

## The Duke Children's Law Clinic

### 2018-19 Year-in-Review

The Children's Law Clinic enrolled 20 students over the two semesters of the 2018-19 academic year, logging a total of 2,855 hours of work on their Clinic cases.

Forty-eight different families were served. The services ranged from brief advice to very extensive representation that lasted throughout the year. As in past years, advocacy for the rights of disabled students in schools was the core of the Clinic work. The Clinic handled some very difficult and involved cases this year. Here are some examples:

- NL is a seven-year-old boy with spinal muscular atrophy. He is unable to move his muscles; he spends the day in a prone position in a specialized wheel chair with a breathing apparatus and feeding tube. He cannot speak or use his hands for signing. Nevertheless, his condition does not affect his cognitive abilities and his mother came to the Clinic to increase his access to an education. The Clinic student who worked with this family learned about the use of a "telepresence robot" that can give a student access to a classroom from his home as well as a "speech-generating device" that can give a non-speaker the ability to communicate. Through the Clinic's advocacy, NL will receive additional specialized training in his speech generating device, additional one-on-one time with a teacher who will come to his home, and additional access to his classroom through the telepresence robot.
- AP is a 13-year-old girl with autism and severe anxiety. At the start of the school year, she was receiving no education at all from her local school district, which could not devise any programming for her. In response to intensive advocacy from three law students in the Clinic during the school year, AP was gradually reintroduced to school, first with teachers coming to her home, then with AP going to school to be taught privately by teachers, and finally with her introduction to a regular classroom.
- WA is a nine-year-old boy who attends a virtual charter school. This means that he gets his academic work through a computer in his home, with his mother supporting his education as his learning coach. In addition to his regular education, WA requires both speech and occupational therapy to address his learning disabilities. WA's mother came to the Clinic because the school district insisted on providing both the speech and occupational therapy through the computer. His mother felt that only in-person therapies could be successful. The case became more complicated when the school refused to allow WA to be evaluated in person, insisting that his needs for the therapies be judged through the computer as well. The Clinic obtained a ruling from the state Department of Public Instruction that WA was entitled to in-person evaluations and therapies. After nearly two years of advocacy, WA received in-person evaluations and in-person therapy. His overall special education program was improved in other ways as well.

The Clinic handled a number of school discipline cases this year, representing students who were facing long suspensions from school. In the fall, the Clinic represented a high school student

facing a seven-month suspension from school as a result of a fist fight on the bus. After the hearing, at which the high school student was represented by a third-year law student, the school district's superintendent reversed the principal's decision and allowed the student to return to school immediately.

In the spring, the Clinic represented a first grade girl who was suspended from her charter school for more than four months for having a temper tantrum at school during which she kicked the school's director in the shins. The charter school's board of directors upheld the suspension and the Clinic filed an appeal to Superior Court. The Clinic argued in its brief that the suspension should be considered an unlawful abuse of discretion by the charter school director and its board. (The case is pending at the time of this review.)

The Clinic represented a number of children in their disability cases pending before the Social Security Administration. These cases give law students a tremendous opportunity to develop both written advocacy skills and trial skills. The Clinic is typically very successful in establishing the right to disability benefits for its clients, which provides desperately needed financial support for families struggling to care for disabled children.

Two Clinic students had the unusual opportunity to write an *amicus curiae* brief to the Fifth Circuit Court of Appeals on a special education issue. The law firm representing the child in the case reached out to the Clinic requesting support in the case. The law students volunteered to work together with Clinic Director Jane Wettach on the brief, which was filed in April. The issue briefed by the Clinic concerned a disabled child's entitlement to "comparable services" when the child moves from one state to another. In this case, the new school reduced the child's services from a full day to a half day, but argued that the services were comparable because the services were of the same type that were previously provided, even if they were provided for only a half day. Because the entitlement to comparable services has not been well-defined by courts, the decision in the case could have wide impact. The case is scheduled to be argued in New Orleans sometime later this year.

The Clinic responded to the request of a state legislator this year to educate her on the state's homeschooling laws. Based on extensive research by a Clinic student, the Clinic produced a report highlighting the lack of any protection for a child whose education is neglected by a parent purporting to homeschool the child. The Clinic will continue to advise the legislator, who plans to introduce legislation that would address this gap in our law and protect children from educational neglect.

Students in the Clinic find their work extremely rewarding and enriching. Here are some of their comments as they reflected on their experience:

*The clinic has been a great experience. I've learned a lot and I'm very happy that I've made a positive impact on my client's education. I've vastly improved my lawyering skills while doing meaningful work I feel proud of.*

*The Children's Law Clinic is the single best thing I did at the law school. I learned so many practical lawyering skills, and more importantly, I found that I actually love the*

*lawyering role. Representing two client in hearings allowed me to overcome a lot of my fear. If there is one thing I had learned from the clinic, it's that I can do this job. I can talk to clients, give them guidance, appear confidently before a panel to argue a case. When I go into a courtroom next time, I will feel much less nervous. The clinic gave me room to make low-level errors with little consequences and allowed me to take these lessons with me to the next case. Of course, my great experience at the clinic would not have been possible without the meticulous guidance of the clinic supervisors. Overall, it was a great semester.*

*The Clinic has been one of my absolute favorite experiences in my law school journey. It has given me faith in myself. I know that I will care about every single one of my clients and empathize with the situation they are coming from. I know if I continue to work diligently and persistently on my cases, I'll eventually come to a resolution that benefits them. Being in the clinic has made be really look forward to working full time as an attorney.*