Making school lunch shaming a thing of the past

The first reports of “lunch shaming” in Minnesota came to Legal Aid’s Legal Services Advocacy Project (LSAP) back in 2008. School cafeteria workers were publicly dumping students’ lunches in the garbage or serving alternative meals because their parents hadn’t paid the bill. Much has changed since then, including Minnesota’s 2014 Lunch Aid Act that prohibits lunch shaming, but this spring, Minnesota school lunch debt hit the national and local news again.

“Something new comes up every year,” says Staff Attorney Jessica Webster, who has worked long and hard with the Legislature and the Minnesota Department of Education on this issue. “It feels a bit like Whack-A-Mole.”

Continued on next page.
“Something new comes up every year. It feels a bit like Whack-A-Mole,” says Webster.

**Researching the Issue**

In 2011, Webster enlisted the help of pro bono attorneys from local law firms to investigate and document practices across the state. Policies ranged from helpful (providing unlimited hot meals) to punitive. The punitive policies included lunch dumping, stamps on hands, restrictions on activities, and withheld diplomas. In 2013, Webster pursued a broader statewide data practices request and found the same patterns.

Working with organizations that focus on hunger, Webster used the data to educate legislators and the public about how districts were handling school lunch debt. National stories on lunch dumping brought more media attention and public pressure. Minnesota’s Lunch Aid Act became law in 2014, but new reports of punitive practices continue to frustrate advocates.

**Students Penalized for Lunch Debts**

In the spring of 2019, Valerie Castile covered $8,000 worth of lunch debt for seniors at a local high school. She made the donation in memory of her son Philando, a school lunchroom worker and victim of police shooting who often paid students’ lunch debts. The news story said that high school seniors with outstanding lunch debt would not be able to walk in the graduation ceremony.

Webster has documented numerous rural, suburban, and urban school districts that continue to push the boundaries with stigmatizing and shaming practices, including the threat that seniors cannot participate in graduation.

She enlisted the help of Galen Robinson, Legal Aid’s Litigation Director, to investigate further. In addition to the Lunch Aid Act, Webster and Robinson took a closer look at Minnesota law regarding diplomas. It states: “Boards shall not withhold grades or diplomas for nonpayment of student fees…”

Robinson thought the wording of the law was clear and suggested engaging Minnesota Attorney General Keith Ellison. Webster wrote a demand letter to the state education department commissioner describing how school districts continue to threaten to block students from graduation ceremonies. She asked for a formal opinion from the State Attorney General.

**Clarification of the Law**

Within two weeks of receiving the request, Attorney General Ellison issued a binding written opinion: “Public schools are prohibited from denying students — who are eligible to receive their diploma — the opportunity to participate in graduation ceremonies due to unpaid meal debts.” Under Minnesota law, the Attorney General’s written opinion on matters relating to public schools is decisive unless the question involved is decided otherwise by a court of competent jurisdiction.

Webster was not surprised by the opinion, but she was delighted by the fast turnaround, which helped to resolve questions before the 2019 graduation season. The Attorney General took a public stance on the issue with the press and tweeted the opinion, receiving positive public feedback.

“The Attorney General’s opinion is an important step forward,” says Webster. “It’s clear, and it’s broad. The opinion is binding and can be used if there is a court challenge.”

**An Ongoing Problem**

School lunch debt problems persist. In November, cafeteria workers at a Minnesota high school took hot meals from students who owed $15 or more and threw them in the garbage. Legislators are working on a new bipartisan bill that would require schools to post and adhere to a school lunch policy, provide meals in a respectful manner, and keep transactions between parents and schools.

Webster and her colleagues at LSAP remain relentless in their advocacy to ensure that all children have full access to the benefits and privileges of education, regardless of life circumstances. They will not rest until all Minnesota students are guaranteed access to school lunch without shame or stigma.

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1 Minn. Stat. § 123B.37, Subd. 2.
Jessica Webster, Staff Attorney with Legal Aid's Legal Services Advocacy Project (LSAP), is a fighter for justice. Since her start with LSAP in 2006, she has taken on some major challenges educating legislators and building public support for laws that level the playing field.

