

Housing and Reasonable Accommodations for People with Disabilities



FAQ

California law protects people from discrimination in housing. This law is called the Fair Employment and Housing Act, or FEHA for short. FEHA gives people with disabilities the right to ask their landlord or other housing provider to make an exception or change to rules or policies so they can use and enjoy their housing. This topic is commonly referred to as “reasonable accommodations.”

This document provides a general overview of rights and obligations in the reasonable accommodations process by answering frequently asked questions (FAQs). These FAQs do not address all issues and scenarios related to reasonable accommodations, and they do not address the separate topic of “reasonable modifications” or other housing protections for people with disabilities.¹ For more information on reasonable modifications, visit our factsheet at bit.ly/reasonable-modifications.

1 | What is a reasonable accommodation?

A reasonable accommodation is an exception, change, or adjustment to rules, policies, practices, or services that is necessary to allow a tenant, resident, or applicant with a disability to have an equal opportunity to use and enjoy housing.²

Examples of reasonable accommodations for people with disabilities may include, but are not limited to:

- Assigning an accessible parking space
- Making an exception to a no-pets policy for an emotional support animal
- Changing the date rent is due
- Allowing a third party to cosign the lease or pay the rent
- Allowing a tenant to have a live-in aide
- Stopping or delaying an eviction
- Giving someone more time to vacate a unit
- Relocating a tenant to another unit
- Allowing additional time to comply with a rule or policy
- Waiving the fee to break a lease
- Modifying the terms of a lease
- Providing additional notice to the tenant for inspections or repairs

¹ Regulations regarding reasonable accommodations and reasonable modifications can be found at California Code of Regulations, title 2, sections 12176 to 12185. More information about protections against housing discrimination related to disabilities can be found in CRD's factsheet “Disability Discrimination,” available at: <https://bit.ly/3TZIUDl>

² Cal. Code Regs., tit. 2, § 12176(a).

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If there is a disability related need for an accommodation, housing providers must grant reasonable accommodations unless the request constitutes an 1) undue financial or administrative burden; 2) a fundamental alteration of the services or operations of the housing provider; or 3) a direct threat to the health or safety of others or would cause substantial property damage (see [question 8](#) and [question 9](#)).³ The failure to grant a reasonable accommodation is a type of housing discrimination.⁴

2 | Who is required to consider requests for reasonable accommodations?

FEHA applies to all housing providers, including property management companies, landlords, and homeowners associations (HOAs).⁵ However, this requirement also extends to any person or entity providing housing or housing-related services. This includes public housing authorities, public universities, housing appraisers, mortgage lenders, and real estate agents.⁶

3 | What is a “disability” under California fair housing law?

Under FEHA, a disability is a mental or physical impairment, disorder, or condition that limits a major life activity.⁷ “Major life activity” is broadly defined and includes, for example, physical activities (such as walking, bathing, standing, sleeping, and breathing), mental activities (such as thinking, reading, and concentrating), and social activities (such as interacting with others).⁸

4 | What does someone need to do to request a reasonable accommodation?

A request for a reasonable accommodation does not have to be made using any particular words or method.⁹ While a housing provider may prefer that a request be made in a certain way, or using particular forms, they cannot deny a request for not following such a process. A request for a reasonable accommodation is made at the time the requester asks for the accommodation. This includes a request made orally, in writing, or through a representative – regardless of whether the term “reasonable accommodation” is used.

5 | When can a request for a reasonable accommodation be made?

A request for a reasonable accommodation may be made at any time. This includes during the application process, before or after buying a house or signing a lease,¹⁰ during the tenancy or occupancy of a home or rental unit, during litigation, at or after trial, and after

³ Cal. Code Regs., tit. 2, § 12179(a), (b).

⁴ Cal. Code Regs., tit. 2, § 12927(c)(1); 12176(c), (d)

⁵ Cal. Code Regs., tit. 2, §§ 12005(v), (w).

⁶ Gov. Code § 12955(e), (i), (l); Cal. Code Regs., tit. 2, § 12161 (4), (5).

⁷ Code § 12926(i), (j), (m).

⁸ Gov. Code § 12926(j)(1)(C), (m)(1)(B).

⁹ Cal. Code Regs., tit. 2, § 12176(f)(3).

¹⁰ For example, a tenant makes a reasonable accommodation request to have an emotional support animal in a “no-pets” building after a lease is signed. The housing provider cannot deny the request because it was not requested prior to signing the lease because an accommodation can be requested at any time.

judgment in appropriate circumstances.¹¹ For example, a tenant who is being evicted for having a dog in violation of the lease requests a reasonable accommodation for an emotional support animal at the eviction trial. The landlord must consider and grant the request if there is a disability related need for the accommodation, unless the request constitutes an 1) undue financial or administrative burden; 2) a fundamental alteration of the services or operations of the housing provider; or 3) a direct threat to the health or safety of others or would cause substantial property damage (see [question 8](#) and [question 9](#)).¹²

6 | May a housing provider request verification that the requested accommodation is necessary?

