

Disability Law and Practice

Special Education, Assistive Technology
and Vocational Rehabilitation

Editors

Professor Nancy Maurer
Simeon Goldman, Esq.

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DISABILITY LAW AND PRACTICE

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PREFACE

We are pleased to bring to you the first book in the New York State Bar Association's new series *Disability Law and Practice*. This first book focuses on Special Education, Assistive Technology and Vocational Rehabilitation. The second will cover Financial and Health Care Benefits and Future Planning; and the third will discuss the Civil Rights of People With Disabilities. Together, all three books will offer a comprehensive overview of the many facets of disability-related law relevant to the practice of New York attorneys.

This first book has been a collective (volunteer) effort, relying upon the expertise and dedication of the authors and reviewers who have generously shared their considerable knowledge in preparing their chapters. We thank them all, as well as the former editors and authors of the three editions of *Representing People With Disabilities*, without whom this would have been an even more monumental undertaking. This also would not be possible without the publications staff of the New York State Bar Association, who have spent much time and effort making this book a reality.

Disability law is remarkably diverse, the issues often involving legal areas that, at first glance, do not appear to be germane to the field. The authors bring their unique perspectives to their chapters and we hope you will find both the subject matter and their perspectives to be valuable in your practice. We welcome your feedback so that future editions of the *Disability Law and Practice* series will be the best and most useful publication possible.

Both of us have dedicated much of our careers to the practice of disability law, and we cannot imagine an area of law where an attorney has the opportunity to accomplish more for people who, individually or as a group, have traditionally faced incredible barriers in all areas of life. We hope this book will be a resource for all practitioners, but especially for those of you undertaking representation of people with disabilities, either as part of your practices or in providing pro bono assistance. As practitioners in the field, working on the *Disability Law and Practice* series has been a great opportunity for us. We thank you for your readership.

Sincerely,

Nancy Maurer and Simeon Goldman
Co-editors

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Prof. Maurer is a member of the NYSBA Committee on Issues Affecting People with Disabilities, and she was co-editor of the NYSBA publication, *Representing People with Disabilities*. She is a graduate of Middlebury College and George Washington University Law School.

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Ms. Moffett is a member of the New York State Bar Association, the Schenectady County Bar Association and the Albany County Bar Association. She serves as a member of NYSBA's Committee on Issues Affecting Individuals with Disabilities and is a member of the New York Capital Region Special Education Task Force. She is admitted to the courts of New York and the U.S. District Court for the Southern District of New York.

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parents, advocates and service providers on Special Education. She is a frequent trainer at attorney continuing legal education events regarding Special Education Law, and she organizes an annual conference to train parents, lay advocates and service providers to effectively advocate for individuals with disabilities. She has also spearheaded Disability Advocates efforts to promote community integration of individuals in New York State institutions who could live more integrated lives in the community. Ms. Monthie received a J.D., *cum laude*, from Albany Law School, and a B.A. in English and Political Science, *summa cum laude*, from the State University of New York College at Fredonia.

KAREN S. NORLANDER, ESQ.

Karen Norlander began practicing law as general counsel to Student Advocacy in Westchester County. In 1989, she moved with her family to the Capitol Region, where she joined the Office of Counsel at the State Education Department as a managing attorney. After five years working in government, Ms. Norlander became general counsel to Statewide Youth Advocacy and resumed work as a certified impartial hearing officer and lawyer for children in Family Court matters. In 1999, Ms. Norlander affiliated as special counsel with Girvin & Ferlazzo, P.C., a law firm located in Albany, New York, that represents over 60 school districts. During her years of practice, Ms. Norlander has represented both parents and districts in administrative hearings as well as state and federal courts, primarily in matters involving the rights of children with disabilities. Ms. Norlander has published numerous articles, developed extensive training materials for parents, educators and attorneys, and is a frequent lecturer, both regionally and statewide, on topics involving children and the law, and special education, in particular. Ms. Norlander is admitted to the federal courts in New York, the Second Circuit Court of Appeals and the U.S. Supreme Court. In 2010, she was recognized as an attorney of the year for her work in education law.

She is a longtime and active member of the New York State Bar Association and is also a member of the Capitol Region Women's Bar Association.

MELINDA R. SARAN, ESQ.