Webster had an especially good year in 2019. First, her tireless work for 13 years on the Minnesota Family Investment Program (MFIP) culminated in the first increase for families in that program in over 30 years (see article on page 4). In addition, the Attorney General of Minnesota issued a formal written opinion supporting Webster's legal analysis that denial of participation in graduation ceremonies based on school lunch debt is illegal. This is another step in Webster's multi-year effort to end lunch-shaming practices in Minnesota (see cover article).

“I don’t know many people who would have continued to fight with everything they have for what’s right, year after year,” says LSAP Supervising Attorney Ron Elwood. “Jess works every year trying to push that rock up the hill in the face of enormous obstacles. She is indefatigable, undaunted, and undeterred.”

Staff Attorney Maren Hulden is Webster’s newest colleague. After four years as an attorney in Legal Aid’s Minnesota Disability Law Center, she joined the LSAP team in 2018.

“Jess is incredible to work with,” Hulden says. “She is such a powerful force in legislative advocacy, always with an eye on how our work impacts folks who have been historically oppressed. She is a real thought leader, strategizing our work in the system to help the people that the system hurts.”

Webster and her colleagues at LSAP are one of the state’s major conduits between theory and practice, seeking to make the written law work fairly for everyone. In close alignment with Legal Aid lawyers who see the direct effects of law and policy on clients, LSAP attorneys identify gaps or ambiguity in the statutes that create unintended impediments to justice.

LSAP works with legislators across the political spectrum to bring forward solid legal and policy research and analysis. They keep their eyes on the goal of improving the lives of clients and are in it for the long haul.

“She is a real thought leader, strategizing our work in the system to help the people that the system hurts.”

“‘The thing about Legal Aid is, we never give up on anyone,’” says Webster. “‘If we give up, we make no progress. It takes a long time to build up support for change and identify champions among the policy makers. Then we wait for an open window. It’s textbook, what I learned in public policy school.”

Webster holds a master’s degree in Public Policy from the University of Minnesota’s Humphrey School of Public Affairs and a law degree from Mitchell Hamline School of Law. The combination makes her a formidable advocate. In addition to policy analysis, she brings expert legal analysis and knowledge, and a talent for developing key relationships.

“We work hard to gain support for our positions, and every issue is different,” Webster says. “‘We respect the process and all of the people involved in that process. You never know who has personal experience or deep knowledge on a given issue, or where alliances might form.”

A few years back, Webster worked throughout the session to get an MFIP increase of $13 on the table. The increase went down in the last hours of the session, but Webster came back the next year and the next. She is a master at building and maintaining connections, knowing that if someone opposes or disagrees this year, that can change the next year.

“We often talk about our work in terms of winning and losing, but I don’t really like that,” Webster says. “‘This isn’t a game. The multi-year efforts can be grueling, but I have a healthy amount of rage over injustice, and that keeps me going. Our clients’ stories are powerful. In the end, those stories move people, and change happens.”
In 1986, a family that qualified for Minnesota Family Investment Program (MFIP) — Minnesota’s family welfare program — received $437 per month. If that amount were adjusted for inflation, it would come to over $1,000 today. But 30 years later, Minnesota families are still receiving $437. That is about to change. Thanks in large part to the relentless advocacy of Jessica Webster, Staff Attorney with Legal Aid’s Legal Services Advocacy Project (LSAP), the MFIP grant will increase by $100 per month in February of 2020.

MFIP Advocacy Began in 2006
When Webster started working with LSAP in 2006, an increase to MFIP monthly payments wasn’t even on the table, although the state had already gone 20 years with no change. At that time, Webster was busy defending families from fingerprint requirements, sanctions, and cuts to the MFIP program.

“Those years were rough,” she says. “Every media story about MFIP focused on waste, fraud, and abuse. The stories were insidious, and they got a lot of political mileage. Legislators had a ‘no-way’ stance when it came to welfare. No way, period, the end.”

Webster chipped away at those destructive false narratives for years, and, slowly but surely, she and her allies began to bend the narrative. They educated legislators about the MFIP program and recipients, helping them to understand the program as a form of unemployment insurance for low-income workers. The conversation started shifting in 2012, but an increase in MFIP was still not a priority for the governor or the legislature.

