

Legal Services Available

Based on conversations and inquiries made by several of our current clients, we would like to remind everyone of the array of legal services we can provide. Either individually or in conjunction with other attorneys that we have formed close strategic partnerships with, we are able to offer services in the following practice areas:

ESTATES AND TRUST, WILLS, AND SPECIAL NEEDS TRUST

POWER OF ATTORNEY, GUARDIANSHIP

POST EDUCATIONAL PLANNING FOR ADULTS WITH DISABILITIES

JUVENILE ARRESTS, SCHOOL SUSPENSIONS AND EXPULSIONS

WORKER'S COMPENSATION AND PERSONAL INJURY

CRIMINAL DEFENSE

FAMILY LAW

CIVIL LITIGATION AND DISABILITY RIGHTS

Please contact us to discuss your legal options.

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Spring 2010

LAW OFFICES OF

MARK B. MARTIN, P.A.

A boutique law firm providing legal services and advice in the areas of special education law, suspension and expulsion hearings, juvenile justice, criminal defense, civil litigation, family law and disability rights, serving all of Maryland.

Family Law...A Variety of Issues May be Involved

Family law frequently involves issues in the areas of marriage, divorce, alimony, child custody, child support, and visitation but may also involve other areas such as adoption, guardianships, paternity or protective orders ("PO"), among others. A PO is issued by the Court and is a legal form of relief available to individuals who are experiencing abuse. It is a court order that tells the person who hurt you or is hurting you (the "respondent") to leave you and your children alone. It can tell the respondent to move from your home and can deal with temporary custody and visitation. It can also order the respondent to pay temporary financial support and to stay away from your home, school, place of employment, or your children's day care provider. You can ask the judge to add other orders (listed in the protective order papers) that you think will help you stay safe such as asking the court to include an order that says the respondent cannot have guns.

Protective Orders are intended to provide protection and relief from abuse, however, a petitioner may attempt to utilize a PO inappropriately in a family law dispute that does not rise to the level of warranting a protective order. This often happens because of a belief that it will afford a faster response to a frustrating problem. Sometimes a petitioner will attempt to get a protective order

against another party in order to intimidate the opposing party in a family law dispute or to gain a competitive advantage in a family law case, particularly when child custody is involved.

We were recently successful in defending two such cases that appeared to be filed against our clients for inappropriate reasons. In the first case, the ex-husband filed for a PO against his ex-wife (our client) after she began to insist on a more structured and liberal visitation schedule. We were not involved in the original divorce and custody proceeding, but we quickly determined that the ex-husband was in a much stronger financial position when the parties separated and divorced. At that time he was successful in obtaining full physical custody of their son with the ex-wife getting visitation that was controlled by him.

Our client then began to consider legal actions to change that custody arrangement. In anticipation of his ex-wife filing a legal action for a change in custody or visitation, the ex-husband filed for a PO, basing his petition on a heated argument that ensued about the custody arrangement and visitation schedule. We appeared on behalf of our client in the District Court for Baltimore County. The judge listened to the testimony and then made

clear that a PO is for the prevention of abuse, not for the protection of annoying or frustrating arguments and not to resolve child custody and visitation disputes. As such, she ruled in favor of our client and denied the request for a protective order.

In a second case, we were representing the husband and we filed for divorce and custody on his behalf. The wife then filed a petition for a PO. We appeared on behalf of our client in the District Court for Anne Arundel County to defend the petition. After hearing the evidence, the Judge dismissed the wife's petition and our client was permitted to return to the family home and care for his child.

A protective order is an important and valuable tool to protect people suffering from abuse. However, it is not an appropriate option or strategy for use in family law matters wherein the actions between the parties consist of conduct that is annoying, inconsiderate or frustrating. Prior to filing for or defending against a protective order request, a person should ensure that all of the legal standards are met to justify its issuance.

The information in this article provides only a very limited overview of a specific area of the law and it should not be used as a substitute for specific legal advice. Please remember that the law is always changing through actions of the courts and the Legislature. If you have any questions with respect to protective orders, or any other family law issues, please do not hesitate to contact us.



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Speaking Engagements | Check our website for updates

2010 COPAA NATIONAL CONFERENCE ST. LOUIS, MO
MARCH 11-12, 2010 — 9:00AM–5:00PM

Mark Martin is a Co-Seminar Leader for a two day, pre-conference session on Advanced Federal Litigation — A skills-based workshop for attorneys, focusing on litigation strategies for use in federal court. For more information go to www.copaa.org

Council of Parent Attorneys and Advocates “COPAA” is a nonprofit organization of attorneys, advocates and parents whose primary mission is to secure high quality educational services for children with disabilities.

2010 COPAA NATIONAL CONFERENCE ST. LOUIS, MO
MARCH 14, 2010 — 11:15AM–12:30PM

Mark is a Co-Seminar Leader for a breakout session on Suspension & Expulsion Hearings: Strategies & Potential Pitfalls. The world of expulsion and suspension hearings is rapidly increasing, as schools are utilizing this disciplinary approach at an alarming rate. Learn strategies and potential pitfalls, to better protect your clients and their educational rights.



PROM NIGHT / SCHOOL DISCIPLINE / DWI OR DUI

Certain special events may involve the inappropriate consumption of alcohol. In recent years, prom night has been considered a drinking rite of passage for some adolescents. In addition to the other serious issues and risks connected with drinking and driving and underage drinking, students may find themselves in trouble with not only the school system but also with the criminal justice system. A Student's rights and protections when facing discipline are generally established by state and federal law. If you or your child is facing disciplinary action, we can help you navigate school rules and the law to ensure that you are being afforded all legal protections. Our firm handles all types of criminal defense matters in addition to those related to drinking and driving.

