

Support Animals as Reasonable Accommodations

Navigating Requests from Employees



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We will cover...

- Understanding your obligations, what is “reasonable, and the interactive process
- Support animals accommodation requests
 - “Fear factor” responses
 - Strategies for the interactive process
 - What can employers require?
 - Impact on other employees
 - Best practices



Tool kit of forms

- Available to download as attachments
- Includes:
 - This presentation
 - Support animal accommodations “checklist”
 - Sample letter to care provider
 - Key points for communication to co-workers



FEHA – What is required?

- What does FEHA require of employers? (specific to disability issues and employment)
 - Must provide reasonable accommodations for applicants and employees who, because of disability, are unable to perform the essential functions of a job.
 - Must engage in a timely, good faith interactive process with applicants or employees in need of reasonable accommodation.

FEHA – Definition of Disability

- What constitutes “disability” under FEHA?
 - IMPAIRMENT – LIMITS – MAJOR LIFE ACTIVITY
- Impairment
 - Physical, medical, mental health conditions
- Limits
 - Simply “makes difficult”
- Major Life Activity
 - AMENDED REGS 2012: further defined to include standing, sitting, reaching, lifting, bending, learning, reading, concentrating, thinking, communicating, and interacting with others”

Reasonable Accommodation

- Any appropriate measure that would allow the applicant or employee with a disability to perform the essential functions of the job
- Does not require an accommodation that would be an “undue hardship” to the employer
- NO BRIGHT LINE !!
- **Must be EFFECTIVE to be reasonable**

What is the Interactive Process?

- The Interactive process includes:
 - Consulting with an individual to ascertain the precise job-related limitations and how they could be overcome with a reasonable accommodation
 - Identifying potential accommodations and assessing their effectiveness
 - Not “interacting” carries its own penalty under FEHA

Interactive Process for Dummies



What can or can't
employee do?



What does employer
need employee
to do?

**What are the gaps?
Can we “bridge” the gaps?**



**After hearing his owner's story,
Fido suddenly realizes he was
NOT cut out to be an emotional
support dog after all !**

Requests for Support Animals as Reasonable Accommodations

Assistive animal definitions

- Service animal – individually trained to the requirements of a person with a disability
- Guide animal – trained to guide a blind or visually impaired person
- Signal animal – trained to alert hearing impaired person to sounds
- Support animal – provides emotional, cognitive or other support to a person with a disability



The “fear factor” response

- You want to bring your pet HERE?!?
- We have a “no-pet policy”
- Now EVERYONE will want to bring their pet in!
- What about employees who are afraid or allergic?
- Won't that be a distraction to everyone?
- What if they bite someone?
- Are we allowed to have animals in this environment?
- What will we tell everyone?



**KEEP
CALM
AND REMEMBER**

the "Interactive Process"

The reality



- Emotional support animals are NOT pets
 - Provide therapeutic benefit for individuals with disability
- We have a “No Animal” policy
- Do we need to let EVERYONE bring their animal?

- As with all requests, use the **Interactive Process**
 - Engage with the employee
 - Obtain documentation to confirm existence of a disability and to explain why the animal is necessary in the workplace to allow the employee to perform his/her duties

Sample language to care provider

Dear Dr. (Name):

Document to be given to employee to give to their care provider

We are the employer for your patient, (EMPLOYEE NAME). The employee has requested the use of a support animal in the workplace and we are engaging with the employee in the interactive process to consider what accommodations may be necessary and/or feasible to support the employee in successfully performing their essential job functions.

As with all accommodation requests, the employer is entitled to documentation from the employee's care provider that confirms that the employee has a disability and explains the need for a given accommodation and how the accommodation is anticipated to support the employee.

Can you please provide the following information and return this form to the employee, who will relay the responses to us?

1. Does the employee have a disability as defined under disability law? (Employee has some impairment that limits their ability to perform one or more major life activities)

YES NO

2. Please provide a description of how the employee's limitations impair the ability to perform the duties of the job and indication of whether these limitations are temporary or permanent.