Year after year, Webster worked in coalition with other advocates who understood how important that financial support is for working families. She tracked legislators who showed any interest in the MFIP program or were even marginally willing to consider an increase.

Gaining Momentum for Change
In the 2019 legislative sessions, the idea of an MFIP increase finally began to gain momentum. Former advocates who had worked with LSAP years ago were now in the governor’s office, and legislators who had always cared about it came forward. As the public and political narrative changed, the loudest opposition was neutralized, and some legislators stepped forward to fight for a significant increase.

LSAP partnered with the Coalition for the Homeless and the Catholic Conference to give legislators more information and elevate the voices of the people most affected by the MFIP stagnation. They gathered over 200 handwritten letters from social workers, teachers, pediatricians, and MFIP recipients.

“Those letters are people’s voices,” Webster says. “We put copies in the hands of every single member of the Health and Human Services Committee and the Governor’s office.”

During a 24-hour negotiation period, Coalition for the Homeless tweeted out quotes from the letters every hour. Webster made the rounds at the Capitol to ensure everyone understood the potential funding mechanism. The Tax Committee negotiated $30 million that they could send to the Health and Human Services Committee.

“At the end of the day, we were able to free up the money,” Webster says. “The champions for MFIP were all there at the table, and it happened.”

Impact of $100 per Month Increase
For Legal Aid’s clients, $100 per month makes an enormous difference. The families Webster worked with on the Campaign testified about what they could do with an extra $100 a month — haircuts, diapers, work uniforms, and gas for the car.

“It’s day-to-day basic needs,” Webster says. “One mom from Duluth talked about her 16-year-old son who is growing...
“At the end of the day, we were able to free up the money,” Webster says. “The champions for MFIP were all there at the table, and it happened.”

quickly. He gets free lunch, but it’s an extra eight dollars a month for a second glass of milk. She couldn’t afford it. Hopefully this boost will relieve some pressure on basic needs.”

Legal Aid knows from studies and data that $1,200 per year has a meaningful impact for families at lower income levels. Over-the-counter medications for children, activity fees for athletics or after-school activities, and cell phone payments – upper income families would consider these minor expenses. But for MFIP recipients, another $100 a month makes these “luxuries” possible.

“It feels amazing to finally see this increase,” says Webster. “But we’re not done. I’ve been saying for years that these programs erode over time, and a Cost of Living Adjustment (COLA) is one of the most powerful things we can work toward. Look at how hard we had to work to get $100…if we could just get an incremental, affordable increase every year, we wouldn’t risk going another 30 years without an increase.”

Excerpts From Letters of Support for the MFIP Increase

MFIP was necessary for my family and me while I was unable to work due to multiple illnesses. We had to sacrifice many things like a cell phone, healthy foods, and some of my medications, because the cash portion was not enough.

— MFIP recipient

One of the families I work with was out of money to put quarters in the washer and dryer. They were doing laundry in the bathtub until the MFIP May check arrived.

— Social Worker

Most of my kids weren’t prepared to go out in the winter cold — no mittens, no hat, no boots . . . I supplemented where I could by purchasing things from various clearance racks around town. I can only imagine how an increase of $100/month to MFIP could help fill that void.

— Teacher
When the Elder Care and Vulnerable Adult Protection Act of 2019 comes fully online in 2021, Minnesota will have some of the country’s strongest protections for elders in long-term care facilities. That is a big step forward from 2017, when the Star Tribune’s award-winning series *Left to Suffer* unearthed some deeply disturbing stories of abuse that exposed systemic gaps in Minnesota’s legal protection of older and vulnerable adults.

“The things that were happening to this vulnerable population were unconscionable,” says Ron Elwood, Supervising Attorney of the Legal Services Advocacy Project (LSAP).

**LSAP Enlisted to Help**

In reaction to the newspaper exposé, Governor Dayton named five consumer organizations, including LSAP, to a working group to address the issue. Although the group’s final report contained extensive recommendations that were turned into proposed legislation, at the end of the day, no progress was made in 2018 to protect older and vulnerable adults. One year later, however, renewed advocacy by LSAP and the consumer groups led to the passage of the Elder Care and Vulnerable Adult Protection Act of 2019.
“Vulnerable adults were being dropped at hotels, shelters, or even on the street,” Elwood says. “With no law in place, they had no legal defense.”

