

# Service & Assistance Animals in a Changing Landscape

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Presented by

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The Ohio State University

## **Before our conversation starts.**

Please pause and reflect on the moment in history you find yourself living; in the silence listen for your voice; in the stillness look for the paths you can follow and those you can blaze; commit in action and plan to lead your community toward a better future

# Welcome

- I am Scott Lissner I am delighted that you are here.
- Karen L. Andrews, from UC Irvine is our facilitator who will be voicing your questions and keeping me honest during the session
- There will be lots of resources listed



A discussion of the social and legal landscape for service and assistance animals on campus will map the critical contours of a comprehensive campus policy. Short scenarios will highlight new issues related to COVID-19 (animal exposure, impact on requests for ESAs); documentation; progression from pet to ESA to service animal; exotic animals; balancing conflicts (allergies, fear, religious objections); behavior issues; and animals in different campus environments (residence, classroom, labs, etc.).

# Social & Legal Landscape

- A brief note on language
- The expanding and contracting role of Service Animals
- The changing attitude towards Companion Animals
- The transition from Companion Animal to Emotional Support Animal

# What Does the Law Say Across Jurisdictions

- Federal Laws
  - ADA Titles II & III
  - ADA Title I
  - Section 504
- Fair Housing Act
- State laws
- Local ordinances



- Roles
  - Training
- Documentation
- Limits and exceptions
  - Species, breed, size, age, origin
  - Care
- Control, behavior & consequences

# University Policy: What Needs To Be Covered

The Ohio State University and Wexner Medical Center have a general “no pets” policy in all of its buildings. Pets are allowed on the grounds when leashed and under control. Service Animals are generally allowed to accompany their handlers in any building or public space where their handlers are permitted. ....



Emotional Support and Visiting Therapy animals may be allowed in specified areas of the University and Wexner Medical Center with advanced approval. All animals are the responsibility of their handlers and should be under their control (house broken, in proximity to the handler and responsive to commands, in harness, on a three-foot lead, or in a carrier, not exploring others or the environment, and not disruptive). .....



An animal's behavior is considered the handler's behavior; the animal will be held to the same basic standard of conduct as their handlers. If they are disruptive to university business or community behavioral expectations for educational, medical and residential environments handlers may be asked to correct the animal's behavior or remove it from the environment.

# COVID-19 and Animals

- Dogs and cats can catch a form of COVID
- Research indicates that the risk of transmission of that form to people approaches zero
- Animals are a surface
- Quarantine and animal care

**N95 Pet Mask**



# SCENARIOS & CONTEXTS

# Training: Community Service or ....



**Visiting Therapy Animals:** Animals in the company of their handlers that have been trained to make wellness, stress reduction or therapeutic short term visits







REALLY... WHAT'S THE GROUP CALLED?

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## SCENARIO 1

Polly, a returning veterinary student presented documentation for an Assistance Animal, Riggan, a Gray African Parrot, to the manager of the university's satellite residence. The residence is an apartment style building that houses only university students under a contract, with programming and services comparable to campus housing. The documentation included a statement from the head veterinarian at the local zoo that Riggan is 3 years old and has a clean bill of health. It added that "Gray Africans are long lived, intelligent and highly trainable. As a point in fact, Riggan is toilet trained." A second letter from a social worker indicated that Polly suffered from depression and a comorbid eating disorder, adding that "Riggan's nonjudgmental companionship during meals, including prompting Polly to eat with both language and by handing her utensils, is in service of her treatment." The manager said yes to the request.

Would you have asked for any additional information? Would you have approved the request?

A couple of weeks later, the Director of Residence Life comes to you and says other students are registering concerns because Riggan accompanies Polly (typically on her shoulder) in the common spaces, including a lounge and an exercise room.

What additional information do you need? What do you do?

A few weeks later there are more complaints from students on the hall as well as from the floors above and below Polly's room. This time the complaints are about noise. It turns out that the residence is not near a hospital but that Riggan is doing a very accurate imitation of an ambulance siren at random intervals.

How do you handle the complaints? What if the behavior continues?



## SCENARIO 2

A new law student comes into your office, introduces herself as Ruth, and shares the following.

“I played field hockey as an undergraduate and during my Junior year I had had a heart attack, died on the field and was revived. The cause was an undiagnosed congenital defect and I have had 5 subsequent surgeries. During that time Thomasina, my cat, became my Emotional Support Animal. Here is a letter from my doctor.”

