

FINAL REPORT

Equal Justice America Disability Rights Clinic

John Jay Legal Services

Elisabeth Haub School of Law at Pace University

June 29, 2016

Introduction

Completing its sixteenth year of operation, the Equal Justice America Disability Rights Clinic at the Elisabeth Haub School of Law at Pace University continues its dual mission of training future lawyers and providing free legal services to low income persons with disabilities and their families.

The Law School's clinical offerings, under the umbrella of John Jay Legal Services, enable students to gain proficiency in lawyering skills while representing clients pursuant to a Student Practice Order issued by the Appellate Division, Second Department of the New York State Supreme Court. Under supervision of full-time clinical faculty, students enrolled in clinical courses perform all lawyering functions normally reserved to lawyers admitted to practice. In addition to the Equal Justice America Disability Rights Clinic, John Jay Legal Services also provides representation to individuals by legal interns enrolled in the Investor Rights Clinic, the Barbara C. Salken Criminal Justice Clinic, the Neighborhood Justice Clinic, and the Immigration Justice Clinic. In addition to these client representation clinics, field work in the non-profit legal arena is available to students through the Legal Services/Public Interest/Health Law Externship, the Family Court Externship, the Prosecution Externship, the Environmental Law Externship, and the Honors Prosecution Externship, a joint undertaking with the Westchester County District Attorney's Office.

The Equal Justice America Disability Rights Clinic

The Equal Justice America Disability Rights Clinic provides students with the opportunity to learn and apply lawyering skills as well as the substantive law relating to the

rights of persons with disabilities in a highly controlled and intensively supervised legal practice environment. For most students, it is their first experience with law as lawyers.

For the 2015-2016 academic year, the Clinic was again offered as a two-semester course. A total of eight students participated in the Clinic, including two students participating in the the Pro Bono Scholars Program, an initiative of former Chief Judge Jonathan Lippman, designed to increase access to legal services by the underserved. The Pro Bono Scholars worked full-time in the Clinic in the spring semester, having taken (and passed) the New York Bar Exam in February. The remaining were full-time students who were enrolled for a total of six credits each semester. All students participated in the seminar which provided two academic credits each semester. Students are expected to spend on average five hours per week per clinical credit on case-related work.

The Seminar Component

In a weekly seminar, students learn and practice lawyering skills such as interviewing, counseling, negotiation, fact investigation, and conducting administrative hearings. The learning of these skills is integrated with relevant substantive law, including eligibility for the government benefit programs available to persons with disabilities (Social Security Disability, Supplemental Security Income, Medical Assistance, special education services) and the planning tools available to disabled persons and their families (guardianships, wills, special needs trusts). The seminar also provides the opportunity for students to present issues and choices from the cases they are working on and benefit from the critical reflection of their colleagues. Ethical issues are discussed as they arise in individual cases with particular emphasis on the complexities of working with clients of diminished mental capacity. Students learn how to read and interpret

medical records and work with medical personnel to describe a client's medical condition using legally relevant terminology. Students also learn how to work with other helping professionals, such as social workers, doctors, nurses and advocates, to identify and meet clients' non-legal needs. Readings focused on learning lawyering skills are supplemented with readings directly relevant to disability law.

The Case Work Component

Clinic students, either individually or in teams, have primary responsibility for the conduct of their assigned cases. The student is responsible for planning each lawyering activity, reviewing the plan with the Clinic faculty supervisor, conducting the activity and finally, reflecting on the experience and the usefulness of the preparation. Throughout the year, each student engages in client interviewing and counseling, fact investigation and witness interviewing, legal research and analysis, and drafting a variety of legal documents and instruments. Most students have the opportunity to appear before a court or administrative tribunal.

The cases handled involved a variety of legal issues faced by persons with disabilities and their families. In the past year, we have formed new partnerships with the Veteran's Administration long-term care facility in Montrose, New York and the Cancer Support Team, which provides case management services to persons with cancer in lower Westchester. Several clients were referred by other Clinic clients or self-referred. All of the clients are low income. They are unable to pay for the legal help they need and were unable to secure representation from other sources of free legal services. Several cases completed during the year were begun during previous years.

A total of 60 matters were handled by students during the grant year.* Of these, 31 were new matters. Thirty matters were concluded by the end of the grant year and 30 are pending.

The cases involved the following substantive areas:

<u>Area</u>	<u>Number of Clients</u>
Art. 17-A Guardianship	16
Art. 17 Guardianship	2
Special Education	4
Lifetime and Estate Planning	21
Estate Administration	7
Benefits Issues	4
Human Rights	3
Consumer	2
Tax	1

Case Examples

We continued to work with families who wish to become guardians of their adult children with developmental disabilities. Students worked with 16 such clients during the year. All clients have been counseled about the guardianship process and assisted in identifying standby guardians and obtaining necessary certifications from doctors and psychologists. Letters of guardianship were issued by the Surrogate in 4 cases. We are awaiting decision in 4 cases. One client decided not to proceed. Petitions are being prepared in the remaining cases.

* During the summer of 2015, two students worked for credit and one student worked on a paid basis. During the summer of 2016, two students are working for credit, one full-time and one part-time and one student is working part time on a paid basis. The students are paid with Federal work study funds.

Four clients were assisted with benefits matters. Students advocated on behalf a client with end-stage dementia whose hospice provider wished to discharge him after he outlived his doctor's prediction concerning life expectancy. The client's hospice care was continued and he died at home surrounded by family. Students also successfully advocated for the resumption of Social Security benefits for a family, all of whom are deaf, that had moved abroad. The clients had not understood the notices that they had received from Social Security and were unable to navigate the bureaucracy without assistance. Students were also able to assist a client, who had decided to forego Supplemental Security benefits, to requalify for benefits. Finally, one client was assisted with a claim to the Veteran's Administration for apportionment of her estranged husband's benefit. That claim is still pending.

We are involved in seven cases requiring the administration of modest estates in Surrogate's Court. Each of these cases involved extensive investigation or challenging family relations. These cases provide excellent experience for the students and a service to the clients who would otherwise see their modest inheritances spent on investigators and lawyers.

In four Special Education cases, the students attended Committee on Special Education (CSE) meetings with the parents and secured needed services for the children.

Students also worked on 21 cases in which the clients wished to engage in life-time and estate planning. Seven of these cases involve providing for a disabled child or sibling through a life-time or testamentary trust. Thirteen clients signed wills, powers of attorney and health care proxies that student interns drafted.

Our students successfully petitioned the Surrogate's Court for the appointment of a guardian for two children whose mother had died. The mother's friend, whom she had appointed

standby guardian before her death, was appointed guardian. One of the children is a United States Citizen, but the younger child was born abroad. The Surrogate made the necessary findings to allow the child to obtain Special Immigrant Juvenile status (SIJS). All students in the clinic worked on this case and participated in the hearing. The case is the first time that the Westchester Surrogate was asked to make SIJS findings.

Community Outreach

Clinic students and other law student volunteers participated in Westchester County's Senior Law Day on October 20, 2015. After audience members heard a presentation about health care proxies, the law student volunteers assisted them with completing health care proxies and answered their individual questions. The Clinic's Pro Bono Scholars also participated in a smaller Senior Law Day event in Yorktown on May 19, 2016.

Plans for 2016-2017

In addition to offering the Clinic as a year-long course, the Clinic will again be the placement site for Pace Law students participating in the Pro Bono Scholars Program. We anticipate handling a similar mix of litigation and transactional matters, assisting low income persons without other means of securing needed legal services and giving future lawyers the skills necessary to help this vulnerable population.