

APPENDIX A



STATE OF CALIFORNIA | Business, Consumer Services, and Housing Agency
 DEPARTMENT OF FAIR EMPLOYMENT & HOUSING
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 Governor Edmund G. Brown
 Director Phyllis W. Cheng

SERVICE ANIMAL LAWS: COMPARISON CHART

	ADA ¹	FHA ²	ACAA ³	Cal State Law	FEHA ⁴	Municipal
What is protected?	Requires reasonable accommodation by public entities and accommodations for "service animals," where this means "any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability." In some circumstances, this can also extend to miniature horses. Explicitly does not apply to emotional support animals. 28 C.F.R. §§ 35.104, 36.104, 35.136(i) (2010)	Requires "reasonable accommodation" to handicapped persons in housing. 24 C.F.R. § 100.204 (1996) Covers all "assistance animals," including those needed for emotional support, to the same extent.	Prohibits discrimination on the basis of disability in air travel. Broadly defines disability, includes anyone "regarded as having an impairment." 14 C.F.R. § 382.3 (2010)	Provides for standardized identification tags for "assistance dogs" which it defines as "guide dogs, signal dogs, or service dogs." Cal. Food and Agriculture Code § 30850 (2004)** Protects those using guide dogs, signal dogs, or service dogs from additional fees (such as a standard pet fee) for bringing their assistive animal into their residence. Cal. Civil Code § 54.3 (1996)	Prohibits discrimination on the basis of disability in employment and housing; this includes reasonable accommodation in both rental/leasing and construction of housing. Cal. Gov't. § 12927 (2010), Cal. Gov't. §§ 12955-12955.1 (2011)	Generally, CA counties or cities require licenses for all pets or animals. In most of these counties, service animals receive a fee waiver (though must still license their animal with the city/county). See: Sacramento, Cal., City Code § 9.44.510 (2013); Los Angeles, Cal., Municipal Code §§ 53.15(b), 53.15.3 (2011); San Jose, Cal., Municipal Code § 7.20.550 (2007); S.F., Cal., Health Code Art. 1 § 41.23(b)(3)(1992).
Additional requirements	No size, weight, or breed restrictions allowed. 28 C.F.R. Pt. 36, app. a (2011)	No size, weight, or breed restrictions allowed; determination of	May require 48-hour notice for an emotional support animal, or for a	Makes falsely claiming an animal to be a service animal a	N/A	N/A

	<p>May ask ONLY (1) if animal is required due to disability and (2) what tasks it is trained to perform. <i>May not</i> require documentation or proof of certification or licensing. 28 C.F.R. § 35.136(f) (2010)</p> <p>For public accommodations: allows private civil suit, or Atty. General suit, if violations occur; injunction and/or fines of up to \$55,000 for a first violation and \$100,000 for subsequent violations. 28 C.F.R. §§ 36.501-.505 (2010)(asking additional questions or refusing access is a violation)</p>	<p>reasonableness based on specific animal in question.</p>	<p>service animal on a flight of 8 hours or more. 14 C.F.R. § 382.27(c) (2010)</p>	<p>misdemeanor, punishable by imprisonment in a county jail for six months or a fine up to \$1000 or both. Cal. Penal Code § 365.7 (1994), Cal. Food & Agriculture Code § 30850(b) (2004)</p> <p>Makes "interfering" with rights of a disabled person (such as disallowing them access) a misdemeanor punishable by a fine not exceeding \$2500. Cal. Penal Code § 365.5(c) (1996)</p>	<p>It depends.</p>	<p>Generally, no.</p>
<p>Emotional Support Animals?</p>	<p>No, under Article II and III. Unclear under Article I, which requires "reasonable accommodation" and does not</p>	<p>Yes, with "reasonableness" determined on a case by case basis. Requires evidence</p>	<p>Yes, with letter from a mental health professional stating that (1) the passenger has a mental health</p>	<p>No.* *Unruh Civil Rights Act includes by reference FHA protections re:</p>	<p>In the workplace, FEHA demands that an employer to "engage in a timely,</p>	<p>Sacramento allows for animals classified as "livestock" to be kept as pets, as an</p>

