



Colorado's Protection & Advocacy System

MAINSTREAM

Helping individuals with disabilities live and work in the community, enjoying independent and productive lives.

The Legal Center sues the State of Colorado on behalf of pre-trial detainees with mental illness

A Weld County man was arrested on January 16, 2011. At his February 17 hearing, he was deemed incompetent to stand trial and ordered by the court to receive mental health treatment from the state hospital to allow him to participate in his case. However, he remained confined in the Weld County Jail for six months until the Colorado Mental Health Institute made a bed available for him this summer. This case is one of a growing number where presumptively innocent men and women with serious mental illnesses languish in Colorado jails for months awaiting court-ordered mental health evaluations and mental health treatment so that they can participate in their criminal proceedings.

On August 31, The Legal Center filed a federal lawsuit against the Colorado Department of Human Services and the Colorado Mental Health Institute at Pueblo (CMHIP) alleging that the excessive delays violate the United States Constitution. In some cases, pretrial detainees wait in jail for mental health evaluations and treatment longer than they would have otherwise been confined for their alleged offense. The lawsuit was supported by signed af-

fidavits from Arapahoe County Sheriff J. Grayson Robinson and the Colorado State Public Defender, Douglas K. Wilson.

In his affidavit, Sheriff Robinson stated that it costs the county almost twice as much to house people with mental illness as it does other detainees, and that they place special demands on the staff to ensure their safety. Robinson notes that his jail does not have the medical professionals needed to evaluate, treat, and care for these individuals properly. As jail staff cannot provide psychiatric medications to detainees with mental illness involuntarily, their psychological condition often deteriorates rapidly and with it their behavior. Robinson states: "It is not uncommon for mentally ill detainees to commit crimes or violate facility conduct rules because of their inability to conform their behavior to the requirements of a secure detention facility."

The Legal Center's legal team is led by Iris Eytan, Jason Lynch, Caleb Durling, and Marcus Lock. Eytan and Lynch are partners, and Durling is an associate at the Denver litigation firm of Reilly

Pozner LLP. Lock, a former associate at Reilly Pozner, is now a partner at the Gunnison law firm of Bratton Hill Wilderson & Lock LLC. Legal Center attorneys working on the case are Mark Ivandick and Randy Chapman.

Eytan and Lock prosecuted contempt actions against the state for the same problems in 2006, and ultimately negotiated a comprehensive settlement agreement, under which the State of Colorado was required to admit detainees for competency evaluations and treatment to restore to competency in under 30 days. However, the "Zuniga" Agreement, as it was known, expired when the state opened a new 200-bed psychiatric facility in 2009, which officials claimed would fix the problem. It did not, and since the expiration of the Zuniga Agreement, Eytan and Lock have watched the time detainees with mental illness are languishing in jail for admission to CMHIP steadily increase.

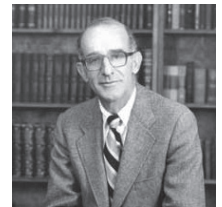
"The state's actions and inactions are ongoing, pervasive, systemic violations of the 14th Amendment and cause undue suffering for some of the most disenfranchised people in Colorado," said

Eytan. Lock complains that "The people we are trying to help are caught in a procedural limbo; they need, and are constitutionally entitled, to treatment. But instead of receiving mental health care at CMHIP, they are unjustifiably confined in jail for months on end."

"The jails are not equipped to hold pre-trial detainees who suffer from mental illness," said Lynch. "They cannot provide the treatment those detainees need,

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This issue of Mainstream is dedicated to the loving memory of the **Honorable Luis D. Rovira**, Former Chief Justice of the Colorado Supreme Court and one of The Legal Center's founders.



1923 - 2011

Douglas County's Choice Scholarship Program discriminates against students with disabilities

On July 18, 2011, The Legal Center filed a complaint with the United States Department of Justice, Civil Rights Division, against the Douglas County School District (DCSD) for violating Section 504 and Title II of the Americans with Disabilities Act in denying equal access to students with disabilities.

Douglas County's "Choice Scholarship Program" has attracted a great deal of media attention from advocates for and against the use of vouchers to subsidize tuition for parents who wish to send their children to private schools. The Legal Center was not the only organization to object to the pilot program. The American Civil Liberties Union and other groups filed suits objecting to public funds being used to fund private—especially religious—schools. On August 12, Denver District Judge Michael A. Martinez issued a permanent injunction against the district's Choice Scholarship Program, and it is now on hold.

The Legal Center takes no position on the broader issue of diverting public funds to private schools—our concern is with a program that purports to expand educational choice, but in effect reduces or eliminates educational opportunities for children with disabilities. In addition to a growing list of potential private school partners for this experimental voucher program (the district uses the term "scholarship"), Douglas County has created a public charter school, the Choice Scholarship School, that provides only limited services to students with disabilities, does not provide special education services, and only serves students with "mild" disabilities.

