What disability-related task has the animal has been trained to perform?

What is a support animal?

Unlike a service animal, a support animal does not have to be trained to assist with any disability-related task. A support animal may be also known as an emotional support animal (ESA), therapy, or comfort animal. Support animals are subject to reasonable accommodation requests.

What is a reasonable accommodation request?

A person with a disability may seek a reasonable accommodation in rules or policies. A common example is a request to keep a support animal when the housing provider generally prohibits pets. Housing provider must engage in an interactive process when a request cannot be immediately granted. The request may be deemed unreasonable if it causes an undue burden or the animal poses a serious threat of bodily harm to others or would cause substantial damage to property of others.

Who is required to comply with these laws?

The fair housing laws govern a wide range of individuals or entities that provide housing or housing opportunities. This includes all DRE licensees, property managers, rental owners, lenders and HOA's.

How should I handle a reasonable accommodation request for a support animal?

- Establish a written policy and procedure for handling reasonable accommodation requests
- Require requests be in writing (or confirm in writing verbal conversation)
- Obtain documentation to establish the need (Note: documentation may be provided based on an individualized assessment by any reliable 3rd party in a position to know about the person and the disability)
- Respond to requests in a timely and respectful manner
- Keep information confidential
- Consult with legal counsel before denying a request

Is an online certificate or vest acceptable documentation to establish the need for the support animal?

No. An online certificate or vest, purchased without additional information that it based upon an individualized assessment from a medical professional, is not sufficient. The housing provider should seek additional verification as part of an interactive process.

May a landlord charge more in rent or a larger security deposit for the assistance animal?

No.