



# Service and Assistance Animals in Housing

*Presented by*  
*Jennifer Purrington, Esq.*  
Deputy Director/Legal Director



# Minnesota's Protection & Advocacy (P&A) System for People with Disabilities

- ▶ Every state & territory has a designated P&A
- ▶ Protect and promote the rights of individuals with disabilities through:
  - ▶ Legal representation;
  - ▶ Advocacy;
  - ▶ Monitoring & Investigation;
  - ▶ Education; and
  - ▶ Legislative action.
- ▶ Civil legal services to individuals with disabilities from the entire state of Minnesota, regardless of income.
- ▶ Represents individual clients in administrative hearings, state and federal courts.

# MMLA and MDLC Locations

- ▶ The Minnesota Disability Law Center is part of Mid-Minnesota Legal Aid

- ▶ Offices MMLA:

- ▶ Minneapolis
    - ▶ St. Cloud
    - ▶ Wilmar

- ▶ Offices MDLC:

- ▶ Minneapolis
    - ▶ Duluth
    - ▶ Mankato
    - ▶ Crookston Area (no physical office)



# Agenda...

1. Relevant Laws
2. Definition of Disability
3. Types of Animals covered
4. Animals in Housing
5. Reasonable Accommodation Process

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# #1 - Disability Rights Laws

- ▶ **Fair Housing Act 1968 (FHA)**
  - ▶ Fair Housing Amendments Act 1988 added protection for people with disabilities
- ▶ **Minnesota Human Rights Act (MDHR)**
- ▶ **Rehabilitation Act of 1973 (§504)**
- ▶ **Americans with Disabilities Act (ADA)**
- ▶ **Local laws and ordinances**



# When does the ADA come into play?

- ▶ With visitors
  - ▶ Place of public accommodation
- ▶ With Staff
  - ▶ Employment Law

# #2 - Who is Considered a Person with a Disability?





# Definition of Person with a Disability

Disability means:

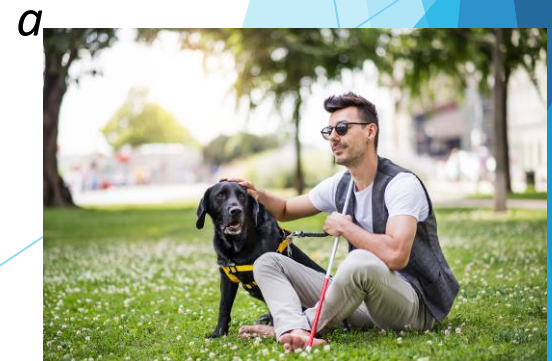
1. **Physical or mental impairment which substantially limits a major life activity (an *actual* disability); OR**
2. *Record of a disability; OR*
3. *Regarded As a person with a disability*



# Having an **Actual Disability** Includes:

- Physical or mental impairment that substantially limits a major life activity
  - Epilepsy, HIV, MS, Deaf, Blind, Diabetes, Cancer (even in remission) – this list is NOT exhaustive
  - People with diagnosed mental illness
  - Recovering Alcoholics and Substance Abusers
  - Does *NOT* include current users of illegal drugs

*\* Temporary impairments may be considered disability if they are substantial \**



# An Actual Disability is Viewed *Without* Mitigating Factors

- Mitigating Factors Include:
  - Medications
  - Medical supplies or equipment
  - Low-vision devices (other than ordinary glasses/contacts)
  - Prosthetic devices
  - Hearing aides or cochlear implants
  - Mobility devices
  
- \* Look at how the person is affected by the disability  
*without* the use of these mitigating factors \*



# #3 - What Types of Animals Help People with Disabilities?



# Different Classifications of Animals

- ▶ **Service Animals** – individually trained to perform a task for an individual with a disability
- ▶ **Assistance Animals** - ameliorate (help) one or more symptoms of a person's disability (do not have to be trained)
  - ▶ Includes companion, support, and emotional support animals
- ▶ **Therapy Animals** – provide benefits to people other than owner (visit people in hospitals, nursing homes, etc.)
- ▶ **Pets** – catch-all provision that includes all other animals



# What is a Service Animal?

- ▶ Must be a dog or miniature horse
- ▶ Must be individually trained to perform a task or service for an individual with a disability
- ▶ Can be trained by the owner
- ▶ Does not require licensing, certifications, or a vest
- ▶ Do not pet – they are working



# Important Points for Service Animals

- ✓ If a person with a disability needs the assistance of a service animal, the animal is allowed to go basically anywhere the person goes – including in housing.
- ✓ Examples of work a service animal can do:
  - Guiding people who are blind
  - Alerting people who are deaf
  - Sensing on-coming seizures



