New Changes Help Veterans With PSTD Upgrade Their Discharge Characterizations

By Todd Schmidt

Veterans with less-than-fully-honorable discharges from the military often face serious difficulties in civilian life. These unfavorable discharges create a stigma that prevents veterans from finding decent housing and employment. Many of these veterans are barred from receiving VA benefits, such as disability benefits, education, VA home loans, and even healthcare. These problems are exacerbated for veterans with combat-related post-traumatic stress disorder (PTSD).

Approximately 260,000 Vietnam-era and 125,000 post-9/11 veterans received bad paper from the military, meaning they had an other-than-honorable, bad-conduct, or dishonorable discharge. Many of these veterans were suffering from PTSD at the time of their discharge.

PTSD wasn’t formally recognized as a disorder until 1980. Today, the U.S. Department of Veterans Affairs estimates that as many as 30.9% of Vietnam veterans have suffered from PTSD at some point in their life. In the past, Vietnam veterans with PTSD seeking to upgrade their discharge characterizations through the military review boards were rarely successful. Before 2015, less than 5% of Vietnam veterans with PTSD upgraded their discharge characterizations successfully.

In 2014, then-Secretary of Defense Chuck Hagel wrote a memorandum (the Hagel Memo) to the military review boards. He told them to give liberal consideration to undiagnosed PTSD as a mitigating factor for veterans applying to upgrade their discharge characterizations. The Hagel Memo also said the 15-year time limit to request a review with the Board for Correction of Military Records should be waived.

The Department of Defense issued additional memos in 2016 and 2017 that further explained the Hagel Memo. These memos said that veterans with service-related traumatic brain injury (TBI) and victims of military sexual assault should also be given liberal consideration by the review boards. These letters also stated that veterans who previously tried unsuccessfully to upgrade their discharges based on service-related mental health conditions should be allowed to re-apply again.

In 2017, the Hagel Memo was codified in the National Defense Appropriation Act. The law further required that when a veteran applying for an upgrade served during a period of war and was diagnosed with PTSD or TBI, one of the members of the review board evaluating the application must have a background in mental health disorders.

Since the Hagel Memo, the percentage of Vietnam veterans with combat-related PTSD that have successfully upgraded their discharge status has increased dramatically. In 2013, only 5.6% of Vietnam veterans with PTSD who applied for an upgrade were successful. In 2015, 59% of these applications were successful. Overall, veterans with a credible PTSD diagnosis are now 15 times more likely than they were before the Hagel Memo to upgrade their discharge characterization successfully.

Typically, to be successful under the Hagel Memo, the veteran must show that (1) he/she experienced combat-related or military sexual trauma during their service, (2) that he/she suffered PTSD, TBI or another mental health condition as a result of this trauma, and (3) that there is a link between the trauma and the conduct that led to their less-than-fully-honorable discharge. The review boards have granted upgrades to veterans with PTSD who went AWOL or used illegal drugs in the service. In most cases, the review boards will continue to deny applications for veterans that received an unfavorable discharge because of a court-martial or for premeditated crimes like rape, attempted murder, theft, or assault.

If you are a veteran with a less-than-fully-honorable discharge and want assistance filing a request to upgrade the discharge characterization on your DD-214:

- Iowa Legal Aid provides help to low-income Iowans.
- To apply for help from Iowa Legal Aid: apply online at iowalegalaid.org OR call 800-532-1275 (Iowans age 60 and over, call 800-992-8161)

Todd Schmidt is a senior staff attorney at Iowa Legal Aid’s Northeast Iowa Regional Office in Dubuque.
State and Federal Disaster Declarations

By Josh Gaul

Extreme weather happens every year in Iowa. Disaster declarations are declared for everything from blizzards and ice storms to tornadoes and flash flooding. What do these declarations mean? What help is there for those affected by the disaster?

What is a state disaster declaration? When there is a disaster, the Iowa Homeland Security and Emergency Management Division (IHSEMD) will help the county. If the disaster is too large for the county, IHSEMD will ask the governor to declare a disaster. When the governor declares a disaster, the state uses state disaster money to help. The declaration may be for the entire state, different parts of the state, or just one county.

What assistance is available? When a state disaster is declared, people who have been hurt by the disaster may qualify for assistance. The Iowa Individual Assistance Program can give up to $5,000. The money can go to home and car repairs, clothing, food, and finding temporary housing.

