



*State of Kansas*

*Office of Judicial Administration*

*Kansas Judicial Center*

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*Topeka, Kansas 66612-1507*

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February 15, 2011

To: Chief Judges  
Court Administrators  
Local ADA Coordinators

From: Elizabeth Reimer  
Staff Attorney

Re: **Amended ADA regulations effective March 15, 2011 and March 15, 2012**

The U.S. Department of Justice has amended the Americans with Disabilities Act regulations that apply to State and local governments, including the Judicial Branch ("Title II ADA regulations"). The revised regulations will take effect on March 15, 2011. Aspects that are particularly pertinent to the courts are outlined below. The revised Title II ADA regulations are located at 28 C.F.R. Part 35 and can be found at:

<http://edocket.access.gpo.gov/2010/2010-21821.htm>

The revised regulations also replace current building/property design and construction standards. The new standards ("2010 Standards") will go into effect on March 15, 2012. The 2010 Standards can be found at:

<http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm>

If any alterations or new construction are planned to your judicial facility, please contact OJA for further information.

**Service Animals**

Previous federal regulations did not specify what type of animal could be a service animal. The revised regulations define "service animal" as 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.”

If someone enters your judicial facility with a dog or asks permission to do so, please remember that a public entity cannot ask a person about what type of disability they have or the extent of their disability. The only questions that can be asked are: (1) if the dog is required because of a disability, and (2) what work or task the dog has been trained to perform. If the answers to the above questions are obvious (for instance, if the dog is pulling a person’s wheelchair) then the public entity should not even ask the above questions.

A public entity cannot require proof that a dog has been trained as a service animal. For a quick Q&A on service animals and what to do if a dog acts in an unruly or disruptive manner, please see:

<http://judicial.kscourts.org:7778/ADA/Questions%20about%20service%20animals%20and%20the%20ADA%202010.pdf>

Even though only dogs fall within the definition of service animal, the revised regulations also contain provisions concerning the use of trained miniature horses. If a miniature horse situation arises, we recommend that you do not deny the person with the horse access and please contact OJA for assistance.

### **Wheelchairs and Other Power-Driven Mobility Devices**

Wheelchairs and “manually-powered mobility aids” such as walkers, crutches, canes, etc. must be permitted in any areas open to pedestrian use.

The revised regulations place Segways in a category called “other power-driven mobility devices.” Segways and other power-driven mobility devices are treated differently from wheelchairs. A public entity must permit Segways to be used unless it can show that Segways cannot be safely operated in the location in question, or that allowing Segways to be used would “fundamentally alter” the public entity’s programs, services, or activities, or impose an undue financial or administrative burden.

Please remember that a public entity cannot ask a person using a wheelchair or a Segway about what type of disability they have or the extent of their disability. A public entity may ask a person using a Segway (**but NOT a person using a wheelchair**) to provide a “credible assurance” that the Segway is required because of the person’s disability. If the person says that the Segway is being used for a mobility disability (and this is not contradicted by observable fact), the public entity must accept this as a credible assurance. A State-issued proof of disability must also be accepted as a credible assurance.

If you have questions regarding the use of Segways in court facilities, please contact OJA.

### **Video Remote Interpreting**

The revised regulations include video remote interpreting (VRI) services as an auxiliary aid that may be used to provide effective communication. VRI is an interpreting service for deaf or hard of hearing individuals that use video conference technology. To ensure that VRI is effective, the Department of Justice has established performance and training standards for VRI.

Thank you for your commitment to the ADA and your continued efforts to ensure accessibility to the Kansas courts. If you have any questions regarding the above or about the ADA in general, please contact Elizabeth Reimer at [reimere@kscourts.org](mailto:reimere@kscourts.org) or (785) 296-5309.

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