Apply to	No, unless	Yes.	No.	Yes.	Yes.	N/A (goes to FEHA)
	<p>explicitly mention service animals or limit the scope of what is "reasonable," though they do name service animals as an example of a "reasonable accommodation" in explanatory documents.</p>	<p>of disability and that animal's presence will alleviate this in order to waive "no pets" policy. Can still deny access if <i>specific</i> animal will cause harm or endanger health and safety of others.</p>	<p>related disability, (2) that having the animal accompany the passenger is necessary to the passenger's mental health, and (3) the individual providing the assessment of the passenger is a licensed mental health professional and the passenger is under his or her professional care. 14 C.F.R. § 382.117 (2008)</p> <p>Can ONLY request this if they identify animal as a support animal (rather than service) or if their statement that it is a service animal does not qualify as a "credible verbal assurance" and there is no physical evidence of the animal's status. See 1 Americans with Disabilities: Practice & Compliance Manual § 3:348</p>	<p>animals as applied to housing for senior citizens. Cal Civ. Code § 51.2 (2010)</p>	<p>good faith, interactive process with the employee or applicant to determine effective reasonable accommodations" for a disability "or known medical condition." Cal. Gov't. Code § 12940(n) (2012). Thus, it is likely a case-by-case analysis.</p> <p>In housing, prohibits discrimination based on "disability" only. The absence of "medical condition" in this section tends to indicate that they were not intending to include non-service animals in "reasonable accommodation" provisions. Cal. Gov't. Code § 12955 (2011)</p>	<p>exception to the limitation of pets to "domestic" animals, if certified as therapeutic. It is unclear whether this acts as a waiver to a no-pets policy. Sacramento City Code 9.44.350. However, this does not extend to public accommodations/buildings. See Sacramento, Cal., City Code § 9.44.300 (2013)</p>

housing?	government provided			N/A (goes to FEHA)		Unclear
Apply to employment?	Yes. "Reasonable Accommodations" are required; service animals are not explicitly mentioned in Article I, and the EEOC has not issued any limiting instructions. However, with no indication to the contrary, it is logical to assume a consistent definition of "service animal" that must be accommodated throughout the ADA.	No.	No.		Yes.	
Exemptions & Defenses	A public accommodation may remove a service animal from its premises if (1) the animal is out of control and effective remedial action is not taken, or (2) the animal is not housebroken. 28 C.F.R. § 35.136(b) (2011)		Not required to accommodate "certain unusual service animals" – snakes, reptiles, ferrets, rodents, and spiders. 14 C.F.R. § 382.117 (2010)	Service Animals are allowed in dining and sales areas "not used for food preparation" only, and employees with service animals must wash their hands after handling the animal. Cal. Health and Safety Code §§114259.4-.5 (2007)	Accommodations can be denied by employers only if they can "demonstrate... that the accommodation would impose an undue hardship," where this means that the accommodation would require "significant difficulty or expense incurred	

