



NEVADA'S PROTECTION & ADVOCACY SYSTEM FOR INDIVIDUALS WITH DISABILITIES

Legal Minute 1: Voting Rights

2008 is an important election year, and Nevadans with disabilities have the right to participate in the election process by registering and voting for the candidates of their choice.

Both state and federal laws require that polling places, ballots and election materials be accessible to people with disabilities. Any person can assist someone with a disability in completing a Voter Registration Application or a field Registrar can visit a person's home to help them register to vote.

Every Nevada County has a voting registrar who can address your concerns about voting accessibility or from whom you can obtain an absentee ballot. In addition, you can contact the Secretary of State's office at (775) 684-5705 or online to obtain voting information or to file a complaint regarding voting accessibility.

This legal minute is brought to you by Nevada Disability Advocacy & Law Center.

Legal Minute 2: Dispute Resolution Options

If you have a child who receives or should receive special education services under IDEA and you are having problems with the school district or disagree with what the school district is doing; here are some options. Parents may pursue 3 different legal options—mediation, state complaint, or due process hearing.

Mediation is a voluntary process where all parties attempt to reach an agreement with the help of a trained mediator. Mediation maintains a good working relationship with the school and keeps the focus on what's beneficial for your child.

Filing a state complaint may be a good choice for quick resolution of smaller issues. The state education department has the authority to order a school district to correct problems.

Requesting a due process hearing is definitely the most complicated of your options. The hearing operates like a "mini-trial" and parents should be represented by an attorney.

Remember, there's no better resolution method than establishing a good working relationship with school personnel and keeping the lines of communication open.

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Legal Minute 3: Creating A Document Trail

A useful tool to protect your rights and become a better self-advocate is using written requests and follow-up letters confirming conversations and agreements.

Just as a government agency or private business takes steps to document its actions and decisions, so should you. Communicating in writing puts your contact on record; clarifies things

in your own mind; preserves your rights under the law; and lays the groundwork for potential legal actions.

Whenever you have a contact or meeting of substance with a representative of an agency or business, write a follow-up letter to summarize the information you were given. Your follow-up letter should include the date of the meeting, the names of individuals present, the information that was provided to you, and your contact information. You should request that if any of the information in your letter is not correct, then a written response with the correct information should be provided to you.

By creating a document trail, you will become a better self advocate and protect your rights.

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Legal Minute 4: Effective Communication

Does a private business have to provide sign language interpreters for customers who are deaf or material in Braille for customers who are blind?

Under the Americans with Disabilities Act, a private business is required to make available appropriate auxiliary aids and services such as sign language interpreters, large print or brailled materials where necessary to ensure effective communication. The type of auxiliary aid or service will vary according to the length and complexity of the communication involved. Private businesses should consult with individuals with disabilities whenever possible to determine what type of auxiliary aids will allow for effective communication. Ultimately the decision as to what measures to take to ensure effective communication rests in the hands of the business to decide, as long as the method chosen results in effective communication.

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Legal Minute 5: Federal Fair Housing Act (Request For Accommodation)

Living in the community is important for individuals with disabilities. Sometimes accommodations are needed to be able to live in the community of your choice. The Federal Fair Housing Act protects individuals with disabilities from housing discrimination.

The Act covers most housing providers including landlords, property managers, homeowners' associations, real estate agents and mortgage lenders. The Fair Housing Act makes it unlawful for any person to refuse to make reasonable accommodations in rules, policies and services. As long as the requested accommodation does not constitute an undue financial or administrative burden or fundamentally alter the nature of the housing, the landlord or other housing provider must provide the accommodation.

Accommodations can include many things such as a designated parking space for someone with mobility impairment or having a lease agreement provided in an alternative format such as braille.

If you need a housing accommodation, you should request it in writing from a landlord or other housing provider. Documentation about the need for the accommodation may be necessary from a health care professional.

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Legal Minute 6: Federal Fair Housing Act (Requesting Accommodations For Assistive Animals)

Can you be denied rental housing or be evicted because you have a service animal? In some circumstances, the Fair Housing Act allows people with disabilities to keep service animals, even when the landlord has a “no pets” policy.

Persons with disabilities may benefit from service animals which includes seeing eye dogs or hearing dogs, or “emotional support animals” that may aid with disabilities such as depression or post-traumatic stress disorder.

If you need a service animal, you should make a reasonable accommodation request in writing to your landlord, property manager or other appropriate entity. Your request should state that you have a disability and explain how the requested accommodation will be helpful. In addition, a note from your health care provider, such as a doctor or therapist, stating the need for the service animal should be provided.