In order to participate in the Choice Scholarship Program/Choice Scholarship School, parents of students with disabilities must forgo needed accommodations and support services for their children. Federal law requires public schools to accommodate the needs of all students with disabilities by providing a "free and appropriate public education." Despite the fact that the Choice Scholarship School is a public charter school, it will treat students in special education as "parentally placed private school children" under the Individuals with Disabilities Education Act (IDEA). As parentally placed private school children, these students will only have access to limited services and will not be offered individualized services through an individualized education program (IEP). Parents of students without disabilities are not asked to forgo any of their children's rights.

Douglas County, in promoting "choice," has discriminated against students with disabilities by offering vouchers, called "scholarships," for private schools that provide only limited services, if any, for students with disabilities. At The Legal Center, we believe that choice is important. We also believe that all families, including those with children with disabilities, should have access to that choice.

The Choice Scholarship Program is currently on hold following Judge Martinez' decision. The Legal Center will be monitoring the school district to ensure that any resumption of the Choice Scholarship Program includes real choice for students with disabilities. ■

Angela Garberding celebrates 13 years at The Legal Center



Angela Garberding joined The Legal Center in September 1998. Staff milestones are always a cause for celebration, but somehow Angie's 10-year anniversary went by without recognition in Mainstream and so it is way past time to reflect on the career and achievements of this dedicated advocate.

Angie interviewed for the position of administrative assistant after graduating

from the Denver Paralegal Institute. "I wanted that job so badly," she remembers. "I had been working in retail and became a paralegal because I wanted to do more—for myself and for others. Growing up, I had an uncle with a disability, but as a child I had no idea he was any different from other people. The family certainly didn't seem to think so, and he always pulled his weight. It was only when I became an adult that I learned many people with disabilities struggle to be accepted. That's why The Legal Center is so important."

While working in general administration, Angie began working in the Special Education program, where she worked with Thom Miller who she says "took me under his wing" as she learned the intricacies of the many laws and regulations. Eventually, Angie became an intake advocate, interviewing parents struggling to obtain an inclusive education for their children with

Continued back page

The Legal Center is a nonprofit organization protecting the human, civil and legal rights of people with disabilities and older people. As Colorado's Protection and Advocacy System, The Legal Center has authority under federal law to gain access to facilities and records in order to investigate allegations of abuse and neglect. The organization also helps people obtain state and federally funded services, such as special education, mental health services, developmental disabilities services, and vocational rehabilitation. The Legal Center specializes in civil rights and discrimination issues.

The Legal Center promotes systemic change to sustain or improve the quality of life for children and adults with disabilities and older adults. The Legal Center provides direct legal representation, education, advocacy, and legislative analysis to promote the independence, self-determination, empowerment and community participation of its clients. Similar organizations exist in every state and territory as part of a national protection and advocacy network.

The Legal Center has played a pivotal role in advancing disability law in Colorado and nationally. We are proud of our success in breaking new legal ground. However, we usually resolve our clients' objectives without litigation. Some of our most satisfying legal advances have come through empowering people to advocate for themselves. ■

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Celebrations and changes at The Legal Center

Welcome new Board members!



Ian Bird is a returning Board member who served as President of the Board for three years from 2002 to 2005. He is Senior Vice President and General Counsel for the Wheelabrator Group.



Walter Houghtaling is a partner in the law firm of McConnell Fleischner Houghtaling. He has dedicated his trial practice to the defense of licensed professionals, business entities and employers.



Kim Nichelle Rivera recently joined the Advisory Council for the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Program, and she will serve as chair of the Council in the coming year. She works for EMPOWER Colorado.



Michele Suriano founded Castle Rock Investment Company in 2006 and specializes in providing investment advice to workplace retirement plan sponsors in Nebraska, Colorado and Texas.

Lastly, we want to extend our grateful thanks to outgoing board members, **James Hertz, Carrie Ann Lucas, Mike Nosler, and Chips Portales.** We would also like to acknowledge **Todd Blakely** who served as President of the Board for the past two years for his generosity and support. Todd will continue on the Executive Committee as Past President. ■

Barry Glass – Ten Years



Barry is the manager of the HIV Legal Rights Network. He came to The Legal Center in 2001 as a Rights Advocate in the Protection and Advocacy for Individual Rights (PAIR) Program and the HIV Legal Project. Barry's background in social work has translated well in a legal setting and brought sensitivity and an added perspective to his work with clients. Barry provides information, referral, technical assistance and representation and has a clear picture of his responsibilities as an advocate to quickly assimilate a significant amount of complex information, make accurate judgments about his clients' legal and other needs, and communicate responses that are clear, accurate and reliable. The HIV Legal Rights Network uses a strategy to identify legal issues in a medical setting and is especially effective with newly diagnosed individuals with HIV. In addition to representing clients, Barry is also a gifted writer and has developed many important resources for the community. We are very grateful for Barry's dedication to his clients and his commitment to providing excellent services.