Do you qualify for Iowa Individual Assistance? Your household income must be at or below twice the federal poverty level. The maximum annual income for a family of three is $40,180. The declared disaster must have damaged the property.

How do you apply for Iowa Individual Assistance? You have 45 days from when the governor declares a disaster to complete your application. Make sure to keep receipts for repairs, supplies, replacement clothing, motel or hotel rooms, and anything else you spent because of the disaster. The application for Individual Assistance is at the following website: dhs.iowa.gov/disaster-assistance-programs.

Complete the form. Turn it in at your local Community Action Agency. You can find your local Community Action Agency, at iowacommunityaction.org.

What is a presidential federal disaster declaration? When the state and local government do not have the resources to respond, the governor can ask the president to declare a major disaster or emergency. If the president makes a declaration, federal programs may help.

What are the types of federal declarations? There are two types of federal declarations.

- Emergency declarations. Federal help goes to state and local emergency services. Individuals do not qualify for benefits.
- Major disaster declarations. The three general categories of Federal Emergency Management Agency (FEMA) assistance include Individual Assistance, Public Assistance, and Hazard Mitigation. These are available depending on need and what the governor requests. Individuals only get help if the declaration includes Individual Assistance. The other assistance goes to local governments.

What types of individual assistance are available after a federal major disaster declaration? Disaster survivors may qualify for assistance under the Individuals and Households Program. This program includes help for temporary housing and repairs. It is challenging to qualify for home replacement or new home construction. The U.S. Small Business Administration can also make loans to repair or replace homes, personal property or businesses for damages not covered by insurance. Other Needs Assistance helps individuals and households who have expenses or pressing needs, but do not qualify for a Small Business Administration loan.

The Disaster Unemployment Assistance Program helps people unemployed because of a major disaster. Benefits begin from the date of unemployment. Benefits can last up to 26 weeks after the presidential declaration date. These benefits are for people not covered by other unemployment compensation programs. Unemployed individuals must register with the state’s employment services office before they can receive these benefits.

Where can I go for legal help? If a disaster caused you problems with housing issues, getting available government assistance, or other legal problems, please feel free to contact Iowa Legal Aid. Iowa Legal Aid provides help to low-income Iowans.

- To apply for help from Iowa Legal Aid: apply online at iowalegalaid.org OR call 800-532-1275 Iowans age 60 and over, call 800-992-8161

If Iowa Legal Aid cannot help, look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at iowabar.org. A private attorney there can talk with you for a fee of $25 for 30 minutes of legal advice.

Josh Gaul is a staff attorney in Iowa Legal Aid’s Central Iowa Regional Office in Des Moines.

The Equal Justice Journal is published four times a year by Iowa Legal Aid. The Equal Justice Journal is free to low-income people in all counties of Iowa. All others must pay a $10 annual subscription fee. The EJJ is available in a larger-print edition upon request.

All correspondence should be sent to: The Equal Justice Journal Iowa Legal Aid 1111 9th Street, Suite 230 Des Moines, IA 50314-2527 © 2018 Iowa Legal Aid

Note: Photographs in this newsletter are produced independently of text and bear no relationship to cases or incidents discussed herein (except where noted below a picture).

Public Notice

Meetings of the Iowa Legal Aid Board of Directors are open to the public. The Board of Directors meets at least four times each year. The public is encouraged to attend.

The next meeting of the Board of Directors is scheduled to take place on Saturday, October 27, in Des Moines. For details on the next meeting of the Board, call toll-free: 800-532-1275, and ask for Arlys.

Free Help with Tax Questions and Problems

- Find out about tax credits like the Earned Income Credit
- Get Help with Problems with the IRS

Call Iowa Legal Aid for details about the Low-Income Taxpayer Clinic (LITC).

800-532-1275

Or visit Iowa Legal Aid’s website: iowalegalaid.org

The LITC does not provide tax preparation.
‘But I Didn’t Mean to!: What Happens When a Child With a Disability Breaks School Rules?

By Molly McDonnell

Safe and effective schools are essential for everyone. Parents want to know that school staff will discipline students when needed. However, parents also expect that students with disabilities will have an appropriate education. Some children’s disabilities may cause behaviors that break school rules and policies. Can a student with disabilities be punished for behavior that comes from their limitations?

