

U.S. Department of Justice Supports DRNY's Access to Schools

In July 2015, the Department of Justice and Health and Human Services (DOJ), filed a Statement of Interest in federal court in the case, *Disability Rights New York v. North Colonie Board of Education, et al.* The DOJ supported DRNY's right to investigate and protect students with disabilities from abuse or neglect in public schools. Specifically, the DOJ supported DRNY's right under federal law, as the New York P&A, to investigate complaints about treatment of students with disabilities in New York State schools.

DRNY began investigating the North Colonie School after receiving six complaints of neglect. Since it is not possible for the DOJ to investigate every complaint, they rely on DRNY as part of the national P&A system, to supplement their efforts. As a result, many more allegations of abuse and neglect are investigated, and many more individuals are directly represented in administrative and federal court proceeding to protect their rights. For a complete copy of this Statement of Interest visit DRNY's website at <https://www.DisabilityRightsNY.org/media.html>

DRNY Sues School Over Service Dog

On May 19, 2015, DRNY filed a Federal lawsuit against Sachem Central School District, *Child with Disability vs. Sachem Central School District Board of Education*, for refusing to allow a twelve year old boy with a disability to bring his service dog to school. Since 2012, the school district has discriminated against the child by repeatedly refusing to allow the service dog anywhere on campus under any circumstances, including extra-curricular activities, after-school events, and even when the parents pick their child up from school.



DRNY's client was diagnosed with multiple developmental disabilities and when medication failed to adequately alleviate his symptoms, his doctor recommended a service dog. "For years this school district has wrongfully refused to allow our young client to bring his service dog to school," said Timothy A. Clune, DRNY's Executive Director. "We are continuing the family's fight for his right to be accompanied by his service dog at school."

Welcome to DRNY's inaugural edition of our Newsletter. Most New Yorkers have never heard of DRNY or of the Protection & Advocacy System and Client Assistance Program (P&A/CAP). Congress created this federally funded national oversight system in 1975 as a result of the exposure of deplorable conditions at the Willowbrook State School in Staten Island, NY. Horrific images of children warehoused without clothing, basic health care, or any concern for their rights made national headlines. As a result, Senator Jacob Javits spearheaded legislation to create the first national system with the sole goal of protecting and advocating for people with disabilities.

Two years ago, DRNY, a not-for-profit organization with a demonstrated capacity for independent oversight and aggressive advocacy, was designated as the new P&A/CAP System in the state. DRNY began as a strong, Capital Region based legal services organization with just 7 employees. We have quickly grown to a statewide agency with 50 employees and offices in Albany, Brooklyn and Rochester.



DRNY is committed to fulfilling its Congressional mandate to protect and advocate for New Yorkers with disabilities. To that end, DRNY has engaged in a wide range of efforts, including systemic litigation, individual advocacy, outreach, education, and providing information and referrals. Through these services and many more, we invite you to learn how DRNY can help you. Please give us a call, visit our website, or connect with us on Facebook. We look forward to meeting you.

Best,

Tim Clune

Executive Director

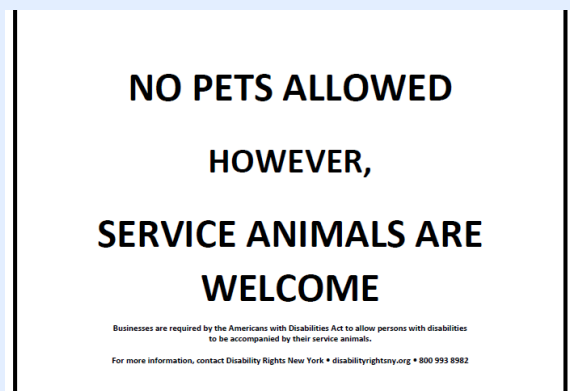
DRNY's Service Animal Project

DRNY is spearheading *The Service Animal Project* to educate businesses and the public about the rights of persons with disabilities who use service animals.

Under the ADA, a service animal is any dog, or in some circumstances, a miniature horse, that has been trained to do work for an individual with a disability. There are no limitations on size, breed or weight of a service animal, even if the breed is illegal in the jurisdiction.

DRNY is monitoring the use of unwelcoming sign posted in a public place or building, advocating for the removal and replacement of these discriminatory signs.

Individuals who have been refused entry or feel otherwise discriminated against due to the use of a service dog are encouraged to contact DRNY. Businesses interested in understanding the rights of their customers as well as their obligations, are encouraged to visit DRNY's website and read more at, "Your Customers with Disabilities and their Service Animals." DRNY hopes the "Service Animal Project" will help educate businesses and individuals on the necessity of service animals and how they transform and empower the lives of those who rely on them.



