Children's Law Center

Special Education Pro Bono Training
Part Two

Jen Masi, Pro Bono Director

July 22, 2020

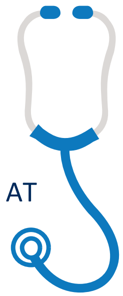
Quick Roadmap

- CLC Pro Bono Program
- Virtual Training Series
- Today's Training
- On Demand Resources

About Children’s Law Center

WE REACH
1 out of 9 children
IN DC’S POOREST NEIGHBORHOODS EACH YEAR

WE HAVE LAWYERS ONSITE AT
6 health clinics
ACROSS DC TO HELP FIND AND FIX BARRIERS TO HEALTH



WE HAVE SERVED
30,000 children and families
SINCE 1996

WE PARTNER WITH MORE THAN
500 pro bono lawyers

WE PARTNER WITH DISTRICT AGENCIES, THE DC COUNCIL AND COMMUNITY LEADERS TO FIND OR IMPLEMENT
city-wide solutions
THAT BENEFIT ALL DC KIDS

Children’s Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to advocate for children who are abused or neglected, who aren’t learning in school, or who have health problems that can’t be solved by medicine alone.

CLC Pro Bono Cases

Family

- Caregiver Custody
- Custody Guardian *ad Litem* (GAL)

Health

- Housing Conditions

Education

- **Special Education**

Supporting Pro Bono Attorneys

Screening
CLC thoroughly screens clients when assessing cases for pro bono placement to ensure the case is a good fit for a pro bono attorney.

Training and Resources
CLC offers in-person and online training and an abundance of resources on our website, including model pleadings, training materials and videos.

Mentoring
Experienced CLC attorneys mentor our pro bono lawyers. Mentors provide initial case recommendations, discuss strategy and legal issues, and remain available throughout the duration of the case.

Virtual Training Series

July 2020				
Monday	**Tuesday**	**Wednesday**	**Thursday**	**Friday**
6	7 2:00 p.m. - 3:00 p.m. **Caregiver Custody Part One:** Custody Law and Practice	8 9:30 a.m. - 10:30 a.m. **Caregiver Custody Part Two:** Pretrial and Trial Advocacy	9	10
13 12:00 p.m. - 1:00 p.m. **Custody GAL - Part One:** The Role of the GAL	14	15 2:00 p.m. - 3:00 p.m. **Custody GAL - Part Two:** Custody Law and Procedure	16	17 10:00 a.m. - 11:00 a.m. **Custody GAL - Part Three:** Communicating with Children and Teens; Overview of Domestic Violence, Substance Abuse, and Child Abuse and Neglect
20 10:00 a.m. - 11:00 a.m. **Special Education - Part One:** What is Special Education?	21	22 3:00 p.m. - 4:00 p.m. **Special Education - Part Two:** Handling a Special Education Case	23 3:30 p.m. - 4:30 p.m. **Cultural Humility Training**	24 10:00 a.m. - 11:00 a.m. **Special Education - Part Three:** The Due Process Hearing
27	28 12:00 p.m. - 1:30 p.m. **Housing Conditions Training**	29	30	31

Today's Training

Content	Remote Representation	Questions
• Handing a Special Education Case	• These cases can be handled remotely.	• Zoom Chat • Email Jen Masi

