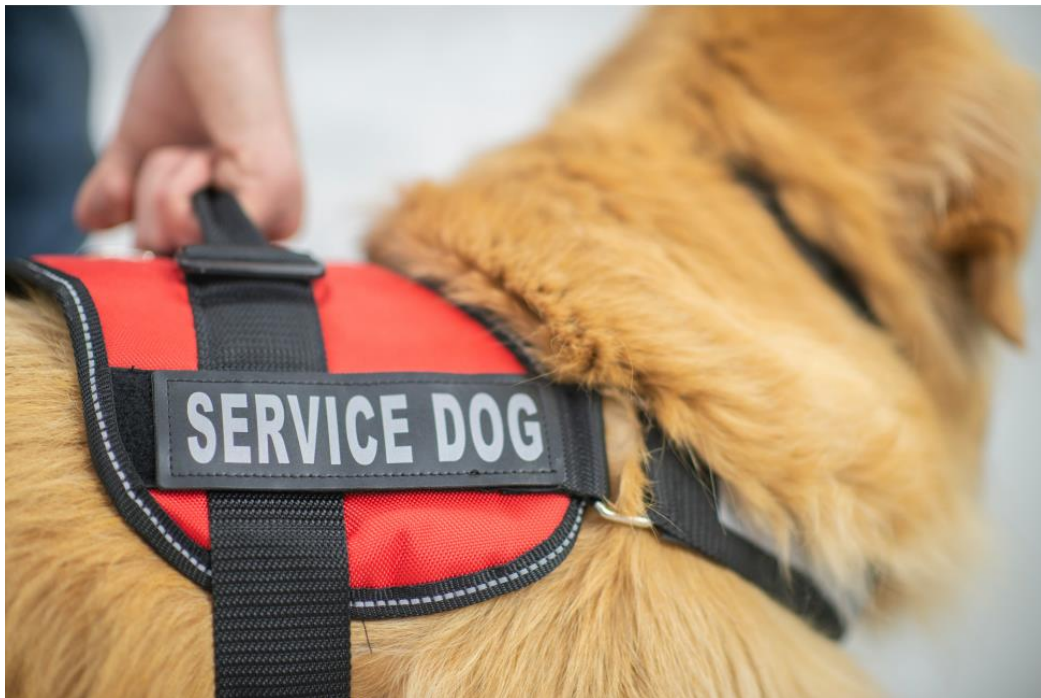


# Assistive Animals Tool Kit



California  
Employers  
Association <sup>TM</sup>

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### Overview: Assistive Animals in the Workplace

One of your employees just informed you they have a disability and are requesting to bring their assistive/service animal to your worksite. What do you do next? This tool kit outlines required steps and considerations to help you navigate the reasonable accommodations process.

### Employee Rights

California's Fair Employment and Housing Act (FEHA) applies to employers with five or more employees and requires employers to provide reasonable accommodations for individuals with a physical or mental disability and/or medical condition, unless it would cause an undue hardship. More specifically, the employer is required to go through the interactive process with the employee to determine whether they can perform the essential functions of their job with a reasonable accommodation. This requires an *individualized* assessment of both the job and the individual's specific limitations.

While the employer should not inquire into the disability or diagnosis itself, they should have an open dialogue with the employee regarding their limitations. (E.g., An employer may need to know that an employee cannot stand without assistance, but should not ask about what disability or medical condition caused the limitation.) Both the employer and employee may offer potential accommodation solutions, with the assistance of the employee's healthcare provider.

As such, your employee may be entitled to bring an assistive animal to the worksite as a reasonable accommodation for a disability. Depending on the circumstances, an employee may need to bring one of the following assistive animals onsite:

- A guide dog trained for the blind or visually impaired;
- Signal dog or other animal trained for deaf or hearing impaired;
- Service dog or other animal trained to the requirements of a person with a disability; and
- Support dog or other animal that provides emotional, cognitive, or other similar support to a person with a disability (otherwise known as an “emotional support animal”).

### Employer Rights

An employer can require that the animal is housebroken, free from offensive odors, and that the animal does not cause a safety or health issue. The employer has a right to assess these requirements within the first two weeks of the animal coming onsite, and challenge an employee’s request for an assistive animal with objective evidence that it does not satisfy these standards.

California law doesn’t require that all assistive animals receive specified training. Therefore, it is not recommended to require or insist that the employee produce training records or certifications for the animal. For similar reasons, an employer should not require vaccination records or proof of insurance.

