

LEGAL RIGHTS OF PERSONS WITH DISABILITIES

SERVICE ANIMALS



CALIFORNIA OFFICE OF THE ATTORNEY GENERAL

PUBLIC RIGHTS DIVISION

CIVIL RIGHTS ENFORCEMENT SECTION | *DISABILITY RIGHTS BUREAU*



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SERVICE ANIMALS

This publication discusses the rights of people with disabilities to use service animals and emotional support animals under both federal and California laws.¹ This publication also provides the various complaint options people have when their rights regarding service or emotional support animals have been violated.

This publication is provided for informational purposes only and is based on the law at the time of publication. Laws are subject to and regularly do change. The facts of each individual case may also result in differing applications of the law. Accordingly, the information in this publication must not be considered definitive, exhaustive, or legal advice for any purpose, and does not create an attorney-client relationship with the California Department of Justice. Individuals should also independently check for updates in the law that may be applicable in any given situation.

I. FEDERAL AND STATE LAW ON THE RIGHT TO SERVICE ANIMALS

This publication discusses federal and state laws that outline rights and obligations related to service animals in different settings, including housing, public places, airplanes and airports, transportation, and employment. The federal and state laws include the following: the federal Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, the Fair Housing Amendments Act of 1988, the Air Carrier Access Act, the California Unruh Civil Rights Act, the California Disabled Persons Act, California Government Code section 11135, and the California Fair Employment and Housing Act.

II. SERVICE ANIMALS IN HOUSING

A. State Law

1. California Fair Employment and Housing Act

The California Fair Employment and Housing Act (FEHA) prohibits a housing provider from discriminating against people with disabilities in a wide range of housing activities, including selling, renting, or leasing a property. (Gov. Code, § 12955.) The FEHA provides a right to have a service animal, and also provides a potential right to have a support animal as a reasonable accommodation. (Cal. Code Regs., tit. 2, § 12185, subds. (b), (c).) The FEHA refers to service and support animals together as “assistance animals.” (Cal. Code Regs., tit. 2, § 12005, subd. (d); Cal. Code Regs., tit. 2, § 12185.)

a. Right to Have a Service Animal

The FEHA generally gives a person with a disability the right to have a service animal in “all dwellings.” (Cal. Code Regs., tit. 2, § 12185, subd. (b) [“Persons, including tenants, occupants, invitees, owners, and others, are permitted to have service animals as defined in section 12005(d)(1) in all dwellings (including common use and public use areas), residential real estate, and other buildings involved in residential real estate transactions....”].)

(a) Service Animal Definition

Service animals under the FEHA are animals trained to perform specific tasks to assist individuals with disabilities. (Cal. Code Regs., tit. 2, § 12005, subd. (d)(1).) The FEHA definition includes service animals in training. (Cal. Code Regs., tit. 2, § 12005, subd. (d)(1)(E).) As examples, FEHA points to guide dogs and signal dogs, which help people who have vision and hearing disabilities, respectively; other service dogs; and other animals that are individually trained to the requirements of an individual with a disability.

1 Although some headings in this publication refer to “service animals,” the discussion will also address issues related to emotional support animals as relevant.

(Cal. Code Regs., tit. 2, § 12005, subd. (d)(1).) Service animals do not need to be professionally trained or certified. (*Ibid.*)

Emotional support animals—i.e., animals that provide emotional, cognitive, or similar support to people with disabilities—do not qualify as service animals that are permitted in housing. (Cal. Code Regs., tit. 2, § 12005, subds. (d)(2); see Cal. Code Regs., tit. 2, § 12185, subds. (b), (c).)

(b) Permitted Inquiries Regarding Service Animals

A person with a disability may only be asked two questions to determine whether the animal is a service animal: 1) Are you a person with a disability? and 2) What is the disability-related task the animal has been trained to perform? (Cal. Code Regs., tit. 2, § 12185, subd. (b).) An animal vest, ID card, or certification does not, in and of itself, constitute documentation of disability. (Cal. Code Regs., tit. 2, § 12185, subd. (d)(7).)

(c) Denial of a Service Animal

A service animal need not be allowed if the animal constitutes a direct threat to the health or safety of others (i.e. a significant risk of bodily harm) or would cause substantial physical damage to the property of others, and there are no reasonable accommodations that would sufficiently mitigate or eliminate the direct threat. (Cal. Code Regs., tit. 2, § 12185, subd. (d)(9).)

A determination of “direct threat” or “would cause substantial physical damage to...property” requires “an individualized assessment that relies on objective evidence about the specific animal’s actual conduct,” and “cannot be made on evidence that is so old it is not credible or reliable, or on mere speculation or fear about the types of harm or damage an animal may cause or on evidence about harm or damage that other animals have caused.” (Cal. Code Regs., tit. 2, § 12185, subd. (d)(9)(B).) The assessment must consider the nature, duration and severity of the risk of a direct threat to the health and safety of others or of substantial physical damage to the property of others; the likelihood that a direct threat will actually occur; and whether there are any reasonable accommodations that will eliminate the direct threat or substantial physical damage to others’ property. (Cal. Code Regs., tit. 2, § 12185, subd. (d)(9)(C).) Other factors include whether there is evidence that the animal in question is currently engaging in dangerous conduct or has a recent history of overt dangerous acts, as described under Food and Agriculture Code section 31601 et seq. (Cal. Code Regs., tit. 2, § 12185, subd. (d)(9)(D).)

b. Support Animal as a Reasonable Accommodation

Support animals under the FEHA are “animals that provide emotional, cognitive, or other similar support to an individual with a disability. A support animal does not need to be trained or certified. Support animals are also known as comfort animals or emotional support animals.” (Cal. Code Regs., tit. 2, § 12005, sub. (d)(2).)

A person with a disability who has a support animal may request a reasonable accommodation regarding their need for the support animal in dwellings, including public and common use areas, and residential estate, and other buildings involved in real estate transactions. (Cal. Code Regs., tit. 2, § 12185, subd. (c); see *Auburn Woods I Homeowners Assn. v. Fair Employment & Housing Com.* (2004) 121 Cal.App.4th 1578); see also Gov. Code § 12927, subd. (c)(1) [prohibited discrimination includes “refusal to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling”].) A person may also be entitled to a reasonable accommodation to have a person visit them in their home with that person’s emotional support animal. (Cal. Code Regs., tit. 2, § 12180, subd. (c)(5).)

The FEHA provides standards, procedures, and defenses regarding requests for reasonable accommodations, including a request to have a support animal where it would not otherwise be permitted (e.g., because of a no pets policy). (See Cal. Code Regs., tit. 2, §§ 12176-12180, 12185, subd. (c)(1).)

(a) Reasonable Accommodation Request

A reasonable accommodation request for a support animal can be made by the person with a disability, someone acting on their behalf, or a family member. (Cal. Code Regs., tit. 2, § 12176, subd. (f)(2).) The request can be made either verbally or in writing and it can be made at any time. (Cal. Code Regs., tit. 2, § 12176, subd. (f)(3), (8) [request can be made during the application process, during the tenancy, and during the eviction process].)

A housing provider may not charge a fee or require an additional deposit or financial contribution as a condition of receiving, processing, or granting a reasonable accommodation, including accommodation requests for support animals. (Cal. Code Regs., tit. 2, § 12180, subd. (a)(1).)

(b) Establishing Disability and Nexus

State law limits what questions a housing provider may ask to establish a disability and the need for the accommodation request, including a request to have a support animal. (Cal. Code Regs., tit. 2, § 12178; see also Cal. Code Regs., tit. 2, § 12185, subd. (d)(7) [“Animal vests, identification cards, or certificates are not in and of themselves documentation of either disability or the need for a reasonable accommodation....”].)

