ADA Audio Conference Series
June 18, 2013

This session is scheduled to begin at 2:00pm Eastern Time

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Submitting Questions

- You may type and submit questions in the Chat Area Text Box or press Control-M and enter text in the Chat Area. You will not be able to see the question after you submit it but it will be viewable by the presenters.

- If you are connected via a mobile device you questions in the chat area within

- If you are listening by phone you will be instructed by the Operator on how to ask a question.

- Questions may also be emailed to webinars@ada-audio.org

*Please note:* This webinar is being recorded and can be accessed on the ADA Audio Conference Series website at [www.ada-audio.org](http://www.ada-audio.org) within 24 hours after the conclusion of the session. The edited written transcript will be posted at this same site within 7 business days following the conclusion of the session.

Customize Your View

- Resize the Whiteboard where the Presentation slides are shown to make it smaller or larger by choosing from the drop down menu located above and to the left of the whiteboard. The default is “fit page”
Customize Your View continued

- Resize/Reposition the Chat, Participant and Audio & Video panels by “detaching” and using your mouse to reposition or “stretch/shrink”. Each panel may be detached using the icon in the upper right corner of each panel.

Technical Assistance

- If you experience any technical difficulties during today’s session:
  1. **In webinar platform:** Send a private chat message to the host by double clicking “Great Lakes ADA” in the participant list. A tab titled “Great Lakes ADA” will appear in the chat panel. Type your comment in the text box and “enter” (Keyboard - F6, Arrow up or down to locate “Great Lakes ADA” and select to send a message); or
  2. **By Email** webinars@ada-audio.org; or
  3. **Call** 877-232-1990 (V/TTY)
Service Animals and Assistance Animals in Post Secondary Education Settings

Presenters:
Sally Conway, Deputy Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice
Kathleen Wolfe, Special Litigation Counsel, Civil Rights Division, U.S. Department of Justice
Ramin Taheri, Staff Attorney, Program Legal Group, Office for Civil Right, U.S. Department of Education
Jeannie Worden, Associate General Counsel for Fair Housing, Office of General Counsel, U.S. Department of Housing and Urban Development
Cheryl Kent, Special Advisor for Disability Policy, HUD/FHEO, U.S. Department of Housing and Urban Development

Service Animals

U.S. Department of Justice

Sally Conway, Deputy Chief, Disability Rights Section

Kathleen Wolfe, Special Litigation Counsel, Civil Rights Division
Service Animals

• Codifies a variety of the Department’s longstanding policies and interpretations regarding service animals.

• The Department’s rules do not affect coverage of other animals under other laws, like the Fair Housing Act or Air Carrier Access Act.

Definition of Service Animal

“Service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability... The work or tasks performed by a service animal must be directly related to the individual's disability...”
What does this mean?

• Limits the species of service animals to dogs;

• Makes clear that comfort or emotional support animals are not covered; and

• Makes clear that individuals with physical, sensory, psychiatric or other mental disabilities can use service animals.

Miniature Horses

• Miniature Horses range in weight from 70 to 100 pounds.

• Miniature horses can range in height from 24 to 34 inches.
Assessment Factors

• The type, size, and weight of the horse and whether the facility can accommodate those features.

• Handler has sufficient control of the horse.

• Horse must be housebroken.

• Whether the horse’s presence in a specific facility compromises legitimate safety requirements.

Resources

Regulations, appendices, standards are available at DOJ’s ADA web site at www.ada.gov.

