

The Rights of Tenants with Mental Health Disabilities to Service or Emotional Support Animals

Updated March 2017, Publication #CM12.01

For Landlords & Other Housing Providers

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 landlord², owner or other housing provider, or realtor, may not refuse to rent or sell to someone, or engage in any other type of discrimination, because the individual has a mental or a physical disability. A housing provider must also provide “reasonable accommodations” to tenants and housing applicants 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 These laws apply to all private landlords, except those 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 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. Am I required to waive a no-pets rule in order to allow a tenant’s emotional support or service animal to live in the housing?

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.

As a landlord or other housing provider, you may also be required to waive a “no-pets” rule as a reasonable accommodation in order to allow a person 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. The owner of a service or emotional support animal is responsible for taking care of

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.

that animal, and ensuring 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 respond to a request to waive a no-pets rule to allow a service or emotional support animal?

A request for a service or emotional support animal should identify the person making the request as a person with a disability, and explain why that person needs the animal to live in the housing because of the person's disability. You should respond to the request as quickly as possible. If you are unable to respond by the date that the individual requested, you should explain that you need more time and let the person know when to expect a response. If the request is unclear, you can request a clarification. You may also request a letter from the individual's doctor or other medical professional confirming that the person has a disability, and stating why he or she needs a service or emotional support animal to live in the housing. However, you may not request a copy of the individual's medical records, a specific diagnosis, or permission to speak with the person's health care provider directly.

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>

The Stigma, Discrimination, Reduction and Advancing Policy to Eliminate Discrimination Program (APEDP), is funded by the voter approved Mental Health Services Act (Prop. 63) and administered by the California Mental Health Services Authority (CalMHSA). County MHSA funds support CalMHSA, which is an organization of county governments working to improve mental health outcomes for individuals, families and communities. CalMHSA operates services and education programs on a statewide, regional and local basis. For more information, visit <http://www.calmhsa.org>.



WELLNESS • RECOVERY • RESILIENCE