The federal Individuals with Disabilities Education Act (IDEA) requires that students in need of special education receive a free appropriate public education (FAPE). Iowa law has the same requirement. Under the IDEA, a child will have an Individualized Education Program (IEP). The IDEA says that in some cases before the school can punish a student covered by that law, there must first be a determination whether the behavior is a “manifestation” of the child’s disability.

What is a manifestation determination and who determines this?

A behavior is a manifestation of the child’s disability if the behavior is caused by the child’s disability. The parent, school, and other members of the IEP team decide whether a behavior is a manifestation of the child’s disability in a team meeting set by the school. The decision is not to be made by the principal or school board alone.

The behavior is considered a manifestation of the child’s disability if the act in question:

• was caused by, or had a direct and substantial relationship to, the child’s disability; or
• was the direct result of the school district’s failure to implement the child’s IEP.

There are some exceptions to the requirement for a manifestation determination meeting:

• Short periods of suspension (less than 10 days) may not require a manifestation determination meeting.
• If the suspension is for more than 10 days, there should be a manifestation determination meeting.
• If the school suspends the child for more than 10 days total in a school year, a manifestation determination might be needed.
• Special circumstances (the student using a weapon, illegal drugs, or behavior resulting in serious bodily injury) may lead to a different outcome. In these circumstances, a school can place the student in a different setting for up to 45 school days without doing a manifestation determination. Unless there is a special circumstance, the school must return the child to the same educational situation from which the child was removed. The parent and the school agree to a change of placement, however.

What if the behavior is not a manifestation of the disability?

If the behavior is determined not to be a manifestation of the child’s disability, the child may be punished like any other student (including being suspended or expelled.) However, the school still needs to provide services to the child under FAPE so the child can continue to participate in the general education curriculum, though it may be in a different setting.

What does the school have to do for my student?

Schools have a duty to identify students with disabilities. What if a child has a disability and needs special education, but the school did not identify the child as needing special education before they got in trouble for the disability or limitation?

• If the school had knowledge of the child’s disability before the behavior occurred, the child would come under the IDEA.
• If the school had knowledge of the child’s disability before the behavior occurred, the child would come under the IDEA.
• If the school would have to do a manifestation determination, just as if the child were already in special education. How could a parent show the school had knowledge? There are three ways the parent could show this:
  • the parent expressed concern in writing to the teacher or administrator that the child needed special education, or
  • the parent asked that the school evaluate the child for special education, or
  • the teacher or other school staff expressed specific concerns about a pattern of behavior by the child and told the director of special education or another supervisor.

What if the school did not know about the disability, a parent could still request an evaluation. If the school identifies the child as needing special education after the behavior occurred, the school must provide educational services during any period when the child is suspended or expelled, but the school decides on the educational placement the child has during the period of suspension or expulsion.

What if a child has a disability but does not need special services? For example, what if a child has a mobility impairment and takes longer to move between classes? Should that child be punished for being late to class?

What if a child has a disability that results in more absences than the school rules permit? A different law, Section 504 of the Rehabilitation Act, says that schools must sometimes make exceptions to the rules for persons with disabilities. The law calls this a reasonable accommodation for a person with disabilities. A student with a disability or their parent can request a reasonable accommodation.

What can I do if I disagree with the school?

A parent (or other person caring for the child) may file an appeal in writing. Both the IDEA and Section 504 have appeal procedures. You can find more information on the Iowa Department of Education website: educateiowa.gov/pk-12/special-education/parent-information

• Iowa Legal Aid provides help to low-income Iowans.
• To apply for help from Iowa Legal Aid:
  • apply online at IowaLegalAid.org
  • call 800-532-1275
  • Iowans age 60 and over, call 800-992-6161

If Iowa Legal Aid cannot help, you can look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at iowabar.org. A private attorney can talk with you for a fee of $25 for 30 minutes of legal advice.

For more information about the rights of students with disabilities, you may want to look at the websites below, or contact the agencies listed.

• Iowa Legal Aid
  800-532-1275
  IowaLegalAid.org
• Disability Rights Iowa
  800-779-2502
  Relay 711
In Des Moines: 278-2502
Email: info@DRiowa.org
  disabilityrightsiowa.org
• Iowa Department of Education website: educateiowa.gov/pk-12/special-education/parent-information

Molly McDonnell is a staff attorney in Iowa Legal Aid’s HELP Regional Office in Davenport.

Third Quarter 2018 The Equal Justice Journal ♦ 3
How Do I Move My Custody Order to Iowa?

