


ADA  AUDIO
Conference
ADA NATIONAL NETWORK

ADA Audio Conference Series
June 18, 2013

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2:00pm Eastern Time


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Customize Your View *continued*



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 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)

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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

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Service Animals

U.S. Department of Justice

Sally Conway, Deputy Chief, Disability Rights Section

Kathleen Wolfe, Special Litigation Counsel, Civil Rights Division

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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.

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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..."

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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.

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Miniature Horses

- Miniature Horses range in weight from 70 to 100 pounds.
- Miniature horses can range in height from 24 to 34 inches.

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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.

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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

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Service Animals

U.S. Department of Education

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

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Disability Laws Enforced by OCR

- Section 504 of the Rehabilitation Act of 1973
- Title II of the Americans with Disabilities Act of 1990

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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

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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.

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U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue, SW
Washington, DC 20202-1100

Telephone: 800-421-3481
FAX: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov

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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

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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)

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**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.

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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

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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

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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

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Conditions May Not be Imposed

INDIVIDUAL'S RESPONSIBILITY

- Individual is responsible for maintaining and controlling animal.

MAY NOT IMPOSE

- Access cannot be denied to housing and indoor and outdoor public and common use areas associated with housing
- No breed, weight or size limitations

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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)

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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.

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More Information

- U.S. Department of Housing and Urban Development: *Service Animals and Assistance Animals for People with Disabilities in Housing and HUD Programs*, http://portal.hud.gov/hudportal/documents/huddoc?id=servanimals_ntcfheo2013-01.pdf
- U.S. Department of Housing and Urban Development and U.S. Department of Justice: *Joint Statement on Reasonable Accommodations under the Fair Housing Act*, www.hud.gov/offices/fheo/library/huddojstatement.pdf
- You may file a fair housing complaint with HUD on its Fair Housing and Equal Opportunity website. http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/online-complaint

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ADA-Audio Conference Session

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ADA Anniversary Update: 23 Years Later

July 16, 2013

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