If the person making the request provides reliable information about the disability and the need for the support animal, or if the disability and need for the support animal is apparent or known by the housing provider considering the request, and it is also apparent or known how the support animal is necessary, then the housing provider may not ask for any additional information on these subjects. (See Cal. Code Regs., tit. 2, § 12178, subds. (a), (b).)

If the disability is apparent or known by the housing provider considering the request, but the need for the support animal is not readily apparent or known, then the housing provider may request only information that describes the needed accommodation, and shows the relationship between the individual’s disability and how the support animal is necessary to afford an equal opportunity to use and enjoy a dwelling or housing opportunity. (See Cal. Code Regs., tit. 2, § 12178, subd. (c).)

If the disability is not readily apparent to the housing provider considering the request, then the housing provider may request only information that is necessary to establish that the individual has a disability, describes the needed support animal accommodation, and shows the relationship between the individual’s disability and how the support animal is necessary to afford the individual an equal opportunity to use and enjoy a dwelling or housing opportunity. (See Cal. Code Regs., tit. 2, § 12178, subd. (d).)

The housing provider may not seek information about a particular diagnosis or medical condition, severity of the disability, medical records, medical history, other disability or medical issues unrelated to the request, other disability or health-related information beyond the information identified above, or information unrelated to the described inquiry. (Cal. Code Regs., tit. 2, § 12178, subd. (e).)

The FEHA housing regulations describe different ways in which the required information can be provided by the individual with a disability or by any reliable third party who is in a position to know the information, and gives examples of such reliable third parties. (See Cal. Code Regs., tit. 2, § 12178, subd. (g).) The determination of whether a third party is reliable must be made on a case-by-case basis, and may

take into account information establishing how the third party is knowledgeable about the person’s disability and the disability-related need for a support animal, information that specifies the functional limitations that underlie the request for a support animal, or information providing a means to contact the third party to verify that the person identified did in fact provide the documentation and to answer any questions permitted by law. (See Cal. Code Regs., tit. 2, § 12178, subd. (h).)

(c) The Interactive Process

A housing provider must engage in the interactive process before denying a reasonable accommodation request for a support animal. (Cal. Code Regs., tit. 2, § 12177.) This process is intended to exchange information to identify, evaluate, and implement a reasonable accommodation that will provide access to the person with a disability. (Cal. Code Regs., tit. 2, § 12177, subd. (a).) The interactive process must be timely and conducted in good faith. (*Ibid.*) In other words, the housing provider must make a fair and honest effort to engage and consider the request. (*Ibid.*)

(d) Denial of a Support Animal

A request to have a support animal as a reasonable accommodation may be denied if the animal would constitute a direct threat to the health or safety of others or would cause substantial physical damage to the property of others. (Cal. Code Regs., tit. 2, § 12185, subd. (d)(9); see Cal. Code Regs., tit. 2, § 12179, subd. (b)(3)-(4).) A support animal may also be denied if the requested accommodation would constitute a “fundamental alteration of the services or operations of the person who is asked to provide the accommodation,” or would impose “an undue financial and administrative burden on the person who is asked to provide the accommodation.” (Cal. Code Regs., tit. 2, § 12179, subds. (b)(1)-(2).) When a person with a disability already has a support animal as a reasonable accommodation and is requesting another, the housing provider may consider whether the impact of multiple animals in the same dwelling is an undue burden or fundamental alteration. (Cal. Code Regs., tit. 2, § 12185, subd. (d)(4).)

If an individual with a disability is denied permission to have a support animal, the individual is still entitled to all the rights and privileges that otherwise would have been accorded the individual, so long as the individual no longer has the animal. (Cal. Code Regs., tit. 2, § 12185, subd. (d)(8).)

For more information about emotional support animals in housing under the FEHA, see the California Civil Rights Department’s Frequently Asked Questions guidance at [Emotional Support Animals and Fair Housing Law](#).

c. Other Rights, Limitations, and Obligations

Under the FEHA, a person with an assistance animal (i.e. a service or support animal) may not be required to pay any “pet fee, additional rent, or other additional fee, including additional security deposit or liability insurance, in connection with the assistance animal.” (Cal. Code Regs., tit. 2, § 12185, subd. (d)(2).) However, the person “may be required to cover the costs of repairs for damage the animal causes to the premises, excluding ordinary wear and tear.” (Cal. Code Regs., tit. 2, § 12185, subd. (d)(3).)

An individual may have multiple assistance animals, but each must meet the requirements under the FEHA. (Cal. Code Regs., tit. 2, § 12185, subd. (d)(4).)

“No breed, size, and weight limitations may be applied to an assistance animal (other than specific restrictions relating to miniature horses as service animals under the Americans with Disabilities Act).” (Cal. Code Regs., tit. 2, § 12185, subd. (d)(5).)

Housing providers may impose reasonable restrictions for service and support animals under the FEHA. Some permitted restrictions include requiring the animal be kept under the owner’s control, requiring disposal of animal waste, and requiring the owner to prevent nuisance behavior as long as preventing the behavior does not interfere with performance of the animal’s duties. (Cal. Code Regs., tit. 2, § 12185, subd. (d)(6).) For example, a “no noise” rule may interfere with a dog’s job of barking to alert a person who is blind to a danger, but incessant barking when the individual is not at home may violate reasonable restrictions relating to nuisance. (*Ibid.*) Any restrictions may not be greater than those imposed upon other animals on the property. (*Ibid.*)

2. California Unruh Civil Rights Act

The California Unruh Civil Rights Act (Unruh Act) provides that people with disabilities are entitled to full and equal accommodations in all business establishments. (Civ. Code, § 51, subd. (b).) Any violation of the Unruh Act, Civil Code section 51, as that section applies to housing accommodations, is also a violation of the FEHA. (See Gov. Code, § 12955, subd. (d).)

3. California Disabled Persons Act

The California Disabled Persons Act (DPA) applies to “housing accommodations” as defined in the DPA (which do not include a single-family residence where only one room is rented out). (Civ. Code, § 54.1, subd. (b)(1), (2).) The DPA expressly gives a person with a disability the right to have a guide, signal, or other service dog—but not other kinds of animals—in housing accommodations. (Civ. Code, § 54.1, subd. (b)(1), (b)(6)(A).) Like the FEHA, the DPA right includes guide, signal, and other service dogs in training. (Civ. Code, § 54.1, sub. (c).)

As does the FEHA, the DPA allows housing providers to impose reasonable regulations for service dogs and does not relieve a tenant from liability for any damages their service dog may cause. (Civ. Code, § 54.1, sub. (b)(6)(B); see Civ. Code, § 54.2, subd. (a); see also Civ. Code, § 54.2 subd. (b) [leash and tag requirements for service dogs in training, and liability for damages the dog does to the premises].) The DPA also prohibits requiring a person to pay an extra charge or security deposit for their service dog, including a service dog in training. (Civ. Code, § 54.2, subds. (a), (b).)

A violation of a person’s right to have a service animal in housing under the Americans with Disabilities Act (ADA) is also a violation of the DPA. (See Civ. Code, § 54.1, subd. (d); Civ. Code, § 54.2, subd. (c).)

4. California Government Code Section 11135

California Government Code section 11135 (Section 11135) provides that no person shall, on the basis of disability, be denied “full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.” (Gov. Code, § 11135, subd. (a).)

The regulations implementing Section 11135 define what is a “covered entity” under Section 11135, including several different types of public and private entities that could be involved in providing housing. (Cal. Code Regs., tit. 2, § 14020, subd. (m).) The regulations provide a right to have a service animal “in all locations and facilities operated or controlled by covered entities.” (Cal. Code Regs., tit. 2, § 14331, subd. (b); see also Cal. Code Regs., tit. 2, § 14020, subd. (r) [defining “facility”].)