By Allyssa Stevens and Shelley Whitcher

“The custody order for my children is from another state, but now the kids live in Iowa—how can I enforce the order in Iowa?”

If you have ever asked this type of question, you may need to register a foreign custody order. A foreign custody order means an order from another state. A person might need to register a foreign order in Iowa because:

- one parent and the children now live in Iowa, or
- no one (you, the children, or the other parent) lives in the state where the order was originally put into place.

Let’s say your custody order is from Nebraska, but now you, your ex, and your children all live in Iowa. Maybe your ex isn’t returning the children to you. How do you enforce the court order in Iowa?

By registering the foreign order, you can ask the Iowa court to enforce the custody order in Iowa.

Where do I file?

File the documents in the Iowa county in which the other parent lives. It may be possible to file the case in the county where you live. Contact the clerk of court in the county where you will register the order to find out any special procedures you will be required to follow.

continued on page 5

Thank You!

Thank you to the Pottawattamie County Community Foundation for their generous support of Iowa Legal Aid’s Waiting Room Improvement Project in Council Bluffs.

With the Community Foundation’s support, Iowa Legal Aid’s regional has created a welcoming space for clients and their children during times of crisis.

Donna Dostal, left, president and CEO of the Pottawattamie County Community Foundation, presents a check to Shelley Whitcher, managing attorney of Iowa Legal Aid’s Southwest Iowa Regional Office in Council Bluffs.
Human Trafficking: How to Spot a Victim of Modern-day Slavery?

By Lauren Camp

Human trafficking has become a national issue. The Department of Homeland Security, the Department of Justice, and state Attorneys General nationwide are combining forces to combat labor and sex trafficking crimes. Although many federal and state agencies are working on anti-trafficking initiatives, the extent of this worldwide problem is still relatively unknown.

Tracking human trafficking is difficult. Victims may be hard to find or are afraid to come forward and report to law enforcement agencies. Many times, witnesses are unaware of the signs that suggest trafficking and fail to report what they have seen. Human trafficking victims are thought to be hiding in plain sight. This is because victims and traffickers are often found in everyday places (like hotels, restaurants, gas stations, malls, or salons), yet are overlooked by the public. Knowing how to spot a victim of human trafficking and reporting to authorities can make all the difference.

Identifying victims of trafficking:

- Some common behaviors of victims of trafficking include being fearful, anxious, depressed, submissive, tense, or paranoid. Victims usually will defer questions to another person and let someone else speak for him/her.
- Sleep deprivation is common among victims. Victims may also be deprived of food, water, or medical care. This constant deprivation can also lead to poor mental clarity, and the victim may seem confused as to where they are, what time it is, or provide inconsistent stories when questioned.
- Victims may have visible signs of abuse, restraint, or confinement. There may be tattoos or branding symbols that mark the victim as the property of a trafficker.
- Victims usually have few possessions, if any. They may only have the clothes on their back and/or wear clothes until for the weather. Victims typically do not have any money or identification, such as a driver’s license or passport.
- Victims commonly work excessive and sporadic hours. They are not allowed to come and go as they please. They are frequently forced to work even if they are sick or injured. The trafficker may have a security system such as guards or boarded up windows to keep the victim from escaping. Many times, victims work and live in the same place.

Identifying victims is an essential factor in stopping human trafficking. Remember: Victims of trafficking do not all look the same. Victims come from all walks of life. The above-listed indicators may help identify victims of trafficking, but some victims may not portray the common signs of victimization. Sex trafficking and labor trafficking affect men and women, adults and children, all races, and nationalities.

Recognize the signs, and report it when you see it. Call the National Human Trafficking Hotline at 888-373-7888. All calls are anonymous and will connect you with a trained professional that will help you determine if a situation may be trafficking. If there is sufficient evidence of trafficking, the national hotline will notify local law enforcement.

- Iowa Legal Aid provides help to low-income Iowans.
- To apply for help from Iowa Legal Aid: apply online at IowaLegalAid.org OR call 800-992-8161
- Iowans age 60 and over, call 800-992-8161

If Iowa Legal Aid cannot help, look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at IowaBar.org. A private attorney there can talk with you for a fee of $25 for 30 minutes of legal advice.

Lauren Camp is Iowa Legal Aid’s Equal Justice Works Crime Victims Justice Corps Fellow.

