

Remarks of Tal M. Goldin, Esq.  
Montana Capitol  
Dr. Martin Luther King, Jr. Day Rally  
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Good afternoon, my name is Tal Goldin and I am a civil rights attorney for children with disabilities at Disability Rights Montana. Disability Rights Montana is the federally mandated protection and advocacy organization for Montana with the mission of protecting the legal, human and civil rights of Montanans with disabilities. As the only non-profit law firm in Montana dedicated to disability rights, we serve the thousands of Montanans who experience disabilities by providing legal representation, advocacy, and policy changing activities to the disability community free of charge. I am the supervising attorney for the Education Unit, which works to ensure Montana's students can access education free from disability discrimination.

Today, as the nation gathers to honor the life and work of Dr. Martin Luther King, Jr., I am reminded that Dr. King served as a luminary for justice and equality for all. Not just racial minorities, but for all people marginalized on the basis of "immutable traits" over which they have no control. "Justice [Dr. King wrote] is the same for all issues; it cannot be categorized. It is not possible to be in favor of justice for some people and not be in favor of justice for all people. Justice cannot be divided."

Dr. King's teachings in non-violent protest formed the backbone of the disability rights movement that came of age in the 1970s. Indeed,

Section 504 of the Rehabilitation Act of 1973, the groundbreaking federal law prohibiting disability discrimination in federally funded programs, was crafted in the image of the Civil Rights Act of 1964. However, it was not until 1977 that the regulations which implement Section 504 were finally put into place following a series of non-violent protests building on the model set by Dr. King.

The Courts also realized that the 14<sup>th</sup> Amendment's guarantees of equal protection and due process are not restricted to racial discrimination. In 1954 Chief Justice Earl Warren, speaking for the U.S. Supreme Court in *Brown v. Board of Education* wrote:

*In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms."*

This language was relied upon in two early disability rights cases, *PARC* and *Mills*, which used *Brown v. Board of Education* to strike down laws in Pennsylvania and the District of Columbia which allowed wholesale exclusion of children with disabilities from public schools. The year was 1972.

That same year, Geraldo Rivera, aired his now famous documentary exposing the warehousing of children in abhorrent conditions at the Willowbrook State School in Staten Island,

New York. In 1975, Congress first enacted the Education for All Handicapped Children Act.

But it was not until 1990 that the civil rights movement was truly realized for people with disabilities. That year, Congress, enacted the Americans with Disabilities Act, which brought civil rights protections to people with disabilities in all areas of public life, from government buildings, to movie theatres, to telecommunications and beyond. Passage of the ADA was aided by strong bipartisan support, including Republican Sen. Bob Dole, himself a wounded World War II veteran, and Democratic Senator Tom Harkin, whose brother was deaf.

In 1990 Congress also reauthorized the Education for All Handicapped Children Act as the Individuals with Disabilities Education Act, or IDEA. IDEA created the rules and federal funding source for special education in elementary and secondary schools, as we know it today. Like the ADA, IDEA was introduced by a Democratic Senator and signed by a Republican President. While IDEA creates a federal funding stream for special education, Congress never intended to fund the full cost of special education programs.

The lion's share of this cost comes from state and local government. This is true not only in special education programs for school-aged children administered by Montana's Office of Public Instruction, but also for early intervention

programs for infants and toddlers, which along with a myriad of other programs impacting persons with disabilities, are administered by the Montana Department of Health and Human Services.

Cutting the budgets of either of those agencies, particularly when done with a chainsaw instead of a scalpel, denigrates the civil rights of thousands of Montanans of all ages who experience disabilities and undercuts precisely what these laws are designed to ensure—that people with disabilities have the same rights as everyone to live independent, productive lives in integrated communities.

Without the support of Montana's legislature, Montanans with disabilities do not have equal rights and the words of Dr. King and Chief Justice Earl Warren ring hollow for our most vulnerable neighbors.

My friends, we are entering a time in our politics, much like Dr. King's, which demands that we examine our fundamental values. It is a time when the pundits will tell us there are only two schools of thought: those that believe we do better, as a nation, when we take care of our neighbors, and those that believe we do better when we take care only of ourselves.

I have never believed the lines are that clearly drawn—certainly not in Montana. In Montana, we take care of each other. But,

whether or not you subscribe to one of these rigid schools of thought, your decision to fund services that assist people with disabilities of all ages should remain unaffected.

You see, to paraphrase Senator Dole, disability is the one club that is always accepting new members. As a colleague of mine says, we are all just temporarily able bodied. At any point, walking down the stairs of our beautiful Capitol, or crossing the street, any one of us could be personally and fundamentally changed by disability.

Whether you believe, as Dr. King did, that “whatever affects one directly affects all indirectly” or whether you believe it is best to act only in your self-interest, the required course of action on this issue is the same. Some might consider it good will, other insurance. Either way, I implore you, as you do the difficult work of legislating this session, take the spirit of Dr. King with you and remember, “the time is always right to do what is right.” Thank you.