Service animals under Section 11135 are the same as service animals under the FEHA: animals, whether professionally trained or not, that are trained to perform specific tasks to assist individuals with disabilities, including guide dogs, signal dogs, service dogs, miniature horses meeting the federal law requirements,

and service animals in training, but not including “support animals,” which are separately defined. (Cal. Code Regs., tit. 2, § 14020, subd. (f).) The questions a housing provider may ask are limited to the same two questions permitted under the FEHA— “Are you an individual with a disability?” and “What is the disability-related task the animal has been trained to perform?”—and the provider may not ask to have the animal demonstrate its task. (Cal. Code Regs., tit. 2, § 14331, subd. (b).)

The permissible grounds for denying a service animal track the FEHA: “if the animal constitutes a direct threat to the health or safety of others (i.e., a significant risk of bodily harm)...or would cause substantial physical damage to the property of others, and that harm cannot be sufficiently mitigated or eliminated by a reasonable accommodation...(Cal. Code Regs., tit. 2, § 14331, subd. (d)(8); see also Cal. Code Regs., tit. 2, § 14020, subd. (o) [defining “direct threat”].)

As the FEHA does for housing in general, Section 11135 provides that individuals with disabilities who have a “support animal” may request a reasonable accommodation to have their service animals in all locations and facilities operated or controlled by covered entities—i.e., entities covered by Section 11135. (Cal. Code Regs., tit. 2, § 14331, subd. (c) [requests may be denied if the support animal creates an undue burden or constitutes a direct threat to others, as defined in the regulations]; see Cal. Code Regs., tit. 2, § 14020, subd. (f)(2) [defining “support animals”]; Cal. Code Regs., tit. 2, § 14327 [interactive process requirement for reasonable accommodation request under Section 11135].)

As under the FEHA, if an individual with a disability is denied permission to have a service animal or support animal, “the individual is still entitled to all the rights and privileges that otherwise would have been accorded the individual, so long as the individual no longer has the animal.” (Cal. Code Regs., tit. 2, § 14331, subd. (d)(9).)

The other rights, limitations, and obligations relating to service and support animals that apply to housing covered by Section 11135 are the same as or similar to those that apply to assistance animals in housing under the FEHA. (Cal. Code Regs., tit. 2, § 14331, subd. (d) [prohibition against any pet fee or other additional fee, including additional security deposit or liability insurance; liability for damage caused beyond ordinary wear and tear; no breed, size, and weight limitations other than those relating to miniature horses; reasonable conditions may be imposed on the use of an assistance animal to ensure it is under control; animal vests, identification cards, or certificates are not in and of themselves documentation of disability or the need for a reasonable accommodation].)

B. Federal Law

1. Fair Housing Amendments Act of 1988

Unlike the FEHA, the federal Fair Housing Amendments Act of 1988 (FHAA) does not provide a categorical right to have any service animals in housing. But the FHAA may require that a person be allowed to live with a service or support animal as a reasonable accommodation. (24 C.F.R. § 100.204(b); [Assistance Animals](#) U.S. Dept. of Housing and Urban Development [as of Dec. 5, 2024].)

The FHAA requires housing providers to make reasonable accommodations when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. (42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204(a).) Permitting a person to live with an assistance animal despite a no pets policy is an example of a reasonable accommodation a housing provider may be required to provide under the FHAA. (24 C.F.R. § 100.204.)

There are two types of assistance animals for FHAA purposes: “(1) service animals, and (2) other trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to...as a ‘support animal’).” ([Notice FHEO-2020-01: Assessing a Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act](#) (Jan. 28, 2020) U.S. Dept. of Housing and Urban Development, at p. 1 [as of Dec. 5, 2024].) The FHAA does not define what is a service animal. “[H]ousing providers should initially follow the analysis that US DOJ has determined is used for assessing whether an animal is a service animal under the ADA [Americans with Disabilities Act].” (*Id.* at pp. 5.)

The FHAA standards regarding a request for a reasonable accommodation, including the permissible reasons for denying a request, are substantially similar to the FEHA and state law standards discussed above. (See [Joint Statement of HUD and the US DOJ: Reasonable Accommodations Under the Fair Housing Act](#) (May 14, 2004) U.S. Dept. of Justice [as of Dec. 5, 2024]; [Notice FHEO-2020-01: Assessing a Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act](#) (Jan. 28, 2020) U.S. Dept. of Housing and Urban Development [as of Dec. 5, 2024]; [Assistance Animals](#) U.S. Dept. of Housing and Urban Development [as of Dec. 5, 2024].)

FHAA guidance from the U.S. Department of Housing and Urban Development explains that, if the animal at issue is a service animal, the request for accommodation to have the animal should be granted, if otherwise reasonable; but if the animal does not qualify as a service animal under federal law, “the animal...may be a support animal or other type of assistance animal that needs to be accommodated.” ([Notice FHEO-2020-01: Assessing a Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act](#) (Jan. 28, 2020) U.S. Dept. of Housing and Urban Development, at p. 7; *id.* at pp. 7-13 [guidance on performing the analysis with regard to support animal or other assistance animal, including animals other than dogs] [as of Dec. 5, 2024].)

2. Americans With Disabilities Act

The ADA applies to “housing programs administered by state and local governments, such as public housing authorities, and by places of public accommodation, such as public and private universities.” ([Frequently Asked Questions About Service Animals and the ADA](#) (Feb. 28, 2020) U.S. Dept. of Justice, at Question No. 35 [as of Dec. 5, 2024]; see [Disability Overview](#) U.S. Dept. of Housing and Urban Development [as of Dec. 5, 2024].)

The ADA generally requires that service animals—but not emotional support animals—be permitted in such housing as a matter of right. (See 28 C.F.R. § 35.136(a) [public entities]; 28 C.F.R. § 36.302(c)(1) [public accommodations].)

3. Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act (29 U.S.C. § 794) (Section 504) applies to housing provided under programs or activities receiving “[f]ederal financial assistance,” or housing provided under any program or activity conducted by any federal “[e]xecutive agency.” (29 U.S.C. § 794(a).)

Under Section 504, a housing provider’s obligation to make reasonable accommodations may include “a change, adaptation or modification to a policy, program, service, [or] facility[]...which will allow a qualified person with a disability to...live in housing....” ([Reasonable Accommodations and Modifications](#) U.S. Dept. of Housing and Urban Development [as of Dec. 5, 2024]; see also *Ibid.* [“In addition to the statutory requirement to make reasonable accommodations under Section 504, HUD’s Section 504 regulation provides for making ‘housing adjustments’ at 24 C.F.R. § 8.33.”]; see generally *Fry v. Napoleon Community*

Schools (2017) 580 U.S. 154, 160 [“courts have interpreted § 504 as demanding certain ‘reasonable’ modifications to existing practices in order to ‘accommodate’ persons with disabilities”].)

Permitting an assistance animal in a “no pets” building for a person with a disability is an example of a reasonable accommodation under Section 504. ([Reasonable Accommodations and Modifications](#) U.S. Dept. of Housing and Urban Development [as of Dec. 5, 2024].) For purposes of Section 504, an assistance animal includes an emotional support animal, and is not limited to dogs. ([Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs](#) (Apr. 25, 2013) U.S. Dept. of Housing and Urban Development, at pp. 1-2 [as of Dec. 5, 2024].) For more information about the FHAA and Section 504 rights to an assistance animal as a reasonable accommodation, see the U.S. Department of Housing and Urban Development’s guidance on [Reasonable Accommodations and Modifications](#).