What do I file? You will need to file the following three documents in the Iowa court:

- To apply for help from Iowa Legal Aid:
  - Request to register: This can be a letter or other document asking the court to register the out-of-state order and should include the contact information for all the parties to the case. There is a fee to file this request. As of June 2018, that fee is $185.
  - Two copies of the order you want to register, including one certified copy. Contact the clerk of court for the out-of-state county that issued the order to obtain a certified copy. There is usually a fee for a certified copy. The certified copy should also include a sworn statement from you stating that it has not been modified.
  - Non-public information form. The law requires that you provide specific personal information, such as names and addresses of the parties to the case. It may be best to call the clerk of court to make sure you have the correct information.

Also, there are some situations where this information can be protected. If providing this information would put unreasonable risk to the health, safety, or liberty of the parent or child, it may not be required.

What happens next?

- Check with the clerk of court to see if the clerk will send notice of the case to the other parent or if you need to do this. The notice to the other parent must state several things:
  - the other parent has 20 days to request a hearing to contest the validity of the order to be registered;
  - failing to request the hearing to contest the registration will result in confirmation of the foreign order; and
  - a registered order is enforceable as of the date of the registration in the same manner as a decision of an Iowa court.

- If the other parent does not object, then the court will register the foreign order and assign it an Iowa court case number. Once you complete this task, you should check with the clerk of court to see if you need to mail a copy of the Iowa court’s order registering the foreign order to the other parent. Usually, the clerk of court will mail this order.

How do I get the other parent to follow the order once I register it?

- Once you have registered the foreign order, it can be enforced and modified by the Iowa court just as any other Iowa order. For more information, contact the clerk of court to see if you need to mail a copy of the foreign order to the other parent. Usually, the clerk of court will mail this order.

If you have questions about how to file documents in the Iowa court:

- You will need to file the following three documents in the Iowa court:
  - To apply for help from Iowa Legal Aid:
    - Request to register: This can be a letter or other document asking the court to register the out-of-state order and should include the contact information for all the parties to the case. There is a fee to file this request. As of June 2018, that fee is $185.
    - Two copies of the order you want to register, including one certified copy. Contact the clerk of court for the out-of-state county that issued the order to obtain a certified copy. There is usually a fee for a certified copy. The certified copy should also include a sworn statement from you stating that it has not been modified.
    - Non-public information form. The law requires that you provide specific personal information, such as names and addresses of the parties to the case. It may be best to call the clerk of court to make sure you have the correct information.

Also, there are some situations where this information can be protected. If providing this information would put unreasonable risk to the health, safety, or liberty of the parent or child, it may not be required.

What happens next?

- Check with the clerk of court to see if the clerk will send notice of the case to the other parent or if you need to do this. The notice to the other parent must state several things:
  - the other parent has 20 days to request a hearing to contest the validity of the order to be registered;
  - failing to request the hearing to contest the registration will result in confirmation of the foreign order; and
  - a registered order is enforceable as of the date of the registration in the same manner as a decision of an Iowa court.

- If the other parent does not object, then the court will register the foreign order and assign it an Iowa court case number. Once you complete this task, you should check with the clerk of court to see if you need to mail a copy of the Iowa court’s order registering the foreign order to the other parent. Usually, the clerk of court will mail this order.

How do I get the other parent to follow the order once I register it?

- Once you have registered the foreign order, it can be enforced and modified by the Iowa court just as any other Iowa order. For example, if you believe the other parent is violating the order, you can file a contempt action (also called a Rule to Show Cause) in the Iowa court case. There is also a process called an expedited enforcement action that can provide additional help. However, this process is rarely used and somewhat complicated. If you want to know more about whether you can benefit from an expedited enforcement action, you should talk to an attorney.
  - Iowa Legal Aid provides help to low-income Iowans.
  - To apply for help from Iowa Legal Aid: apply online at IowaLegalAid.org OR call 800-532-1275
  - Iowans age 60 and over, call 800-992-8161

If Iowa Legal Aid cannot help, look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at IowaBar.org. A private attorney there can talk with you for a fee of $25 for 30 minutes of legal advice.

Allyssa Stevens is an AmeriCorps member in the Southwest Regional Office, and Shelley Whitley is the managing attorney for the Southwest Regional Office in Council Bluffs.
Your New Medicare Card

By Alexis Rowe

Iowans have been receiving new Medicare cards in the mail. In the past, Medicare numbers were based on Social Security numbers. To better protect the personal information of people who get Medicare, these new cards use a Medicare Beneficiary Identifier (MBI) instead. Medicare recipients may begin using their new Medicare card, with the new MBI, as soon as they receive it. Old Medicare cards should be destroyed securely. In other words, make sure no one can read the information on the destroyed card.