### Reasonable Accommodation Considerations

Employers should be cautious if they are considering denying a request for an assistive animal as a reasonable accommodation. Oftentimes, an employee may not have an alternative way of addressing their medical needs. The [Job Accommodation Network](#) (JAN) generally recommends deference to employees for these requests:

*“In general, employers should not be involved in an employee’s personal medical decisions so you should not insist that an employee take care of his medical needs in a different way. Because a service animal often helps with personal medical needs and provides supports that employers cannot provide, when possible you should give preference to an employee’s request to use a service animal in the workplace.”*

That is not to say there are never any other options. Remember, the FEHA requires employers to provide an effective, reasonable accommodation – not necessarily the employee’s *requested* accommodation. For example, if you have a concern about a

service animal in your workplace, particularly if it implicates a safety or health issue, consider whether the employee's job position can be conducted remotely. In some cases, an employee can be without the service animal temporarily during the workday and the employer can provide a safe place for the service animal to stay during that time.

An open dialogue with the employee is imperative to fully understand their limitations and come up with effective solutions. Here are some questions to consider (developed by JAN):

- What limitations is the employee who uses a service animal experiencing?
- How do these limitations affect the employee and the employee's job performance?
- What specific job tasks are problematic as a result of these limitations?
- What accommodations are available to reduce or eliminate these problems? Are all possible resources being used to determine possible accommodations?
- Has the employee who uses the service animal been consulted regarding possible accommodations?
- Once accommodations are in place, would it be useful to meet with the employee who uses the service animal to evaluate the effectiveness of the accommodations and to determine whether additional accommodations are needed?
- Do supervisory personnel and employees need training regarding the use of service animals?

If you believe allowing an assistive animal onsite would cause an undue hardship, consult legal counsel. "Undue hardship" is a *very difficult* standard to satisfy and the employer has the burden to prove an accommodation would result in significant expense or difficulty. In practice, employers' claims of undue hardship are scrutinized by the Civil Rights Department.

## Impacts on the Workplace

### Communicating with the Team

If you grant an employee's request to bring an assistive animal onsite, give thought to how you want to communicate about the assistive animal to staff or teammates who may be impacted or just curious about it. First, it is important to remember that you should never disclose an employee's confidential medical information or discuss their disability with others, even if the disability is obvious. An employee's specific limitations and accommodations should be kept as confidential as possible, meaning you should not discuss them with anyone who *does not have a need to know*.

**Example:** Your employee voluntarily shared with you that they have PTSD and requested to bring an emotional support dog to stay in their private office during working hours. In that case, you may need to let the employee's manager know that an assistive animal will be onsite and that your employee is permitted to take their dog outside for bathroom breaks as needed. However, the manager doesn't necessarily need to know anything about the employee's specific limitations, unless there is some other impact on the work environment that needs addressing, as appropriate.

While you certainly do not want to reveal any confidential information, it is also not a best practice to simply stay silent about the assistive animal. This may surprise or even shock some employees and invite bigger reactions and potentially, intrusive questions.

In striking a balance, you may first ask the employee how they would like to handle educating coworkers. If they do not want to share any information, it is a best practice to communicate the following to staff:

- There will be a permitted assistive/service animal onsite;
- Employees are not allowed to interact with the animal without the owner's permission;
- Employees should respect the privacy of the person with the assistive animal and not ask intrusive questions;
- Those with any allergies, phobias, or other concerns should contact Human Resources for additional assistance.

**Note:** If a coworker indicates that they have an allergy or phobia, you may need to accommodate them as well. Some examples include moving employees to a private/enclosed office or another location, changing an employee's shift time, coordinating travel paths, and allowing remote work.

### Caring for the Animal

The employer is not responsible for caring for an employee's assistive animal, but you may need to provide accommodations so the employee is able to do so. For example, you may need to provide additional break times (or reschedule break times) so they can take the animal outside. You may also need to provide and/or designate a relief area such as an alley, grassy or dirt area where the animal can relieve itself. For employees with permanent work stations, give thought to where you can place them with closer access to the exit, to minimize disruptions.

It is important to clearly communicate to the employee that they are responsible for ensuring the animal is not disruptive, that it is clean and free of parasites, and that the employee must clean up after the animal when it relieves itself.

## Documenting the Process

After receiving a request to bring an assistive animal to work, employers may begin the interactive process and request certain documentation. Below are sample forms to use depending on where you are in the process.

### *At time of request:*

- Confirmation from the employee that the animal is appropriately suited for the workplace. Employers may use this [Assistive Animal Confirmation Form](#).
- Certification from the health care provider that the employee has a disability and that the assistive animal would allow the employee to perform the essential functions of their job. Employers may use [CRD's Reasonable Accommodations Package](#) to document the interactive process.
- [Sample Policy](#) to use/reference.

### *After granting a request:*

- After a request has been granted, employers may use this [Assistive Animal Acknowledgment Form](#) to outline the employee's responsibilities.

### *After one year:*

An employer may require an annual recertification from the employee of the continued need for the animal. Employers may use the same [Assistive Animal Confirmation Form](#) above (on page 2), and also request that the employee return a Certification of Health Care Provider, if appropriate (found on page 2 of [CRD's Reasonable Accommodations Package](#)).