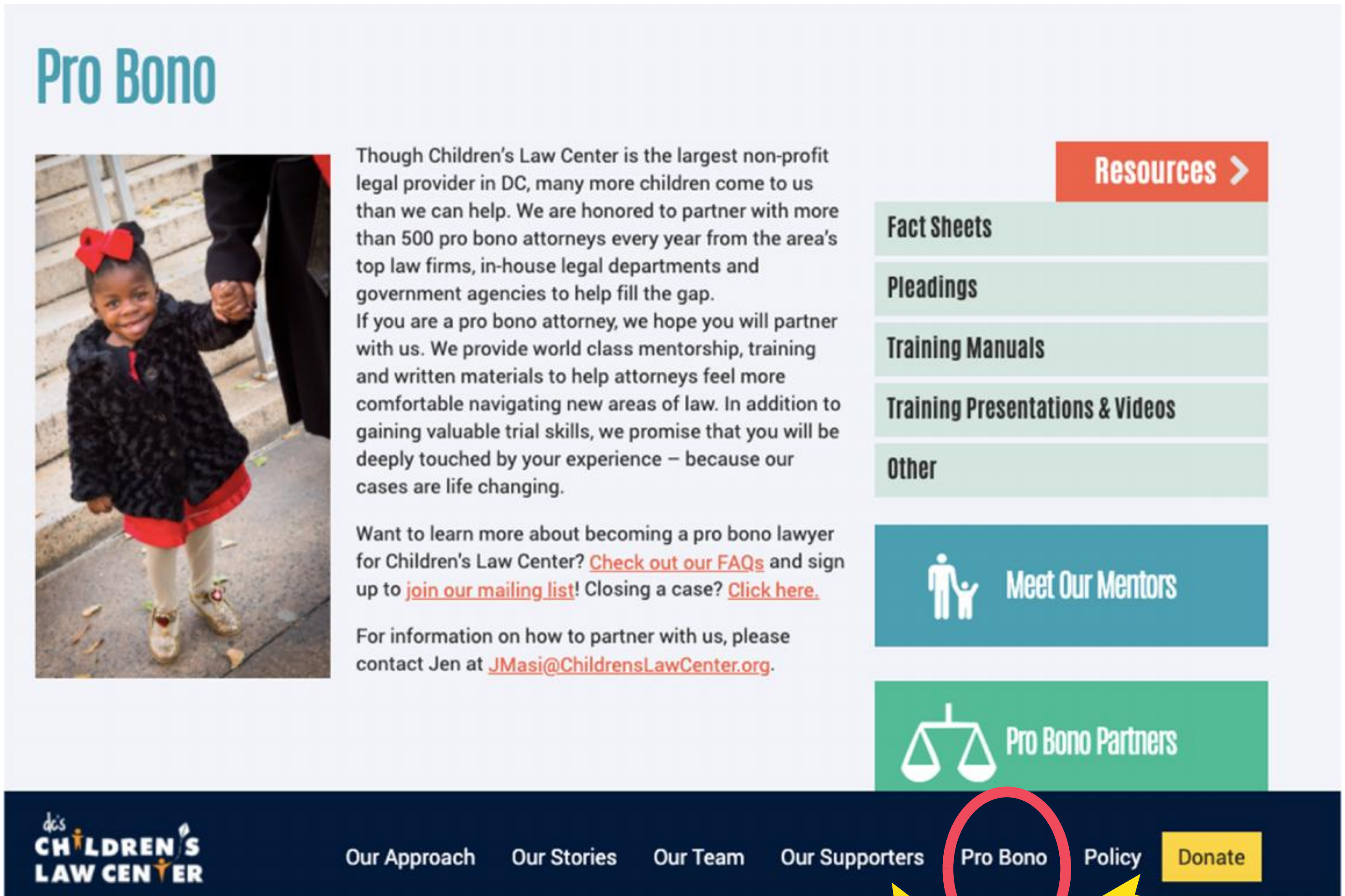
On Demand Resources

Training Presentations

Training Videos

Training Manuals

On Demand Resources



Interested in a case?

- **Email me!**

jmasi@childrenslawcenter.org

Training Survey Request

- Please complete our electronic survey.
  - What worked?
  - Where can we improve?
- Thank you for your feedback!