The Legal Center Salutes Faith Gross for 10 Years of Service



At our Annual Board Meeting in September, the staff and board of The Legal Center recognized Faith Gross for her tenth anniversary at The Legal Center. Faith came to The Legal Center after a career as a vocational rehabilitation counselor and a trainer statewide about the Americans with Disabilities Act. Faith was well known in Colorado's

disability community because she had always been active as an advocate in that community. Because of her extensive knowledge of vocational rehabilitation, Faith was initially hired to work in our Client Assistance Program (CAP). The CAP represents individuals who are applying for, or receiving services from the Division of Vocational Rehabilitation. Faith was later promoted to coordinate our Protection and Advocacy Program for Assistive Technology. In 2002 Congress passed the Help America to Vote Act (HAVA). HAVA authorized a new protection and advocacy program to protect the voting rights of people with disabilities. In Colorado we called our program VOTE! and Faith was promoted to coordinate the VOTE! program.

As the VOTE! Coordinator Faith established connections with the Colorado Secretary of State and the county clerks. Those entities soon saw Faith as the go-to person for voting issues related to persons with disabilities in Colorado. Faith has toured all parts of Colorado, urban and rural, conducting accessibility surveys of polling sites to ensure they are accessible to persons with disabilities, registering people to vote, and providing training on the voting rights of people with disabilities. Faith has often been the visible voice of the disability community at the state legislature supporting legislation making voting more accessible and opposing legislation that limits access to voting. On election days Faith is on the road in different communities monitoring the voting process for voters with disabilities. Last Spring the Colorado Lawyers Committee presented a special recognition award to Faith as a member of the Just Vote! Colorado Election Protection Team. While Faith has some support from other staff, in particular volunteer attorney Fern Black, she is often a one person program. In addition to her VOTE! duties, she still finds time to provide support to our CAP and P&A for Beneficiaries of Social Security Programs.

In recognizing Faith's significant work at The Legal Center making a difference in the lives of Coloradoans with disabilities, Randy Chapman, the Director of Legal Services said:

"Faith has the soul of an advocate and she fights injustice wherever she goes."

Jennifer Shook celebrates five years at The Legal Center in Grand Junction



The Western Slope is famous for having its own culture, so having a native like Jennifer Shook as the initial contact with the public at the Grand Junction office helps The Legal Center fit right into the community. But Jennifer brings much more to the office than community connections and a geographical perspective. Prior to joining The Legal Center in February 2006, Jennifer worked at the local independent living center, at an outdoor recreation program for people with disabilities, and as a residential supervisor at group homes for the local community centered board. Her knowledge of the day-to-day workings of the group home system naturally made that an area of advocacy, but Jennifer soon branched out to other areas, particularly special education and housing. Jennifer provides technical assistance and direct client advocacy to parents and students, reviews records, attends numerous IEP meetings and otherwise communicates with school staff, earning a reputation in the education community as a diligent, imaginative and firm advocate for her clients. In the housing field, Jennifer has had the opportunity to educate landlords regarding their responsibilities under the ADA and FHA with respect to housing modifications and service animals, for example. In addition to this direct advocacy, Jennifer's perspective is often sought by various local boards and committees. In between

cases, Jennifer supports the office with a few administrative responsibilities which might involve occasional helpful reminders to Bill and Geoff. The entire staff hopes Jennifer is with us for many more years.

Jennifer Levin now working in the CAP and PABSS Programs

Jennifer Levin came to The Legal Center as an Equal Justice Works Fellow in 2009 and for the last two years worked primarily investigating allegations of the abusive use of restraint in schools. Jennifer did outstanding work conducting investigations but her Equal Justice Works Fellowship has now ended. We are happy to announce that Jennifer will be using her advocacy skills working in our Client Assistance Program (CAP) and Protection & Advocacy for Beneficiaries of Social Security Program (PABSS). The CAP represents individuals who are applying for, or receiving, services from the Division of Vocational Rehabilitation and our PABSS Program assists beneficiaries of Social Security in overcoming barriers to return to work. Jennifer will continue to help, when needed, with investigations of the abusive use of restraint in schools and will also help with special education issues. In fact, Jennifer steps up and provides assistance when needed in all of our disability advocacy programs.

Elizabeth Collard to coordinate our Protection & Advocacy for Assistive Technology Program

We are pleased to announce that Elizabeth Collard has been promoted to the position of Coordinator of The Legal Center's P&A for Assistive Technology Program. As an attorney at The Legal Center, Elizabeth has worked very effectively in our Developmental Disabilities P&A Program, Special Education Program, P&A for Individual Rights Program, and has investigated allegations of the abusive use of restraint in public schools.

An assistive technology device is any device or service that enhances an individual's functional abilities. Types of assistive technology devices range from eyeglasses and hearing aids to voice recognition systems. Individuals with disabilities may need legal assistance in accessing AT from public schools, higher education, employers, vocational rehabilitation, and Medicaid. Elizabeth will coordinate our AT representation across all of The Legal Center's advocacy programs and, as her time permits, she will continue to represent individuals in our other programs as well. ■

Mainstream

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with Disabilities and Older People



Colorado's Protection & Advocacy System

Legacy Society

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Attorneys' Night Out 2011 – a smashing success!



