



Disability Law Center's Self-Advocacy Materials

Updated February 2023

Housing

This document is designed for people with disabilities.

The information is about your legal rights and how to advocate for yourself as a resident in Massachusetts.

Contact us to request this information in an alternative format.

617-723-8455
800-872-9992
mail@dlc-ma.org

Funding

DLC receives funding from government grants, private foundations, and individual contributions. For details about our funding and programs, please visit our website:

<https://dlc-ma.org>



Emotional Support Animals

You Will Learn About:

- **Rights around Emotional Support Animals in Housing**
- **Steps To Take To Legally Have an Emotional Support Animal**
- **Other Resources**

This document includes general information about legal issues and is intended to be used for informational purposes only. These informational materials should not be taken as legal advice, and do not create an attorney-client relationship. The outcome of any particular matter will depend on a variety of factors. For specific legal problems you would need to contact an attorney.

Rights around Emotional Support Animals in Housing

What Is An Emotional Support Animal?

An **emotional support animal** provides emotional support and helps to reduce at least one symptom of a disability. An emotional support animal does not need to be trained.

An **emotional support animal** is different from a **service animal**. A **service animal** is trained to work. It does a specific task for a person with a disability. Some service animals guide people who are blind, or alert individuals who are Deaf or hard of hearing. Others may pull wheelchairs, fetch items, or alert their owners to an oncoming seizure. An animal trained to do a specific task for a person with a psychiatric disability is a 'psychiatric service animal.'

Often, service animals are legally allowed in stores, restaurants and offices. Emotional support animals usually are not allowed in these places. However, both service animals and emotional support animals are often allowed in the housing of their owners regardless of a 'no pets policy.'

Do You Have A Right To Have An Emotional Support Animal In Your Kind Of Housing?

Housing laws generally require landlords to allow any kind of 'assistance animal,' including both a service animal and an emotional support animal. The same requirements apply to condominium associations.

However, federal housing protections do not apply to private buildings with four or fewer units, *if* the landlord lives in one of these units. These laws also do not apply to single-family houses where the landlord does not own more than three such homes, and where the landlord rented the house without a broker or agent and did not advertise using discriminatory terms. Also, state housing law does not apply to one, two, or three unit private dwellings, no matter where the landlord lives, unless the unit was rented by public advertising or a real estate agent.

Emotional support animals must be allowed in all other housing. This is described below in more detail.

Please contact a legal advocate if you wish to bring an emotional support animal to a homeless shelter or a college dormitory, since those rules may be more complicated.

Steps to Take to Legally Have an Emotional Support Animal

Do You Or Someone In Your Household Have A Disability?

You or someone in your household must have a disability in order to have an emotional support animal. This means a "physical or mental impairment that substantially limits one or more major life activities." This includes but is not limited to: walking, seeing, working, learning, washing, or dressing.

Do You Have A Disability Related Need for an Emotional Support Animal?

Besides having a disability, you, or someone in your household, must also have a 'disability-related need' for an emotional support animal. This means your need for the emotional support animal is connected to your disability. Usually this means that the animal helps at least one symptom or part of your disability.

Have You Requested A 'Reasonable Accommodation' From Your Landlord?

You should ask your landlord in writing for a 'reasonable accommodation' to waive their no-pets policy and allow you to keep an emotional support animal. If possible, submit verification from your therapist or doctor (described below) at the same time. More information about requesting a 'reasonable accommodation' can be found in the Housing and Reasonable Accommodation document on DLC's website.

Always sign and date your request and keep a copy. You may be asked to use a special form used by your landlord's office. This is not legally required but completing this form may speed up the approval process.

Have You Provided Documentation To Your Landlord?

Unless your disability is obvious or is otherwise known to your landlord, you may be required to show that you have a disability and that you need an emotional support animal because of your disability.

DLC's website has a 'Sample Letter from a Service Provider' you may want to bring to your therapist or doctor. Please ask them to write a letter that you can bring to your landlord.

Try to get this letter from the person that regularly treats you (a therapist, doctor, nurse, social worker etc.). While there are many websites advertising emotional support animal letters for a flat fee, we do not recommend using these services, and your landlord does not have to accept such letters.