Melinda Saran is Vice Dean for Student Affairs at the University at Buffalo Law School, State University of New York. She is also member of the teaching faculty, teaching Legal Profession and Ethics, the Law and Social Work Clinic and Colloquium, and Special Education Law and Practice. Prior to her current position, Ms. Saran was the supervising

attorney of the Education Law Clinic at the University at Buffalo Law School. She frequently lectures for continuing legal education programs and for professionals on special education and disability law, including ethical implications for clients with disabilities. Ms. Saran received her Juris Doctor degree from the University at Buffalo and also earned a Master in Public Health degree from the University of Rochester. She began her law career with Neighborhood Legal Service in the Disability Rights Unit. She is active in many membership organizations, including the New York State Bar Association Committee on Legal Education and Admission to the Bar and Committee on Issues Affecting People with Disabilities; the Bar Association of Erie County; and the Women's Bar Association of the State of New York (WBASNY), where she is co-chair of the Amicus Curiae Committee and is a past president of the Western New York Chapter. Ms. Saran is a past chair of the Committee on Issues Affecting People with Disabilities of the New York State Bar Association.

JAMES R. SHELDON, JR., ESQ.

James R. Sheldon, Jr., is a 1978 graduate of the University of Buffalo Law School and the Supervising Attorney of the Disability Law Unit at Neighborhood Legal Services in Buffalo, New York. He also supervises nine separate disability-related projects, including a statewide assistive technology (AT) advocacy project, a national AT advocacy project, three projects related to Social Security and SSI work incentives, and four Protection and Advocacy projects.

Since the 1990s, Mr. Sheldon's primary work has involved funding of AT and Social Security and SSI work incentives. He has worked, lectured and written extensively on the issues of special education, Medicaid, Medicare, vocational rehabilitation, employment discrimination, and rights of persons with disabilities in general. Among these, he is author and co-editor of *Benefits Management for Working People With Disabilities: An Advocate's Manual* and author of *Work Incentives for Persons With Disabilities Under the Social Security and SSI Programs*; he also developed and presented training programs on work incentives for persons with disabilities. Since 2000, he has supervised a 16-county Work Incentives Planning and Assistance Project to provide benefits advisement to Social Security and SSI recipients planning to go to work.

JO ANNE SIMON, ESQ.

Jo Anne Simon is in private practice in Brooklyn, New York, concentrating in disability civil rights in high-stakes standardized testing, higher education law and employment discrimination. Previously, Ms. Simon

was the staff attorney at Hofstra University School of Law's Disabilities Law Clinic, and she now is an adjunct associate professor of law at Fordham University.

A graduate of Fordham University School of Law, Ms. Simon holds a master's degree in the education of the deaf from Gallaudet University and was a certified sign language interpreter (1978–2000) and a founding member of the Association on Higher Education and Disability (AHEAD).

She is a former Chair of the Association of the Bar of the City of New York's Committee on Legal Issues Affecting the Rights of Persons with Disabilities and a member of the New York State Bar Association's Committee on Issues Affecting People with Disabilities.

KATHLEEN E. SURGALLA, ESQ.

Kathleen Surgalla, now retired, was assistant counsel for the New York State Education Department Office of Counsel. She received her J.D. degree in 1979 from the State University of New York at Buffalo, where she also received her Ph.D. in Political Science in 1984. Her doctoral dissertation examined the impact of lawyers and advocacy organizations on implementation of special education law in New York. Prior to joining the State Education Department, she was Director of Legal Services for the New York State Association for Retarded Children, Inc./Erie County Chapter, then senior attorney with the New York State Mental Hygiene Legal Service. She chaired the New York State Bar Association's Committee on Issues Affecting People with Disabilities from 2000 to 2004 and was a frequent speaker at continuing legal education programs on special education law. She was also an editor of NYSBA's *Representing People With Disabilities*.

SUSAN M. YOUNG, ESQ.

A graduate of the Washington College of Law at American University, Susan Young has been an attorney at Legal Services of Central New York since the 1990s. As a Protection and Advocacy attorney, she represents both children and adults with disabilities in administrative proceedings as well as state and federal court. Representing students and parents in special education proceedings is a large part of her practice. In addition, Ms. Young represents persons with disabilities in the areas of employment discrimination, substitute decision making, financial abuse, Medicaid home care services, eligibility for OPWDD services, and care and treatment in facilities.