ON-CAMPUS LIVING AND DINING

The ADA: Beyond the ABC’s of Academics
Part B
Concurrent 4.4
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Agenda

• New and existing housing
• Providing program accessibility in housing
• Diet and disabilities: Lesley University
• Reasonable modifications in housing

State Colleges: 2010 ADA Standards § 35.151(f)

Private Colleges: 2010 ADA Standards § 36.406(e)

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Housing at a Place of Education

Housing at a place of education means housing operated by or on behalf of an elementary, secondary, undergraduate, or postgraduate school, or other place of education, including dormitories, suites, apartments, or other places of residence.

New Construction

Section 201.1 Scope
All areas of newly designed and newly constructed buildings and facilities and altered portions of existing buildings and facilities shall comply with these requirements.

Altering Existing Buildings

Section 202.3 Alterations
Where existing elements or spaces are altered, each altered element or space shall comply with the applicable requirements of Chapter 2.

Safe Harbor: Existing Facilities
35.150(b)(2)(i) or 36.304(d)(2)(i)
Elements that have not been altered in existing facilities on or after March 15, 2012, and that comply with the corresponding technical and scoping specifications for those elements in either the 1991 Standards or in the Uniform Federal Accessibility Standards (title II only)...

Undergraduate Housing

Transient Lodging Plus ++
- Sections 224 and 806
- Accessible kitchens within units
- Accessible route within multi-room units

Housing at a Place of Education
Rooms with mobility features (806.2 and Table 224.2 for how many)

Rooms with communication features (806.3 and Table 224.4 for how many)

Both dispersed among the various types of rooms provided. At least one room with mobility features must also provide communication features. (224.5)

Undergraduate Housing Accessible Kitchens

Pass through (804.2.1) or U-shape kitchens...

U-shape kitchens (804.2.2) in undergraduate housing units with accessible sleeping rooms with mobility must have either:
- a min. 60" diameter circular space (can include knee and toe clearance)
- OR
  A T-shaped clear floor space (can include knee or toe clearance)

Undergraduate Housing Accessible Kitchens

• Work surface that complies with 804.3
  (disregard reference to residential dwelling units in 804.3)
• Other requirements of 804...

Multi-bedroom Housing Units

Units containing accessible sleeping rooms with mobility features:
- must have an accessible route throughout the unit complying with 809.2.
- accessible route connects all spaces and elements within the unit -- and cannot pass through bathrooms, closets, etc.

809.2.2 Turning Space

ALL ROOMS served by an accessible route MUST provide a TURNING SPACE complying with 304.
- a min. 60" diameter circular space (can include knee and toe clearance)
- or
- a T-Shaped space (can include knee or toe clearance) BUT only at the end of either the base or ONE arm

Shallow Balconies and Patios

Turning space not required in exterior spaces 30" maximum deep or wide.

The passage door clear width requirement from transient lodging gets you to the balcony door but not to turn around if it’s a shallow balcony.
Graduate or Faculty Housing

Leased on year-round basis to graduate students or faculty -- exclusively

Does not contain any public use or common use areas for educational programming

Comply with residential facility requirements:
sections 233 and 809

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Section 504: Overview

• Standards for accessible new construction and alterations
• No discrimination because of inaccessible facilities
  ➢ Operate each program/service/facility so that,
    ▪ When viewed in its entirety,
    ▪ It is accessible.
• ADA has same provision; use standards as measure of program accessibility

Providing program accessibility in housing

Program accessibility: 504 regulations of Department of Education

• Provide comparable, convenient, accessible housing
  — At same cost
  — In sufficient quantity and variety so scope of choice is comparable as a whole
Types of housing

- Undergraduate dormitories
- Graduate housing
- Married student housing
- Specialized housing
  - International house
  - Sororities and fraternities

Program accessibility: options (1)

- Housing style/configuration
  - Single
  - Single with private bathroom
  - 1-2-3-4 bedroom suites
  - Apartments

Program accessibility: options (2)

- New/old

Program accessibility: options (3)