The letter, from her primary care physician, confirms Ruth’s narrative, adding dates and the following statement: “Since the episode my patient has suffered from anxiety that is generally controlled by a low dose of medication and her interaction with her cat that serves as an Emotional Support Animal. She has had several occasions where she has been separated from her cat for more than a few days due to hospitalization or more extended travel. At these times I have to triple her dose of antianxiety medication. Based on this and the side effects of the medication I recommend that she be allowed to keep the Support Animal in residence at the college.”

What, questions do you have? What, if any, additional documentation do you need? What do you do?

Thomasina is approved and she moves into a third-floor apartment in your graduate student housing. A few weeks later the staff calls saying another student, John, on the first floor, is asking to have his apartment checked for mold because his allergies are really bad and it must be mold, since there is a no pets policy and cats are his only other allergy.

What information do you need? What do you do?

The testing was done 2 days later; there is no mold and no one wants to move. Apologetically you say to John that you are empathetic to his discomfort but that the accommodation is a right. You will be happy to facilitate a move and will provide a HEPA air filter in the meantime. The next day you get a fax from John’s allergist saying he is at risk for anaphylaxis.

What do you do?

### SCENARIO 3

Margaret is a transfer student from a two-year nursing college in Arizona to your university in Texas. She presents well written documentation supporting an emotional support animal, a Chihuahua named French Fry, as an accommodation in the residence hall. The documentation is from Georgia.

Do you have any concerns? What questions would you ask?

It turns out that Margaret's home is in Georgia and that is where she began therapy and first started using an ESA. You approve the accommodation and hand it off to housing, who negotiates living arrangements with ease. About five weeks later Margaret comes back to you saying, "Classes and tests are so difficult here and I am so stressed that I am having panic attacks during exams – I so need to bring French Fry to class for tests!"

What do you ask her? What, if any, information do you want to see?

Based on your conversation with Margaret you discover that she has been in therapy for a general anxiety disorder with cyclical depression for the past three years. She has Skype sessions with her therapist in Georgia, who has called in a change in her prescription medication to Student Health. She started the new medications three weeks ago. She has never used any academic or testing accommodations before.

What do you do next?

## SCENARIO 4

Oliver is a new student whose home is about 100 miles from campus, which is in Illinois. He presents a note on letterhead from his primary care physician that this is Oliver's first time away from home and that he would benefit from having an animal in his dorm to help control his anxiety and home sickness.

What is your read of the documentation? What, if any, additional information do you request?

Four days later Oliver hand delivers a rather lengthy note from a psychologist. It indicates that Oliver is already suffering from significant anxiety which is escalating as the start of the semester and moving day approaches. There is a large section on the effectiveness of Emotional Support Animals that includes some citations from settlement agreements and case law. There is a closing statement that his condition warrants the therapeutic use of an Emotional Support Animal as an accommodation under the Fair Housing Act. The letterhead indicates a California address and license.

What, if any questions do you have about the documentation? What, in any questions do you have for Oliver?

What response options do you have?

What is your response?

## SCENARIO 5

Pete, a first year student, uses a wheelchair and has significant hearing loss. Prior to the semester you meet with him, and he has a dog with him. During the meeting you witness Spanky, who happens to be a pit bull, alerting Pete to sounds (a knock on the door, a phone ringing). You mention to your Dean that there is a new student with a hearing alert dog that is a pit bull named Spanky. The next day your VP and Director of Public Safety approach you and ask that you help them develop a campus ban on pit bulls because they are so dangerous that there is a local ordinance about controlling them.

What do you say?

After the conversation you look up the city ordinance and discover it has the following requirements for pit bulls:

1. The owner has to provide proof of rabies vaccination and pay an additional registration fee of \$50 plus the base dog license of \$10.50. The owner receives a “pit bull tag” to be worn on the dog’s collar.
2. The owner has to keep the registration for the pit bull current through an annual renewal with the city.
3. When the pit bull is off the owner’s property, it must be muzzled or wearing head gear that provides equal protection as if muzzled.
4. The owner must provide documentation to the city that the dog is spayed or neutered.

You are preparing to inform the student of the local ordinance. Will you report observed violations to the student conduct staff? To the animal warden?

