

Milton Hershey School Refuses to Admit 8th Grade Honor Student with HIV

On the eve of the 23rd World AIDS Day, the AIDS Law Project of Pennsylvania filed a federal discrimination lawsuit against the Milton Hershey School in Hershey, Pa., for refusing to enroll a then-13-year-old pupil because he has HIV.

The complaint, filed in the U.S. District Court in Philadelphia, alleges that the school violated multiple anti-discrimination

no significant risk to others in school, day care, or school athletic settings.”

The more than 100-year-old boarding school created and funded by the world-famous chocolate manufacturer claims that Abraham, an honors student, is a direct threat because he might pass on the virus to other students.

Days after commencing suit, calls started coming in from local, national and even international news outlets, wanting to know more about the case. Dozens of print



Photo courtesy of Mia Farrow

“Now is not the time to move backwards. Now is not the time to victimize those who have been affected by this disease. Now is not the time to deny Abraham Smith a chance to realize his dreams.”

Mia Farrow

laws when it refused to enroll the Delaware County student for the 2011-12 school year, based solely on his HIV status.

Public health authorities have unequivocally declared that HIV is not transmitted through normal day-to-day contact in schools or social settings.

Additionally, according to the National Association of State Boards of Education, “the presence of a person living with HIV infection or diagnosed with AIDS poses

and broadcast outlets reported the lawsuit, including CNN’s Anderson Cooper, who featured several segments about the case on his nightly news show, “Anderson Cooper 360.”

The case resonated with many others, including actress/activist Mia Farrow. She blogged on the Huffington Post that Abraham’s situation reminded her of Ryan White, the teen who became a national figure of AIDS education after he was expelled from middle school in the 1980s.

“Now is not the time to move backwards,” Farrow wrote. “Now is not the time to victimize those who have been affected by this disease. Now is not the time to deny Abraham Smith a chance to realize his dreams.”

According to its public statements, the school “believes that the risk of transmission of HIV

Join us on Cinco de Mayo!



NEWSLETTER OF THE
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Good Counsel is published semiannually by the AIDS Law Project of Pennsylvania for our friends, volunteers and colleagues committed to protecting the rights of people with HIV/AIDS.

The AIDS Law Project works on more than 2,000 legal matters a year, nearly all from people with HIV/AIDS, many of whom have nowhere else to turn for help. We help people navigate the legal system, the welfare system, the housing system and the worlds of public and private insurance. We provide education and training to thousands of professionals who work with people with HIV/AIDS.

MESSAGE FROM THE EXECUTIVE DIRECTOR



Dear Friends:

When we took on the case of Abraham Smith, the eighth-grade honor student denied admission to the prestigious Milton Hershey School solely because he has HIV, we never expected what happened next.

His mother contacted us last July seeking our help. The Hershey School refused to admit her son because of his "documented needs." We weren't completely sure what the school meant by "documented needs," but we suspected they were referring to his HIV status, because he is in good health and has no history of behavior or discipline problems.

As public health authorities have unequivocally declared that HIV is not transmitted through normal day-to-day contact in schools or social settings, we expected to resolve the matter by the time school started in September.

But as time went on, we were unable to resolve the matter. By the end of November, a third of the school year had passed and we had made no progress on Abraham's request for admission.

Good Counsel, by e-mail

Want to receive Good Counsel electronically?

Send your e-mail address to tiffany.hair@aidslawpa.org.

We realized that we had no alternative but to file a lawsuit alleging a violation of federal anti-discrimination laws, so that Abraham's application for admission could receive the full consideration it deserved.

In a stunning turn of events, the school publicly declared the risk posed by Abraham's HIV status "rises to the level of a direct threat to the health and safety of others." Further, the Hershey School claimed "its primary concern is the risk of transmission through unprotected consensual sex" because "no child can be assumed to always make responsible decisions which protect the well being of others."

As you can imagine, it has been hard for Abraham to hear that the school believes he is that kind of threat.

School officials "made me feel extremely embarrassed and ashamed of myself when I should not be," Abraham told us. "I'm not a threat to anyone."

The Milton Hershey School has based its decisions on unfounded assumptions, unwarranted fears, generalizations, prejudices, stereotypes and myths about HIV – all the things we've been fighting for almost a quarter of a century.

Remember us at workplace giving time.

When you donor-designate in your workplace giving campaign, remember your neighbors served by the AIDS Law Project of Pennsylvania.