# What is an Assistance Animal?

- ▶ The FHA (through HUD guidance) defines assistance animals as animals that ameliorate (help) one or more symptoms of a person's disability
- ▶ Assistance animals – unlike service animals – are only ***automatically permitted in housing***
- ▶ There is no limit on the type of animal it must be or even how many animals are allowed – must be reasonable
  - ▶ Though local ordinances may play a role



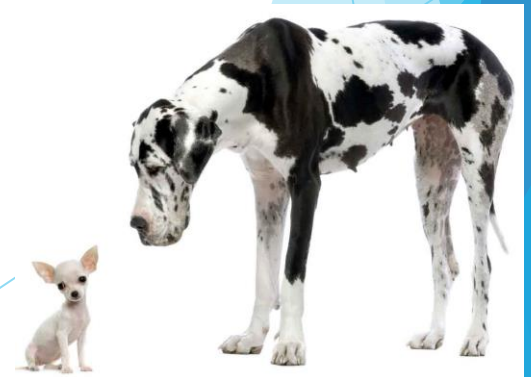


# Examples of Assistance Animals

- ▶ A cat who encourages a person with depression to get up, eat, take her medication and leave the house
- ▶ A dog who sits in its owner's lap when the owner is experiencing severe anxiety
- ▶ A dog that helps a young person with autism to learn to relate to others

**\*Assistance animals are not required to have any specific training; they just have to help the person with a disability\***

**Assistance Animals are not bound by weight, size or breed restrictions**



# Service vs. Assistance Animals

## Service Animals

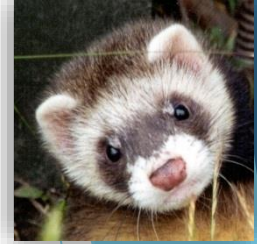
- ▶ Allowed in homes and businesses
- ▶ Can only be a dog or miniature horse
- ▶ Must be individually trained to perform a task or service for a person with a disability
- ▶ Not required to wear a vest
- ▶ Must be leashed, unless it interferes with disability
- ▶ No certification required

## Assistance Animals

- ▶ Allowed in homes
- ▶ Can be any type of animal
- ▶ No specific training required, but must help the person with a disability
- ▶ Not required to wear a vest
- ▶ No certification required



# Other Types of Animals



- ▶ **Therapy animals** - animals that are taken to hospitals, schools and other facilities to provide therapy to the people there.
  - ▶ Generally well-behaved, but not service animals
  - ▶ Owners do not have disabilities that are assisted by the animal
  - ▶ Purpose of the animal is to visit people– with the facility’s consent
- ▶ **Pets – Final Catch-All**
  - ▶ All animals that any person, with or without a disability, may have if they do not fall into one of the other categories.
  - ▶ Pets and pet owners are not afforded any particular rights

# #4 – Animals in housing for people with disabilities



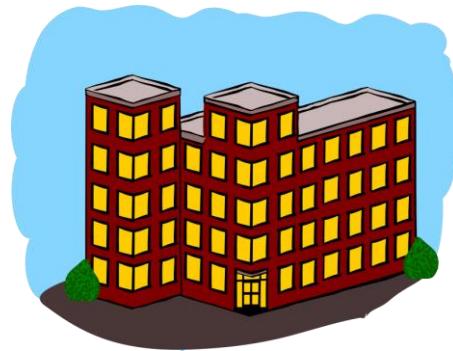
# Housing:

both service & assistance animals **must be allowed** – this includes companion and emotional support animals (Fair Housing Act)



# What Housing is Covered?

- ▶ Most housing is covered
  - ▶ Condos
  - ▶ Skilled Nursing
  - ▶ Assisted Living Facilities
  - ▶ Apartments
  - ▶ Houses (sometimes)
  - ▶ Hotels, motels, shelters – when they are used as a residence



**#5 – The Process for a  
Person with a Disability to  
Request an Assistance or  
Service Animal**

# What is a Reasonable Accommodation?

ADA, FHA and MHRA all require housing providers to make reasonable accommodations for people with disabilities who need it to use and enjoy their home

- ▶ Reasonable accommodation = a change in rules, policies, practices or services
- ▶ Can be denied if it causes an undue financial or administrative burden
- ▶ HUD guidance suggests that allowing an assistance animal in housing is generally not an undue burden

**Remember: this is only for people with disabilities**



# What can you ask for?

- ▶ If disability is not readily apparent or known, may ask resident to submit reliable documentation of disability and disability-related need for the accommodation.
- ▶ If it's a **service animal**, you can ask:
  - ▶ Is the dog a service animal that you need because of a disability?
  - ▶ What work or task has it been trained to perform?
- ▶ If it's an **assistance animal**, you can ask for:
  - ▶ Documentation of the resident's disability
  - ▶ The Relationship between the resident's disability and the need for a support animal
- ▶ Require the disability be verified by a **licensed professional**
  - ▶ Does not have to be a doctor, but must be licensed
  - ▶ Must have knowledge of the client

