

# DISABILITY LAW CENTER OF ALASKA

January 2017 Report to:

## Governor's Council on Disabilities & Special Education

In 2017 the priority areas for the Disability Law Center (DLC) working for and on behalf of people with intellectual and developmental disabilities (I/DD) are:

**Abuse & Neglect:** Reduce the abuse, neglect, and exploitation of people I/DD living in residential facilities by ensuring adequate safeguards exist and are followed.

- Under this priority, we monitor and report on conditions at institutions who serve people with I/DD. We recently monitored Mt. Iliamna Elementary School & Whaley School.

The team was generally pleased with what they observed at both facilities of the interactions between school staff and students. The interiors of the school buildings were clean and well-maintained, and only a couple of problems were identified by the team. Those were included in our letters to the District following our visits, including recommendations for corrective actions. Concerns remain for both schools about 1) how school staff interpret the statute for the use of seclusion, especially in regard to when a student is “alone” and 2) how and when the use of seclusion is reported to parents. We will be addressing those concerns with the District.

**Housing:** Achieve greater autonomy for people with I/DD by allowing them to maintain or attain a residence of their choosing.

- In 2016, we helped a woman with Autism win the right to keep her emotional support animal, a horse, on the family's property. They had originally been denied a zoning exemption that would allow this. We prevailed for the family by appealing to the area City Council who finally granted a permit based on the federal Fair Housing Act, which requires authorities to give reasonable accommodations for any aid, including emotional support animals, that allow people with disabilities to experience their residence in the same way that a non-disabled person would. In a sad twist to the case, the horse has since passed away and the permit was apparently specific to that animal. We are now monitoring the City Council's consideration of amending the permit to include a new animal.

**Community Integration:** Increase the community integration of people with I/DD by protecting their rights to receive appropriate supports and services in the most integrated setting as is mandated under state and federal law.

- We are currently assessing accusations of discrimination against a person with I/DD at a local medical facility. Several adult patients with I/DD have reportedly been denied appointments for dental surgeries due to stereotypes about the danger such patients pose to staff and other patients. We have strong reason to believe the accusations are true, but have not yet concluded our investigation.

**Employment:** Improve access to integrated employment for people with I/DD by protecting them from discriminatory practices.

- Under this priority, we are representing a young man with I/DD in an employment discrimination claim against the Salvation Army. The claim, which was filed in Federal District Court, contains complaints filed by the Equal Employment Opportunity Commission and the Disability Law Center alleging violation of federal and state anti-discrimination laws. The claim arose when the man interviewed for a job with the Salvation Army but - despite being initially recommended for hire - was ultimately rejected due to stereotypes about his ability to interact with the public.

**Government Benefits:** Increase the number of deserving applicants with I/DD who obtain the benefits to which they are entitled by improving application outcomes and retention of services.

- In late 2016, the Disability Law Center filed a lawsuit against the State of Alaska's Department of Health and Social Services to require the State to begin covering and provide notice regarding Applied Behavioral Analysis (ABA) for Medicaid eligible children. ABA is the most effective treatment for autism. When provided at an early age, ABA can be truly transformational. Without access to ABA, a vital window in a child's development may be missed and significant social, communication and behavioral challenges may go unaddressed – negatively impacting a child's abilities throughout their lifetime. Despite the importance of timely intervention, the State plans to delay providing ABA until three years after the Centers for Medicare and Medicaid Services first directed all states to begin providing the service.

**Education:** Increase the access of students with I/DD to a free, appropriate public education in the most integrated settings by improving their opportunities to participate meaningfully in academic and non-academic activities with typically-developing children.

- The guardian of a student with Autism contacted us for help because the Charter School that her grandson had been attending the previous school year told her when she went to register him for the 2015-16 school year that he could not come back. The student had some behavior referrals from the past school year, but the guardian was never notified of any change in her grandson's placement, or given an alternative educational placement. After assessing the records, we found that the student's rights had been violated in several ways, most of which were procedural violations that are often difficult for parents and guardians to figure out without assistance. We negotiated a settlement with the district, awarding the student placement back at their preferred Charter School, a new behavior assessment by a district-level psychologist, a one-to-one aide in the classroom, and compensatory education for Special Education Services lost due to inadequate supervision and failure by the district to provide transition services to the student when he turned 16.

In the last year, DLC fielded 1023 calls for assistance.  
219 of those calls came from individuals or family members of individuals with I/DD.  
We represented 53 people with I/DD on their individual cases.