	<p>Employees with service animals in food service: "FDA Food Code Section 2-403.11 prohibits handling of animals, but allows employees to use service animals. Section 6-501.115 states that service animals may be permitted in areas not used for food preparation. Employees may handle their service animals if, after handling a service animal, the employee washes his hands for at least 20 seconds using soap, water, and vigorous friction on surfaces of the hands, followed by rinsing and drying as per Section 2-301.12." The Food Code is not binding but provides the basis for interpretation of a business' obligations. <i>How to</i></p>				<p>by an employer or covered entity, when considered under the totality of circumstances." Cal. Civ. Code §§ 11065(f), 11068 (2013)</p> <p>Valid defense if any possible accommodation would endanger the health and safety of the disabled party or others, but risk of future harm is not a defense. Cal. Civ. Code § 11067 (2013)</p>	
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	<p>Comply with the Americans with Disabilities Act: A Guide for Restaurants and Other Food Service Employers, U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (January 19, 2011), http://www.eeoc.gov/facts/restaurant_guide.html</p>			<p>** This does not exist. Per Dept. of Public Health, done locally through each county's animal control.</p> <p>Descriptions of tag, and processes for obtaining tag, of each county vary widely. (Information from calls to SF, San Jose, SD, LA and OC Animal Control licensing centers, and CA Dept. of Public Health).</p>		<p>ADA requires that local animal licensing requirements be met; however, these vary drastically by county.</p> <p>Provisions requiring certification or identification tags are preempted by the ADA (cannot place any additional burden on disabled persons); while a person can choose to get the tag, in order to avoid being questioned about their animal's status, the tags/certification</p>
<p>Issues to address</p>	<p>ADA is a FLOOR and preempts any state or local law that puts an additional burden on disabled persons. Thus, cannot require certification/identification to accommodate claimed service animal, nor ask for details of disability.</p> <p>Violations of ADA's accommodation provisions are also violations of the Unruh Civil Rights Act. Cal. Civ. Code § 51(f) (2011)</p>					

						cannot be required. The best way around this seems to be by standardizing the tag and integrating the licensing of service animals into the standard licensing procedure in each county, with them providing the uniform tag.
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- ¹ Americans with Disabilities Act.
 - ² Fair Housing Act.
 - ³ Air Carriers Access Act.
 - ⁴ California Fair Employment and Housing Act.

APPENDIX B

Service Dog Tags.com

Sample Letter for Emotional Support Animal – Housing

DATE

NAME OF PROFESSIONAL (therapist, physician, psychiatrist, rehabilitation counselor)

ADDRESS

Dear [HOUSING AUTHORITY/LANDLORD]:

[NAME OF TENANT] is my patient, and has been under my care since [DATE]. I am intimately familiar with his/her history and with the functional limitations imposed by his/her disability. He/She meets the definition of disability under the Americans with Disabilities Act, the Fair Housing Act, and the Rehabilitation Act of 1973.

Due to mental illness, [FIRST NAME] has certain limitations regarding [SOCIAL INTERACTION/COPING WITH STRESS/ANXIETY, ETC]. In order to help alleviate these difficulties, and to enhance his/her ability to live independently and to fully use and enjoy the dwelling unit you own and/or administer, I am prescribing an emotional support animal that will assist [FIRST NAME] in coping with his/her disability.

I am familiar with the voluminous professional literature concerning the therapeutic benefits of assistance animals for people with disabilities such as that experienced by [FIRST NAME]. Upon request, I will share citations to relevant studies, and would be happy to answer other questions you may have concerning my recommendation that [FULL NAME OF TENANT] have an emotional support animal. Should you have additional question, please do not hesitate to contact me.

Sincerely,

Signature

[NAME OF PROFESSIONAL]

APPENDIX C

Letter for Flying with an ESA

The Department of Transportation (DOT) has set specific guidelines for flying on commercial airlines with an Emotional Support Animal (ESA).

Persons wishing to fly under provisions provided by DOT – ESA rules must have a letter from a licensed mental health professional. The letter must meet the following criteria:

- Must be from a verifiable mental health professional
- Must be printed on the professional's office letterhead
- Must not be more than a year old

The letter must state the following items:

1. The presence of an animal is required to maintain the passenger's treatment or health
2. The passenger has a mental health disability. The diagnosis is not just a mental illness, but a mental illness that substantially limits at least one major life activity. Airlines are not allowed to require the disclosure of the specific mental disability – for example, panic attacks.
3. The mental health professional must state that the indicated passenger is a patient under their personal care. The person must state what type mental health professional they are (psychologist, psychiatrist, clinical social worker, etc.)

Airlines may also request documentation including the following:

- The type of mental health license the professional has
- The license date
- The State issuing the license

You must review the guidelines of the airline you plan on flying in advance to assure that you have made proper arrangements prior to departure of your flight. Failure to follow all guidelines instituted by the airline could revoke your right to fly with an ESA and you may be charged normal pet travel fees or be excluded from flying with your ESA.