III. SERVICE ANIMALS IN PUBLIC SPACES

Both state and federal law generally provide a right to use a service animal in any program, service, or activity provided by a public entity, and in any businesses or other public accommodations—referred to collectively here as “public spaces.”

A. Federal Law

1. Americans with Disabilities Act

Title II of the ADA requires that public entities provide people with disabilities an equal opportunity to benefit from all of their programs, services, and activities. (42 U.S.C. § 12132; 28 C.F.R. § 35.130.) Title III of the ADA requires that places of public accommodation, such as restaurants, hotels, retail stores, and theaters, provide people with disabilities with full and equal enjoyment of the goods and services they offer. (42 U.S.C. § 12182; 28 C.F.R. § 36.201.) Both public entities and places of public accommodation must modify their policies, practices, or procedures to permit the use of service animals. (28 C.F.R. § 35.136 [public entities]; 28 C.F.R. § 36.302(c)(1) [public accommodations].)

a. Right to Use a Service Animal

With limited exceptions discussed below, the ADA requires that public entities and places of public accommodation permit the use of a service animal by an individual with a disability in all areas of a public entity’s facilities, or in all areas of a place of public accommodation, respectively, where members of the public, participants in services, programs or activities, or clients, customers, patrons, or invitees, as relevant, are allowed to go. (28 C.F.R. § 35.136(a), (g) [public entities]; 28 C.F.R. § 36.302(c)(1), (7).) The ADA limits the definition of service animal to “any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.” (28 C.F.R. § 35.104 [public entities]; 28 C.F.R. § 36.104 [public accommodations].) Miniature horses may also be permitted in public places similar to service animals. (28 C.F.R. § 35.136(i) [public entity]; 28 C.F.R. § 36.302(c)(9) [public accommodation].)

“The work or tasks performed by a service animal must be directly related to the individual’s disability.” (28 C.F.R. § 35.104 [public entities]; 28 C.F.R. § 36.104 [public accommodations].) Examples of work or tasks include, but are not limited to:

- Assisting individuals who are blind or have low vision with navigation and other tasks
- Alerting individuals who are deaf or hard of hearing to the presence of people or sounds
- Providing non-violent protection or rescue work
- Pulling a wheelchair

- Assisting an individual during a seizure
- Alerting individuals to the presence of allergens
- Retrieving items such as medicine or the telephone
- Providing physical support and assistance with balance and stability to individuals with mobility disabilities, and
- Helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors

(28 C.F.R. § 35.104 [public entities]; 28 C.F.R. § 36.104 [public accommodations]; see [Frequently Asked Questions about Service Animals and the ADA](#) (Feb. 28, 2020) U.S. Dept. of Justice, at Questions 1-6 [addressing questions about the definition of a service animal] [as of Dec. 3, 2024].)

Service animals are not required to be professionally trained and people with disabilities can train the dog themselves. ([Frequently Asked Questions about Service Animals and the ADA](#) (Feb. 28, 2020) U.S. Dept. of Justice, at Question 5 [as of Dec. 3, 2024].)

Service animals must be under their handler’s control, and are required to have a harness, leash, or other tether, unless the handler is unable to use one because of their disability, or the harness, leash, or tether would interfere with the animal’s work or tasks. (28 C.F.R. § 35.136(d) [public entity]; 28 C.F.R. § 36.302(c)(4) [public accommodation].) Neither a public entity nor a public accommodation is “responsible for the care or supervision of a service animal.” (28 C.F.R. § 35.136(e) [public entity]; 28 C.F.R. § 36.302(c)(5) [public accommodation].)

An individual with a disability may not be required or asked to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. (28 C.F.R. § 35.136(h) [public entity]; 28 C.F.R. § 36.302(c)(8) [public accommodation].) But a person with a disability may be charged for damages caused by their service animal, provided the public entity or accommodation normally charges individuals for damage they cause. (28 C.F.R. § 35.136(h) [public entity]; 28 C.F.R. § 36.302(c)(8) [public accommodation].)

Similar to the FEHA, a person may only be asked two questions to determine whether an animal qualifies as a service animal—“if the animal is required because of a disability and what work or task the animal has been trained to perform”—and inquiries about “the nature or extent of a person’s disability” are prohibited. (28 C.F.R. § 35.136(f) [public entity]; 28 C.F.R. § 36.302(c)(6) [public accommodation].) However, these inquiries generally may not be made “when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability.” (28 C.F.R. § 35.136(f) [public entity]; 28 C.F.R. § 36.302(c)(6) [public accommodation].) In addition, the public entity or accommodation cannot require that the service animal demonstrate its task and “shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.” (28 C.F.R. § 35.136(f) [public entity]; 28 C.F.R. § 36.302(c)(6) [public accommodation]; [Frequently Asked Questions About Service Animals and the ADA](#) (Feb. 28, 2020) U.S. Dept. of Justice, at Question 7 [as of Dec. 18, 2024].)

b. When Service Animals May be Removed

A public entity or place of public accommodation may ask a person with a disability to remove a service animal if: “(1) The animal is out of control and the animal’s handler does not take effective action to control it; or (2) The animal is not housebroken.” (28 C.F.R. § 35.136(b) [public entity]; 28 C.F.R. § 36.302(c)(2) [public accommodation].) If a public entity or place of public accommodation properly

excludes a service animal for one of these reasons, it must give the individual with a disability the opportunity “to participate in the service, program, or activity” (public entity), or “to obtain goods, services, and accommodations” (public accommodation), “without having the service animal on the premises.” (28 C.F.R. § 35.136(c) [public entity]; 28 C.F.R. § 36.302(c)(3) [public accommodation].)

In addition, service animals may be excluded if allowing them “would ‘fundamentally alter’ the nature of the goods, services, programs, or activities provided to the public.” ([Frequently Asked Questions about Service Animals and the ADA](#) (Feb. 28, 2020) U.S. Dept. of Justice, at Question 25 [as of Dec. 3, 2024]; see *id.* at Question 26 [stating that “In most settings, the presence of a service animal will not result in a fundamental alteration” and giving examples of exceptions].)

Further, a service animal could be removed if it poses a direct threat to the health or safety of others. (See 28 C.F.R. §§ 35.139 [public entities], 36.208 [public accommodations]; *Tamara v. El Camino Hosp.* (N.D. Cal. 2013) 964 F.Supp.2d 1077, 1085 [analyzing whether service animal was a direct and significant risk to the health and safety of others]; [Frequently Asked Questions about Service Animals and the ADA](#) (Feb. 28, 2020) U.S. Dept. of Justice, at Question 23 [as of Dec. 4, 2024].)

c. Support Animals, Service-Animals-in-Training, and Other Animals Excluded from Definition of “Service Animal”

Support animals do not qualify as “service animals” because “the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of th[e ADA service animal] definition.” (28 C.F.R. § 35.104 [public entities]; 28 C.F.R. § 36.104 [public accommodations]; see [Frequently Asked Questions about Service Animals and the ADA](#) (Feb. 28, 2020) U.S. Dept. of Justice, at Question 3 [“emotional support, therapy, comfort, or companion animals” are terms “used to describe animals that provide comfort just by being with a person,” and “[b]ecause they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA.”] [as of Dec. 4, 2024].) Qualifying work also does not include “[t]he crime deterrent effects of an animal’s presence.” (28 C.F.R. § 35.104 [public entities]; (28 C.F.R. § 36.104 [public accommodations].)

Unlike under the FEHA, a service-animal-in-training does not qualify as a service animal that must be permitted. (See [Frequently Asked Questions about Service Animals and the ADA](#) (Feb. 28, 2020) U.S. Dept. of Justice, at Question 6 [as of Jul. 29, 2024].) Other animals, whether wild or domestic, trained or untrained, are not considered service animals under the ADA either. (28 C.F.R. § 35.104 [public entities]; 28 C.F.R. § 36.104 [public accommodations].)