Ilene Bloom and Gillian Bidgood

A special thanks to the Young Lawyers Division of the Denver Bar Association - again our hosts for the sixth annual Attorneys' Night Out. The event raised over \$20,000 for programs of The Legal Center and over 100 attendees were present to take part in the silent auction and the scotch tasting donated by Glenlivet. Also, guests enjoyed the newly renovated space at Blake Street Tavern. Special thanks go out to both Blake Street Tavern and Glenlivet. The Legal Center thanks all of our sponsors.

Don't forget to mark your calendars for 2012 – Wednesday, June 20th! Sponsorships are now available by contacting Joshua in our Development Office at (303) 862-3507 or janderson@thelegalcenter.org. ■



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Giving opportunities

Thank You in Advance for your generous support of The Legal Center for People with Disabilities & Older People!

Workplace Giving — We hope you will remember The Legal Center when giving at the workplace, depending on your employer's available options. The choices include:

Mile High United Way – Colorado's Workplace Giving pioneer is always a resource for you to make a donation to The Legal Center. Designate a gift to us and they will process this along with the many non-profit organizations you may elect to designate beneficiaries of your financial gifts.

Caring Connection – with over 58 nonprofit organizations that serve the needs of Colorado's most vulnerable people, Caring Connections is the federation we joined to allow participation through the combined campaigns for Denver, Colorado and the Federal Government, along with many private companies. Visit www.caringconnection.org for more information and please designate The Legal Center, #1094, when reviewing your options for the year.

Online giving — Remember to visit our website, www.thelegalcenter.org and make an online donation any time of day or night OR ...

Community First Foundation – www.givingfirst.org, select The Legal Center, and make your gift. Should you wish, recurring gifts can be set up in just one visit to the website. Giving First Day is Tuesday, December 6th! Make an online donation to The Legal Center that day and the Community First Foundation will stretch your donation with generous matching dollars (based on totals raised by each non-profit organization).

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Join these honored friends of The Legal Center. If you are a donor who has made donations to us for ten consecutive years or through a one-time gift of \$500, you are already a member of the President's Circle. Consider making such a gift and joining this prestigious circle as a friend of The Legal Center.

Join our Legacy Society today and remember The Legal Center

The Center for Legal Advocacy, our legal and corporate name, is usually known as The Legal Center for People with Disabilities & Older People. We are very fortunate to have many friends and supporters who have included The Legal Center in their estate plan arrangements, and we would like to again thank those donors referred to in the 'Legacy Society' section of this publication. As a result of their planned and future gifts, whether by a bequest, trust, gift of life insurance policy or beneficiary designation on a retirement account (to name but a few), they are members of our Legacy Society.

May we invite you into our Legacy Society? If you have remembered The Legal Center with such a gift, we invite you to let us know. As a member of the Legacy Society, you become part of a group whose shared commitment is to ensure a future in which the promise and protection of the law is available to older people and people with disabilities. Please contact Joshua Anderson, Director of Development, at 303-862-3507 or email: janderson@thelegalcenter.org, if this is something you have done or have an interest in pursuing. Thank you in advance for your interest in the future of The Legal Center.

Support PHAMALY AND The Legal Center!

The Legal Center is teaming up to support PHAMALY (the Physically Handicapped Actors & Musical Artists League). Purchase a voucher through The Legal Center for the upcoming production of *The Elephant Man*, presented by PHAMALY from January 14 – February 4 at the Aurora Fox Arts Center. A purchase of your specially discounted \$25 voucher not only supports our work, but also the work of this local professional theatrical group for performers with disabilities. PHAMALY, established in 1989, is the winner of several local and national theatre awards. Vouchers are redeemable for tickets to any performance of *The Elephant Man*, and may be purchased by contacting Joshua Anderson at (303)862-3507 or via email at janderson@thelegalcenter.org.

Visit our online resources!

Our website – www.thelegalcenter.org

Randy Chapman's Ability Law Blog (updated regularly) – <http://randychapman.wordpress.com>

Facebook – <http://www.facebook.com/pages/The-Legal-Center-for-People-with-Disabilities-and-Older-People> - please become our friend and receive regular updates on The Legal Center

Twitter – <http://twitter.com/thelegalcenter> - for brief blurbs about our work. ■

Defending the right to emotional support animals in your home

Recently, Congress amended the Americans with Disabilities Act (ADA). Most disability advocates welcomed the new amendments as they expanded the previous definition of disability, but for some, the amendments have caused confusion. One issue that The Legal Center has seen frequently in the last year is confusion regarding emotional support animals in housing. For those with any questions on the subject, here is a breakdown of the current state of the law regarding your right to an emotional support (often referred to as “companion”) animal in your home.

First, although the ADA and the Department of Justice’s (DOJ) implementing regulations have limited a “service animal” to a specially trained dog (or in some instances a miniature horse), those limitations do not apply to the Fair Housing Act (FHA) or Section 504 of the Rehabilitation Act of 1973 – the federal laws that apply to housing. While the DOJ’s rules expressly preclude emotional support animals from qualifying as service animals, the FHA and Section 504 do not exclude emotional support animals from their protections.