DRNY Fights for Student with Tourette Syndrome

DRNY fights for a young boy with Tourette's Syndrome who was bullied and harassed at his private school for uncontrolled tics related to his disability.

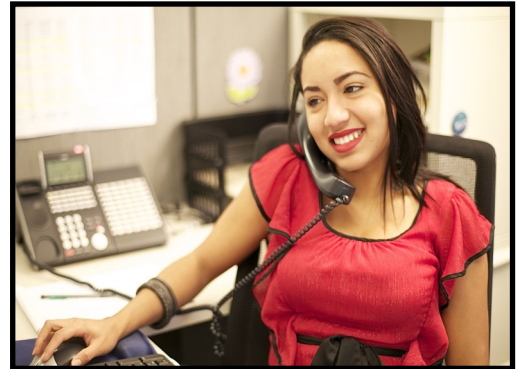
DRNY filed a complaint with the Civil Rights Division of the United States Department of Agriculture. This Division is responsible for monitoring private schools that receive federal assistance under the free or reduced milk program to ensure that these schools do not discriminate against students with disabilities.

DRNY obtained a financial settlement for our client and mandatory training for the school employees to prevent this discrimination from happening to other students.



No Touch Tone Torture at DRNY

DRNY uses an innovative intake process to provide live personal contact to more than 250 new clients each month. Anyone seeking assistance



from DRNY is connected to our Intake Department. The Intake Department is staffed with intake specialists and an attorney to ensure that DRNY can offer a full range of services to anyone contacting DRNY. The Intake Department also operates an Attorney of the Day program, where Staff Attorneys serve as a legal resources to individuals contacting DRNY for assistance. The combination of legal and technical support has allowed DRNY to provide individualized advice to each person who contacts DRNY.

DRNY Obtains Access to NYC School for a Student with a Service Animal

On June 1, 2015, DRNY settled a case for a child who had been denied the use of her seizure alert service dog, Zeus, while at school. Our client had requested that the Staten Island elementary school allow Zeus to accompany her in school as a reasonable accommodation. After months of negotiations, the Department of Education capitulated. This is the first time that the school has allowed a trained seizure alert service animal in school programs, and at events and activities.

The ADA requires State and local government agencies, businesses and non-profit organizations (covered entities) that provide goods or services to the public to make "reasonable modifications" in their policies, practices or procedures when necessary to accommodate people with disabilities. Accordingly, entities that have a "no pets" policy generally must modify the policy to allow service animals into their facilities. In July 2015, the Department of Justice issued a "Frequently Asked Questions about Service Animals and the ADA" guidance. For more information about this guidance visit the U.S. Department of Justice Civil Rights Division website at http://www.ada.gov/regs2010/service_animal_qa.html



Know Your Rights

Independent Educational Evaluations

The Individuals with Disabilities Education Act (IDEA) is a federal law that requires schools to provide special education and support services to certain students with disabilities. The Office of Special Education Programs (OSEP) at the US Department of Education is responsible for providing guidance to schools across the United States on IDEA. OSEP has recently issued new guidance addressing a student's right to an Independent Educational Evaluation (IEE).

The right to an IEE arises when a parent disagrees with an evaluation conducted by the school. IDEA gives the parent the right to request an IEE for *the same type* of evaluation by a person of the parent's choosing. The school must pay for this evaluation. OSEP issued guidance which allows parents to request an IEE for evaluations that were not performed, but should have been performed by the school. For example, if a behavior is interfering with a student's learning or the learning of others, the school should conduct a Functional Behavior Assessment (FBA). In light of the OSEP guidance, if the school failed to conduct an FBA, then a parent can obtain an independent FBA.

Medicaid Spend Down: How Does It Work?

Some people have too much monthly income to qualify for Medicaid, but these individuals may still qualify for Medicaid through the "Medicaid Excess Income Program." In order to qualify, a person must spend the excess monthly income above the monthly income allowed to qualify for Medicaid. This excess income must be spent on a "qualifying medical expense," such as necessary medical and remedial services which may either be covered or not covered by Medicaid.

Department of Social Services (DSS) offices, which supervise the "qualifying medical expense" accept a variety of doctor-prescribed medical items, treatments, and therapies as spend down-eligible expenses. For example, Mary's monthly income exceeds the monthly Medicaid income ceiling by \$100. Since Mary's doctor prescribes her a medication each month that costs \$100, she can submit a receipt with a copy of the medication's prescription to her local DSS office. This "qualifying medical expense" will reduce her monthly income and result in Mary qualifying for Medicaid coverage.