For more information about the US Department of Justice ADA regulations regarding the use of service animals, see [Service Animals](#) and [Frequently Asked Questions About Service Animals and the ADA](#).

B. State Law

1. California Disabled Persons Act

The DPA establishes a right to use a service animal in public spaces, both expressly and through its incorporation of rights provided under the ADA. (See Civ. Code, § 54.2, subds. (a), (c).) The DPA requires full and equal access to public spaces for individuals with disabilities. (Civ. Code, § 54.1, subd. (a)(1) [listing the various types of public accommodations, including catch-all category of “other places to which the general public is invited”].)

The DPA provides that, “Every individual with a disability has the right to be accompanied by a guide dog, signal dog, or service dog, especially trained for the purpose, in any of the places specified in Section 54.1 without being required to pay an extra charge or security deposit for the guide dog, signal dog, or

service dog. However, the individual shall be liable for any damage done to the premises or facilities by [their] dog.” (Civ. Code, § 54.2, subd. (a). But see Civ. Code, § 54.7 [different rules for zoos and wild animal parks].)

Unlike the ADA, which requires dogs to be trained before they are required to be permitted into public places as service animals, the DPA expressly provides that persons with a disability and persons licensed or authorized to train guide dogs, signal dogs, or service dogs, “may take dogs, for the purpose of training them as guide dogs, signal dogs, or service dogs in any of the places” to which the DPA requires full and equal access for people with disabilities. (Civ. Code, § 54.1, subd. (c); see Civ. Code, § 54.1, subd. (a)(1); Civ. Code, § 54.2, subd. (b).) The dog being trained must be on a leash and tagged as a guide dog, signal dog, or service dog by an identification tag issued by the county clerk, animal control department, or other agency. (Civ. Code, § 54.1, subd. (c); Civ. Code, § 54.2, subd. (b).)

2. California Unruh Civil Rights Act

The Unruh Act provides a right to use a service animal, both of its own force, and through its incorporation of ADA rights. The Unruh Act provides that all persons within California, no matter their disability, are entitled to “the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.” (Civ. Code, § 51, subd. (b).) Courts interpret “business establishments” in the broadest sense reasonably possible. (*Isbister v. Boys’ Club of Santa Cruz, Inc.* (1985) 40 Cal.3d 72, 78; *O’Connor v. Village Green Owners Assn.* (1983) 33 Cal.3d 790, 795.) “Business establishments” include hotels and motels, nonprofit organizations that have a business purpose or are a public accommodation, restaurants, theaters, hospitals, barber shops and beauty salons, retail establishments, and in some circumstances, public agencies. ([Discrimination at Business Establishments](#) Cal. Civil Rights Dept. [as of Dec. 5, 2024]. But see *Warfield v. Peninsula Golf & Country Club* (1995) 10 Cal.4th 594, 599 [“a truly private social club generally would not constitute a ‘business establishment’” within the meaning of the Unruh Act] [emphases in original].)

The Unruh Act does not expressly address service animals, but courts appear to interpret the Unruh Act’s prohibition of discrimination on the basis of disability as creating a right to use a service animal in a business establishment, unless the business has a rational basis for excluding the animal. One California court of appeal has held that “the Unruh Civil Rights Act prohibits arbitrary discrimination in public accommodations with respect to trained service dogs, but not to service animals in-training.” (*Miller v. Fortune Commercial Corp.* (2017) 15 Cal.App.5th 214, 224.) And a federal district court has held that a public accommodation may exclude a service animal without violating the Unruh Act if the exclusion is a reasonable restriction rationally related to the business and services offered. (*Stevens v. Optimum Health Institute—San Diego* (S.D. Cal. 2011) 810 F.Supp.2d 1074, 1089-1092 [discussion of liability under the Unruh Act and the Disabled Persons Act].)

The Unruh Act also provides that a violation of the right of any individual under the ADA shall constitute an Unruh Act violation. (Civ. Code, § 51, subd. (f); see *Brennon B. v. Superior Court* (2022) 13 Cal.5th 662, 688-692 [clarifying that the statute makes any ADA violation “by a business establishment” an Unruh Act violation] [internal quotation marks omitted; emphasis in original].) The Unruh Act thereby provides a right to use service animals in business establishments through its incorporation of the ADA.

3. California Government Code Section 11135

Section 11135 provides a right to use a service animal—and to request to have a support animal as a reasonable accommodation—in public spaces covered by Section 11135. The regulations adopted under Section 11135 expressly provide that “Individuals with disabilities are permitted to have service animals...in all locations and facilities operated or controlled by covered entities.” (Cal. Code Regs., tit. 2,

§ 14331, subd. (b); see also Cal. Code Regs., tit. 2, § 14020, subd. (f)(1); Cal. Code Regs., tit. 2, § 14020, subd. (r); Cal. Code Regs., tit. 2, § 14020, subd. (m); Cal. Code Regs., tit. 2, § 14331.)

Section 11135 provides that, “Individuals with disabilities who have a support animal...may request a reasonable accommodation...related to the individual’s need for the support animal in all locations and facilities operated or controlled by covered entities.” (Cal. Code Regs., tit. 2, § 14331, subd. (c); see also Cal. Code Regs., tit. 2, § 14020, subd. (f)(2); Cal. Code Regs., tit. 2, § 14331; Cal. Code Regs., tit. 2, § 14327.)

In addition, a violation of the ADA rules relating to public entities—which include the right to use service animals—is also a violation of Section 11135. (Gov. Code, § 11135, subd. (b).)

IV. SERVICE ANIMALS IN TRANSPORTATION

A. Federal Law

1. Americans with Disabilities Act

The ADA’s right to use a service animal in public spaces also applies to all public and private transportation covered by the ADA. But some aspects of the right may be different in the case of transportation that is regulated under the ADA by the U.S. Department of Transportation (“US DOT”)—whose regulations are discussed in this section—rather than the U.S. Department of Justice (“US DOJ”)—whose regulations are discussed above.

As in other public spaces, service animals must be permitted in private and public transportation vehicles and facilities regulated by US DOT; emotional support animals do not qualify as service animals; and an animal must be “trained” in order to qualify as a service animal. (49 C.F.R. § 37.3 [service animal definition]; 49 C.F.R. § 37.167(a), (d) [right to be accompanied by service animal in vehicles and facilities]; [Frequently Asked Questions](#) (Aug. 21, 2015) U.S. Dept. of Transportation, Fed. Transit Admin. [as of Dec. 5, 2024].) Further, the limited questions that may be asked to determine if an animal is a service animal are the same as in other public spaces. ([Frequently Asked Questions](#) (Aug. 21, 2015) U.S. Dept. of Transportation, Federal Transit Admin. [as of Dec. 5, 2024].)

Unlike the definition for public spaces in general, however, the definition of a service animal for purposes of transportation regulated by US DOT does not limit service animals to dogs, but expressly includes any “other animal individually trained to work or perform tasks for an individual with a disability.” (49 C.F.R. § 37.3); see 49 C.F.R. § Pt. 37, App. D [discussion in section titled, “Section 37.167 Other Service Requirements”].) This means that once a person leaves a transportation system, some service animals may no longer be considered service animals. ([Frequently Asked Questions](#) (Aug. 21, 2015) U.S. Dept. of Transportation, Federal Transit Admin. [as of Dec. 5, 2024].)

