

Law School-University-Legal Services Partnership in Disability Studies *Key Elements of Success*

VISION: Spring 2004 brought the advent of an interdepartmental, interdisciplinary Disability Studies Committee at The University of Memphis (U of M). The Committee's purpose was to develop collaborative teaching, learning and service opportunities in the broad field of Disability Studies. This collaboration took place among campus departments, including the Cecil C. Humphreys School of Law and evolved in 2005 to become The University of Memphis Institute on Disability. The Institute strives to promote interdisciplinary research, curriculum development and technological support. The resulting synergy created an excellent opportunity to forge a partnership with the Law School's Clinics and its Public Action Law Society's Social Security Disability Project.

The Law School has enjoyed a 16 year relationship with Memphis Area Legal Services, Inc. (MALSI). Substantial financial resources from MALSI bolster the Law School's clinical program. In return, three Law School Clinics (Child Advocacy, Civil Advocacy and Elder Law) contribute a large portion of the legal services "private attorney involvement" requirement for Legal Services Corporation purposes. The Clinics, through third year law students who are specially licensed by the Tennessee Supreme Court, provide free legal services to under-represented clients, such as children and the elderly. Social Security Disability (SSI) cases are among the many types of civil matters handled by the Child Advocacy and Elder Law Clinics through case assignment from MALSI.

In 2005 student members of the Law School's Public Action Law Society (PALS) established a Social Security Disability Project to engage first and second year law students in serving the low-income community of Memphis through a co-counsel arrangement with MALSI to represent clients in SSI disability matters. PALS supplements the work of the Clinics.

SSI clients often need expert consultation and evaluations to succeed in a disability claim. As a result of this partnership, such expertise is available through the Institute on Disability and its affiliates, such as the Center for Rehabilitation and Employment Research.

Child Advocacy Clinic students also require expert consultation and evaluation in

the “disability” area in order to represent abused and neglected children in juvenile court as their attorney-Guardians ad Litem. Memphis boasts the presence of the Boling Center for Developmental Disabilities of the University of Tennessee Health Sciences Division. The Boling Center supports and enhances the independence and integration of individuals with disabilities and their families in the community. The Child Advocacy Clinic calls on Boling Center physicians, psychologists, and speech and hearing specialists to evaluate children, to assist in understanding technical reports and to serve as experts for clients in court.

TOP LEVEL ADMINISTRATIVE SUPPORT: This partnership would not have materialized without top level administrative support from the University and its community partners. The Vice-Provost for Academic Affairs, Dr. Chrisann Schiro-Geist, is a recognized national expert in the field of disability studies and a full professor in the Counseling, Educational Psychology and Research Department. She previously served as a consultant for the Social Security Administration. She spearheaded the development of the Institute on Disability, which has deep roots in the Colleges of Social Sciences, Nursing, and Education and the Division of Social Work, as well as in the Law School.

Law School Dean James R. Smoot supports this venture as an interdisciplinary opportunity for law students to enhance the development of legal skills and values. From a Dean’s perspective, the partnership also promotes increased student pro bono involvement and exceeds the ABA Standard for law student pro bono experience. The collaboration will be advanced when the Law School moves to the historic old Post Office and Customs House, located across the street from the MALSI offices. This physical proximity will foster increased exposure and service possibilities in the low-income community. Interdisciplinary research and writing among faculty is another by-product.

Dr. Schiro-Geist and Dean Smoot recognize the importance of the health care industry in the Memphis economy. They have reached out to the University of Tennessee Health Science Division as a key player in providing a well-rounded education for U of M students. This relationship has enabled the Child Advocacy Clinic to take advantage of world class specialists in developmental disabilities to serve as experts in child abuse and neglect cases.

CASE PROCESS

Step 1: Expert Consultation

In SSI cases, the case process begins with consultation with the Vice-Provost. Dr. Schiro-Geist discusses the internal workings of the Social Security Administration and the Disabilities Determination Section. By reviewing medical evidence already available, she guides student attorneys to identify factors which support a finding that

the client meets SSI listed impairments with the level of severity required to meet the disability standard. If these factors are not evident, she advises students about obtaining additional evidence from medical providers, schools and hospitals. Similarly, Dr. Janet Todd, a lawyer-psychologist at the Boling Center, provides technical assistance to student attorneys handling abuse and neglect cases to interpret psycho-social evaluations and other medical reports and advises them about finding additional evidence.

Step 2: Expert Evaluation

In addition to expert consultation, some clients require evaluation. The Institute on Disability, via its tentacles throughout the U of M, offers the opportunity for these evaluations. SSI clients might be evaluated at the Center on Rehabilitation and Employment Research, the Department of Education or the School of Social Work. At the Boling Center, a cadre of professionals conducts in depth pediatric, psychological, social, speech and audiology, nutrition, dental, occupational and physical therapy evaluations for eligible children. In addition, these experts provide testimony in legal proceedings, when necessary.