United Way of SE PA Specific Care Option #09067

Combined Federal Campaign Donor Option #36027

DAYS AWAY FROM EVICTION, MOTHER AND CHILDREN SAVED FROM HOMELESSNESS

A client who lives in public housing came to us with an eviction notice. She had been unable to pay her rent as a result of illness – first her child's, then hers.

The case went to Housing Attorney **Rafiah Davis**, who quickly realized the situation was more dire than even the client thought.

"She was a couple of days away from a lockout," Rafiah said. "I knew we had to move fast."

The woman actually lost one job, a clerical position, after taking off too much time to care for an ailing child. She then got work as a cashier, but was unable to start that job after she got sick.

Then the client was unable to get a letter from the previous employer explaining that she had lost her job. Had she been able to document that she lost her job, the public housing authority would have paid a greater share of her rent for her. Without the letter proving she didn't have a job, she was responsible for more rent than she could afford.

Even worse, by the time she came to us in December, she had already gone to landlord-tenant court in October and signed an agreement promising to pay the back rent, although she didn't have the money to do so.

Rafiah sprang into action, getting the previous employer to verify that the client was out of work. Then Rafiah worked with housing authority lawyers to undo the payment agreement, despite the fact that these agreements are rarely renegotiated.

After a recalculating of the rent based on her lack of employment, the client and her two young children were able to remain in their home. At last contact, the woman was on the mend and ready to resume working.

She just didn't realize how serious the situation was, Rafiah explained.

"Without knowing it, she was on the verge of being homeless and sick at the same time," Rafiah said. "It's yet another example of why the work we do is so vitally important."

VETERAN ATTORNEY AND INTERN GET LIFELINE FOR TROUBLED CLIENT

Far too often, clients find their way to us after having fallen through society's safety net.

In one such case, a mentally-ill client had been refused Social Security disability, which provides income to people whose disability prevents them from working.

Managing Attorney **Yolanda French Lollis** was assigned the case, with legal intern **Francesca Fiamingo** assisting her.

Delving into the case, they found that the disability examiner initially ruled that the HIV-positive man was not sufficiently disabled to merit payments.

But our client was so profoundly disabled, he was unable to get regular health care, or even keep track of his doctor's appointments.

Indeed, the great irony of this case is that the evidence of his being disabled existed, but was in pieces, scattered like a trail of popcorn.

"Things were mentioned in passing in various reports, but never elaborated on or given

proper attention as signs of mental illness," said Francesca, a Drexel University law student and member of our Civil Practice Field Clinic.

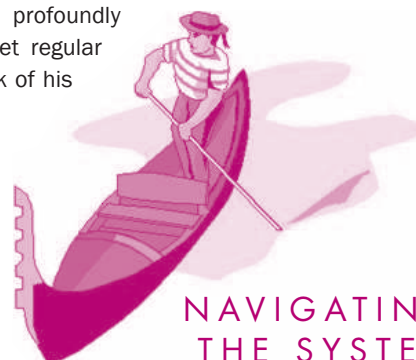
Yolanda and Francesca started to piece together the facts necessary to mount an appeal. Among evidence that had been ignored, they discovered the man had attempted suicide several times and had mutilated parts of his body.

Francesca eventually wrote the brief for an administrative law judge reviewing the case.

The sleuthing and hard work paid off: The judge eventually ruled in favor of the client, even repeating much of the brief in his decision.

At press time, the client was scheduled to start receiving the much-needed disability checks that had been denied to him.

"It's an incredible feeling as a law student to actually know that your work helped someone," Francesca said.



NAVIGATING THE SYSTEM

AIDS LAW PROJECT TO RECEIVE KUROMIYA AWARD FOR "FIGHTING FEARLESSLY"

The AIDS Law Project of Pennsylvania is proud to announce that its staff has been awarded the 2012 Kiyoshi Kuromiya Award for Justice. The award, sponsored by Philadelphia FIGHT, will be presented at the AIDS Education Month opening reception on May 31 at the College of Physicians in Philadelphia. Named for the longtime HIV and civil rights activist who died of complications from AIDS in 2000, the award honors the AIDS Law Project's staff "for more than 20 years of fighting fearlessly for the legal rights of those living with HIV, educating thousands about AIDS-related issues, and working on multiple levels of government to achieve fair laws and policies for those living with and affected by the virus." The event, where others will be honored for work in HIV prevention and treatment, is free and open to the public. Details can be found at www.fight.org/aem.



