



SWAN Legal Services Initiative

August Legal Report

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(No state child welfare cases were published in August)

Federal Technical Assistance

*Protecting the Rights of Parents and Prospective Parents with Disabilities:
Technical Assistance for State and Local Child Welfare Agencies
and Courts under Title II of the Americans with Disabilities Act
and Section 504 of the Rehabilitation Act*

The U.S. Department of Health and Human Services (HHS) and the U.S. Department of Justice (DOJ) issued [technical assistance](#) to help state and local child welfare agencies and courts ensure parents and prospective parents with disabilities are not discriminated against due to their disability when involved in child welfare programs, activities and services. This technical assistance is in response to a rising number of disability discrimination complaints received by HHS and DOJ from parents and caregivers and reviews the legal obligations child welfare agencies and courts must comply with under Section 504 of the Rehabilitation Act and Title II of the American with Disabilities Act. In addition to reviewing the law, specific questions are answered and implementation examples are provided as is a list of resources for additional information.

As we reported in January 2015, HHS and DOJ investigated practices at the Massachusetts Department of Children and Families where the agency was found to engage in discriminatory practices when it removed a child from a mother with developmental disability based discriminatory assumptions and stereotypes about her disability. You can find more information about this investigation by reading the [HHS and DOJ letter of findings](#).

Spotlight: Civil liability for doctors failing to report suspected child abuse

On August 25, 2015, the Pennsylvania Superior Court issued its opinion in the case of K.H. v. Kumar, where the issues on appeal rested on the whether the lack of an express statutory civil remedy under the Child Protective Services Law (CPSL) precludes a medical negligence claim for injuries sustained when a physician fails to report reasonable suspicions that a child is a victim of child abuse. The court found “the CPSL does not expressly preclude civil liability for a failure to report abuse, nor immunize those who fail in their reporting obligations.” K.H. v. Kumar, 2015 Pa. Super. 177 (Pa. Super. 2015).

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