For answers to specific questions, DOJ toll-free confidential ADA information line:

800-514-0301 (Voice)
800-514-0383 (TTY)

ADA National Network of Centers:
800-949-4232 (Voice/TTY)
www.adata.org
Service Animals

U.S. Department of Education

Ramin Taheri, Staff Attorney-Program Legal Group,
Office for Civil Rights

Disability Laws Enforced by OCR

• Section 504 of the Rehabilitation Act of 1973

• Title II of the Americans with Disabilities Act of 1990
General Provisions of Section 504 and Title II

- Section 504 applies to recipients of federal financial assistance.
- Title II of the ADA applies to public entities, including public colleges and universities.
- Both laws provide that a qualified individual with a disability may not, on the basis of disability, be:
  - Excluded from participation
  - Denied the benefits
  - Otherwise subjected to discrimination

Basic Section 504 Principles

- Postsecondary institutions may not discriminate on the basis of disability.
- Postsecondary institutions must modify their academic requirements to ensure that they do not discriminate on the basis of disability.
- Postsecondary institutions must ensure that students with disabilities are not discriminated against due to absence of auxiliary aids for students with impaired sensory, manual, or speaking skills.
Fair Housing Act

Access for Individuals Who Use Service Animals and Assistance Animals

U.S. Department of Housing and Urban Development

Jeanine Worden Associate General Counsel for Fair Housing, Office of General Counsel- HUD

Cheryl Kent Special Advisor for Disability Policy, HUD/FHEO
### Fair Housing Act Application

- The Fair Housing Act applies to virtually all housing, regardless of whether the housing is linked to federal funding.

- Covered housing includes college and university housing, including dormitories, and faculty housing.

- Recent court decision holding that university student housing is covered by the Fair Housing Act. *U.S. v. Univ. of Nebraska at Kearney*, 2013 U.S. Dist. Lexis 56009 (D. Neb. April 19, 2013)

### Obligation to Make Reasonable Accommodations

- The Fair Housing Act requires housing providers to make reasonable accommodations for individuals with disabilities who use assistance animals.

- Reasonable accommodations must be made for individuals with disabilities who are:
  - Applicants, tenants, or residents
  - Their family members
  - Other persons associated with residents, tenants and applicants.
Assistance Animals

- Provide support, assistance or service
- Include emotional support or therapy animals
- **Not** just dogs – examples: cat, bird, guinea pig, miniature horse, capuchin monkey, etc.
- May be trained or untrained

Assistance Animal Must be Permitted If...

- Individual has disability, as defined in Fair Housing Act, AND
- There is a relationship between disability and assistance provided by the animal
Applying the principles …

- Oral request is enough -- written application may not be required
- Process should be easy and quick
- Verification of disability can be provided by a doctor or other medical professional, a peer support group, a non-medical service agency, a reliable third-party in a position to know about the disability, or the individual himself (proof of receipt of SSI or a credible statement)
- No fee, deposit, insurance, hold harmless agreement, extra inspections, “pet rules,” veterinary certificates, or special conditions

Conditions May Not be Imposed

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<th><strong>INDIVIDUAL’S RESPONSIBILITY</strong></th>
<th><strong>MAY NOT IMPOSE</strong></th>
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<td>Individual is responsible for maintaining and controlling animal.</td>
<td>- Access cannot be denied to housing and indoor and outdoor public and common use areas associated with housing</td>
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<td>- No breed, weight or size limitations</td>
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Bases for Denial or Exclusion

• Specific animal poses a direct threat (individualized assessment based on recent credible, objective evidence relating to specific animal’s actual conduct – not speculation about type or breed of animal).

• Undue Financial and Administrative Burden (very high standard to meet – generally not applicable)

• Fundamental Alteration (very high standard – typically not applicable)

When Both the ADA and the Fair Housing Act apply ...

• In housing associated with post-secondary education, the ADA and Fair Housing Act typically both apply.

• HUD recommends applying the ADA first. If an animal is a service animal under the ADA definition, a separate Fair Housing Act analysis is unnecessary for purposes of granting a reasonable accommodation under the Fair Housing Act.

• Doing the Fair Housing Act analysis first could result in taking actions not permitted by the ADA.

• If the animal is not a service animal or a miniature horse covered by the ADA, you must then determine if a reasonable accommodation is required for an assistance animal under the Fair Housing Act.
More Information


Thank you for participating in today’s ADA-Audio Conference Session

The next scheduled session is:

*ADA Anniversary Update: 23 Years Later*

**July 16, 2013**

Register at: www.ada-audio.org or call 877-232-1990 V/TTY