HIV-positive nursing assistant settles employment discrimination claim

Through the work of the AIDS Law Project of Pennsylvania, a national health care staffing firm has agreed to pay \$22,000 to an HIV-positive nursing assistant. In addition, the firm will change its staff hiring policies.

In collaboration with the U.S. Equal Employment Opportunity Commission, the AIDS Law Project sued Pittsburgh-based Capital Healthcare Solutions after it rescinded an employment offer to our

"They're a health care company. They should know about HIV..."
client D.B.

client – D.B. – after learning he has HIV, which he disclosed on a required medical exam form.

This case was about needless discrimination and confusion over whether people with HIV can perform certain jobs.

Pennsylvania's occupational-licensing standards say people can't do certain jobs if they have an "infectious, contagious and communicable disease."

Through the AIDS Law Project's efforts, the state had already clarified that these terms "do not include diseases, such as HIV, that are not transmitted through casual contact or through the usual practice of the profession or occupation for which a license is required." (See *Good Counsel*, Spring 2011.)

Capital Healthcare Solutions settled the case, agreeing not to engage in discriminatory employment practices on the basis of disability, real or perceived. The firm also agreed to provide mandatory employee trainings, and to develop internal policies and procedures to prevent future discrimination.

While the firm has not admitted wrongdoing or liability, they agreed to pay D.B. \$20,000 in compensatory and punitive damages and \$2,000 in back pay.

"I'm happy the company finally settled this," D.B. said. "They're a health care company. They should know about HIV and how it is transmitted, not through casual contact. They should have known better."

A copy of the consent decree in the case is available on our website, www.aidslawpa.org.

TAKE A SEMINAR, TAKE CONTROL

Life can be a little easier with the right information at your fingertips. Our AIDS and the law experts give you the lowdown on how to leave your job, go back to work or handle your landlord. These free seminars are held at our offices at 1211 Chestnut St., Suite 600, just a short walk from the Broad Street and Market/Frankford SEPTA lines, Market East trains and many bus lines (All dates below are for 2012.)

BACK TO WORK

Your medications are working and you're ready to get a job. This seminar covers the rules of returning to work so you won't lose the benefits that got you healthier in the first place. You'll also learn how to improve your credit rating with your new income.

Second Tuesday of the month, noon-2 p.m.

April 10 May 8 June 12 July 10 Aug. 14 Sept. 11 Oct. 9 Nov. 13 Dec. 11

LEAVING YOUR JOB

Making a smooth transition from the working world onto disability benefits takes planning. This seminar lays out a step-by-step timeline so you know what to expect when it's time to make the move. You'll also learn how to avoid some of the common debt pitfalls leaving a job can entail and how to handle the debt you may take with you into retirement.

Second Wednesday of the month, noon-2 p.m.

April 11 May 9 June 13 July 11 Aug. 8 Sept. 12 Oct. 10 Nov. 14 Dec. 12

HOUSING: TENANTS' RIGHTS AND RESPONSIBILITIES

Before you sign a lease or offer a security deposit, learn what to expect of your landlord and what your landlord can legally expect of you. This program covers protecting and retrieving your deposits, record keeping, qualifying for subsidies, dealing with utilities, and all aspects of the landlord/tenant court process.

Second Thursday of the month, noon-2 p.m.

April 12 May 10 June 14 July 12 Aug. 9 Sept. 13 Oct. 11 Nov. 8 Dec. 1

'Save the Date' for the Summer Movie Party

Join us once again for our annual fundraiser

At this still early date, we are searching the archives for this year's offering, which no doubt will be super-fab. Doors will open at 6 p.m. and the movie will begin at 7:30 p.m. Sumptuous food and drink will be available, as always. Admission is a minimum tax-deductible donation of \$20 in advance and \$25 at the door.

As always, pre-paid reservations are recommended.

For tickets, call the AIDS Law Project at **215-587-9377** or visit www.aidslawpa.org.

