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RESOURCES

[California Civil Code Section 54.1](#)

[Fair Employment and Housing Act
Section § 12005. Definitions](#)

[American with Disabilities Act 28
C.F.R §35.104 Definitions
&
§35.136 Service Animals](#)

[The Unruh Civil Rights Act](#)

[PRISM Legal Advice Services](#)

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Assistive and Support Animals: Public Accommodations

by Scarlett Sadler

As public agencies strive to create inclusive environments and uphold the rights of individuals with disabilities, the proper understanding of assistive animals is essential. All assistive animals play critical roles in supporting individuals with disabilities, but they serve distinct purposes and, depending on the situation, could be regulated by different aspects of the law.

Assistive animals refer to any animal that is necessary as a reasonable accommodation for a person with a disability. Specific examples include guide dogs, signal dogs, assistive dogs, and in some circumstances, miniature horses, all of which are highly trained to perform specific tasks that mitigate the impacts of disabilities. In contrast, support animals offer therapeutic comfort to individuals with a disability, including mental disabilities. The presence of assistive and support animals in public agencies has become increasingly prevalent, raising questions about the distinctions between these two categories and their respective roles in supporting individuals with disabilities. Understanding these differences is essential for public agencies to comply with the laws enforced by the California Civil Code Section 54.1, which requires public agencies to provide equal opportunities for all members of the public, including those with disabilities.

To ensure compliance with relevant laws and promote equal access to facilities, programs, and services, public agencies should accurately differentiate between these two categories.

According to the Fair Employment and Housing Act (FEHA) and the Americans with Disabilities Act (ADA), both assistive animals and support animals serve as aids to individuals with disabilities. However, they are defined and regulated differently:



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- **Assistive animals, also known as service animals, are specifically trained to perform tasks that mitigate the impacts of a person's disability. These tasks could include guiding individuals with visual impairments, alerting individuals with hearing impairments or providing assistance in other ways directly related to the disability. Under the ADA, service animals are considered animals individually trained to work or perform a task for the benefit of an individual with a disability. Assistive animals are not pets.**
- **Support animals are animals that provide emotional, cognitive, or other similar support to individuals with disabilities, including but not limited to traumatic brain injuries or mental disabilities, such as major depression. Support animals are also known as comfort animals or emotional support animals. They do not require specialized training but offer therapeutic benefits to alleviate symptoms related to anxiety, depression, or other mental disabilities. Under the ADA, the effects of a support animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks.**

Under the ADA and the FEHA, individuals with disabilities can be accompanied by their trained assistive animals in almost all public places, including government buildings, public transportation, and businesses open to the public. Public agencies must allow access and reasonable accommodation for these animals, even in "no-pets" facilities.



Unlike assistive animals, support animals do not have the same broad legal protections under the ADA. While permitted in certain housing situations under the Federal Housing Administration (FHA) and the FEHA, they do not have unrestricted access to public places. Public agencies should take precautions when distinguishing between support animals and fully trained assistive animals to avoid any potential misunderstandings.

Public agencies have specific responsibilities when it comes to accommodating assistive animals and must permit access to trained assistive animals in all areas open to the public. Public agencies cannot inquire about the nature of the individual's disability or demand documentation for the animal's training. Public agencies are only permitted to ask if the animal in question is:

1. Required due to a disability, and
2. What tasks it is trained to perform.

If it is determined that the animal in question is not an assistive animal, the public agency does not have to permit the animal to enter public facilities. Informing members of the public that they cannot bring their animal on public property will likely require a sensitive approach to ensure that the member of the public does not feel they are being discriminated against and that the public agency is not violating the Unruh Act, which provides members of the public protection from discrimination by all business establishments in California. To communicate this message effectively to the member of the public, employees should:

- **Choose a private setting to speak to the member of the public. Request the member of the public step outside or relocate to a distance from others, maximizing privacy to the fullest extent feasible.**
- **Remain calm and courteous when informing the member of the public that they cannot bring their animal into the facility. Avoid using confrontational tones or language.**
- **Clearly explain why the animal is not allowed in the facility. Refer to the agency's policy, rules, or local ordinances that may disallow support animals.**
- **Acknowledge the individual's needs and suggest alternative accommodations such as:**
 - Providing services in other areas where all animals may be allowed (off-site, outside) or provide options for remote services.

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Public agencies should have clear policies and procedures in place for handling requests for assistive and support animals by members of the public seeking access to facilities or services. These policies and procedures should align with the applicable laws and be designed to protect the rights of individuals with disabilities while ensuring the safety and well-being of all users of public facilities. By adhering to the definitions and legal protections, public agencies can foster a more inclusive environment for individuals with disabilities and uphold their responsibilities to provide reasonable accommodations while ensuring equal access for all. To learn about assistive and support animals in the workplace, please refer to [this Risk Simplified](#). For information regarding public accommodations for assistive and support animals, contact [Risk Control](#).