Explanation of impairment:|

Permanent OR Temporary, anticipated through ___/___/___

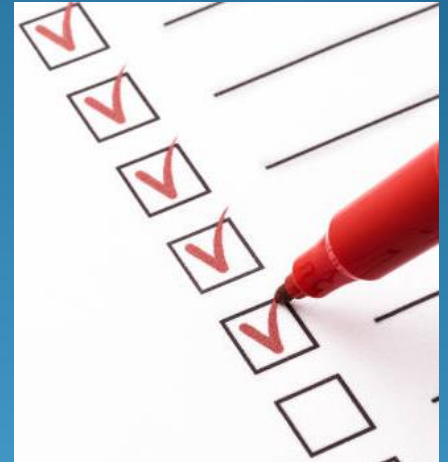
3. How do you anticipate the accommodation of a support animal would enable the employee to successfully perform the essential job functions?

What is reasonable/feasible?

- *See Worksheet in the Tool Kit of forms attachment*
- What essential functions are being impacted by the employee's disability?
- How would the animal support the employee in performing the function(s)?
- Is the animal trained to provide this support?

The guidelines

- Can the animal and employee comply with requirements for appropriate behavior?
 - Cleanliness / odor free
 - Obeys commands
 - Not disruptive
 - Not aggressive
 - Appropriate toileting
 - Control of the animal by leash and/or crate



Other requirements?

- Certification?
- Licensing?
- Vaccinations?
- Insurance?
- Waiver of liability?



Impact on other employees

- Other employees allergic or afraid
 - Does not automatically equate to denial of accommodation
- Any accommodations or actions that can mitigate?
 - Work in different areas
 - Different paths of travel within the workplace
 - Portable air purifier
 - Flex scheduling
 - Use of dander control animal products
 - Etc., etc., etc.

Communication is key

- Communicating about the animal in the workplace
 - In general, educate employees about the benefits of an inclusive workplace and consider disability etiquette training
 - Speak to the individual with the disability FIRST
 - Remember your duty to confidentiality
 - Communicate up front, allow for questions, follow up

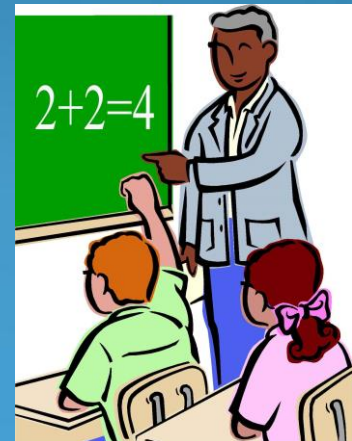


Sample communication template

- Inform that there will be an “animal” in the workplace
- This has been approved by the employer
- Establish the ground rules
 - “the animal is in the workplace for a specific purpose and it not to be interacted with for any reason. That includes petting, calling out to the animal, giving food or any other interaction”
- Tell others to refrain from asking the individual for specifics about the animal
- Provide name/information for who employees should contact if they have questions or concerns

Challenging environments

- Some environments may have other rules/laws or challenges
 - Healthcare
 - Foodservice
 - Sterile environments
 - Public environments



Best practice

- Consider a trial accommodation period
 - Set the expectations up front
 - Map out what will happen if any issues arise
 - Be sure to CONTINUE the interactive process and seek resolutions to problems identified
 - Remember to look at other possible accommodations (either instead of or in addition to the animal)

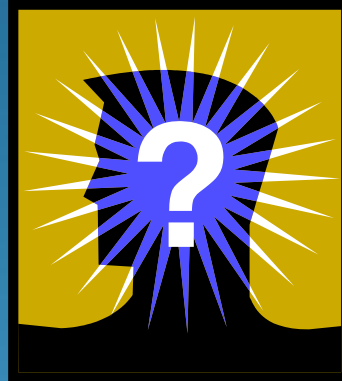


Other resources

- Job Accommodation Network
- www.askJAN.org
- Free to employers and employees



Questions ?



Thank you !!

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