Summer Movie Party

Date: Friday, August 17

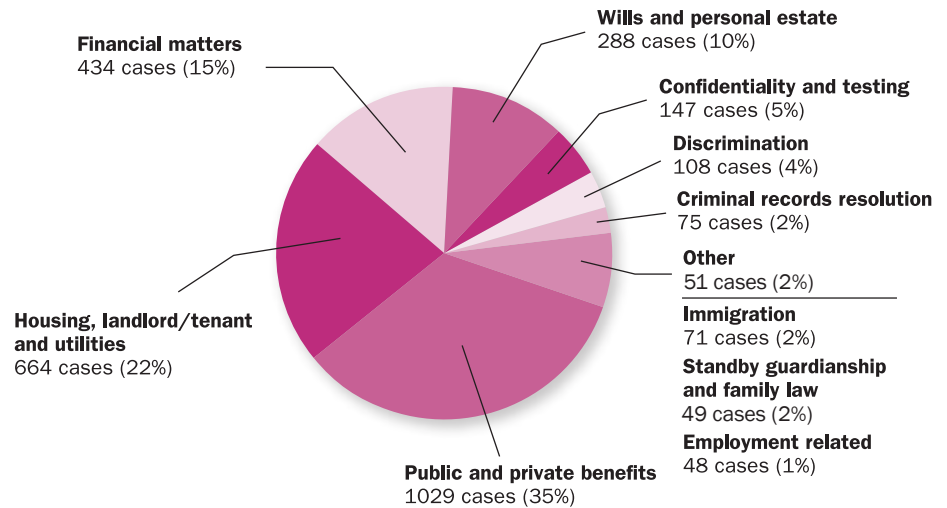
Time: 6 p.m.

Location: William Way Community Center,
1315 Spruce St. in Center City Philadelphia

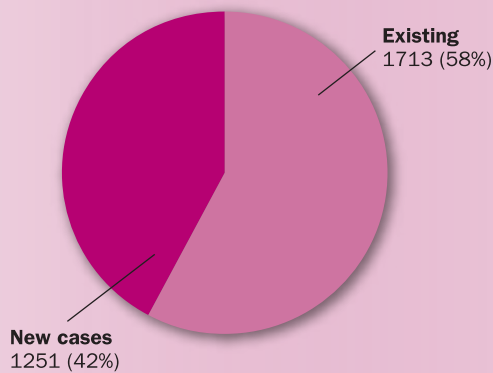
TYPES OF SERVICES REQUESTED

Legal Services in 2011

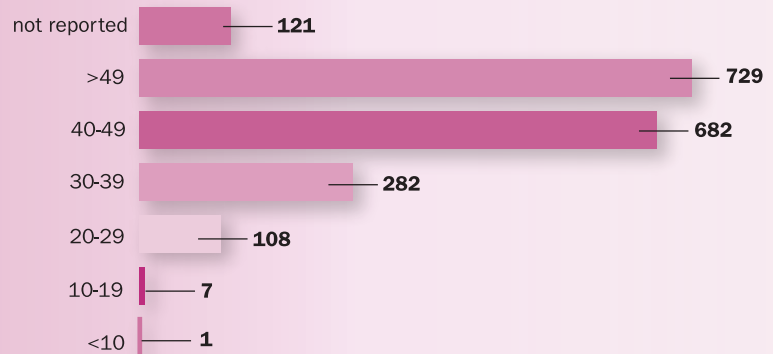
We helped 1,930 people with 2,964 legal issues. Many clients seek assistance with multiple issues. Most requests for help came from people with HIV/AIDS, although we also took calls from case managers, other AIDS-service professionals, lawyers, students and others.



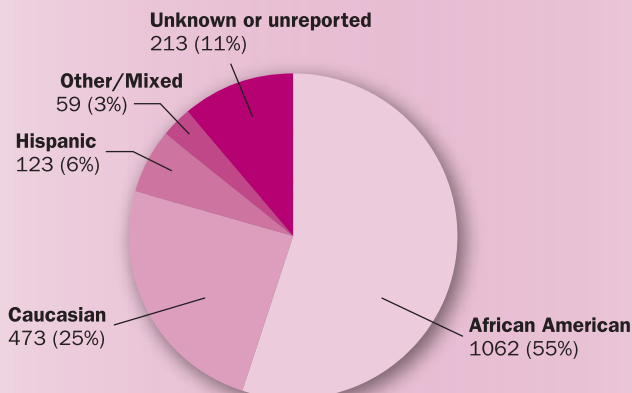
OUR ANNUAL WORKLOAD



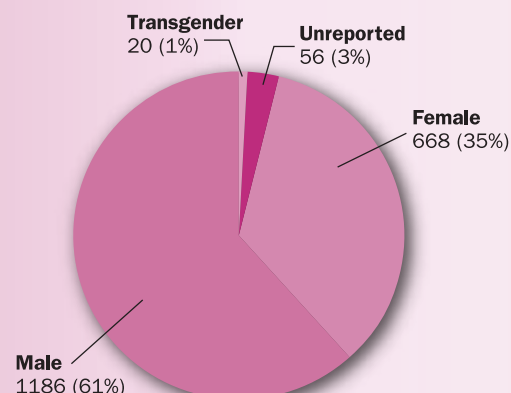
CLIENTS BY AGE



RACE AND ETHNICITY



CLIENTS BY GENDER



The AIDS Law Project of Pennsylvania
presents

Una Divina Noche!