The "Medicaid Excess Income Program" also allows individuals who have periodic large medical expenses to qualify for Medicaid, even when the person does not have a medical expense each month. For example, Mary purchases a prescribed wheelchair cushion for \$250 in April and she submits a copy of the doctor's prescription and receipt to her local DSS Office. This purchase would allow Mary to meet her spend down of a \$100 in April, \$100 in May, and half of her spend down for June (\$50). The carry over of qualifying medical expenses is permitted for up to 6 months.

Read more information about the NYS Spend Down Program at the New York State Health Department's website at https://www.health.ny.gov/health_care/medicaid/excess_income.htm

DRNY Monitors Prisons

DRNY actively monitors New York State prisons and New York City jails to ensure that incarcerated individuals with disabilities are receiving appropriate services.

Albion Correctional Facility

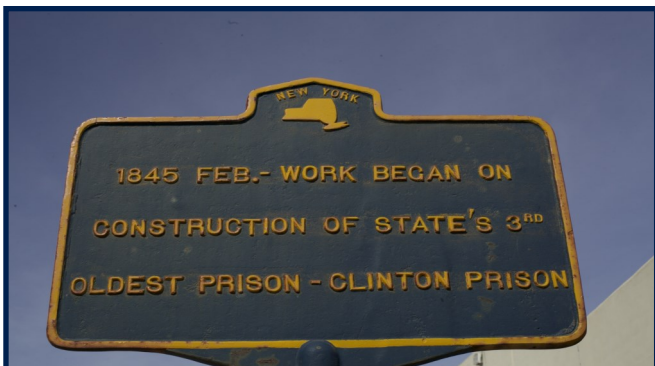
DRNY is monitoring the conditions of this women's prison in northwestern New York, with a specific focus on the Residential Crisis Treatment Program, Intermediate Care Program, Transitional Intermediate Care Program, and Protective Custody Program. Services were being provided in a building which was not accessible for individuals with certain disabilities. DRNY worked with the Department of Corrections & Community Supervision (DOCCS) to relocate the program to an accessible location. DRNY has also advocated for improvements to Albion's policies for inmate mobility assistants, integration of inmates into vocational programming, and diabetic self-management.

Wende Correctional Facility

DRNY is working with Wende's Superintendent to increase access to the law library for those inmates housed in the Regional Medical Unit or in need of assessable software.

Clinton Correctional Facilities

DRNY is monitoring conditions in the Residential Crisis Treatment Program where inmates are monitored and treated for psychiatric crises and suicidal ideation.



Sullivan Correctional Facility

DRNY has been monitoring the newly created Correctional Alternative Rehabilitation Program (CAR) unit - an alternative to solitary confinement for inmates with intellectual and developmental disabilities who have received disciplinary sanctions. DRNY is working collaboratively with DOCCS to address complaints about conditions in CAR. DRNY also identified limitations in the Sensorial Disabled Prisoner (SDP) Resource Room, and is working with DOCCS to ensure that inmates in the SDP Resource Room receive equivalent, beneficial services.

New York City Jails - Rikers Island

DRNY is advocating with the City Departments of Correction and Health and Mental Hygiene to ensure that inmates with mobility devices have access to appropriate and safe mobility aides. DRNY is also working to ensure that services, programs, and activities, are accessible to inmates with mobility, learning, hearing, vision, and other impairments. DRNY is also reviewing the provision of special education supports and services to inmates 21 and under.

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Disability Rights New York

**725 Broadway
Suite 450
Albany New York 12207**

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Telephone: (518) 432-7861

Toll Free: (800) 993-8982

TTY: (518) 512-3448

Visit us on the web:

www.DisabilityRightsNY.org

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If you have a news article or upcoming event you would like to share in an upcoming issue of DRNY's Newsletter, please submit articles and photos to:
Jen.Wilson@disabilityrightsny.org

Contributing Authors

Christina Asbee, Staff Attorney

Elizabeth Grossman, Esq., Director PAIR & PABSS

Julie Michaels Keegan, Supervising Attorney

Stefen Short, Staff Attorney

Robert Connor, Legal Intern

Jen Wilson, Administrative Assistant

David Young, Esq., Director of Intake

Jennifer Monthie, Esq., Director PADD, PAAT, PATBI

Photographs by: Neil Colligan, Video Production Manager



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