# “Licensed Professional” under MN law

- ▶ (e) "Licensed professional" means a provider of care who is:
  - ▶ (1) a person licensed by the Board of Medical Practice under chapter 147;
  - ▶ (2) a physician assistant licensed under chapter 147A;
  - ▶ (3) a nurse, as defined in section 148.171, subdivision 9, licensed under chapter 148;
  - ▶ (4) a psychologist licensed under chapter 148;
  - ▶ (5) a mental health professional licensed under chapter 148B;
  - ▶ (6) a social worker licensed under chapter 148E;
  - ▶ (7) a counselor licensed under chapter 148F; or
  - ▶ (8) any professional listed in clauses (1) to (7) who holds a valid license in any other state, provided the professional has an existing treatment relationship with the tenant requesting a reasonable accommodation.
- ▶ A licensed professional does not include any person who operates primarily to provide certification for a service or support animal.

# Making an Accommodation Request

- ▶ No “Magic Words” – They just have to express a need
- ▶ Someone else can make the request for the resident
- ▶ **Can** require:
  - Proof that the animal is registered and vaccinated
  - Resident to take care of the animal
  - Animal not pose a *real* threat or a *significant* nuisance
    - ▶ Pay for any damages done by the animal
      - ▶ As long as management typically charges for similar damages
- ▶ **Cannot** require
  - Additional security deposit or pet rent
  - Proof of training or certification
  - Medical records

# Bottom Line on Accommodations



- ▶ Facility has a responsibility to engage in an *interactive dialogue*
- ▶ When a resident requests a reasonable accommodation, the facility cannot simply refuse it and say it is not reasonable
- ▶ Facility must make an effort to understand the resident's request and try to come up with an effective solution that works for both parties
  - ▶ Be creative
- ▶ Deference is given to the person with a disability to describe what they need



## Allergies are not a reason to not accommodate

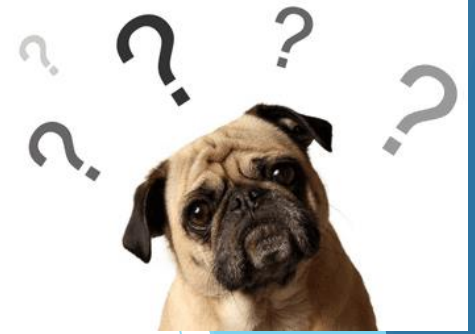
- ▶ Though allergies can be an issue, a housing provider must:
  - ▶ Try to find a solution that allows the person with a disability to have the animal
  - ▶ Examples:
    - ▶ Hepa Filters
    - ▶ Physical location of units
    - ▶ New carpet, flooring
    - ▶ Thoughtfully suggest distance in community rooms, dining, programs

# Role of Management/Staff

- ▶ Information about residents should be confidential
- ▶ Animals who are not under control should be addressed by management
- ▶ Staff and residents cannot interfere with use of the animal
- ▶ Train staff on animals in housing
- ▶ Best practice – train residents on animals in housing
- ▶ Have policies around animals in housing
- ▶ Keep good records
- ▶ Facility – List in resident's plan of care

# A Few Last Tips

- ▶ Generally, a misunderstood area of law
- ▶ Other states have different laws
- ▶ Not all disabilities are visible
- ▶ Assistance Animals come in all shapes and sizes
- ▶ Service Animals are dogs or miniature horses
- ▶ An owner of any animal has an obligation to keep the animal under control
- ▶ The purpose of disability rights laws is to provide equal access for people with disabilities



# Questions



Jenn Purrington  
jpurrington@mylegalaid.org



# Resources

- ▶ [Housing / Minnesota.gov \(mn.gov\)](#)
- ▶ [Sec. 504B.113 MN Statutes](#)
- ▶ [Assistance Animals | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)
- ▶ [Notice FHEO-2020-01: Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act \(January 28, 2020\) \(hud.gov\)](#)
- ▶ [Fact Sheet: HUD's Assistance Animals Notice](#)
- ▶ [Joint Statement of HUD and DOJ on Reasonable Accommodations Under the Fair Housing Act](#)
- ▶ [Reasonable Accommodations and Modifications \(hud.gov\)](#)
- ▶ [Service Animal Quick Reference Guide \(PDF\) \(state.mn.us\)](#)
- ▶ [Service Animals | Minnesota Council On Disability \(state.mn.us\)](#)