(One Divine Night)

Hosted by WMMR's Pierre Robert
Live Auction

Performance by
the Captivating Queens of Illusion

Wine, beer, margaritas
and heavy hors d'oeuvres

Cinco de Mayo
Saturday, May 5th from 7 p.m. - 10 p.m.

Knoll furniture showroom
2300 Chestnut Street, Philadelphia

This event will sell out! Kindly reply by April 27.

Yes, I/we would like to attend!

See enclosed sponsorship information card for details

- ☐ **Stiletto Sponsor \$2,500** (10 tickets) ☐ **Platform Sponsor \$1,500** (8 tickets)
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☐ **Pump Sponsor \$300** (2 tickets) ☐ **Individual Tickets** (\$100 each)

Please reserve _____ ticket(s) for the event.

- ☐ **It's a drag! Can't attend!** Please accept this tax deductible donation of \$ _____

Yes, I/we would like to advertise in the Event Book!

See enclosed sponsorship information card for details

- ☐ **Inside Cover (color) \$1,500** ☐ **Full Page (color) \$1,000** ☐ **Business Card \$150**
☐ **Full Page \$500** ☐ **Half Page \$300**

The official registration and financial information of the AIDS Law Project of Pennsylvania may be obtained by calling, toll-free within Pennsylvania, 800.732.0999. Registration does not imply endorsement.

TRAINING AT A GLANCE

In the last quarter of 2011 and first quarter of 2012, the AIDS Law Project offered several opportunities to learn about AIDS and the law, including in-house seminars on topics vital to our clients and many others. Here's a snapshot of the programs.

TRAINEE DEMOGRAPHICS

October 2011 – March 2012

WHO ATTENDED

260 students
25 clients*
119 case managers and other health professionals

OFF-SITE LOCATIONS

Lewisburg, PA (central Pennsylvania)
New Cumberland, PA (central Pennsylvania)
Various locations in Philadelphia
(southeastern Pennsylvania)

MOST-REQUESTED TOPICS

Back to Work
Public Benefits
Confidentiality & Discrimination

SPONSORS

ActionAIDS, Philadelphia
Drexel University College of Medicine, Philadelphia
Health Federation of Philadelphia, a network of the
community health centers in Southeastern Pennsylvania
Pennsylvania/MidAtlantic AIDS Education and Training Center,
Philadelphia
Philadelphia Department of Public Health, AIDS Activities
Coordinating Office (AACO)
Temple University School of Medicine, Philadelphia

Tell your lawmaker about inequality in Pennsylvania's Inheritance Tax law

The Pennsylvania Legislature has an opportunity to eliminate the inequality in the Commonwealth's inheritance tax policy. When a married person dies, that person's spouse pays no state inheritance tax. When a domestic partner dies, however, the survivor pays 15% tax on inherited assets. In addition to the emotional hardship, surviving partners face increased household expenses and a large, often unexpected, tax burden – which their married neighbors do not have to pay. In some instances, this means the loss of the survivor's home. There are various bills pending in Harrisburg, including HB 1828, that would end this inequality. Contact your state legislators for more information or to voice your support. The link to HB 1828 is: <http://bit.ly/GB1qtB>. The link to find your state lawmaker is: <http://bit.ly/GEa8Sv>.

Proposed state funding cuts threaten AIDS Law Project clients

A pressing issue faces thousands of low-income disabled adults in Pennsylvania. Gov. Corbett's proposed budget for 2012-13 eliminates General Assistance (GA) and Medical Assistance (MA) programs to fill a budget gap. The GA Program supports the most vulnerable Pennsylvanians who have no other income. It is the "safety net" available mostly for the disabled. For many of our clients, these cuts will be devastating. Not having the health insurance they need will be even more damaging. Insurance means treatment and medication, and that means better management of the HIV epidemic. Contact your state lawmakers if you want to be heard on this issue. They can be found on the Web at <http://www.legis.state.pa.us/cfdocs/legis/home/findyourlegislator>. For more information, visit our website at www.aidslawpa.org.

* 25 individuals identified themselves as AIDS Law Project clients. Other attendees may be clients, but choose not to identify themselves as such.

Changes...

