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The United States Department of Justice recently released technical guidelines aimed at cur"tail"ing proliferating efforts purporting to expand the meaning of “service animal” under the Americans With Disabilities Act (“ADA”). Under the ADA, public accommodations (e.g. restaurants, hotels, retail establishments, theaters, and concert halls) must permit the use of service animals by disabled individuals. These technical guidelines take aim at increasing claims that a variety of animals (e.g. a pig) are service animals because they provide emotional support or comfort to the disabled individual. As this technical guideline makes clear, a service animal must not only be a dog, but it must be working like one as well.
The technical guidelines explain that, under the ADA, a service animal is “a dog that has been individually trained to do work or perform tasks for an individual with a disability.” In addition, the task(s) performed by the dog “must be directly related to the person’s disability.” Applying these definitions, the technical guidelines make clear that dogs (or other animals) that provide comfort through their presence alone do not qualify as service animals under the ADA. To satisfy the requirements of the ADA, the dog must be trained to take a specific action when the disabled individual requires assistance. The technical guideline provides these examples:

- A person with diabetes may have a dog that is trained to alert him/her when his blood sugar reaches high or low levels;
- A person with epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure; and
- A person who suffers anxiety attacks may have a dog that is trained to sense when an attack is about to happen and take a specific action to help avoid or lessen its impact.

Merely providing emotional support and comfort by presence alone is insufficient to qualify a dog as a service animal under the ADA.

The technical guidelines also provide clarification as to the proper inquiries that may be made of a patron seeking to utilize a service animal in a place of public accommodation. In situations where it is not obvious that the dog is a service animal, staff may ask the patron only two specific questions:

1. Is the dog a service animal required because of a disability?
2. What work or task has the dog been trained to perform?

Staff may not request supporting documentation for the dog, require the dog to demonstrate the task, or inquire about the nature of the patron’s disability.

Managers of restaurants, hotels, retail establishments and other public accommodations should review the guidelines provided by the Department of Justice in order to more fully understand their rights when presented with a patron claiming need to use a service animal.

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