Your doctor or other health providers may use the older Medicare number or the new MBI through December 31, 2019. This means you may use either number with any insured service through that date.

As before, Medicare insured individuals should carefully guard their identifying information. This includes their new MBI.

The Center for Medicare and Medicaid Services also provides the following tips for Medicare recipients:

- Medicare will never contact you for your Medicare number or other personal information. This is true even to obtain your new Medicare card. If someone does contact you and request this information—and says it is so you can receive your new card—it is likely a scam.
- Do not pay for your new Medicare card. If anyone calls or approaches you and asks for money to obtain your new Medicare card, that is a scam.
- Only give your Medicare number to your doctors, pharmacies, other healthcare providers, your insurers, and people you trust to work with Medicare on your behalf. If you have questions, please call Iowa Legal Aid’s Legal Hotline for Older Iowans at 800-992-8161.
- Iowa Legal Aid provides help to low-income Iowans.
- To apply for help from Iowa Legal Aid:
  - apply online at iowalegalaid.org OR
  - call 800-532-1275
  - Iowans age 60 and over, call 800-992-8161

If Iowa Legal Aid cannot help, look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at iowabar.org.

Business Law 101: What is a C corp?

Laws regulating businesses can be confusing. One of the goals of the CED Project is to provide legal education presentations to give information about business law. If you or a group you work with want to learn more about business law, contact Iowa Legal Aid to set up a presentation. Iowa Legal Aid can give a presentation about general business law or about a more specific legal topic. The presentation can be in a different language if English is not the audience’s primary language.

Iowa Legal Aid provides help to low-income Iowans. To apply for help from Iowa Legal Aid:

- apply online at iowalegalaid.org OR
- call 800-532-1275
- Iowans age 60 and over, call 800-992-8161

If Iowa Legal Aid cannot help, look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at iowabar.org. A private attorney there can talk with you for a fee of $25 for 30 minutes of legal advice.

Alexis Rowe is a staff attorney with Iowa Legal Aid’s Legal Hotline for Older Iowans.

CED project continued from outside front cover

credit to work with Medicare on your behalf. If you have questions, please call Iowa Legal Aid’s Legal Hotline for Older Iowans at 800-992-8161.
- Iowa Legal Aid provides help to low-income Iowans.
- To apply for help from Iowa Legal Aid:
  - apply online at iowalegalaid.org OR
  - call 800-532-1275
  - Iowans age 60 and over, call 800-992-8161

If Iowa Legal Aid cannot help, look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at iowabar.org.

CED project continued from outside front cover

their legal issues. The CED project helps small businesses grow by providing legal advice and document drafting. The goal of the CED Project is to help today’s small business owners grow into tomorrow’s community employers.

Iowa Legal Aid can help qualifying Iowans in all 99 Iowa counties.

Starting a business: Focus on the important details right away

At the start of a company, business owners are confident and optimistic about the future. Why worry about stormy seas when all you can see is smooth sailing ahead? Although no one wants to think about the possibility of facing tough times in the future, the start of a business is the perfect time to think through important details. If business owners disagree, how will major decisions be made? What questions can an employer ask in a job interview? What should be negotiated in a commercial lease? No entrepreneur wants to worry too much about the details instead of his/her big-picture idea, but these little things can make or break a business.

Managing risk and liability: Insurance is the best sleep aid money can buy

Once a business gets off the ground, entrepreneurs need to think about how to manage the risks their companies face. What if a customer gets food sickness from a new food truck business? What if an elderly customer trips on the concrete in front of the store? How will the business be hurt if hackers get customers’ private financial information? Some of this risk can be managed by having systems in place to prevent problems (like training employees to use a meat thermometer, for example). But, even the best systems can fail.

Many people think that establishing a separate business entity like a C corporation (C corp) or a limited liability company (LLC) will protect the owner’s personal assets from creditors or third parties. However, the law requires business owners to follow specific procedures to keep these protections in place. With all the hard work of running a business, business owners sometimes forget to follow these procedures. Unfortunately, forgetting to follow these rules could make an entrepreneur personally liable for business activity and debts if something goes wrong. This means that a business owner could be forced to use their personal assets (like a house or a bank account) to pay for claims against the company.

