

Gates Chili should heel in service dog dispute

There's a troubling dispute simmering between a Chili girl and her school district over her dog. It's been in the news before, but it's worth revisiting because a strikingly similar quarrel just played out in a Florida courtroom, where the judge all but ordered the school board to heel. The players and issues at hand here are these: Devyn Pereira is an 8-year-old second-grader at Neil Armstrong Elementary School in Gates. She has severe epilepsy and autism and doesn't speak.

Her dog is Hannah, a white Bouvier that's trained to help Devyn walk and sit still and detect when she's going to have a seizure.

The Gates Chili Central School District allows Hannah to accompany Devyn to school, but only on the condition that Hannah have a "handler."

Therein lies the rub, because the result is that Devyn's mother, Heather Pereira, pays someone to "handle" Hannah during the school day — a requirement Pereira claims is a financial burden and unlawful under the Americans with Disabilities Act.

The Department of Justice is investigating the matter.

More than 1,400 miles away in Florida, the Broward County School Board took a comparable approach to a 7-year-old boy and his seizure-detecting service dog, Stevie.

There, the school board had concerns about Stevie's "handling," but begrudgingly assigned a school custodian to the task and demanded the boy's family provide liability insurance.

The family objected to the insurance, the school objected to a janitor "handling" the dog, and the matter went to federal court.

Under the ADA, schools must make "reasonable accommodations" for disabled students. In other words, schools have to bend their policies a bit to allow some students to access their programs without charging them more, like welcoming service animals in classrooms.

When it comes to service animals, though, the law is clear that they must be under the "control" of a "handler" and that schools don't have to provide for their "care or supervision." That makes sense. After all, schools are schools, not kennels.

What the Florida case boiled down to was whether the custodian's role as "handler" was akin to the school providing "care or supervision" for the animal, and whether the school board's demand for insurance amounted to an unlawful surcharge. A couple of weeks ago, the judge not surprisingly decided that it was unreasonable to expect the school to provide a "handler" for Stevie.

But — and this is what should bite Gates Chili — the judge found that Stevie's "handler" was not the custodian, but rather his master, the 7-year-old boy.

You see, that Florida boy is tethered to his dog at school and that tether, the judge decided, constitutes "control." Given Stevie's strict obedience and training, the judge found, the dog requires no "care or supervision" at school beyond occasionally being let outside to pee.

With that one task, the boy needs help, and the judge said he was entitled to it.

"The school board is not being asked to provide an employee to walk Stevie ... rather the school board is being asked to help (the boy) do so," the judge decided. "That is, the school board is being asked to accommodate the boy, not to accommodate, or care for, Stevie."

As for the insurance, the judge ruled that it was indeed an unlawful surcharge.

Now back to Devyn and Hannah and Gates Chili.

Like that Florida boy, Devyn is tethered to Hannah. And like Stevie, Hannah is well behaved.

According to her "handler," Jenn Horozko, Hannah doesn't eat at school other than biscuits that Devyn keeps in a baggie. She doesn't defecate or urinate during the workday, either. Horozko, 23, who is also Devyn's nanny, figures she spends 15 minutes out of a full school day assisting Devyn with Hannah. Her job, she said, involves issuing commands to Hannah of "Down" and "Let's go" and untangling the tether.

Those seem like tasks any teacher or aide, which Devyn has assigned to her at all times, could reasonably handle within the course of their jobs, just as they could and would assist a diabetic child with her insulin pump or help a blind child deploy his cane.

It also appears that requiring Pereira to pay Horozko as a “handler” amounts to a surcharge, since Devyn and Hannah can’t attend school without Horozko present.

The Florida case is not binding anywhere else, but the Department of Justice is undoubtedly paying attention to it.

Spurred by the case, a fed up Oregon mom on Wednesday took her son and his service dog to school without a “handler.” The dog was turned away at the door.

Gates Chili declined to make anyone available for an interview, but released a statement that said the district welcomes service dogs within the confines of the ADA. Someone needs to remind Gates Chili this isn’t about welcoming dogs.

It’s about welcoming a

girl.

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Heather Pereira, right, poses with her daughter Devyn, left, and Devyn’s nanny Jenn Horozko, center, with Devyn’s service dog, Hannah. Pereira is involved in an ongoing dispute with the Gates Chili Central School District regarding Devyn’s use of a service dog.

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