What does this mean? It means that people with disabilities may request a reasonable accommodation to allow an emotional support animal to live with them even if their housing has restrictions or prohibitions on pets. The issue then becomes whether the person with a disability needs the animal in order to have an equal opportunity to use and enjoy the housing or housing program. To make this argument, the person with a disability must make a request for a reasonable accommodation to the landlord, property manager or homeowners association (HOA) and provide the following information:

1. Indicate that you have a disability
2. Request that, as a reasonable accommodation of your disability, you are seeking to have an emotional support animal live with you
3. Describe the relationship between your disability and the assistance the animal provides

If you can show each of these three things, a housing provider or program must permit the animal to live with you unless it can demonstrate that allowing the animal would pose an undue financial or administrative burden or would fundamentally alter the nature of the housing or program.

A few additional notes. First, although the request for



Mr. Thomas turned to The Legal Center for help when his HOA wanted to evict Henry, his emotional support dog.

accommodation does not need to be in writing, it is always a good idea. Second, you are not required to provide any particular proof of disability. However, you may consider sending supporting documentation from a medical provider, counselor, or case manager to help expedite your request. You should not send or agree to provide access to all of your medical records. Third, there is no specific restriction on the type or number of animals that can provide emotional support, but it’s best to be reasonable. Two cats will likely be fine, whereas two dogs, three cats, a parakeet and a salamander together may not qualify as a “reasonable” accommodation. Finally, your request can be denied if the animal poses a direct threat to the health and safety of others that cannot be reduced or eliminated by a reasonable accommodation or if the animal would cause substantial physical damage to the property of others that cannot be reduced or eliminated by a reasonable accommodation.

The FHA is intended to be broad in scope. Therefore, generally speaking, a person with a disability who needs an emotional support animal should be able to have one. If you find that your landlord, property manager or HOA is refusing to grant you this accommodation, please contact us. We can try to help you and your animal stay together in your home – just like we did for Steve Thomas and his dog Henry. We were able to convince Mr. Thomas’ HOA that his dog was a reasonable accommodation—despite their strict “no pets” stance—and we are pleased to report that Mr. Thomas and his dog are now happy and healthy and living together in Durango.

Note: For the full text of this article on emotional support animals with legal/legislative references, please visit www.thelegalcenter.org. ■

Canine Partners of the Rockies needs puppy raisers

Canine Partners of the Rockies (CaPR) raises, trains and places highly skilled service dogs with individuals who have mobility disabilities. They also place therapy dogs with professionals who provide therapeutic services to people with disabilities. While generous breeders donate the puppies, CaPR needs volunteers to take young puppies into their homes, teach them manners and basic obedience, until at 18 to 20 months old the dogs are ready to move onto professional training. Volunteer puppy raisers are responsible for all the costs of raising the puppy,

including veterinary care, and they are required to attend regular classes.

It takes a team of caring, devoted people to take a dog from puppyhood to assistance dog and puppy raisers are a vital part of that team. To learn more, call (303)364-9040 or email Linda at linda@caninepartnersoftherockies.org. Descriptions of each type of placement, information about the application process, and application FAQ can be found under the “Apply for a Dog” link on the Canine Partners web-site: <http://caninepartnersoftherockies.org>. ■

The Legal Center’s Restraint and Seclusion Initiative continues to protect schoolchildren with disabilities

A 13-year old student, Jonathon* was being regularly subjected to prone restraint. Jonathon is diagnosed with Prader Willi syndrome, a condition that results in significant physical and mental problems, including poor muscle tone, obesity, low IQ, and learning difficulties.

School staff told The Legal Center that Jonathon regularly removed his clothes in class, and to stop him, they would immediately place him in a three-person prone restraint or, as they termed it, “floor restraint.” Restraint can only be used in an emergency and since our investigators concluded that Jonathon removing his clothes was not an emergency, he was unlawfully restrained on several different occasions. Staff members stated that they had heard from staff at another school that Jonathon might attempt to choke himself on his clothes and they were trying to prevent this from happening. This presumption, however, appeared to be unfounded, since there was no Behavior Intervention Plan developed to address this behavior, nor were his parents aware of any concern that he would choke himself. Moreover, school staff admitted that he had never actually choked on his clothing or even appeared to attempt to choke himself.

Based on staff interviews, Jonathon did not become aggressive until after the prone restraint was administered.

The Legal Center’s report concluded that the prone restraints in this case were administered unlawfully and we recommended that corrective action in the form of staff training be implemented immediately by the school district. Our report noted that any type of restraint requires careful monitoring, and that there is a very high level of danger associated with the use of prone restraints. This case, as with so many others investigated by The Legal Center, demonstrates that the use of restraints can make a child’s medical condition or behavior worse rather than better.

