

# Clearinghouse

September–October 2007  
Volume 41, Numbers 5–6

# REVIEW

Journal of  
Poverty Law  
and Policy

# RECOMMENDATIONS FOR PEOPLE WITH DISABILITIES & LEGAL PRACTICE COURSES

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Sargent Shriver National Center on Poverty Law

# Clearinghouse REVIEW

Published by the

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## The Disability Lens

For thirty-two years, I have been representing clients and have regularly advocated public policies involving disability issues. But I did not always realize it or understand fully the extent of the disability aspect of client problems. And I was not alone in needing to learn more about disability issues and how they affected low-income people around the country.

As a brand-new legal services lawyer in 1975, I worked in a client community full of persons with mental health issues—the result of a court decision that had ordered the emptying of Illinois's mental institutions. I only vaguely understood that this was a good decision to prevent unnecessary institutionalization. But I had cases raising questions such as these: Might a landlord evict a tenant for spending several hours a day in the shower? Did the shopping bags of Medicare notices and medical bills presented by the shell-shocked Stalingrad veteran being sued by several medical providers contain some kind of defense? A high percentage of my cases were laden with problems involving disabilities. But to me, although disability might have offered another angle for looking at them, these were still just housing and consumer cases. My showering client asked, "Isn't this handicap discrimination?" I thought it was an interesting question, but, as an eviction defense, this was not yet something I was trained to recognize as a source of legal rights.

Around 1980 Illinois, joining a national trend, included "handicap" as a forbidden grounds of employment discrimination. I was introduced to key concepts: what was meant by a "handicap" or "perception of a handicap," what was a "reasonable accommodation," when might an employer be charged with knowledge of a handicap? However, these were still just employment cases.

Throughout the 1980s and early 1990s, important insights emerged from an intense era of litigation and advocacy about disability as an eligibility requirement for federal public benefits such as Supplemental Security Income, Social Security Disability Insurance, and Medicaid. Some of these insights were that just about everyone with one significant medical issue actually had several medical issues; that people could experience just as much functional loss from multiple impairments as from a single severe "textbook" impairment; that mental health issues were common; and that, for most people who had them, mental illnesses were undiagnosed and untreated. However, these were still just public benefit cases.

The welfare reform era in the early to mid-1990s emphasized to me that access to public benefits was not the primary concern of the disability rights community. This time frame was also when advocates began applying new laws such as the Fair Housing Amendments Act of 1988 and the Americans with Disabilities Act of 1990. My ingenious devices to insulate people with disabilities from welfare sanctions were roundly rejected by disability rights advocates as paternalistic and marginalizing. They were perceived as blocking people with disabilities from the mainstream. We did not understand each other's vocabularies, nor did we appreciate each other's motivations. I learned immensely from our ensuing conversations.

Those welfare reform meetings finally brought me to understand that I had been involved from the very beginning in disability issues, even as I handled cases that I thought came under different legal headings. Although the importance of the growing area of disability rights law was becoming more evident, I was not applying a "disabilities lens" to housing, consumer, health, public benefits, and other legal issues. Disabilities are a key feature in real lives—that is, they pervade every legal issue that affects those lives. Working on a client's problems needs to involve analyzing whether the client's disabilities have legal significance and, if so, which laws apply.

Advocates have come a long way in advancing the legal rights of people with disabilities. But we all need to think about, as a regular part of our practice, how we can use federal and state disability law—statutory, regulatory, and case law—to improve the lives of our clients. This issue of CLEARINGHOUSE REVIEW is offered as a means for legal aid and other antipoverty advocates to develop a fuller understanding of the legal needs of people with disabilities and how to apply disability law in a wider range of cases and more types of advocacy.

JOHN BOUMAN

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CLEARINGHOUSE REVIEW: JOURNAL OF POVERTY LAW AND POLICY is published six times a year, in February, April, June, August, October, and December by the Sargent Shriver National Center on Poverty Law, 50 E. Washington St. Suite 500, Chicago, IL 60602. Annual subscription price for hard copy and online access to REVIEW articles back to 1990: \$105 to advocates at Legal Services Corporation-funded programs, \$250 to nonprofit entities, \$400 to individuals, and \$500 to law libraries and foundations. ISSN 0009-868X.

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