There are also differences in the situations under which a service animal may be excluded. Similar to other public spaces, a service animal may be excluded from transportation covered by the US DOT regulations if the animal is out of control and the animal’s owner does not take effective action to control it or it poses a direct threat to the health or safety of others. ([Frequently Asked Questions](#) (Aug. 21, 2015) U.S. Dept. of Transportation, Federal Transit Admin. [as of Dec. 5, 2024].) But unlike US DOJ guidance on other public spaces, US DOT guidance on the service animal rule for transportation regulated by US DOT does not state that a service animal may be excluded on the ground that admitting the animal would fundamentally alter the nature of what the entity is providing. (*Ibid.*)

B. State Law

The DPA, Unruh Act, and Section 11135 provide or may provide a right to use a service animal in transportation vehicles and facilities (“transportation”).

The DPA provisions relating to service animals in public spaces discussed above apply to transportation. (Civ. Code, § 54.1, subd. (a); Civ. Code, § 54.2; see also Civ. Code, § 54.1, subd. (a)(3) [“[f]ull and equal access” for purposes of DPA in its application to transportation means access that meets the standards of ADA titles II and III relating to public entities and accommodations, except that if California law prescribes higher standards, it shall mean access that meets those higher standards].)

A right to use a service animal arising under the Unruh Act applies to transportation that is an accommodation, advantage, facility, privilege, or service of a “business establishment.” (Civ. Code, § 51, subd. (b).)

A right to use a service animal under Section 11135—including rights incorporated from the ADA—applies to transportation that is part of a program or activity that is conducted, operated, or administered by the state or by any state agency, is directly funded by the state, or receives any financial assistance from the state. (Gov. Code, § 11135, subs. (a), (b).)

V. SERVICE ANIMALS IN AIRPLANES AND AIRPORTS

The use of service animals in airplanes is governed by the federal Air Carriers Access Act of 1986, as amended (ACAA), which prohibits air carriers from discriminating on the basis of disability. (49 U.S.C. § 41705(a); 14 C.F.R. § 382.11(a); 14 C.F.R. § 382.19; see also [Service Animals](#) (Jun 9, 2021) U.S. Dept. of Transportation [as of Nov. 13, 2024]; [Airline Passengers with Disabilities Bill of Rights](#) (Oct. 2, 2023) U.S. Dept. of Transportation [as of Nov. 13, 2024].)

A. Airplanes

1. Right to Service Animals in Airplanes

With limited exceptions discussed below, an air carrier “must allow a service animal to accompany a passenger with a disability.” (14 C.F.R. § 382.72; see 14 C.F.R. § 382.74 [no requirement “to accept more than two service animals for a single passenger”].) Service animals must be allowed on the passenger’s lap or in the passenger’s foot space, unless this location would be inconsistent with government safety requirements or encroach into another passenger’s space. (14 C.F.R. § 382.77(a).)

To qualify as a service animal under the ACAA, the animal must be a dog, regardless of breed or type, and trained to do work or perform a disability-related task. (14 C.F.R. § 382.3.) Emotional support dogs, service dogs in training, and animals other than dogs are not service animals that must be allowed to accompany a passenger with a disability. (14 C.F.R. § 382.3.) Carriers may have their own rules regarding such animals.

As in other settings, the only permitted inquiries to determine whether an animal qualifies as a service animal are whether the animal is required to accompany the person with a disability, and what work or task the animal has been trained to perform; inquiries about the nature or extent of a person’s disability, and requests to have the animal demonstrate its work or task, are prohibited. (14 C.F.R. § 382.73(a)(1).) However, the carrier may observe the animal and look for behaviors that demonstrate it has not been successfully trained to behave properly in a public setting, in which case the carrier is “not required to treat it as a service animal without a carrier in the cabin.” (14 C.F.R. § 382.73(a)(2).) The carrier may also look for a harness or vest on the animal, or other physical indicators, to determine if the animal is a service animal. (14 C.F.R. § 382.73(a)(3).)

2. Other Rights, Limitations, and Obligations

In general, if a passenger with a disability traveling with a service animal requests it, a carrier must seat the passenger in a bulkhead seat, or a seat other than a bulkhead seat, as the passenger requests. (14 C.F.R. § 382.81(c).) A passenger with a disability is entitled to preboarding if the passenger self-identifies at the gate as needing additional time or assistance to board, stow accessibility equipment, or be seated. (14 C.F.R. § 382.93.)

Air carriers must provide animal relief areas for service animals for all airport terminal facilities they own, lease, or control at U.S. airports, and, if requested, must escort a passenger with a service animal to an animal relief area. (14 C.F.R. § 382.51(a)(5) [provision of animal relief area]; 14 C.F.R. § 382.91(c) [escort]; see also 49 C.F.R. § 27.71(a), (h) [airports receiving financial assistance from US DOT that have 10,000 or more annual enplanements must cooperate with airlines to provide wheelchair accessible animal relief areas].) Carriers are required to provide other forms of assistance to passengers with a disability in moving within the terminal, which may apply to a passenger with a disability traveling with a service animal. (See 14 C.F.R. § 382.91.)

A carrier may require a passenger with a disability seeking to travel with a service animal in the cabin to provide up to 48 hours' advance notice by submitting certain US DOT forms as a condition of permitting the service animal to travel in the cabin if the reservation is made more than 48 hours prior to a flight's departure. (14 C.F.R. § 382.27(b)(3); 14 C.F.R. § 382.75(a), (b), (g)(1)-(3); see 14 C.F.R. § 382.75(a) ["Service Animal Air Transportation Form," and for flight segments longer than 8 hours, "Service Animal Relief Attestation Form"]; see also 14 C.F.R. § 382.27(f) [carrier's obligations where passenger has provided advance notice required and is forced to change to another flight, because of a flight cancellation for example]; 14 C.F.R. § 382.75(d)-(f) [requirements that carrier make forms available to passengers and enable passengers to submit them electronically or by hardcopy].) Alternatively, the carrier may require the passenger to provide the forms at the passenger's departure gate on the date of travel as a condition of permitting the service animal to travel in the cabin. (14 C.F.R. § 382.27(b)(3).)

Beyond the rules specified in the ACAA regulations, a carrier may not require a passenger seeking to travel with a service animal in the cabin to provide advance notice. (14 C.F.R. § 382.27(a).) Nor may a carrier require documentation from passengers with disabilities traveling with service animals beyond completion of the identified US DOT forms, "except to comply with requirements on transport of animals by a Federal agency, a U.S. territory or a foreign jurisdiction." (14 C.F.R. § 382.75(c).)

A passenger may not be required to check in physically at the airport, rather than using generally available online check-in, on the basis that the passenger is traveling with a service animal. (14 C.F.R. § 382.76.)

A carrier may not charge a passenger with a disability for traveling with a service animal or require the passenger to sign waivers of liability for "the loss of, death of, or injury to service animals." (See 14 C.F.R. § 382.31(a); 14 C.F.R. § 382.35(b)). In general, carriers may not establish additional restrictions on the transport of service animals outside of those specifically permitted by the ACAA regulations, unless required by other applicable government requirements. (14 C.F.R. 382.80; see also 14 C.F.R. § 382.33(a) [carrier must not subject passengers with a disability to restrictions that do not apply to other passengers, except as otherwise permitted in the regulations].)

A carrier "may require that a service animal be harnessed, leashed, or otherwise tethered at all times by the service animal user or service animal handler while in areas of the airport that...[the carrier] own[s], lease[s] or control[s], or on an aircraft." (14 C.F.R. § 382.73(b).) The service animal handler "is responsible for keeping the animal under control at all times, and caring for and supervising the service animal."

(14 C.F.R. § 382.3.) A carrier may charge for damages caused by a service animal if the carrier would normally charge individuals without disabilities for similar kinds of damage. (14 C.F.R. § 382.78.)