Yes, but only when the disability or the need for the accommodation isn't obvious or known to the person considering the request. For example, if a tenant asks to be assigned the next available first-floor unit because they use a wheelchair, the disability and the need for the accommodation would be obvious, and the housing provider should not require additional proof.¹³

If the person's disability is not apparent or known to the housing provider, they can only ask for information necessary to establish (1) the person has a disability; (2) a description of the needed accommodation; and (3) information showing the relationship between the person's disability and the requested accommodation, including how it is necessary to afford the person with a disability equal opportunity to use and enjoy their housing.¹⁴ A housing provider cannot ask for information about a person's diagnosis or medical history or require that they sign a release for the housing provider to speak to a medical professional or other third party.¹⁵

For example, a tenant with a mental health disability requests to be moved to a unit in a quieter part of the apartment complex. Neither the disability nor the need for the accommodation is obvious or known to the landlord. The landlord may ask for limited information regarding the existence of a disability and the disability-related need for the request. In response, it would be enough for the tenant to provide a note from a healthcare provider stating that a quieter unit is necessary to help the tenant manage the symptoms of their disability.

7 | May a housing provider require documentation of the disability or the disability-related need from a doctor?

No. Proof can come from any reliable source who is in a position to know about the individual's disability or the disability-related need for the requested accommodation.¹⁶ This can include a therapist, doctor, nurse, non-medical service provider such as a social

11 Cal. Code Regs., tit. 2, § 12176(f)(3); § 12176(f)(8) (reasonable accommodations requests in unlawful detainers).

12 Cal. Code Regs., tit. 2, § 12179(a), (b).

13 Cal. Code Regs., tit. 2, § 12178(b).

14 Cal. Code Regs., tit. 2, § 12178(c), (d).

15 Cal. Code Regs., tit. 2, § 12178(e).

16 Cal. Code Regs., tit. 2, § 12178(g).

worker, peer support group, a credible statement by the requester,¹⁷ or any other reliable third party knowledgeable about the person's disability or disability-related need for the accommodation. This includes a relative in a caregiving relationship with the person with a disability.¹⁸

For example, a daughter cares for her mother with dementia. The daughter shares documentation to show why her mother needs an accommodation to ensure the daughter is included in all communications between the housing provider and her mother.

8 | When can a housing provider refuse to allow a requested reasonable accommodation?

A housing provider can legally deny a request for a reasonable accommodation for any of the following reasons:

- The person on whose behalf the accommodation was requested does not have a disability or cannot show a disability-related need for the accommodation.¹⁹
- The requested accommodation would cause an undue financial and administrative burden.²⁰ Whether an accommodation poses an undue financial and administrative burden is determined on a case-by-case basis with consideration of several factors, including:²¹
 - The cost of the requested accommodation
 - The financial resources of the housing provider
 - The benefits that the accommodation would provide to the person with the disability
 - The availability of alternative accommodations that would effectively meet the needs of the person with the disability
- The requested accommodation would cause a fundamental alteration that would change the essential nature of the services or operations of the housing provider.²² For example, if a landlord does not usually shop for residents, a reasonable accommodation request to shop for a person with a disability would likely be a fundamental alteration. The requested accommodation would pose 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 another reasonable accommodation would not lessen or eliminate such risks.²³

17 Cal. Code Regs., tit. 2, § 12178(f).

18 Cal. Code Regs., tit. 2, § 12178(g).

19 Cal. Code Regs., tit. 2, § 12179(a).

20 Cal. Code Regs., tit. 2, § 12179(b)(2).

21 Cal. Code Regs., tit. 2, § 12179(d).

22 Cal. Code Regs., tit. 2, § 12179(b)(1).

23 Cal. Code Regs., tit. 2, § 12179(b)(3).

9 | How do you determine if a requested accommodation poses a direct threat to the health or safety of others, or would cause substantial physical damage to the property of others?

To determine whether a requested accommodation would be a direct threat, the housing provider must look at the individual circumstances of the situation. This is called an individualized assessment. The individualized assessment must rely on objective evidence, not on speculation, assumptions, or stereotypes about the requested accommodation, a particular disability, or people with disabilities in general.²⁴ The assessment must consider:

- The nature, duration, and the seriousness of the direct threat to others' safety, health, or property
- The likelihood that a direct threat will actually occur
- Whether there are any additional or alternative reasonable accommodations that will eliminate the direct threat²⁵

For example, a housing provider cannot refuse all accommodations for emotional support animals that are pitbulls based on the stereotype that these animals tend to be aggressive. The housing provider's analysis must be based on an assessment of the particular animal related to the request.²⁶

10 | When and how should a housing provider respond to a request for reasonable accommodation?

