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A nonprofit organization protecting and advancing the legal rights of people with mental health disabilities.



***FAIR HOUSING:
IT'S THE LAW!***

Fair Housing Tip of the Month – June 2022

Reasonable Accommodation to Allow an Emotional Support Animal Prescribed by a New Therapist

Tenant: *“I started therapy a few months ago due to anxiety, and my therapist recently mentioned that I would benefit from an emotional support animal. I’m really excited about this idea, and I’ve already been looking at some shelter pets online. I live in a building in southern California with a no-pets policy, but I know landlords are required to make exceptions for emotional support animals. I already got a verification letter from my therapist. But the other day, someone told me that it’s harder to get a reasonable accommodation for an emotional support animal now. Is this true?”*

The law says: No. Fair housing laws recognize that a person with a disability may need an animal to support their emotional well-being. Unlike service animals, emotional support animals do not need to be trained to perform any particular action. While a landlord is allowed to have a no-pets policy, fair housing laws make clear that emotional support animals are not considered pets, and your landlord must grant your request to have an emotional support animal if the request is reasonable and the animal is necessary to enable you to use and enjoy your housing. Your request would be considered reasonable unless it would be too difficult or expensive for the landlord (an “undue burden”), change the nature of the landlord’s business (a “fundamental alteration”), pose a direct threat to the health or safety of others, or would cause substantial property damage.

If it is not obvious that you have a disability or how your disability makes an accommodation necessary, the landlord can ask you to provide some form of verification of disability and/or the connection between the disability and the requested accommodation.

Recent California law has placed some new requirements on therapists and other providers who are verifying the need for emotional support dogs. Those requirements include establishing a client-provider relationship for at least 30 days before providing the documentation, completing a clinical evaluation regarding the need for an emotional support dog, and including the provider’s professional licensing information somewhere in the documentation. Enforcement of these requirements is a professional licensing matter between your provider and their licensing board—the law does not impose any additional requirements on you as a patient, nor does it state that a landlord may reject documentation that does not conform with the new law’s requirements. Furthermore, the language in the new California law refers only to emotional support dogs, not animals more generally. If you are planning to get a cat or another animal, these requirements may not apply.

It is important to note that federal fair housing laws do not include the 30-day client-provider relationship requirement or the other new California rules described above. Therefore, even if you had been seeing your therapist for less than 30 days, your landlord might violate federal law if they reject your therapist’s verification letter and deny your reasonable accommodation request on that basis.



What to do: Submit a reasonable accommodation request for an emotional support animal to your landlord along with the verification letter from your therapist. Though the law does not require a written request, it is always best practice to put these requests in writing and use the words “reasonable accommodation.” The verification letter does not need to state your diagnosis or treatment details, but it should confirm that you have a disability and explain how the emotional support animal will alleviate one or more symptoms of the disability.

If the landlord denies this request, you may file a disability discrimination complaint with a local fair housing agency, the California Department of Fair Employment and Housing (DFEH), or the U.S. Department of Housing and Urban Development (HUD).

To file a complaint with HUD, call 800-669-9777, or visit www.hud.gov/program_offices/fair_housing_equal_opp/complaint-process

To file a complaint with DFEH, call 800-884-1684, or visit www.dfeh.ca.gov/complaint-process/file-a-complaint/

Fair housing laws prohibit discrimination in housing based on the following characteristics: race, religion, national origin, color, sex, familial status, disability, marital status,* ancestry,* sexual orientation,* gender identity,* gender expression,* genetic information,* and source of income.*

*Covered under California law, but not federal law. (For most housing, California laws also prohibit discrimination on the basis of citizenship, immigration status and primary language.)

Disclaimer: The Fair Housing Tip of the Month is for educational purposes only and does not constitute legal advice. If you have a legal question, please contact MHAS, your local fair housing council or another attorney of your choice.

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