



Hinkle, Fingles & Prior, Attorneys at Law

CELEBRATING FORTY YEARS



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40 YEARS PRACTICING DISABILITY LAW

By: Herbert D. Hinkle, Esq.



I have been asked to comment on the changes that I have witnessed in my 40 years of practice in disability law and my role as a catalyst for change.

In actuality, this is my 41st year working in the field of disability law. I started in the summer of 1973, as a student intern in the Camden County Office of the Public Defender when I was asked to examine the practical implications of a then recent Supreme Court decision concerning competency to stand trial. This led to a broader examination of the state commitment procedure governing people with mental illness. Shortly after this I became the protege of the only attorney in New Jersey who was representing people who were involuntarily committed. At the time, Michael Perlin was the head of the Mercer County Public Defender's Office, and actively involved

SUPPORTING DISABILITY ORGANIZATIONS IN THE COMMUNITY

For more than four decades, the attorneys at Hinkle, Fingles and Prior have been donating their time and experience to parent groups and non-profit organizations. Since the firm's founder, Herbert Hinkle, first offered to provide workshops to COSAC (now, Autism New Jersey) and The Arcs in the early 1980's, the firm's attorneys have provided thousands of workshops, seminar and lectures - all at no cost - designed to help ensure that families and caregivers have the advocacy information they need to make informed decisions about services and supports for their family member with a disability.

Attorneys at the firm have also donated countless hours as members of boards and advisory groups. The firm has worked with:

- Advocates for Children of New Jersey (ACNJ)
- Alzheimer Association
- The Arc of New Jersey, and many local chapters
- ASAHC
- ASCEND Group
- ASPENNJ
- Autism Family Services
- Autism Soc. of America-Greater Phila. Chapter
- Autism New Jersey (COSAC)
- Devereux
- Eden Family of Programs
- Family Support Center of New Jersey
- Jewish Children and Family Services
- Learning Disabilities Association
- NAMI-New Jersey
- Penn Autism Network
- PLAN NJ
- Special Olympics New Jersey
- United Cerebral Palsy Association

...and many, many more.



Herbert D. Hinkle, Esq. at the dedication of Hinkle House, an Eden Family of Programs residence named in his honor.

40 YEARS PRACTICING DISABILITY LAW *continued*

with clients who had been sent to a maximum security "hospital" in Trenton to receive "treatment" so that they could stand trial. Soon thereafter, Michael became the first director of the newly-established Division of Mental Health Advocacy, which was then part of the Public Advocate's office. Michael hired me to be a part of his operation and together we handled a number of innovative cases, many of which gained nationwide attention. Michael and I remain friends, and for the past 30 years Michael has been a Professor of Law at New York Law School where he has become an internationally renowned expert on the rights of people with mental illness.

A few of the early cases I litigated demonstrate that the mid-1970s were truly the dark ages of the disability law field. *Carroll v. Cobb* involved the voting rights of people with "mental retardation." The plaintiffs in this case were residents of what was then called the New Lisbon State School. They were

denied the right to vote because of a state statute which dated back to colonial times and barred "idiots and insane" people from voting. Not only did we win the right to vote for our clients, but we did so in the first case of its kind nationally.

The case was a heady success, but it had a disturbing side. The plaintiffs were very high functioning residents of New Lisbon, so high functioning that it made one wonder what they were doing there in the first place. Several had spent the bulk of their lives at New Lisbon.

The short answer was that there was nowhere for them to go. At the time, if memory serves me correctly, there were 2 group homes in New Jersey serving a dozen people and more than 10,000 people living in the "state schools." The term "state school" was unintentionally ironic. There were very few school-age people living in these schools and there was little or no education offered. They were large holding pens for people with disabilities.

"THE MID-1970S WERE TRULY THE DARK AGES OF THE DISABILITY LAW FIELD... THERE WERE 2 GROUP HOMES IN NEW JERSEY AND MORE THAN 10,000 PEOPLE LIVING IN THE 'STATE SCHOOLS,' LARGE HOLDING PENS FOR PEOPLE WITH DISABILITIES. MOST SMELLED OF URINE WITH RESIDENTS LIVING IN LARGE GANG DORMITORIES."

Most smelled of urine with residents living in large gang dormitories.

