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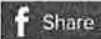
California Laws on Service Dogs and Emotional Support Animals in the Workplace

Many California employers need to allow service dogs and emotional support animals in the workplace unless it would create an undue hardship.

By Zachary Duffly (</law-authors/zachary-duffy.html>)



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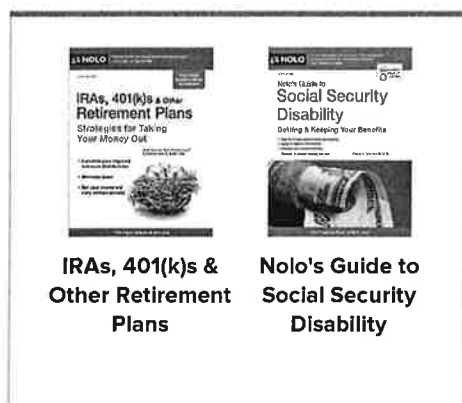
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California law allows persons with disabilities to bring service dogs and emotional support animals to work, with some limitations. Thanks to California's Fair Employment and Housing Act, job applicants and employees are protected from discrimination in the workplace due to a physical or mental medical disorder that is disabling, potentially disabling or perceived to be disabling or potentially disabling. This protection from disability discrimination requires employers to work with employees to accommodate their disabilities in reasonable ways. This includes having to make an accommodation for employees with service dogs, psychiatric service dogs, and emotional support animals; for instance, by making an exception to the employer's usual rules about not bringing dogs to work.

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Which Employers Have to Abide by These Rules?

California's law requiring reasonable accommodation for support animals applies to employers who have five or more employees. Federal disability provisions apply to private employers only when they have 15 or more employees (and to state and local governments regardless of size).

What Types of Assistive Animals Do These Protections Apply to?

In California, an assistive animal means a trained animal that is necessary as a reasonable accommodation for a person with a disability and includes guide dogs, signal dogs, service dogs and psychiatric service dogs. It also includes "support" dogs or other animals that provide emotional or other support to a person with a disability, including, but not limited to, traumatic brain injuries or mental disabilities such as major depression.

While only a dog that is trained to recognize and respond to an individual's disability-related need for assistance can be considered a service dog, a support animal doesn't have to be specially trained to perform work or tasks related to a person's disability in order to be covered by California's workplace disability laws.

What Rules Do Animal Owners Need to Abide By?

California law allows employers to require that an assistive animal in the workplace:

- is free from offensive odors and displays habits appropriate to the work environment (for example, is potty-trained)
- does not engage in behavior that endangers the health or safety of the individual with a disability or others in the workplace, and
- is trained to provide assistance for the employee's disability.

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However, because federal law says that an emotional support animal qualifies for a reasonable accommodation even if it is not trained, California employers are not allowed to require that an animal have specific training to provide disability-related assistance to the employee.

Can an Employer Ask for Proof of Disability in California?

When the disability or need for reasonable accommodation is not obvious, a job applicant or employee may need to provide the employer with reasonable medical documentation from a health care provider that confirms:

- the existence of the disability, and
- the need for reasonable accommodation.

Under California law, the health care provider who provides this documentation does not have to be a doctor. Documentation can come from other providers, including clinical psychologists, clinical social workers, marriage and family therapists, or even acupuncturists.

Which Employees and Job Applicants Are Covered by These Rules?

In California, a job applicant or employee with a mental or physical medical disorder that makes it difficult to perform a "major life activity" is protected by these rules. For the purposes of disability discrimination in the workplace, a mental disability includes intellectual or cognitive disability, emotional illness, organic brain syndrome, learning disabilities, autism spectrum disorders, schizophrenia, and chronic or episodic conditions such as clinical depression, bipolar disorder, post-traumatic stress disorder, and obsessive compulsive disorder.

As explained in Nolo's article on California Laws on emotional support animals (<http://www.nolo.com/legal-encyclopedia/california-laws-psychiatric-service-dogs-emotional-support-animals-public-places.html>), California's definition of disability is broader than the federal definition. Like federal law, California considers working to be a major life activity. However, in California, a disability need only "limit" an individual's ability to work in order to qualify for legal protections, whereas federal law requires that disability "substantially limit" the ability to work.

Also, in California, to be limited in the major life activity of working, an individual need only be limited in performing the requirements of a single, particular job. Under federal law, to be substantially limited in the major life activity of working, an individual must be significantly restricted in the ability to perform either a broad range of jobs in various classes or a class of jobs; the inability to perform a single, particular job does not mean the employee has a substantial limitation. That means that California law protects a greater number of workers who need to bring their service dog or support animal to the workplace than federal law does.

Workplace protections in California also apply to job applicants and employees with a "special education" disability, which is a health impairment or mental or psychological disorder that requires special education or related services (or has in the past) but that does not qualify as a mental disability.

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A reasonable accommodation includes any appropriate measure that would allow an employee with a disability to perform the essential functions of his or her job. California regulations include permitting job applicants or employees to bring assistive animals to the worksite as a specific example of a possible reasonable accommodation. (California Code of Regulations, Title 2, Division 4.1, Subchapter 2, Article 9, Section 11065(p)(2) (B).)

Employers, however, do not need to provide a reasonable accommodation that puts a undue hardship on the employer. For the details on when an accommodation is unreasonable, see Nolo's article on undue hardships and reasonable accommodations (<http://www.nolo.com/legal-encyclopedia/when-does-reasonable-accommodation-create-undue-hardship.html>).

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