You do not have to provide all details about your disability, such as a specific diagnosis or medications that you may take, or provide a detailed medical history or records. Your landlord is only allowed to confirm your disability. Usually, this happens through a medical professional, unless your disability is obvious. Also, the landlord may confirm that the emotional support animal is needed to help you have equal use and enjoyment of your apartment and to reduce the effects of your disability.

You do not have to 'register' your emotional support animal with any private service or have it 'certified.' We do not recommend using Internet or other services to do this.

You may need to vaccinate your animal. You should also obtain a dog license from your city or town in keeping with state law. You may be asked to provide a copy of these records to your landlord. Your animal also needs to be well behaved and under your control at all times.

Summary: Your housing must be covered by the law. You need to be a person with a disability. You should ask the landlord in writing to have an emotional support animal as a 'reasonable accommodation.' Keep a copy. You should give the landlord a letter of support

from a therapist or doctor explaining that as a result of your disability, you need an emotional support animal.

If you do these things, the landlord generally must allow you to have an emotional support animal. This is true even if there is a ‘no pets’ rule in your building or your lease prohibits having pets. Generally, courts say this is a ‘reasonable accommodation’ and is not an ‘undue financial or administrative burden’ for the landlord.

You still may have to show that you can care for your animal and that it will not present a threat to others.

Are you Able to Care for Your Animal?

Your animal must not disturb or endanger other tenants or create any unsanitary conditions. Tenants with emotional support animals must properly take care of animal waste. You may be asked to keep your animal on a leash when you are in common areas or outside the building.

You cannot be required to pay a special deposit for an emotional support animal. However, you can be charged at the end of the tenancy for any damages that it may have caused.

If you live in public or subsidized housing, you may be able to ask that the costs of food and veterinary care for an emotional support animal count as a medical expense.

Does Your Animal Pose A ‘Direct Threat’ To Other Tenants?

A landlord cannot restrict your emotional support dog’s breed or weight. This is true even if there are rules in your town. If the landlord’s insurance company does not allow your dog’s breed, the landlord will have to show that no other similar insurance is available.

However, the landlord can deny you an emotional support animal if it poses a ‘direct threat’ to other tenants or staff. This includes animals that bite or attack people or other animals. The landlord must look at your animal individually. They cannot just make general assumptions about a type of dog based on breed or appearance.

Other Resources

Where Do You Go If You Still Need Legal Help?

If you need legal representation or advice, please call the Disability Law Center (DLC) at 1-800-872-9992 and leave a message or complete our online intake form at <https://www.dlc-ma.org/ask-for-help/>.

Unfortunately, we cannot help everyone who contacts us. If DLC cannot provide you with either legal representation or advice, we may refer you to:

- A local fair housing program;
- The local legal service program (see <https://www.masslegalservices.org/FindLegalAid/>);
- Your local bar association referral service; or
- The National Lawyers Guild MA Chapter Lawyer Referral Service (<https://nlqmass.org/>)

If you would like to file a fair housing complaint against a landlord that has refused to allow an emotional support animal, you may file a discrimination complaint under both state and federal law with the Massachusetts Commission Against Discrimination (MCAD). (See <https://www.mass.gov/file-a-complaint-of-discrimination>). You may also file a discrimination complaint with the United States Department of Housing & Urban Development (HUD). (See <https://www.hud.gov/fairhousing/fileacomplaint>). You also may have the right to file a lawsuit in state court, including housing court, or in federal court.

Where Can You Get More Information About Emotional Support Animals And Housing?

Information from the Commonwealth of Massachusetts about service animals and emotional support animals can be found at <https://www.mass.gov/info-details/disability-rights-for-users-of-assistance-animals>

The Bazelon Center has a fact sheet on emotional support animals in housing that can be found at www.bazelon.org/wp-content/uploads/2017/04/2017-06-16-Emotional-Support-Animal-Fact-Sheet-for-Website-final.pdf.

The ADA National Network provides information about service animals and emotional support animals that can be found at <https://adata.org/guide/service-animals-and-emotional-support-animals>.

The Department of Housing & Urban Development has a number of resources on assistance animals at www.hud.gov/program_offices/fair_housing_equal_opp/assistance_animals.