The road to passage of this landmark legislation began in 2012, when Sean Burke, an Equal Justice Works Fellow with Legal Aid’s Seniors Project, brought the systemic problem to Elwood’s attention. Seven years later, LSAP worked with Burke (now Public Policy Director at the Minnesota Elder Justice Center) and other seniors’ advocates, state agencies, and assisted living providers to craft the bill that became law.

“I noticed right away how disparate the eviction protections were for nursing home residents and assisted living residents,” says Burke. “The difference was even more stark when I later started working for the Disability Law Center and did a number of eviction defenses for people in group homes, which also have strong protections.”

During the summer of 2018, Elwood thoroughly researched the statutes and rules of every other state’s governance of assisted living and consumer protections and discovered that Minnesota lagged far behind other states. Minnesota was the only state that did not license Assisted Living Facilities and did not have protections against arbitrary discharges or retaliation.

Legal Aid’s Senior Law Project saw a number of these cases. Some clients were sent to a hospital and never permitted to return — a practice known as “hospital dumping.” Others faced arbitrary evictions.

“Vulnerable adults were being dropped at hotels, shelters, or even on the street,” Elwood says. “With no law in place, they had no legal defense.”

New Law Regulates Assisted Living Facilities
Under the new law, facilities may only discharge a resident for a specified reason. The law provides residents facing discharge the right to appeal to the Office of Administrative Hearings. It also recognizes that situations arise where a facility is truly not equipped to handle a resident’s needs. In those cases, the law now delineates a clear and common-sense approach to ensure a safe landing.

The relocation plan must “minimize transfer trauma.” The resident must be moved to a location that is “safe” and the provider to which the resident is being transferred must be “appropriate.” Even before a discharge notice is issued, the facility must work with the resident, the family, a case worker, and other health and social service professionals to identify accommodations to keep the resident in place. If a move is inevitable, they must all work together to develop a plan for a smooth handover.

The new law also brings Minnesota in line with the other states by requiring Assisted Living Facilities to be licensed. Beginning in 2021, there will be two categories of licensure: Assisted Living Facilities and Assisted Living Facilities with Dementia Care. Each licensure level sets forth minimum standards in critical areas of care and services, including staffing and training standards.

In his 20 years at LSAP, Elwood has seen few issues that have matched this one in terms of magnitude and complexity.

“This legislation has an excellent structural format and provides for a strong public enforcement presence,” he says. “When parties who have been at a stalemate for years come together and find something everyone can work with, it’s a powerful experience.”
Dear friends

In our work, we frequently encounter broken systems that hurt people, denying health care and other critical services. We see school districts impersonally punishing and shaming children who live in poverty. We see nursing homes dumping or evicting elder Minnesotans without any process, let alone due process of law.

Every day, our attorneys represent people facing these types of threats to their health, safety, well-being, and human dignity. Over time, they see patterns of injustice and can identify systemic problems. And they have ideas about making things better.

This is where our Legal Services Advocacy Project (LSAP) comes in to help. With stories of system failures from civil legal aid attorneys all over the state, LSAP skips the courthouse and makes systemic change by going directly to the statehouse. Using skilled and strategic advocacy, LSAP navigates the minefields at the Capitol to deliver smart policy solutions that fix societal problems. In doing so, LSAP helps Minnesotans all over the state.

In this newsletter, you will read about LSAP’s outstanding achievements over the past year.

Ron Elwood led advocacy efforts to provide legal protections to elder Minnesotans and people with disabilities who live in assisted living and similar care settings. Jessica Webster continued her longstanding quest to ensure education access for all children, regardless of their life circumstances.

In the culmination of a 13-year effort, Webster’s advocacy resulted in a $1,200 annual increase in the Minnesota Family Investment Program’s benefit level. This marked the first increase in this critical public investment in 33 years.

Each of these stories is an inspiration. They capture the true spirit of what Legal Aid does to protect the communities we serve. We are grateful for all of your support, which makes LSAP’s systemic advocacy possible and helps us deliver on the foundational American promise of equal justice for all.

Sincerely,

Drew P. Schaffer, Executive Director