Welcome



We welcome back former intern and now attorney **Juan Baez**. Juan is our Drexel Public Service Fellow for 2011-2012. Juan is working part-time from December to May. He was last with us as a student of the Earle Mack School of Law at Drexel University, when he was part of the 2009-2010 Civil Practice Field Clinic, which we host in our office. Juan is admitted to practice law in Pennsylvania and New Jersey. He is originally from New York and now resides in Philadelphia's Washington Square neighborhood.

Congratulations

Legal interns **Matt Mossman** and **Irena Shiloh** of Earle Mack School of Law at Drexel University, and **Julie Foster** of the University of Pennsylvania Law School, contributed to an American Bar Association benchbook on HIV law. Benchbooks are guides for judges hearing cases in a specialized area of law. Matt also was accepted into the New School for Social Science Research's master's program in politics. He was awarded a partial scholarship, rare in the context of non-terminal degrees and in the New School, which is in New York. "It makes me feel a lot better about next year and they are one of the up-and-coming 'lefty' theory programs in the country," Matt says.

HERSHEY, continued from cover



A sign for the Hershey School in Hershey, Pa.

to other students through sexual conduct meets the standard of a direct threat to the health and safety of others that cannot be mitigated through reasonable modifications to its policies, procedures and practices."

For his part, Abraham is trying to stay focused on his school work, but the school's responses have been difficult to hear.

"I don't feel like me anymore," Abraham says. "But if it will help others like me to not be discriminated against, I'll get over it one day. I don't know when, but one day. I'm 13 now and still got a whole lot of life to live."

UPDATE: At press time, the AIDS Law Project was waiting for a ruling on the Milton Hershey School's request to move the case from Philadelphia, which is close to Abraham's home, to central Pennsylvania, where the school is located. The AIDS Law Project is opposing the request.

Staff attorney **Rafiah Davis** is getting married to her former classmate from Masterman Middle School in Philadelphia. Hollis Gilliam, a stock trader at a local financial firm, met up with Rafiah at a conference after many years. In June, they will be married on a cruise ship en route to Bermuda.

Drexel Law intern **Gloria Maeng** married her beau, Daniel Steinberg of Philadelphia, in April. They had a destination wedding in Puerto Rico.

And of counsel **Sarah Schalman-Bergen** and her girlfriend Maura McKenna got engaged in March. They intend to get married when it is legal in Pennsylvania.

... and bid farewell

The "law school bug" has bitten two more of our staff. **Julia Heald**, a paralegal who started with us in 2010, is departing this July to pursue a law degree in New York, probably either at Fordham or New York University. She primarily works with clients on getting public benefits. "I've learned a lot, but I can tell there's a lot more to learn, and by being a lawyer, there's a lot more I could do for clients," Julia says. Also leaving in July is **Anna Kastner**, our Intake Advocate, who started in August 2011. She begins law school at the University of California-Berkeley School of Law and intends to pursue a career in public interest work. "I really appreciated getting to work directly with clients here," Anna says. "That's been my favorite part of the job." We wish them both well in their legal studies.

Public Benefits manual and AIDS and the Law handbook still available

The wildly-popular Public Benefits Advocacy Manual and AIDS and the Law handbook are available for purchase from the AIDS Law Project. The manual is a comprehensive, easy to use guide on eligibility for public benefits in Pennsylvania. Each chapter provides detailed instructions, practice tips, flow charts and examples for case managers and other advocates to ensure that clients get the benefits to which they are entitled. The handbook is an 85-page guide with answers to questions across each of our practice areas.

Take advantage of the distilled wisdom of our in-house legal experts on matters from discrimination and health insurance to public benefits and permanency planning for child custody.

For your own copy, go to our website at www.aidslawpa.org or call our office at **215-587-9377**. Each manual costs \$75; each handbook costs \$25.



The Independence Foundation, a longtime friend of the AIDS Law Project, has issued a challenge grant. The foundation will generously match contributions by new donors or increases by current donors, up to \$10,000. Simply put, your contributions go twice as far.

The match is still going on, and we are well on our way of reaching our goal of \$20,000. So please give today. Visit <http://www.aidslawpa.org/donate> to find out all the ways you can help. Thank you.

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** The AIDS Law Project is the convener of the HIV Policy Collaborative of Pennsylvania, a consortium of AIDS service organizations active in dozens of counties across the Commonwealth. Collaborative members work together to develop and recommend medically-sound and legally-equitable policies for the management of the HIV/AIDS epidemic and the treatment of people with HIV/AIDS.*

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