The Legal Center has already been instrumental in bringing about systemic change to impact law, regulation and practices surrounding the inappropriate and dangerous use of restraint and seclusion as a disciplinary measure for children with disabilities. One thing we have learned is that the teachers using inappropriate restraint or seclusion do not mean to hurt the children in their care—they are simply overwhelmed and lack the knowledge and tools needed to provide a supportive educational experience for children with disabilities. This is why, in addition to advocacy and legal action, we focus so heavily on training and support for school staff. ■

**The student’s name has been changed to protect his privacy*

Equal access to outdoor enjoyment—thanks to the Colorado Athletic Club

The Legal Center contacted the Colorado Athletic Club on behalf of our client with mobility impairments who needed a swimming pool lift for access to the outdoor pool. The Colorado Athletic Club immediately responded to our client’s request and installed a lift so that all of its members had access to the outdoor pool at the beginning of the outdoor swimming season. This was crucial for those members interested in the outdoor swimming pool classes and that needed a lift to assist them in getting in and out of the pool. The Legal Center is happy to report that the Colorado Athletic Club is setting a great example for all businesses by providing equal access to its facility and making it easier for people with disabilities to enjoy all of the resources that their community has to offer. ■



About six weeks ago Quinn gave birth to a CaPR litter of six beautiful puppies.

Preventing Litigation in Special Education Training

Legal conflicts between parents and schools use resources that are better used for supporting students. Unfortunately, teachers and administrators receive very little training in special education law, and so schools spend money unnecessarily for attorneys because the law is not followed. Let us help prepare and train your school staff for these issues. This training provides the information needed to reduce the time, energy and money spent on preventable legal conflicts. For more details or to schedule a training, please contact Anna Dubnikov at 303-862-3502 or adubnikov@thelegalcenter.org.

Stories from around the state

Every day, *The Legal Center's* advocates help people with disabilities to overcome barriers, pursue their goals, and live independent and productive lives. Here are three stories of people who turned to us for help—their names have been changed to protect their privacy.

Protecting the rights of an employee with HIV

The Legal Center represented Barbara, a woman with HIV, in a case against her former employer, alleging she was constructively discharged because her employer did not provide the accommodations that were agreed to when she was hired. Due to the nature of her disability and resulting health issues, Barbara and the employer had agreed that she would not be scheduled to work more than 20 hours a week. The employer, however, consistently scheduled her to work much more than the agreed upon 20 hours. This work schedule continued for several weeks until Barbara was hospitalized.

Upon returning to work after being discharged from the hospital, the employer continued to schedule Barbara for additional hours. Unable to maintain her health and the excessive work schedule, she quit her job and came to The Legal Center for help. We notified the employer that the failure to provide the agreed upon limited work schedule had forced our client to quit her job. She had thus been constructively discharged due to her disability. This is a violation of the Americans with Disabilities Act. Barbara did not wish to return to her job, so The Legal Center obtained an agreement from the employer to compensate her for the wages she lost due to the constructive discharge. She is very pleased with this result and feels she can now move forward with her life.

Helping a young man with Asperger's Syndrome pursue his dreams

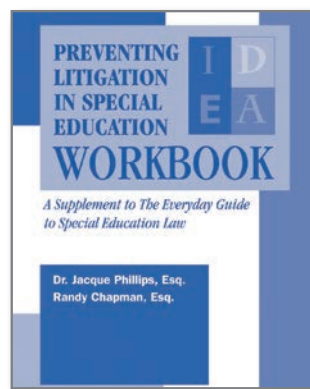
David is a 20-year old man with Asperger's Syndrome who aspires to a career as a chemical engineer. He applied to the Division of Vocational Rehabilitation (DVR) for assistance to help him reach his goal. As DVR's regular services were not applicable to this particular engineering career, he asked his counselor to support him in attending College Living Experience, a program that offers training,

counseling and academic support in an integrated environment to college students with disabilities. His request was denied, depriving David of the right to individualized services and informed choice. The Legal Center advocated for our client to attend College Living Experience as the most appropriate path to move him forward in achieving his career goal and living independently in the community. Through negotiation with a new and more flexible DVR counselor, a plan was crafted that will support David in attending college in conjunction with College Living Experience's integrated student program.

Advocating for skills training to help an employee keep his job

A young deaf man whose first language was American Sign Language, was struggling with his job in the hospitality industry. Brad enjoyed the interaction with the public at sporting events, but he was frustrated by his inability to communicate effectively. When necessary, he wrote notes for his customers, but his poor command of English made it difficult for them to understand what he was trying to say. Customers became impatient, and Brad's coworkers were also annoyed at being expected to pick up the slack. Brad was afraid he would lose his job. When he approached the Division of Vocational Rehabilitation (DVR) for assistance, he was told that his grasp of English was sufficient. As Brad comes from an English-speaking family, this may seem a reasonable assumption, but he became deaf as a toddler and throughout his school years, his teachers and family all used ASL. In effect, using written English meant learning a second language for Brad. The Legal Center represented Brad in an appeal and our client prevailed. It was agreed that he would receive objective testing to determine the level of English he needed to attain, and then tutoring to improve his English skills and support retention of his employment. However, even after the appeal was won, Brad did not receive the promised tutoring until an Informal Administrative Review reinstated his right to it. Brad continues to work for the same employer and is making progress with his English language communication skills. ■