Remember: talk with your teens about the dangers of drinking.



MARYLAND'S BIRTH THROUGH FIVE PROGRAM

A new change to this program provides families with a choice of service options beyond the age of 3. Historically, qualified children with disabilities who initially receive services through the infants and toddlers program via an Individualized Family Service Plan (IFSP) would transition to an Individualized Educational Plan (IEP) at age 3. The new program gives parents the choice of delivery service options which would allow them to continue with an IFSP plan that would incorporate an educational component or they can transition to an IEP.

Each service option, IFSP or IEP, has unique benefits and there are pros and cons for each choice. Please contact our office to discuss if you are in this situation and need some advice.

AUTISM-ASPERGER ASSOCIATION OF CALVERT COUNTY, INC. – AAACC PRINCE FREDERICK, MD,
MARCH 18, 2010 - 7:00-9:00 PM

Mr. Martin will present strategies and advice related to the identification and provision of appropriate educational services to children with disabilities. The presentation will include understanding eligibility requirements, effective advocacy strategies for ensuring your child receives the education to which they are entitled and your rights as a parent of child who has or is suspected of having a disability.

THE SHAFER CENTER REISTERSTOWN, MD
APRIL, 2010 – EXACT DAY AND TIME TBD

Mark Martin is speaking along with Andrea Bennett, M. Ed. and Lisa Frank M. Ed. to review the components of a good IEP and educational program.

The Shafer Center for Early Intervention is committed to providing resources and treatment to children on the autism spectrum and their families during the critical formative years of 18 months to age eight. The Shafer Center for Early Intervention utilizes a whole-child approach to autism therapy to maximize the potential of each child.

Due Process / Mediation / Resolution

When filing for a due process hearing you can also file a request for mediation. If the school system denies your request for mediation they are still legally obligated to hold a resolution session within 15 days of your request for due process. The use of mediation or a resolution session can help resolve a case. Cases are also resolved prior to due process by negotiating solutions to the issues identified in the due process complaint. While we are proud of our successes in due process hearings, we are equally proud of our ability to resolve or settle cases prior to ever reaching the hearing stage. A brief description of just some of the cases we were successful in getting settled this past year on behalf of our clients are as follows:

- A pre-school Student from Baltimore City that was **placed** at the **private** United Cerebral Palsy Delrey School with public funding.
- Two high school students from Baltimore County that were **determined eligible** for special education and related services and provided IEP's at their **neighborhood schools**.
- A high school student from Baltimore County that was **placed** at the **private** Hannah Moore School with public funding.
- A middle school student in Howard County that was continued in her **inclusive** placement in **general education** in her neighborhood school.
- An elementary school student in Baltimore County that was **placed** at the **private** Baltimore Lab School with public funding.
- A kindergarten student in Baltimore City that was **determined eligible** for special education and **placed** at the **private** Baltimore Lab School with public funding.
- A high school student in Calvert County with a severe peanut **allergy** that **obtained** appropriate **accommodations** from the public school for her safety.
- A middle school student in Howard County that was **placed** at the **private** Kennedy Kreiger Institute in Rockville with public funding.



WHAT QUESTIONS DO YOU HAVE? EMAIL US YOUR QUESTIONS OR COMMENTS AT INFO@MARKMARTINLAW.COM.
NOTE: THIS NEWSLETTER IS NOT INTENDED TO PROVIDE ANY LEGAL ADVICE. FOR LEGAL ADVICE PLEASE CONTACT OUR OFFICE SO WE CAN DISCUSS YOUR SPECIFIC CASE AND CIRCUMSTANCES.



- Two high school students in Prince George's County that were **determined eligible** for special education and related services and **placed** at the **private** Frost School, a program of Sheppard Pratt Health System, with public funding.
- A middle school student in Prince George's County that was **placed** at the **private** Frost School, a program of Sheppard Pratt Health System, with public funding.
- A high school student in Howard County that was **placed** at the **private** Hannah Moore School with public funding.
- A high school student in Charles County that was **placed** at the **private residential** Chamberlain School in MA with public funding.



Planning for the Annual Review

one Be sure to monitor progress on your child's IEP all through the year as an essential part of planning for the annual meeting. Keep contemporaneous notes as you review progress to discuss at the annual review.

two If you have specific concerns, notify the team leader prior to the meeting and request that those concerns be placed on the meeting agenda for discussion.

three Make sure that non-academic goals such as participation and socialization in a group setting are included and measurable in the IEP.

Review of the IEP is an on-going process that culminates in an annual meeting. At the annual review meeting, the IEP team will discuss your child's progress, revise the IEP if necessary and determine placement for the next school year.

four Reviews often require more than one hour and more than one meeting. If you suspect that this may be the case for your child, don't wait until the end of the school year to schedule a review but rather begin in early spring. Speak to the meeting coordinator to ensure that sufficient time is allotted for the meeting.

five Ensure that your child's IEP allows for the team to measure progress using both formal and informal measures. Formal or objective measures can provide a mechanism for determining whether the anticipated outcomes for the student are being met (i.e. whether the child is progressing in the special education program) and whether the placement and services are appropriate to the

student's special learning needs. Informal or subjective measures rely on the impressions and judgment of someone, usually the classroom teacher, to assess progress.

six Request that any reports, evaluations, or proposed changes to the IEP are provided to you several days before the meeting so you can read and review them and prepare any questions you have.

seven If your schedule permits, do a classroom observation of your child prior to the meeting.