3. Exclusion of Service Animal

a. Health or Safety Threat

A carrier may deny transport to a service animal if the animal “poses a direct threat to the health or safety of others.” (14 C.F.R. § 382.79(a)(1); see 14 C.F.R. § 382.3 [defining “direct threat”].)

In determining whether to deny transport to a service animal on the basis that it poses a direct health or safety threat, the carrier must make an “individualized assessment,” as described in the regulations. (14 C.F.R. § 382.79(b).) The carrier “must not deny transportation to the service animal if there are means available short of refusal that would mitigate the problem... .” (14 C.F.R. § 382.79(d).) If a carrier refuses to deny transportation to a service animal, the carrier must—at the airport, or within 10 calendar days of the refusal—provide a written statement of the reason, including the specific basis for the opinion that the refusal meets the relied-upon ground for refusal. (14 C.F.R. § 382.79(e).)

b. Significant Disruption

A carrier may also deny transport to a service animal if “[t]he animal causes a significant disruption in the cabin or at an airport gate area, or its behavior on the aircraft or at an airport gate area indicates that it has not been trained to behave properly in public (e.g., running freely, barking or growling repeatedly at other persons on the aircraft, biting or jumping on people, or urinating or defecating in the cabin or gate area).” (14 C.F.R. § 382.79(a)(2).)

The carrier must make an individualized assessment (14 C.F.R. § 382.79(c)); the carrier may not deny transportation if there are means available short of refusal that would mitigate the problem (e.g., muzzling a barking dog) (14 C.F.R. § 382.79(d)); and the carrier must provide a written statement of the reason for the refusal at the airport or within 10 calendar days (14 C.F.R. § 382.79(e)).

c. Safety or Health Requirement Violations

A carrier may also refuse to transport a service animal if “[t]he animal’s carriage would violate applicable safety or health requirements of any U.S. federal agency, U.S. territory or foreign government.” (14 C.F.R. § 382.79(a)(3).) The carrier must provide a written statement of the reason for the refusal at the airport or within 10 calendar days. (14 C.F.R. § 382.79(e).)

d. Failure to Provide Requested US DOT Forms

A carrier may deny transport to a service animal if the passenger does not provide completed US DOT forms to the carrier when requested to do so as discussed above. (14 C.F.R. § 382.79(a)(4).) However, the ACAA regulations also state that if a passenger does not meet the advance notice or check-in requirements that a carrier has established, the carrier must still provide accommodation if it can do so by making reasonable efforts without delaying the flight. (14 C.F.R. § 382.75(h); see 14 C.F.R. § 382.27(g).) As with the other grounds for exclusion, the carrier must provide a written statement of the reason for the refusal at the airport or within 10 calendar days. (14 C.F.R. § 382.79(e).)

B. Airports

1. Federal Law

Publicly operated airports generally must allow animals that meet the ADA’s definition of a service animal. (28 C.F.R. § Pt. 36, App. C [“Airports that are operated by public entities are covered by title II of the ADA”]; 28 C.F.R. § 35.136(a), (g) [ADA title II rule requiring public entities to permit service animals].)

Although publicly operated airports are subject to the ADA service animal rules, public airport operations that are under an air carrier’s control are not covered by these rules, but rather by the Air Carrier Access Act. ([Americans with Disabilities Act Title II Regulations](#) (Jun. 24, 2024) U.S. Dept. of Justice [“The public airport operator is required to comply with the title II requirements, but is not covered by the ACAA. Conversely, the air carrier is required to comply with the ACAA, but is not covered by title II of the ADA.”] [as of Dec. 19, 2024].)

“If a particular animal is a service animal for purposes of the ACAA and is thus allowed on an airplane, but is not a service animal for purposes of the ADA, nothing in the ADA prohibits an airport from allowing a ticketed passenger with a disability who is traveling with a service animal that meets the ACAA’s definition of a service animal to bring that animal into the facility even though under the ADA’s definition of service animal the animal could be lawfully excluded.” ([Americans with Disabilities Act Title II Regulations](#) (Jun. 24, 2024) U.S. Dept. of Justice [as of Dec. 19, 2024].)

“Privately operated airports...are not...places of public accommodation” under the ADA (28 C.F.R. § Pt. 36, App. C.), and thus are not subject to the ADA rule requiring public accommodations to permit service animals.

Regardless of whether an airport is publicly or privately operated, places of public accommodation that are located within the airport—restaurants and stores, for example—are covered by the ADA rule requiring service animals to be allowed in public accommodations. (28 C.F.R. § Pt. 36, App. C [“Places of public accommodation located within airports, such as restaurants, shops, lounges, or conference centers, however, are covered by subparts B and C of this part;” “places of public accommodation located within airports would be covered by this part”]; 28 C.F.R. § 36.302(c)(1), (7) [ADA rules requiring places of public accommodation to permit the use of service animals].)

2. State Law

The right to use a service animal in public spaces under the DPA discussed above applies to airports. (See Civ. Code § 54.1, subd. (a)(1); Civ. Code § 54.2.) The right to use a service animal under the Unruh Act discussed above also applies to airports insofar as an airport is a “business establishment.” (See Civ. Code, § 51, subd. (b).)

In addition, the right to use a service animal under Section 11135 discussed above applies to any airport that is subject to Section 11135’s guarantees of full and equal access and non-discrimination. (See Gov. Code, § 11135, subd. (a) [relating to “any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state”]; Cal. Code Regs., tit. 2, § 14331, subd. (b) [right to have service animals in all locations and facilities operated or controlled by Section 11135 “covered entities”]; Cal. Code Regs., tit. 2, § 14020, subd. (m) [defining “covered entity”].)

VI. SERVICE ANIMALS IN EMPLOYMENT

The FEHA, Title I of the ADA, and the Rehabilitation Act of 1973 all protect people with disabilities from discrimination in employment. (Gov. Code, § 12940 et seq. [FEHA]; 42 U.S.C. § 12111 et seq. [ADA]; 29 U.S.C. § 701 et seq. [Rehabilitation Act].) These protections generally apply to both employees and applicants for employment, collectively referred to here as “employees.”

A. Service or Support Animals as a Reasonable Accommodation

An employee may request to have a service animal as a reasonable accommodation. Employers have an affirmative duty to make reasonable accommodations for the known disabilities of applicants and employees, unless the employer can show, after engaging in an interactive process, that the accommodation would impose an undue hardship on the employer. (Gov. Code, § 12940, subs. (m)(1), (n) [FEHA]; Cal. Code Regs., tit. 2, § 11068, subd. (a) [FEHA]; 42 U.S.C. § 12112(b)(5)(A), (B) [ADA]; 29 C.F.R. § 1630.9(a), (b) [ADA]; 29 C.F.R. § 1630.2(o)(3) [ADA interactive process]; 29 U.S.C. § 794(d) [standards used to determine whether Rehabilitation Act has been violated in a complaint alleging employment discrimination shall be the standards in specified sections of the ADA, as such sections relate to employment]; 29 C.F.R. § 1614.102(a)(8) [reasonable accommodation obligation of federal agencies]; 41 C.F.R. § 60-741.21(a)(6)(i) [reasonable accommodation obligation of federal contractors and subcontractors].) “Undue hardship” is any action requiring significant difficulty or expense, taking into account a number of factors, including cost, size of the employer, and the employer’s type of operations. (Gov. Code, § 12926, subd. (u) [FEHA]; 42 U.S.C. § 12111(10) [ADA]; 29 C.F.R. §§ 1614.203(a)(10), 1630.2(p) [Rehabilitation Act].)