Additionally, many businesses cannot afford to pay expensive claims. In these cases, insurance policies provide the first line of defense to protect small business owners from liability if something dreadful happens. Talking with an attorney about the different types of risk that may harm a business can be a good idea.

Get a legal check-up: Early diagnoses lead to better outcomes

Regulations controlling businesses are never always obvious, and even the ones that are apparent change all the time! Does a business owner need to be a licensed hairdresser to sell hair extensions? Is the business required to give employees health insurance? Making time for legal compliance can easily fall to the bottom of entrepreneurs’ to-do lists. Compare talking with an attorney about the laws that impact a small business (federal laws, state laws, local laws) to going to the doctor for a checkup. In both cases, early identification of a problem can mitigate negative business impacts down the road. An attorney can point out less-obvious procedures to help entrepreneurs follow the law.

CED project continued from outside front cover

their legal issues. The CED project helps small businesses grow by providing legal advice and document drafting. The goal of the CED Project is to help today’s small business owners grow into tomorrow’s community employers.

Iowa Legal Aid can help qualifying Iowans in all 99 Iowa counties.

Starting a business: Focus on the important details right away

At the start of a company, business owners are confident and optimistic about the future. Why worry about stormy seas when all you can see is smooth sailing ahead? Although no one wants to think about the possibility of facing tough times in the future, the start of a business is the perfect time to think through important details. If business owners disagree, how will major decisions be made? What questions can an employer ask in a job interview? What should be negotiated in a commercial lease? No entrepreneur wants to worry too much about the details instead of his/her big-picture idea, but these little things can make or break a business.

Managing risk and liability: Insurance is the best sleep aid money can buy

Once a business gets off the ground, entrepreneurs need to think about how to manage the risks their companies face. What if a customer gets food sickness from a new food truck business? What if an elderly customer trips on the concrete in front of the store? How will the business be hurt if hackers get customers’ private financial information? Some of this risk can be managed by having systems in place to prevent problems (like training employees to use a meat thermometer, for example). But, even the best systems can fail.

Many people think that establishing a separate business entity like a C corporation (C corp) or a limited liability company (LLC) will protect the owner’s personal assets from creditors or third parties. However, the law requires business owners to follow specific procedures to keep these protections in place. With all the hard work of running a business, business owners sometimes forget to follow these procedures. Unfortunately, forgetting to follow these rules could make an entrepreneur personally liable for business activity and debts if something goes wrong. This means that a business owner could be forced to use their personal assets (like a house or a bank account) to pay for claims against the company.

Additionally, many businesses cannot afford to pay expensive claims. In these cases, insurance policies provide the first line of defense to protect small business owners from liability if something dreadful happens. Talking with an attorney about the different types of risk that may harm a business can be a good idea.

Get a legal check-up: Early diagnoses lead to better outcomes

Regulations controlling businesses are not always obvious, and even the ones that are apparent change all the time! Does a business owner need to be a licensed hairdresser to sell hair extensions? Is the business required to give employees health insurance? Making time for legal compliance can easily fall to the bottom of entrepreneurs’ to-do lists. Compare talking with an attorney about the laws that impact a small business (federal laws, state laws, local laws) to going to the doctor for a checkup. In both cases, early identification of a problem can mitigate negative business impacts down the road. An attorney can point out less-obvious procedures to help entrepreneurs follow the law.

Business Law 101: What is a C corp?

Laws regulating businesses can be confusing. One of the goals of the CED Project is to provide legal education presentations to give information about business law. If you or a group you work with want to learn more about business law, contact Iowa Legal Aid to set up a presentation. Iowa Legal Aid can give a presentation about general business law or about a more specific legal topic. The presentation can be in a different language if English is not the audience’s primary language.

Iowa Legal Aid provides help to low-income Iowans. To apply for help from Iowa Legal Aid:

- apply online at iowalegalaid.org OR
- call 800-532-1275
- Iowans age 60 and over, call 800-992-8161

If Iowa Legal Aid cannot help, look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at iowabar.org. A private attorney there can talk with you for a fee of $25 for 30 minutes of legal advice.

Samantha Wagner is a staff attorney in Iowa Legal Aid’s Central Iowa Regional Office in Des Moines.
HOW DO CHANGES IN TAX LAW ABOUT DEPENDENTS AFFECT YOU?