The housing provider must consider requests for accommodations promptly. The time necessary to respond to a request depends on various factors, including whether the need for the accommodation is urgent. Failure to respond to a request for reasonable accommodation is illegal housing discrimination.

If a housing provider cannot immediately grant a requested accommodation, they must engage in an "interactive process," to come up with a potential solution.²⁷ The purpose of the interactive process is to exchange information and identify, evaluate, and implement a reasonable accommodation with the goal of reaching an agreement that allows the individual with a disability equal opportunity to use and enjoy a dwelling or housing opportunity.²⁸ If the housing provider determines that they cannot grant the request, they must work with the requester to try to find another accommodation that is equally effective

24 Cal. Code Regs., tit. 2, § 12179(b)(3)(A).

25 Cal. Code Regs. tit. 2, § 12179(b)(3)(B)(i)-(iii). A tenant can request an accommodation to have evidence of rehabilitation or mitigation be considered to show that the risk has been reduced or mitigated. For example, a tenant can show that they changed their medication or reengaged with therapy or began anger management classes. This can also be framed as a conditional accommodation, such as, that the tenant can stay provided they continue attending therapy going forward.

26 Note: some home insurance policies, local municipalities, homeowners associations, and other entities have policies that restrict the size or breed of animals that can live in certain areas and properties. While these entities are entitled to have these restrictions, they are also subject to FEHA and must grant reasonable accommodations for people with disabilities. This includes making an exception to such a law or policy for an emotional support animal.

27 Cal. Code Regs., tit. 2, § 12177.

28 Cal. Code Regs., tit. 2, § 12177(a).

in meeting their needs.²⁹ The interactive process should happen in a timely manner, and the housing provider must make a fair and honest effort to engage in the interactive process and to consider the request.³⁰

11 | Can a housing provider have a “no pets” rule?

Yes, but the housing provider must make exceptions to the rule as a reasonable accommodation if necessary to allow a person with a disability to have an equal opportunity to enjoy housing. Refusing to allow a necessary assistance animal is illegal discrimination, unless the housing provider believes the request constitutes an undue financial or administrative burden, a fundamental alteration, or a direct threat to people or property (see FAQ Nos. 8 and 9 above).³¹ Assistance animals are not subject to breed, size, or weight restrictions ordinarily applied to pets, and tenants cannot be charged pet deposits or pet rent for them. Assistance animals include both service animals and emotional support animals.³² (See FAQ No. 12 below.) For more information, see CRD’s publication on service animals.³³

12 | What is the difference between an emotional support animal and a service animal?

An emotional support animal (ESA) is an animal that provides emotional, cognitive, or other similar support to a person with a disability to assist them in managing the symptoms of their disability.³⁴ ESAs are also referred to as comfort animals or support animals. A service animal is an animal trained to perform specific tasks to help a person with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.³⁵ For example, guide dogs are service animals that help people who are blind or have low vision with navigation. Signal dogs are service animals that alert people who are deaf or hard-of-hearing to sounds. An ESA is not a service animal because an ESA is not specifically trained to help a person with a disability.

In addition to fair housing laws, there are other California and federal laws that specifically protect the right of people with disabilities to access businesses, including housing, with their service animals.³⁶ Therefore, people with disabilities do not have to request a reasonable accommodation to have their service animals live in their home. Instead, housing providers are limited to asking two questions to determine if the animal is a service animal: 1) “Are you an individual with a disability?” and 2) “What is the disability-related task the animal has been trained to perform?”³⁷

29 Cal. Code Regs., tit. 2, § 12177(c).

30 Cal. Code Regs., tit. 2, § 12177(a), (d).

31 Cal. Code Regs., tit. 2, § 12179(a), (b).

32 Cal. Code Regs. Tit. 2, § 12185.

33 <https://bit.ly/CRD-Housing-ESA>

34 Cal. Code Regs., tit. 2, § 12005(d)(2); Cal. Code Regs., tit. 2, § 12185(c).

35 Cal. Code Regs., tit. 2, § 12005(d)(1); Cal. Code Regs., tit. 2, § 12185(b).

36 Civil Code § 51 et seq.; Civil Code § 54.1 et seq.; 42 U.S.C. § 12101 et seq.; 28 C.F.R. § 36.302(c).

37 Cal. Code Regs., tit. 2, § 12185(b).

13 | **What can someone do if a housing provider refuses to allow a reasonable accommodation or otherwise violates the Fair Employment and Housing Act?**

If you believe a housing provider violated your rights under FEHA, you may file a complaint with CRD. You must file your complaint within one year of the dates of the alleged incident(s).

<https://civildrights.ca.gov/complaintprocess>

TO FILE A COMPLAINT

Civil Rights Department

civildrights.ca.gov/complaintprocess

Toll Free: 800.884.1684

TTY: 800.700.2320

California Relay Service (711)

Have a disability that requires a reasonable accommodation? CRD can assist you with your complaint. For translations of this guidance, visit www.civildrights.ca.gov/posters/housing.