That across Colorado each of us can say: “We have all we need to live healthy lives.”
Webinar Goals

• What kinds of legal advocacy activities can nonprofit organizations consider as potential means to advance their mission? When might this be an appropriate strategy?
• What capacities are helpful for nonprofits to be ready and able to engage in strategic litigation and other types of legal advocacy?
• What resources are available in Colorado to help nonprofits partner with other advocates and legal experts?
• What can we learn from Colorado nonprofits’ successful engagement in legal advocacy?
Quick Note on 501 (c)3 Legal Constraints

• Legal advocacy is not lobbying. “Lobbying” is attempting to influence specific legislation (e.g. bills introduced in the state legislature and ballot measures)

• 501(c)(3) tax status does not restrict a nonprofit organization’s ability to engage in legal advocacy or litigation
Today’s Presenters

- **Deepti Sood**, TCC Group
- **Kevin Williams**, Colorado Cross-Disability Coalition
- **Andrew Montoya**, Colorado Cross-Disability Coalition
- **Laura Gabbay**, Colorado Cross Disability Coalition
- **Connie Talmage**, Colorado Lawyers Committee
Stepping into the Fight:
A Guide for Nonprofits to Understand and Engage in Legal Advocacy

Deepti Sood
Senior Consultant
TCC Group
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Agenda

- What is Legal Advocacy?
- How Can Legal Advocacy Complement Other Advocacy Strategies?
- Readiness for Legal Advocacy
- Challenges to Anticipate
- Working with Funders
What is Legal Advocacy?
“What we put in the legal advocacy bucket is everything — the ability to provide direct legal services to clients to tease out issues, elevating impact litigation to interpret, enforce, and improve the law, then legislative and administrative advocacy where the laws are made.”

— Anne Erickson, Empire Justice Center
Legal Advocacy Activities

- Research and Publications
- Writing Draft Policy
- Administrative or Executive Advocacy
- Writing Amicus Briefs
- Legal Support
- Litigation
Where Does Legal Advocacy Sit?

- Executive Advocacy
- Legislative Advocacy
- Grassroots Organizing
- Media
- Education
- Public Awareness

Legal Advocacy
Readiness

Is Our Issue Ready for Legal Advocacy?

Is Our Organization Ready for Legal Advocacy?
Access to Necessary Resources

- Funding
- Communication
- Legal Expertise
- Research
A Clear Vision for the Work

- Organizational vision
- Vision for legal advocacy actions
- Vision for how legal advocacy intersects with other movement strategies
- Vision of the key plaintiff
- Vision of the community
Legal Readiness

- Readiness to engage in discovery
- Favorable – or non-hostile – courts
- Strong legal team
- Strong plaintiff
- Clear target for redress
What Challenges Should We Anticipate?

- Movement / Coalition Challenges
- Resource Challenges
- Motivational Challenges
- Legal Challenges
What Funders Consider

- Strategic position
- Strategic alignment
- Reputation
- Leadership
- Legal capacity
- Non-legal program capacity
THANK YOU

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Purposeful litigation by a Non-Profit Disability Rights Advocacy Organization
Nothing about us without us -- ever!

• Our mission is to advocate for social justice for people with all types of disabilities
• Run by and for people with disabilities
• Founded in 1990
• 2,800 members currently statewide.
CCDC Legal Program

• Founded in 1997

• Handles disability-related civil rights cases and consulting

• Hundreds of cases and issues since its inception
  • Highlights and Lowlights
  • Lots of Impact Litigation
Impact Litigation: Large Venues
Impact Litigation: Large Impact

IF YOU HAD ONLY LET US KNOW...

- Lack of voluntary compliance
  - Despite good policies
  - It’s been the law for more than 25 years now
  - Sometimes costly fixes or institutional resistance
- Other forms of advocacy have failed
  - Delay, obfuscation, etc.
  - Gang of Nineteen
Wins: Deaf Communication

• Good policies but lack of follow-through or enforcement
  • Checklists, record-keeping, offer of Auxiliary Aid or Service

• Legal Problems
  • Regulations: VRI versus Live Interpreters
  • Standing

“HE EVEN MADE A SIGN FOR TREE THAT I COULD UNDERSTAND…”

• Law Enforcement
• Medical Settings
• Other Settings
  • Adult Education
  • Telephone Banking

“Nothing About Us Without Us.”
• Blind woman denied fertility services
• Proven that denial of services was on basis of disability
• But…jury

Loss: Chambers v. Univ. Hosp., et al.

“CONSTELLATION OF CONCERNS”
Bittersweet

Hollister

• Nationwide Class Action
• Won in District Court
• Reversed in 10th Circuit
• Settled Anyway

El Diablo

• Won novel issue about renovated buildings
• Scorched Earth Litigation
• Restaurant Folded due to Building Code violations
Staff or Contract

Legal Programs
- Ready access to legal services
- Specialization
- Symbiotic relationship
- Malpractice Insurance and other costs

Outside Counsel
- Only retained for one case at a time
- Variety of lawyers/specialties
- Unanticipated expense
- Finding willing and able attorneys
How to Create a Legal Program

• Creativity in Funding
  • Fee Shifting (Ongoing Funding)
  • Fellowships
  • Social Enterprise
  • Other Investors

• Be mindful of Bar rules
  • Nonlawyer supervising lawyer
  • Sharing Fees with Nonlawyer
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CONNIE TALMAGE

EXECUTIVE DIRECTOR
COLORADO LAWYERS COMMITTEE
Coalition of 78 law firms

Mission: to improve conditions for children and the underprivileged through pro bono legal advocacy

Last year: 800 volunteers donated over 7,500 hours on more than 25 projects

Our greatest asset is lawyers
Nature of CLC Work

• Primarily high impact legal advocacy/litigation
• Four legal clinics for individuals
• Education: Hate Crimes, Election (call center)
• Support for nonprofits (see flyers)
Projects in Five Areas

- Children and education
- Civil Rights and Criminal law
- Poverty and Public Benefits
- Community Development (nonprofit)
- Immigration
CLC Litigation

- Focus on high impact (not individual unless impact broader)
- We’re a well-kept secret (on purpose)
- Examples of cases you probably know: CBMS, Lobato school finance
Litigation as a Tool

- Individual vs. system: both important; we do only systemic
- Legal vs. policy issues: both important; we do only legal
- Sometimes the threat is enough: Food Stamps, Medicaid termination
- A lot you can do before you get to the lawsuit (Anti-bullying: meet with organizations, CORA request, demand letter)
- Use lawsuit as leverage for political change: Sixth Amendment
- Sometimes you have to litigate: Lobato x 2 (39 years)
Let Us Know if We Can Help

- Any high-impact legal issue regarding children and the underprivileged
- Connie Talmage: ctalmage@coloradolawyerscommittee.org
- www.coloradolawyerscommittee.org
Additional Resources

• Webinar and additional resources at
  • www.coloradohealth.org/advocating-impact