Handling a Special Education Case

Jani Tillery, Supervising Attorney

D.D. Davis, Senior Attorney

dc's CHILDREN'S LAW CENTER

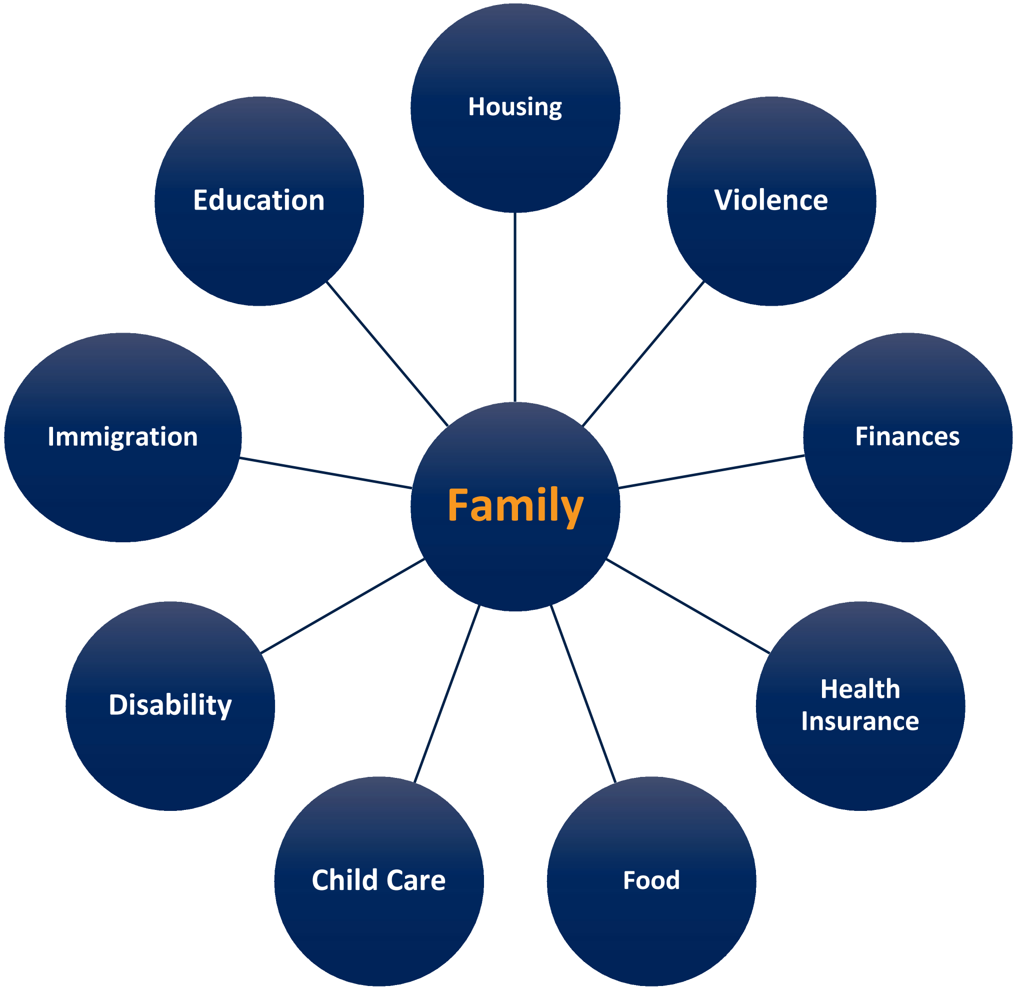
July 22, 2020

Representing Low-Income Clients

Legal Representation for Low-Income Americans: The Need

- According to the Legal Services Corporation's 2017 Justice Gap survey [2]:
  - **1 in 4 low-income households has experienced 6 or more civil problems that year**
  - **Only 20% sought legal help**
  - **86% of civil legal problems reported by low-income people received inadequate or no legal help**

Low-Income Client Realities



Poverty Guidelines and Public Benefits

- **Families that meet the poverty guidelines can be eligible for Public Benefits Programs such as SNAP, WIC, Subsidized Housing Program**

- Certification and recertification processes can be complex and difficult to navigate

- Do not cover the cost of raising and feeding a family

- Subsidized housing is often unsafe, unsanitary, and unstable

Low-Income Client Realities

- **1 out of 3 People**

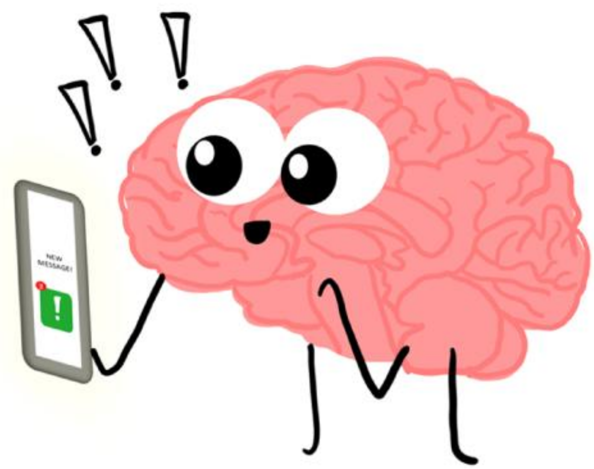
“Making less than 20,000 a year said they’d experienced a great deal of stress’ in the previous month.”*

**See* Laura Starecheski*, This is Your Stressed-Out Brain on Scarcity*, NPR, Heard on All Things Considered, July 14, 2014. https://www.npr.org/sections/health-shots/2014/07/14/330434597/this-is-your-stressed-out-brain-on-scarcity (Last visited December 9, 2019)

The Scarcity Mindset Definition: Not Having Enough

- What happens to our minds when we feel we have too little?
- How can scarcity impact our choices and priorities?
- What behaviors may be exhibited due to scarcity?