The FEHA regulations specifically provide that a reasonable accommodation may include “[a]llowing applicants or employees to bring assistive animals to the work site.” (Cal. Code Regs., tit. 2, § 11065, subd. (p)(2)(B).) Under the FEHA regulations, “‘Assistive animal’ means an animal that is necessary as a reasonable accommodation for a person with a disability.” (Cal. Code Regs., tit. 2, § 11065, subd. (a).) Examples include guide dogs, service dogs, signal dogs, and support dogs or other animals that provide emotional, cognitive, or other similar support to a person with a disability, including, but not limited to, traumatic brain injuries or mental health disabilities, such as major depression. (Cal. Code Regs., tit. 2, § 11065, subd. (a); see Cal. Code Regs., tit. 2, § 11065, subd. (a)(3) [further specifying that a support animal may constitute a reasonable accommodation in certain circumstances].)

“Employers may require that an assistive animal in the workplace: (A) is free from offensive odors and displays habits appropriate to the work environment, for example, the elimination of urine and feces; and (B) does not engage in behavior that endangers the health or safety of the individual with a disability or others in the workplace.” (Cal. Code Regs., tit. 2, § 11065, subd. (a)(2).)

Moreover, an employer may require: 1) a letter from the employee’s health care provider stating that the employee has a disability and explaining the need for an assistive animal in the workplace, and 2) confirmation that the assistive animal meets the requirements in the paragraph above. (Cal. Code Regs., tit. 2, § 11069, subd. (e)(1)-(2).) This confirmation may include information provided by the employee. (Cal. Code Regs., tit. 2, § 11069, subd. (e)(2).) Within the first two weeks that the assistive animal is in the workplace, the employer may challenge that the animal is free from offensive odors, displays appropriate habits, and does not engage in dangerous behaviors based on objective evidence of offensive and disruptive behaviors. (*Ibid.*) An employer may also require an annual recertification from the employee of the continued need for the animal. (*Ibid.*)

Under Title I of the ADA, an employee may request to use a service animal as a reasonable accommodation. (42 U.S.C. § 12112(b)(5)(A), (B); See [Visual Disabilities in the Workplace and the Americans with Disabilities Act](#) (Jul. 26, 2023) U.S. Equal Employment and Opportunity Com., at Example H [as of Dec. 19, 2024]; [Epilepsy in the Workplace and the ADA](#) (May 15, 2013) U.S. Equal Employment and Opportunity Com., at Questions 2 and 10 [as of Dec. 19, 2024]; [Accommodations](#) U.S. Dept. of Labor [as of Dec. 19, 2024].)

VII. COMPLAINTS

An individual who believes they have been discriminated against under the laws described in this publication may have options to file complaints with a government agency or in court. Please be aware that

these complaints may have strict timeframes for filing and other requirements. It is best for an individual wishing to file a lawsuit to consult with a lawyer as soon as possible.

A. For Violations of State Law

If an individual believes they have experienced discrimination under the FEHA, Unruh Act, DPA, or Section 11135, they may file a complaint with the California Civil Rights Department (CRD). (Gov. Code, § 12930.) CRD is authorized to receive and investigate individual complaints and enforce these laws on behalf of individuals. (See Gov. Code, § 12930, subd. (f).) Information about how to file a complaint can be found at the [CRD website](#). The individual may also file a private lawsuit. (Civ. Code, §§ 52, 55; Gov. Code, § 11139; Gov. Code, § 12980, subd. (h).) An individual who experienced disability discrimination in employment may file a lawsuit to recover damages but must first file with CRD and receive a right-to-sue notice before filing a lawsuit. (Gov. Code, § 12965; Cal. Code Regs., tit. 2, § 10005.) Additionally, the Attorney General, a city attorney, and a district attorney is statutorily authorized to bring a civil action to enjoin violations of the Unruh Act or DPA. (Civ. Code, §§ 52, 55.1.) The Department of Rehabilitation acting through the Attorney General also has statutory authority to bring a civil action under the DPA. (Civ. Code, § 55.1.)

B. For Violations of Federal Law

1. Americans With Disabilities Act

If an individual believes they have been discriminated against under the ADA, they may file a complaint with the appropriate agency or they may file a lawsuit. (42 U.S.C. §§ 12117, 12133, 12188; 28 C.F.R. §§ 35.170, 36.501 et seq.) For information about how to file a complaint based on type and federal agency, see the US DOJ's [Where and How to File Your Complaint](#). This webpage includes instructions on how to file a complaint with the United States Department of Transportation (US DOT), the Equal Employment and Opportunity Commission (EEOC), the Housing and Urban Development Department (HUD), and the United States Department of Justice.

With regard to complaints concerning transportation vehicles or facilities regulated under the ADA by the US DOT, see [File a Complaint With FTA](#).

The ADA gives the federal EEOC the primary authority to enforce the ADA's prohibitions against discrimination in employment based on disability. (42 U.S.C. § 12117.) An individual who believes that they have experienced unlawful employment discrimination because of a disability may file a complaint with the EEOC for investigation. A complaint must be filed with the EEOC before a lawsuit for unlawful discrimination can be filed. (See [Filing a Charge of Discrimination with the EEOC](#) U.S. Equal Employment Opportunity Com. [as of Dec. 19, 2024].) More information about the EEOC's complaint process is available at [EEOC's website](#). In addition, an individual may file a report of discrimination based on disability to the [U.S. Department of Justice Civil Rights Division](#).

2. Fair Housing Amendments Act

If an individual believes they have experienced discrimination under the federal Fair Housing Amendments Act of 1988, they may file a complaint with HUD. (42 U.S.C. §§ 3610, 3612.) For more information about how to file a complaint, see [HUD's website](#). The individual may also file a private lawsuit. (42 U.S. Code § 3613.)

3. Air Carrier Access Act

If an individual believes they have been discriminated against by an air carrier in violation of the ACCA, they may file a complaint with US DOT. (14 C.F.R. § 382.159; see 49 U.S.C. § 41705(c)(1).) Information

about filing a complaint, including links to online complaint forms, phone numbers, and a mailing address, is available on the US DOT's website at [Complaints Alleging Discriminatory Treatment Against Disabled Travelers Under the Air Carrier Access Act and 14 CFR Part 382](#) and [File a Complaint with FTA](#). US DOT also provides information about resolving air travel issues directly with an airline at their webpages called [Air Travel Complaints](#) and [File a Consumer Complaint](#).

The US DOT regulations also require carriers to designate and provide access to Complaint Resolution Officials. (14 C.F.R. § 382.151; 14 C.F.R. § 382.153.)

For questions or comments about this publication, please contact the California Department of Justice's Disability Rights Bureau within the Civil Rights Enforcement Section at DisabilityRights@doj.ca.gov.

For individual complaints and inquiries, please contact the [California Civil Rights Department \(CRD\)](#), formerly known as the Department of Fair Employment and Housing. Please note that the California Department of Justice, unlike CRD, only pursues systemic violations by local governmental entities or companies directly impacting the general public or large groups of individuals. It does not handle individual complaints or inquiries. It also does not represent individuals, provide legal advice, or provide updates about its investigations and/or litigation, even to individuals who provided information about those matters. It also does not handle cases involving isolated violations of law, matters against state-level public entities, or out-of-state conduct.

To report a complaint to the California Department of Justice regarding systemic violations by local governmental entities or companies, please contact the Public Inquiry Unit (PIU). PIU staff may not respond to every inquiry, cannot answer legal questions or give legal advice, and cannot act as a personal lawyer for individuals who report a complaint. Complaints may be referred to a more appropriate agency.

For more information about reporting a complaint against a business or company to PIU, visit the [Consumer Complaint webpage](#).

For more information about reporting a complaint against another entity to PIU, visit the [General Comment, Question or Complaint webpage](#).