- Location
- Facilities: dining, athletics
- Single sex or not
- View
- Learning communities
- Language houses

Assistance to others

- If provide assistance to organization or person in making housing available, ensure nondiscrimination

Fraternities/sororities


Sororities and fraternities

**Diet and disabilities: Lesley University settlement**

**DOJ investigation**
- Complaint from students with food allergies/ celiac disease
  - Those with celiac disease had to maintain gluten-free diet mandatory
  - University required all students living on campus to participate in and pay for meal service plan
  - Students’ dietary needs weren’t accommodated; put them at risk of illness
  - Students weren’t excused from meal plan

**Settlement agreement**
- December 2012 – detailed agreement
- [http://www.ada.gov/lesley_university_sa.htm](http://www.ada.gov/lesley_university_sa.htm)
- Based on ADA’s “reasonable modifications” provisions
- Food allergies may be a disability
  - Celiac disease affects major life activity of eating, major bodily functions of immune, digestive, bowel, neurological systems
  - Food allergies can create autoimmune response and cause difficulty swallowing and breathing, asthma, anaphylaxis

**Required steps (1)**
- University will –
  - Provide ready-made gluten- and allergen-free food options
  - Develop individualized meal plans for students with allergies
  - Allow those students to pre-order allergen free meals

**Required steps (2)**
- University will (continued) --
  - Provide a dedicated space to store and prepare food
  - Allow requests for food made without allergens
  - With advance notice, shop for student

**Required steps (3)**
- University will (continued) --
  - Work to retain vendors that offer food without allergens
  - Specify in food service contract: reasonable modification policy compliance, training
  - Train food service and University staff
Required steps (4)

University will (continued) --
• Display notices about food allergies and specific foods
• Pay $50,000 in compensatory damages

Disability Services is key

• Student requests modifications through Disability Services
• DS meets with student to create individualized plan
• Outcome: disability modification letter with tailored plan
• University may exempt student from plan as a reasonable modification

Food allergies: DOJ Q and A

Q and A about agreement, January 2013
• Issue in Lesley case involved a mandatory meal plan
• Not necessarily applicable to other plans or to restaurants
• But restaurants and universities with other types of plans should evaluate their policies

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WHO is in Charge?

• Housing – with DSS as consultants?
• DSS – in conjunction with Housing?
• Pros/cons of the direction of cooperation
• How the decision influences your process
HOW do you charge?
• It depends on whether the accommodation is wanted or needed!

WHAT (and WHEN) do you ask? (1)
• Just asking may resolve some of your problems

Asking “WHY?”
SEVERITY OF THE CONDITION
• 1. Is impact of the condition life threatening if the request is not met?
• 2. Is there a negative health impact that may be permanent if the request is not met?
• 3. Is the request an integral component of a treatment plan for the condition in question?

Asking “WHY?” (2)
SEVERITY OF THE CONDITION (2)
• 4. What is the likely impact on academic performance if the request is not met?
• 5. What is the likely impact on social development if the request is not met?
• 6. What is the a likely impact on the student's level of comfort if the request is not met?

Asking “WHY?” (3)
TIMING OF THE REQUEST
• 1. Was the request made with initial housing request?
• 2. Was the request made before the deadline for housing requests for the semester in question?
• 3. Was the request made as soon as possible after identifying the need. (Based on date of diagnosis, receipt of housing assignment, change in status, etc.)

Asking “WHY?” (4)
FEASIBILITY & AVAILABILITY
• 1. Is space available that meets the needs?
• 2. Can space be adapted to provide the requested configuration without creating a safety hazard (electrical load, emergency egress, etc.)?
• 3. Are there other effective methods/housing configurations that would achieve similar benefits as the requested configuration?
• 4. How does meeting this request impact housing commitments to other students?
• Recognize (and remind!) that there are no “right” or “wrong” answers.
• Recognize (and consider) options
• Recognize (and insist) on access

Primary Areas of Concern

• Single Rooms
• Service/Companion Animals
• Roommates riding on coattails

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Disability Access Information and Support