The Scarcity Mindset:
Types of Scarcity-Poverty



The Scarcity Mindset:
The Side Effects of Scarcity

- Depletes decision-making and cognitive abilities
- Creates sense of urgency
- “Tunneling”: Sacrificing to prioritize most urgent needs while neglecting other important needs
- Focuses on the here and now

Scarcity Mindset: Emotions

FEAR

FRUSTRATION

ANGER

Group Exercise: Scarcity Mindset

- Discuss examples of scarcity experiences
- Did it impact your mindset? How?
- How did you manage the scarcity?

Scarcity and the Low-Income Client

"We are emphatically not saying that poor people have less bandwidth, quite the opposite. We are saying that all people, if they were poor, would have less effective bandwidth."

Sendhil Mullainathan and Eldar Shafir, Scarcity, Why Having Too Little Means So Much (2013)

Group Exercise #1: Initial Client Meeting

- Imagine you have scheduled a meeting with your new client, Ms. Roberts, to be held at your law firm's office. She does not show up for the meeting, and you cannot reach her by phone.
  - How do you feel when the client doesn't show?
  - What are the possible reasons your client couldn't make the meeting?

Issues that May Be Impacting Clients

- Income
  - Your client may work
    - BUT many wage jobs do not allow time off to attend meetings, answer calls, etc.
    - Even very low wage employment cuts families off from much state assistance, adding financial pressures on the family
  - Your client may not work
    - May have young or needy children requiring their full attention
    - May have a mental or physical disability of their own

Implications: Client Interactions

- **Barriers to communication via phone or face to face:**
  - Inflexible job
  - Transportation Costs
  - Time commitment for using public transportation
  - Caring for an infant or other relative
  - Cost of cell phone minutes

Group Exercise #2: Client interaction

- Imagine you have an IEP scheduled tomorrow. You call your client Mr. Reed to prepare for the IEP meeting.
- You've called Mr. Reed several times, when he finally answers his words sound slurred and he is speaking slowly. He says he didn't hear the phone ring because he was sleeping.
  - How do you feel when you finally get him on the phone?
  - What are the possible reasons for the client's behavior?
- What are your next steps?

Other Issues that May Be Impacting Clients

- **Education**
  - Your client may not:
    - Have graduated from high school
    - Have basic literacy skills
    - Have been provided the information they need to advocate for their children
- **Other Stressors**
  - Your client may:
    - Have responsibilities for extended family members, neighbors, etc.
    - Have to rely on public transportation
    - Not to be safe in his or her home or neighborhood

Implications: Client Interactions

- **Client may come to you frustrated and confused**
  - Frustrated with the school, and sometimes the child him or herself
  - May not understand everything that is happening to his/her child or how to fix it
  - May be overwhelmed by other stressors

Representing the Low-Income Client: Practical Tips

- Make sure your client knows how to contact you
  - Provide your client with your name, address, phone number, and e-mail

Representing the Low-Income Client: Practical Tips

- **Find out all possible ways to contact your client**
  - Some client's contact information may change during representation, make sure your client knows to keep you up to date
  - At the end of the month, client's cell phones may be shut off—try again at the beginning of the month
  - Ask for the phone number of a friend, family member, or other person who can be a back-up contact

Representing the Low-Income Client: Practical Tips

- **In written and spoken correspondence, always use everyday language your client can access and understand**
  - Check in consistently (e.g., “Did I explain that okay?”)