Preventing Litigation in Special Education WORKBOOK



Published in January 2011, the *WORKBOOK* is an indispensable companion to The Legal Center's bestseller *The Everyday Guide to Special Education Law*. Dr. Jacque Phillips, an experienced special education teacher and recently licensed attorney, joins forces with Randy Chapman, author of *The Everyday Guide*, to help parents and teachers understand the likely outcome of special education cases so that parents and school districts can

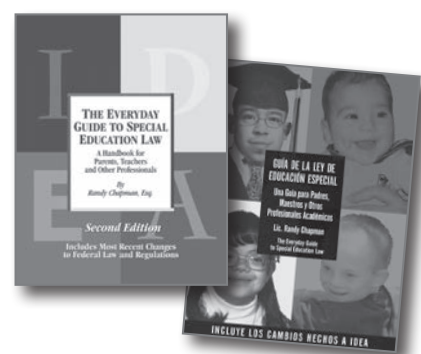
avoid unnecessary legal entanglements. In addition to a wealth of practical information, the book features actual cases presented in a concise, storytelling format. Each case gives the views of the players stated as arguments, together with brief explanations of the special education law relevant to that specific issue. Readers can try to predict the outcomes based on what they have learned—answers are provided at the end of each case.

The *Preventing Litigation in Special Education WORKBOOK* can be purchased for \$19.95. *The Everyday Guide to Special Education Law* is available for \$24.95, **BUT both books can be purchased together for only \$35.00.** Now available as an E-Book for \$9.95.

The Everyday Guide to Special Education Law, Second Edition

By Randy Chapman, Esq., updated to include the most recent changes in federal law including:

- the IDEA requirements for services plans for children placed in private schools
- how to file complaints with State Education Agencies for violations of the IDEA including obtaining compensatory services
- timelines for resolving disputes under the IDEA and how to use "mediation" and the new "resolution process"
- the evaluation process and response-to-intervention (RTI)

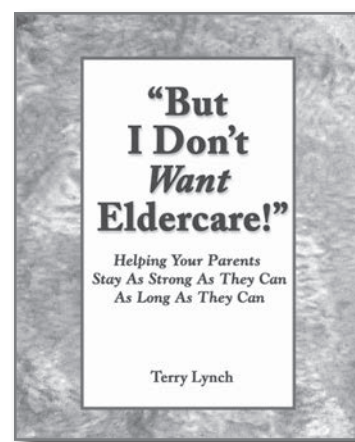


This edition has been so popular, it is now in its second printing.

The Everyday Guide to Special Education Law is available for \$24.95. The *Preventing Litigation in Special Education WORKBOOK* can be purchased for \$19.95 (see above) **BUT both books can be purchased together for only \$35.00.**

Guía de la Ley de Educación Especial, the Spanish translation of *The Everyday Guide to Special Education Law*. The Spanish and English texts are included side-by-side on every page. \$29.95. **Purchase *Guía de la Ley* and the *WORKBOOK* together for \$40.** Now available as an E-Book for \$9.95.

"But I Don't Want Eldercare!" Helping Your Parents Stay As Strong As They Can As Long As They Can



This is the guide the author wishes he'd had before his mother's medical crises changed each of their lives. Terry Lynch draws on extraordinary personal experience in this eye-opening guide to the future, from his work with the White House Conference on individuals with disabilities to a decade as his mother's caregiver. While he assisted other families, Terry helped his mother remain at home in spite of significant medical problems and a life-

changing memory disorder. *But I Don't Want Eldercare!* costs just \$17.95. Now available as an E-Book for \$9.99.

Publications can be ordered at www.thelegalcenter.org or by calling The Legal Center at (303) 722-0300 or 1-800-288-1376. E-books may be ordered directly from www.smashwords.com or via the link from www.thelegalcenter.org. Your purchase supports our programs. Thank you!



James Hertzel, who has just retired from The Legal Center's Board of Directors, is thanked and congratulated by Executive Director Mary Anne Harvey at the September 2011 Annual Meeting for his long and distinguished service on behalf of people with disabilities.

The Legal Center

The Legal Center for People
with Disabilities and Older People



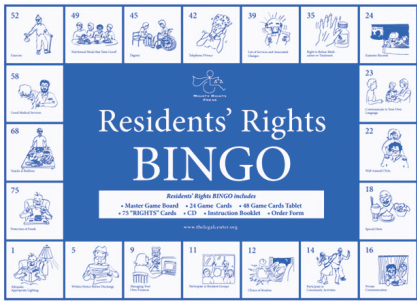
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Back by popular demand, Residents' Rights BINGO!

The Legal Center is proud to introduce an updated version of this popular game for the residents, staff and families of nursing homes. The Residents' Rights Bingo game was designed in 1990 by Virginia Fraser, State Long-Term Care Ombudsman, as a new way to engage older people and their families in learning about their rights. The game was an immediate success with both residents and staff of long-term care facilities. Its unique approach took a potentially confrontational issue and made it both fun and effective.