Will Pete’s residential status (commuter or residential) influence your decisions?

As you start the follow-up conversation with Pete, you observe that Spanky is a fetch and carry dog who cannot do his service in a muzzle.

## SCENARIO 6

Monty has a seeing eye dog, Patton, a yellow lab. Patton is very protective of Monty and will often place himself between Monty and anyone having a conversation with him. Typically, this is hardly noticed. His management instructor has come to you with a concern. The class breaks up into dyads or triads for role plays several times during almost every session. During these, Patton's frequent shifting of positions to be between Monty and his new role play partner or the observer is putting students off.

What do you do?

After you talk to Monty, he works on refresher training for Patton. This involves a quick jerk of a leash on a choke collar with a firm "no" verbalized. Other students are now reporting Monty as abusing his dog.

What information do you need? What do you do?

The training was effective and in a few weeks Patton is lying still in class as the role playing students switch up. Unfortunately, when other students get too close to Monty for Patton's comfort, he growls at them.

What do you do?

What if the growling persists?

What if it escalates to growling with teeth bared, then to hackling up?

A student comes in with an imposing porcupine in tow.



This is Fluffy, my service animal. \*\*\* Yes it definitely performs a service: keeping people who want to bother me at a distance and giving me the personal space I need to control my annoyance. \*\*\* No, she does not “shoot” her quills or anything like that. \*\*\* Oh, I see! Fluffy is an Emotional Support Animal and not a Service Animal. But having her in the residence hall to help me manage my relationship with my roommates is still a reasonable accommodation under the Fair Housing Act, right? \*\*\*\*

Also, crowds are a trigger. Having Fluffy with me in crowded places like the dining hall, the Rec. Center and football games is important. I need her in class too, particularly those really crowded survey classes or when there is group work. Isn't that a reasonable accommodation under 504 or Title II & III of the ADA? \*\*\*\*

Fluffy is also super helpful at work. I am not sure I could deal with the clients without her and let's not even talk about my boss. I know I can bring her to work as a reasonable accommodation under Title I of the ADA? \*\*\*

Fluffy is also my “Spirit Animal”. As my animal totem can't I have her with me at work as a religious accommodation under Title VII of the Civil Rights Act? \*\*\*

# RESOURCES



“Section 504 would require the school to modify their policies and procedures as necessary to avoid discrimination. The student with a disability who wants to use a non-service animal, for instance, the rabbit, is free to follow the particular college's reasonable procedures for requesting a modification or an accommodation. We would hope to see, as Jeanine mentioned, an interactive process in determining what is appropriate and necessary. And it's going to be a case-by-case basis.”

Ramin Taheri, Staff Attorney, U.S. Department of Education

Service Animals in Post Secondary Education Settings

June 18, 2013

<http://www.ada-audio.org/Archives/AudioConference/index.php?type=transcript&id=2013-06-18&app=1>



- [Title II State and Local Government 28 C.F.R. Part 35 \(with guidance\)](#)
- [Title III Places of Public Accommodation 28 C.F.R. Part 36 \(with guidance\) \(PDF\)](#)
- [Department of Justice Revised FAQ on Service Animals](#)

- [National ADA Network \(DBTAC\) Fact Sheet # 5 \(PDF\)](#)
- Notice: FHEO-2020-01 Issued: January 28, 2020:  
[Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act \(PDF\)](#)

- **Animals in Housing: What the DOJ Consent Decrees with the University of Nebraska and Kent State University Tell Us**, The HUB, February 2016 (posted with session materials)
- [Frequently Asked Questions about Service Animals and the ADA](#), July 20, 2015
- [DOJ/HUD Joint Statement on Reasonable Accommodations under the Fair Housing Act, 2004](#)
- [Consent decree between the United States and Kent State University \(PDF\)](#), January 4, 2016
- [Consent decree between the United States and University of Nebraska, Kearney \(PDF\)](#) (UNK), September 2015

# COVID-19 GUIDANCE

- [CDC Animal Guidance Summary](#)
- [Interim Guidance for Public Health Professionals Managing People With COVID-19 in Home Care and Isolation Who Have Pets or Other Animals](#)

# COVID-19 GUIDANCE

- [Toolkit: One Health Approach to Address Companion Animals with SARS-CoV-2](#)
- [What you need to know about COVID-19 and Pets and Other Animals](#)

# CONTACT

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