The Fair Housing Act does not require that you show any proof of training or certification of a service animal. However, if the service animal is disruptive, or if you fail to take proper measures to ensure that the animal does not threaten other tenants, the landlord may be justified in denying the accommodation or taking other action to remove the animal.

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Legal Minute 7: Barrier Removal

Does a building designed and constructed prior to the enactment of the Americans with Disabilities Act have to be accessible?

Any business in a building that was first occupied before January 26, 1993, and that provides goods or services to the public is required to remove barriers if doing so is readily achievable. The U.S. Department of Justice’s regulations contain a list of 21 examples of modifications that may be readily achievable. Some examples include: installing ramps; creating curb cuts for entrances; widening doors; rearranging chairs, tables, display racks and other furniture; installing grab bars in toilet stalls; and creating designated accessible parking. Measures taken to remove barriers must comply with the Americans with Disabilities Act Accessibility Guidelines.

Owners, tenants, and property management companies all share in the obligation to remove barriers. The obligation to remove barriers is ongoing.

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Legal Minute 8: Medicaid Requests For Durable Medical Equipment

Do you need a wheelchair or other medical device? If you are a Medicaid recipient, your doctor must first send a prior authorization request (PAR) to a medical supply company. The medical supply company submits the PAR, along with a statement of medical necessity, to Nevada Medicaid. Sometimes the PAR will be denied because there is not enough information to justify buying the equipment.

If your PAR is denied, Nevada Medicaid has 21 business days to let you know in writing about the denial. If you disagree with the denial, you have the right to request a Medicaid fair hearing before an independent hearing officer.

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Legal Minute 9: Nevada's Involuntary Civil Commitment Process

Sometimes individuals who may be considered to have a mental illness display dangerous behaviors toward themselves or others and need assistance. The "Legal 2000 Process" allows someone with a mental illness, who is engaging in dangerous behaviors, to be involuntarily detained in a mental health facility or a hospital for evaluation, observation and treatment. The process is governed and regulated by the Nevada Revised Statutes.

A person can only be detained for 72 hours and must be released at the end of that time period, unless formal legal proceedings are filed to require that the person remain hospitalized. Once a petition for involuntary admission is filed with the court and the person is medically cleared, the individual will be transported to a public or private mental health hospital until there is a court hearing. At the hearing, the individual has a right to an attorney. A public defender can represent someone who cannot afford an attorney. Civil commitment can last up to six months, although once a person has been determined by a treatment team not to pose a risk to self or others, they may be released earlier.

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Legal Minute 10: Return To Work

Can a person with a disability work and still receive social security benefits? The Social Security Administration offers many different employment support or work incentives to individuals with disabilities who want to return to work. The work incentives can help you protect your cash benefits and your health care coverage as you begin the process of entering the workforce. Work incentives differ on whether you receive SSDI or SSI, so it is important to understand the benefits that you currently receive. Remember if you begin to work, you must report your wages to the Social Security Administration. Using the work incentive available through the Social Security system can assist you in becoming as self sufficient as possible through working.

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Legal Minute 11: Service Animals In Public Accommodations

Can a public accommodation, such as a restaurant, hotel or movie theatre, forbid a person from using a service animal?

Under the Americans with Disabilities Act, a public accommodation must permit the use of a service animal and allow the service animal onto business premises where customers are allowed. A service animal can be any animal trained to do work or perform specific tasks for the benefit of someone with a disability. Although some states may have programs to certify service animals, a public accommodation generally may not require proof of certification, although having documentation about a service animal's certification, if any, may be helpful. Care or supervision of the service animal is the owner's responsibility, not the business. A service

animal that is engaging in behavior which would be a direct threat to the health or safety of others may be excluded from a business.

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Legal Minute 12: Special Education Eligibility

If your child is showing frustration in school, not doing well in class or not fitting in with peers, you child may benefit from special education services.

To obtain special education services, you should make a written request to your child's principal and ask that your child be tested. If your child has already been diagnosed with a disability or any other health issues, you should include this information in your letter.

By making a request in writing, you are giving the school district permission to evaluate your child. Federal law requires that the school district complete an evaluation of your child within 45 days.

As a parent, you will be asked to complete a questionnaire regarding your child's abilities and deficits. In addition, a series of tests will be conducted on your child. Your child may be observed by various specialists and other individuals during the school day.

If found eligible, an Individualized Education Program (IEP) based on the child's specific needs will then be developed.

Parents are permitted to have an advocate (or any person familiar with the child) present with them at the meeting to develop the child's IEP.

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