By Ben Hamel

Late last year, Congress passed the Tax Cuts & Jobs Act of 2017. The new law went into effect on January 1. The new law makes some significant changes that will have an impact on parents going through divorce or custody cases. Although there are a variety of changes that will impact final divorce and custody decrees, this article focuses on the recent elimination of the dependency exemptions.

A dependency exemption is the income you can take out of your taxable income for each of your dependents (i.e., generally your minor children). Historically, one of the leading tax issues that caused conflict between separated parents was the fight over who could claim their minor children as dependents. Often, in family law cases, there is disagreement over who can claim one or more of the children as an exemption so that a parent (or both parents where each parent claims at least one child) can take that amount out of their taxable income. To balance this issue, parents will often agree to alternate back and forth who gets to claim the child.

However, parents who are separated, divorced or unmarried may no longer have to fight over the child dependency exemption. This is because the new tax reform action eliminated dependency exemptions. For the 2017 tax year, each dependency exemption was worth $4,050 per child on the parents' federal tax return. Now, that number will be $0.

Instead of a dependency exemption for each minor child, the new federal tax law increases the standard deduction to $12,000 for parents who are single or married filing separately; $18,000 for heads of households; and $24,000 for parents who file married filing jointly.

The standard deduction will be available to parents, regardless of the number of children they have, who do not itemize their deductions on their returns.

In addition to the increased standard deduction, the new tax law also doubles the child tax credit from $1,000 per child to $2,000 per child. The child tax credit reduces the taxes you owe, dollar-for-dollar. The rules for claiming the child tax credit are the same for claiming a dependent exemption. The child must live in your home for more than half of the year and cannot provide more than half of his or her own support. Under the former law, the credit allowed you to reduce taxes by as much as $1,000 for each qualifying child. Under the new law, the credit is now increased to $2,000 for each qualifying child.

As mentioned above, for a parent to claim the child tax credit, you must also declare the child as a dependent. Thus, although the dependency exemption will no longer offer any financial benefit, it will still be important to assign the children’s dependency exemptions in the final divorce or custody decree to claim child tax credit.

As with the former law, a custodial parent may still agree to give one or more of the children’s dependency exemptions to the non-custodial parent by signing IRS Form 8332.

In summary, in divorce or custody cases, elimination of dependency exemptions should reduce the fight over who gets to deduct the children as dependents. The expanded child tax credit, combined with increased standard deductions, should result in a lower tax bill for most parents. If you have questions about your tax rights and responsibilities, Iowa Legal Aid’s Low-Income Taxpayer Clinic may be able to help.

To apply for help from Iowa Legal Aid:
• apply online at IowaLegalAid.org
• call 800-532-1275

NOTE: The information in this article is not a substitute for legal advice. As a general rule, Iowa Legal Aid’s Low-Income Taxpayer Clinic does not prepare tax returns.

Ben Hamel is a staff attorney in Iowa Legal Aid’s Northeast Iowa Regional Office in Dubuque.
Iowa Legal Aid helps low-income Iowans

Did you know... after calling what looked like a local number for “legal aid” in the phone book, some Iowans got return calls from somewhere in Kentucky?

Don’t be misled ...
- Iowa Legal Aid provides FREE legal assistance to those who qualify.
- Iowa Legal Aid helps low-income Iowans with civil legal problems including:
  - Domestic violence
  - Housing
  - Public benefit programs

The intake number for Iowa Legal Aid is 800-532-1275 (se habla español)
Iowans age 60 and over, call Iowa Legal Aid’s Legal Hotline for Older Iowans at 800-992-8161
Visit us online at IowaLegalAid.org

Leverage a Lawyer: Iowa Legal Aid’s Community Economic Development Project Can Help Your Small Business Thrive

By Samantha Wagner

Entrepreneurs are risk-takers, dreamers, and optimists. No mountain is too high or idea too wild for those with a can-do attitude and a sense of adventure. But, the Bureau of Labor Statistics reports that 50% of new small businesses no longer exist after five years. Entrepreneurs face many legal challenges that can make it hard to keep the doors open. Things like tax problems or employee challenges can distract a business owner from focusing on clients, sales, and growing the business.

Iowa Legal Aid has a new Community Economic Development (CED) project to help entrepreneurs avoid legal problems. The CED project helps people who want to start a small business or, if they already have a company, Iowa Legal Aid helps them with...