Step 3. Research and Evidence Development

Armed with expert consultation and evaluation, student attorneys conduct the requisite legal research and develop evidence to present in a legal forum. In an SSI case research involves consulting the Social Security law and regulations to identify listed impairments or requisite degree of severity, case law to determine whether clients in similar circumstances have been awarded SSI benefits, or non-legal sources, such as the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, to obtain a general understanding of the impairment. In abuse and neglect cases, students consult the juvenile statute, court rules and case law regarding definitions of abuse and neglect. To support the case, students gather medical, psychological, educational and social records through a "release of information" or through a subpoena duces tecum. This step in the process is collaborative in that the lawyer might have to consult with the experts to correctly interpret the technical information gathered in research or in the records obtained.

Step 4. Case and Client Preparation

The student attorney is now prepares a trial notebook, which contains: the theory of the case and the applicable law; direct and cross-examination questions to be asked of witnesses; documents to be entered into evidence together with responses to evidentiary objections; and necessary briefs, such as the Written Summary Supporting Claim of Disability (in an SSI case) or the Guardian Ad Litem Trial Brief (in a child abuse or neglect case). Collaboration with other professionals is important during this step to refine student understanding of the non-legal aspects of the case.

Preparing a client to testify is an important aspect of case development, and experts from other professions are helpful in identifying the appropriate questions to ask. For example, in an SSI case, a series of questions might be developed collaboratively to ascertain deficits in a claimant's daily functioning. Likewise, in an abuse and neglect case, questions might be developed around developmental delay caused by abuse. The student might also prepare the expert to testify. This mutually beneficial exercise allows the student to become versed in the expert's approach to the issue at hand, whereas the expert becomes familiar with the legal rules regarding expert testimony in court.

Step 5. Advocacy

Appropriate expert consultation and expert evaluation, good research and evidence development and thorough case and client preparation come together during the advocacy phase. Here the student "puts on the play." Presentation of argument, testimony of witnesses and introduction of documentary evidence take center stage, and the expertise developed through the partnership plays a principal role.

Success for Clients

A shared vision, top-level administrative support, expert consultation and evaluation, good casework and advocacy combine to produce positive results for clients. Three examples serve as illustrations:

- ❑ **Percy:** This five year old boy came to the Child Advocacy Clinic through a juvenile court appointment as Guardian ad Litem. Percy's grandfather alleged that the child was medically neglected. He could not talk and was not toilet trained. His parents had never arranged for a complete medical evaluation. Through its relationship with the Boling Center, the Clinic enlisted professional expertise in conducting a battery of testing, including pediatric, psychological, speech and hearing evaluations. The results showed that Percy is profoundly retarded and has autistic tendencies. The professionals provided a series of recommendations for Percy's caregiver to help the boy make social and educational progress.

The expert consultation and evaluation provided by the Boling Center enabled the student attorney to develop her theory of the case through the diagnosis of the child's retardation and autism and the recommendations regarding resources for understanding and managing Percy's disabilities. In addition to diagnosis, the consultation and evaluation set forth the type of home environment required for a child with Percy's disabilities and therefore assisted the student in making a home placement recommendation best suited to Percy's needs.

As a result of this partnership, the child is in a safe and nurturing placement with his grandfather and is receiving appropriate special education and therapeutic

services that allow him to thrive.

- **Karl:** This seven year old boy suffers from Asperger's Syndrome, a form of autism, and mental health disorders. His mother was denied SSI benefits for him twice, because she had not produced sufficient evidence. Expert consultation provided the student attorney with advice as to types of documents that would meet the child's burden of proof, e. g. statements from treating physicians and school evaluations. The expert explained "listed impairments" to the student attorney and guided him through an understanding of facts about the child that demonstrated the required level of severity. The student attorney was then able to peruse the documents to find persuasive factors in the records and to prepare Karl's mother to testify about these factors. The student attorney prepared a Written Summary Supporting Claim of Disability in which he analyzed the law and the facts and vividly showed that the child met eligibility requirements. The student attorney presented his analysis to the Administrative Law Judge (ALJ) through oral argument, and the ALJ ruled in the child's favor.

- **Kecia:** This seven year old girl suffers from mental retardation and a personality disorder, both of which are DSM-IV diagnoses. The Social Security Administration determined previously that her disabilities did not meet the eligibility requirements for SSI benefits. Expert consultation, again, enabled the student attorney to harvest information about documentary evidence that might prove useful and to identify facts about the level of severity of the child's disabilities. As with Karl, the student attorney was able to match the facts in the records with the applicable legal standards, prepare a Written Summary Supporting Claim, and provide oral argument. The Administrative Law Judge has taken the case under advisement.

For further information: Vice-Provost Chrisann Schiro-Geist, cschrgst@memphis.edu
Dean James R. Smoot, jrsmoot@memphis.edu
Associate Professor of Clinical Law Chris Zawisza,
czawisza@memphis.edu