Development of this new version was funded by the Colorado Nursing Facility Culture Change Accountability Board and reflects significant advances over the past 20 years to create a more compassionate version of long-term care, or as the coalition prefers, "care communities." Residents' Rights Bingo is played just like regular Bingo—it's a lot of fun and everyone wins!

Residents' Rights Bingo is published by Mighty Rights Press and is available from The Legal Center for \$95.00 plus shipping. Visit our website at www.thelegalcenter.org or call 303-722-0300 for details. ■

The Legal Center sues state

Continued from front page

and the excessive delays in evaluating mentally ill detainees and admitting them into the state hospital can cause persons with mental illness to deteriorate, further lengthening the time it takes to restore them to competency."

The Legal Center's suit asks the federal court to require the State of Colorado to provide evaluation or treatment to mentally-ill detainees within seven days of a court order. We are very grateful for the support of some of the nation's most experienced lawyers on this case: Reilly Pozner is a full-service litigation firm handling high profile

cases in more than 40 states. Bratton Hill Wilderson & Lock is one of the leading law firms in Western Colorado and handles transactional, litigation, and water matters across the state. Both firms believe they have a responsibility to provide pro bono legal services to those in need and devote substantial resources to individual and major broad-based legal cases.

The Legal Center believes that the human suffering and financial toll caused by chronic delays in evaluating mentally ill criminal defendants and those found incompetent to stand trial are unconscionable and unjustifiable. ■

Introducing MIGHTY RIGHTS PRESS

The Legal Center has been publishing books for a national market since 2006. To help advance our marketing efforts, the publications division has been christened as the Mighty Rights Press. The newly revised and updated Residents' Rights Bingo game was the first product to be published under the new name. All subsequent reprints and publications will appear under the Mighty Rights Press logo.



**MIGHTY RIGHTS
PRESS**

Our thanks to Todd Blakely and John Posthumus of Sheridan Ross for their pro bono assistance in obtaining the new name. ■

Angela Garberding - 13 years

Continued from front page

disabilities. Angie looks back at one case with particular satisfaction: "I was able to help a student with behavioral problems related to his disability participate in the Outdoor Lab program," she says. "School staff were adamant that he could only attend if his mother was with him, but she had to work to support the family. Staff maintained they were meeting the requirements of his educational plan, but I was able to persuade them that education is about more than just about the classroom. The school provided a paraprofessional and the boy was able to enjoy the outdoor experience alongside his peers."

When Ginny Fraser retired and Pat Tunnell took over as the Colorado Long-Term Care Ombudsman, Angie applied to be her assistant, a position with more responsibility than her role in general administration. She continued to do some work in Special Education. While she thoroughly enjoyed working on the Older Americans programs, and her financial and analytical skills were a huge asset on the many reports, she missed the day-to-day advocacy and the opportunity to work one-on-one with people with disabilities.

For the past four years, Angie has been steadily creating her own special role at The Legal Center as intake specialist and rights advocate. She divides her time between the Special Education Program; the Protection and Advocacy for Individual Rights Program, where she works with Alison Daniels on housing and employment discrimination, public accommodations issues and landlord/tenant issues; and the Protection and Advocacy for Developmental Disabilities Program where she works alongside Liz Fuselier on advocacy for people with developmental disabilities.

"Alison and Liz have helped me learn so much," says Angie. "Well, I've learned from all the attorneys here, and Randy Chapman especially is someone I look up to. He's done so much for the cause of special education and he's always ready to share that knowledge and expertise. I love working with everyone at The Legal Center." And, according to Alison Daniels, The Legal

Center loves Angie, too. "I don't know what I would do without her. She takes on a tremendous amount of work and I wouldn't be able to help nearly as many people without Angie."

Speaking of Angie, Randy Chapman said: "Angie is a tireless advocate who works on the front lines across The Legal Center's programs. She has to know about issues in special education, developmental disabilities, employment discrimination, housing discrimination, discrimination in higher education, discrimination in public accommodations, landlord/tenant disputes, and abuse and neglect in nursing homes and other facilities. She takes the calls from people who are generally in crisis and need help. Often, the caller is not sure of their rights or even what kind of help they need. Angie clarifies the issues and, whenever possible, gets the answers for the caller or helps our legal team resolve the situation. Angie is fearless and takes on anything that comes her way. I depend on Angie as an essential member of our legal team."

When asked for an example of why she is still so passionate about her work, Angie notes that one particular case stays with her: "A woman called in great distress about her sister who was in a group home for adults with developmental disabilities, but needed a long stay in a rehabilitation hospital. The woman was frantic that her sister would lose her place in the group home where she'd been so happy. I was able to reassure her that her sister would be able to return to the home she loved, and when the woman told me that she'd finally be able to sleep at night again, I knew why I keep doing this work."

In closing, from Liz Fuselier, who speaks for all of us at The Legal Center: "Angie is an amazing advocate, colleague and friend. Thanks Angie for all you have done and continue to do for The Legal Center." ■

The Legal Center for People
with Disabilities and Older People



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