This case led me away from the mental health field to representing clients with developmental disabilities. The Public Advocate allowed me to establish a program that served this population. And before I was thirty years old, I was appointed director of a division of state government, albeit probably the smallest division.

Another early case involved a young man who I'll refer to as C.S. C.S. was a resident of what became the North Princeton Developmental Center. (NPDC has since closed) C.S. was in his mid-20s and was kept naked in a cell with a toilet and a mat on the floor. Staff explained that this was necessary because of his uncontrollable violent behavior. He was diagnosed as being profoundly retarded. In the dozen or so times that I visited him, I never saw any of this behavior, but once he did resist putting on a t-shirt because it was turned inside out. How did someone who was profoundly retarded know that a label was on the wrong side and that it was inside out? C.S. lacked speech but in fact, he had much more intelligence than was thought.

At this time, I was making the acquaintance of people like Dr. David Holmes and Dr. Sandra Harris, both of whom were pioneers in serving people with autism, and who were eventually instrumental in changing state policies for the

better. C.S. was more probably autistic and after more than a year of litigation, he was sent to a group home where his behaviors were never again a serious problem. Most likely, his severe behavior was a sane reaction to the inhumane treatment that he received at North Princeton.

I could go on, because it was the dark ages, and almost everything that happened open doors for many people. The law was a useful tool, but professional ideas were changing as well. In fact, things started to change so rapidly that in some respects we needed to slow them down. For instance, many parents of children and adults living in developmental centers (formerly known as institutions) were opposed to moving their son or daughter into community-based programs because they as parents had no voice in the process, and planning was deficient. This lead to the passage of legislation that I drafted to compel the state to follow a formal process before transferring a person from one program to the other. The law requires the state to show that the transfer is in the individual's best interest. It remains useful to this day when the state seeks to move people from one program to another.

By the mid-1980s the Public Advocate's office had become as bureaucratic as the agencies we challenged, and it was time for me to move on. And it was a great time to do so. The fledgling due process procedure was giving parents a

A PIONEER IN DISABILITY LAW



A young Herb Hinkle, then Director of the Division of Advocacy for the Developmentally Disabled within the Department of the Public Advocate in a poster printed by the Department circa late 1970's/early 1980's.

level playing field to challenge school districts. The rights of adults with developmental disabilities were better defined, thanks in a part to cases and legislation that I had participated in. In addition the opportunity to pioneer in the use of special needs trusts and other planning devices was tantalizing.

This lead to what is now Hinkle, Fingles & Prior and I think that our attorneys are still in the forefront of disability law.

It has been a wonderful 40 years. Here's hoping that the next 40 are as bright for people with disabilities. We still have a very long way to go.



Hinkle, Fingles & Prior

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WORKSHOPS & SEMINARS

Hinkle, Fingles & Prior attorneys provide hundreds of free workshops and seminars every year for non-profits, parents groups and others. A wide variety of topics are available.

EXAMPLES INCLUDE:

- Basic Rights in Special Education
- Effective Inclusive Education
- Advocacy Strategies for Your Child's Services and Placement
- Bullying Issues
- Related Services & Extended School Year Services
- Early Intervention and Preschool Services
- Transition Services
- Rights and Responsibilities of Students with Disabilities in Higher Education
- Advocacy Strategies to Avoid Due Process
- IEP Considerations for Students with Challenging Behavior
- Accessing Afterschool Programs
- Grandparents: Planning for Your Grandchild with Disabilities
- Funding A Special Needs Trust
- The Importance of Wills and Trusts in Planning for A Secure Future

- Special Considerations When Parents Divorce or Separate
- Protecting Inheritances and Awards
- Estate Planning and Administration
- Medicaid, SSI and other Important Entitlements
- Turning 18: Guardianship, Entitlements & Waiting Lists
- Accessing Appropriate Adult Services
- Maximizing Services Through New Jersey's Self-Directed Services Program
- Beyond Group Homes: Creative Options for Housing & Residential Supports
- Lifespan Advocacy Issues for Children & Adults with Autism
- Services for Children and Adults with Aspergers Syndrome

...and many more.

For more information or to request a workshop online, call us at 609-896-4200, or visit our website at www.hinkle1.com.



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