- **Thoroughly explain verbally anything you send to your client in writing**

Representing Low-Income Clients: Practical Tips

- **Try to keep written communication at an 8th grade level**
  - Many programs allow you to check literacy levels

- **Discuss how you and your client will stay in regular communication early in your representation**

Initial Client Meeting: The Basics

- **Sign retainer and release in the initial meeting**
  - We <u>do not</u> recommend mailing the retainer before the initial meeting

- **Explain what it means to work with a lawyer**
  - Confidentiality
  - The relationship (e.g., the client is the “boss”)
  - Long and short term goals
  - Importance of staying in contact

Initial Client Meeting: The Basics

- **Use simple language—don't use legalese or abbreviations!**
- **Discuss who will communicate with the school about requests for meetings, evaluations, etc.**
- **Be explicit about when you want your client to contact you**
  - Any contact from school
  - Before signing anything
- *Training manual has some suggested topics for the first meeting in Tab 1*

The Mentor – Mentee Relationship:

Tips for Mentees

Mentor-Mentee Tips

- Reach out to us with your questions!
- Don’t wait until the last minute to reach out to us!
- Take advantage of our resources (e.g., pro bono manual, special education resources, special education law, samples)
- Email us to connect and to set up a call

Mentor-Mentee Tips

- Be confident in your abilities!
- Don’t be afraid to ask questions of the school
- Let/encourage your client to direct representation
- Don’t forget your client may be juggling multiple issues and struggling with scarcity limited bandwidth, basic needs, and trauma
- You can make a difference!

IEP Meetings:
4 Tips to Prepare

Before the Meeting:
1. Request Records

- **You should try to ensure you have all the relevant prior records in the case (from an initial records request)**
- Pursuant to DC Code § 38–2571.03(c) schools are required to provide parents with copies of documents to be reviewed at meetings at least five days before the meeting
  - E-mail the school five days before if you haven't received the records
- If the school fails to provide them – you can ask for the meeting to be rescheduled but weigh pros vs. cons

Before the Meeting:
2. Review the Records

- **Evaluations**
  - Diagnoses and Recommendations
  - Sources of Information and Records Reviewed
  - Compare to prior evaluations
- **IEPs**
  - Correspondence between baseline, needs and goals
  - Comparison between different IEPs (same goals? Academic improvement?)
  - Anything in the IEP that could be applied to any student with a disability

Before the Meeting:
3. Do You Need Other Participants?

- Educational Expert or Consultant
- Psychologist or Evaluator (especially if IEE has been completed)
- Paralegal (to take notes)
- Student (if appropriate)
- Other individuals knowledgeable about the child (doctors, mentors, social workers or outside service providers)

Before the Meeting:
4. Prepare Your Client!

- **Check in with your client before the meeting to discuss:**
  - Review documents to be discussed at meeting
  - If other issues have arisen s/he wants addressed at the meeting
  - Client's goals for the meeting
  - Agree who will speak about what (you v. your client)
  - How to handle if you want to speak with each other

Before the Meeting: Prepare Your Client!

- May also want to discuss transportation logistics
- Discuss advocacy style

During the Meeting:
Do's and Don'ts

Do’s for IEP Meetings

- **DO** let teachers and school staff provide updates on the child’s progress from their perspective

- **DO** ask for names and roles of participants if they aren’t made clear at the beginning of the meeting

- **DO** ask for a break or time to speak with your client alone as needed

Don’ts for IEP Meetings

- **DON’T** be afraid to ask questions about acronyms, goals, meeting purpose, etc.
- **DON’T** sign overly broad documents without editing them (e.g. consents)
- **DON’T** leave a meeting you disagree with without making sure your disagreement is somewhere in the notes

Post-Meeting Advocacy

After the Meeting: Debrief

- **Check in with your client about:**
  - How they feel the meeting went
  - Whether or not they felt heard
  - Impressions of the team and whether or not their goals can be met
  - Next steps
- **Post-meeting debriefs are also a good time to:**
  - Counsel client on legal rights vs. goals (if in conflict)
  - Pros and cons of litigation (if appropriate)

After the Meeting: Memorialize Concerns

- **Consider writing an email or letter after the meeting to:**
  - Document your own notes
  - Memorialize points of contention
  - Ask letter be made a part of child’s special education records
- **Examples of letters are available in the pro bono practice manual online**
- Benefits
  - Admissible as evidence at due process hearings (do cc your client)
  - May clarify issues or push movement forward

Training Part Two – Complete!

- What's next?
  - Special Education Training Part Three
    - The Due Process Hearing

Questions?
Interested in a case?

Email Jen Masi
jmasi@childrenslawcenter.org

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