

Exchange

A quarterly newsletter of Michigan Protection and Advocacy Service, Inc.

(MPAS)

Spring 2011

Fostering Independence and Self-Reliance through More Integrated Living

by Nicole

When an individual with a developmental disability has a guardian, that guardian has a duty to serve as a protective force in that person's life. At the same time, the guardian has an equally important yet seemingly contradictory duty: a legal requirement to secure for the ward individual training, education, medical and psychological services, and social and vocational opportunity to help the ward in developing the maximum in self-reliance and independence. Much like a parent must work to prepare their children for independence, so must a guardian prepare his or her ward for independence.

Much of the development of self-reliance and independence revolves around where an individual with a developmental disability lives. The importance of an opportunity to participate in a community and run a household cannot be overstated, as is further explained below. That is why there are procedures – some dictated by law, others by common sense—that a guardian should follow when deciding where an individual lives.

In determining where a ward lives, good practice and common sense dictate that the decision begins with a conversation between the guardian and ward. Even if the guardian and individual do not agree on a course of action, the establishment of an open line of communication sets a tone of partnership as the relationship continues and circumstances change. This is an opportunity for both sides to candidly discuss goals and concerns. Bringing in a case manager may help with identifying options that the guardian and individual may not have considered on their own. By involving the individual in the decision-making process, the guardian is not only helping the ward develop a maximum in self-reliance and independence, but also building trust and allowing the ward to take some ownership in the decision which will likely make the individual happier with the final decision.

If the guardian ultimately decides that the best placement for the ward is in an adult foster care home (AFC home), nursing home, or community residential program, the Michigan Mental Health Code has a specific procedure that must be followed. First, the guardian must petition the court for this placement authority. The court must then determine, in conjunction with the appropriate Community Mental Health office, whether the placement meets the needs of the individual with a developmental disability and whether there is a less restrictive treatment and residential program available. The court is required to give preference to the least restrictive placement.

The requirement that the placement be the least restrictive should not be viewed as merely a cost-savings measure on the part of CMH. In Olmstead v. L.C., the United States Supreme Court determined that the unnecessary institutionalization of persons with disabilities was prohibited by the Americans with Disabilities Act. The court explained that unjustified segregation perpetuates the idea that the individuals with disabilities are somehow incapable or unworthy of participating in the community.

In order to do one's diligence as a fiduciary, the guardian may need to do some investigation into least restrictive placements by consulting the ward, CMH, and other service providers. While the guardian must be realistic about what the individual can and cannot do for his or herself, one strategy is to use independent community living as a starting point and to determine what services would be needed to meet the needs of the ward. This ensures that the living arrangement is truly the least restrictive appropriate environment.

While a guardian may find it difficult to meet his or her competing duties to protect their ward while at the same time fostering independence, the least restrictive placement requirement provides an excellent starting point. By working in partnership with the ward to choose an appropriately unrestrictive placement, a guardian can meet all of his or her duties.

MPAS Present Award to Secretary of State

Michigan Protection and Advocacy Service, Inc. (MPAS) presented Secretary of State Terri Lynn Land the Marvin E. Beekman award during its Board of Directors meeting held on December 14, 2010, for her support of the disability community during her two terms as Michigan's top election official. The award is given to individuals who have made significant contributions to rights protection and advocacy for persons with disabilities.

"We are pleased to present the Marvin E. Beekman Advocacy Award to Secretary of State Terri Lynn Land, who for the past eight years has forged a historic relationship with the disability community," stated Mark R. Lezotte, MPAS Board President and shareholder practicing in the law firm of Hall, Render, Killian, Heath & Lyman, PLLC.

"She has steadfastly worked to assure everyone access to the electoral process. Secretary Land's leadership has also positioned Michigan as an example to others nationwide in assuring voting rights for people with disabilities."

Secretary Land has been involved with the disability community since she was first elected in 2002 by appointing MPAS to serve on the Help America Vote State Plan Advisory Council to represent the views of those with disabilities. Since that time, she has teamed with MPAS and election officials in upgrading polling places by removing physical barriers and making sure that all locations are accessible. Secretary Land and her staff also worked with MPAS and other disability advocates to select Michigan's first accessible voting system, the

AutoMARK Voter Assist Terminal, which enables people with various types of disabilities to cast a ballot privately and independently.

“Our team at the Department of State has worked to make the voting process easier and to provide services to customers that are more convenient, efficient and helpful” Land said. “I’m proud of the progress we’ve been able to make for Michigan’s citizens with disabilities by partnering with MPAS and other advocacy organizations.”

Past recipients included: U.S. Senator Carl Levin; Detroit Free Press Writer - Jim Neubacher; C. Patrick Babcock, Department of Mental Health Director; Marion McDonnell, Civil Leader; Edward L. Birch, Ph.D., Director of Special Education; Representative Laura Toy; Senator Gilda Jacobs; and Senator Bev Hammerstrom.

X Marks the Spot: Signing documents your way

By: Mark, Legal Director

Many individuals have impairments that make it a challenge to sign documents in writing. For those individuals, an alternate means of signing documents is essential. Some individuals choose to use a signature stamp. Others make a mark, such as an “X” on legal documents.

Occasionally, however, these means of signing documents are challenged. Some businesses, government officials, law offices, and others are reluctant to accept a non-standard signature as legally binding. Thus, it’s important to understand the basics of Michigan law and how you can make sure that your signature, in whatever form, is accepted.

There are not a lot of court decisions about non-standard signatures. This may be because the Michigan legislature has long endorsed the use of marks as a means of signing legal documents. For example, MCL 8.3q specifies that a person who is unable to write may make a mark. That law was amended a few years ago to allow individuals to use a fingerprint as their signature, if they feel comfortable doing so. There is nothing in this statute which prohibits the use of a stamp to make a mark as a signature. More specifically, when it comes to financial documents, MCL 440.3401 allows a signature to be made by a device, which could obviously include a stamp.

Even with these laws in place, it’s always possible for someone to challenge the validity of a signature. To make certain that your signature is always accepted, there are a few things you should do. First, try to be as consistent as possible. Use the same method of signing documents whenever possible. Second, it’s helpful to have someone who can verify that is how you sign documents. Have a friend or colleague witness you sign documents, at least a few times. Third, if you use a stamp, always keep it in your possession. Never allow anyone else to keep it.

If you have any questions, please call MPAS at 1.800.288.5923.

MICHIGAN PROTECTION AND ADVOCACY
2012 – 2014 Questionnaire on Priorities

MPAS says Goodbye to Longtime Employees

Lorie retires after 28 years with Michigan Protection and Advocacy Service (MPAS). Leaving with mixed emotions, Lorie regrets leaving everyone behind and yet looks forward to a future where she can continue helping make a difference in people's lives.

“The MPAS staff feels like family to me,” says Lorie, who was a general secretary for 11 years and a legal secretary for 17 years.

“I am going to greatly miss working with Lorie,” says MPAS attorney Chris. “I and the rest of the legal staff appreciate all she has done for our agency and wish her much happiness and all the best in her future.”

Billie joined MPAS in 1988. Over the years at MPAS she worked as a receptionist with the information and referral team. Prior to that she accompanied staff to facilities and assisted with agency presentations.

“MPAS has been such a positive experience for me,” says Billie. “I was given the opportunity to meet with so many people who live in the community which helped me better empathize with the many people we serve.”

Her future plans include volunteering for church activities, spending time with the family and friends, taking a gardening class, and travel.

**MPAS Public Policy Platform
Fiscal Year 2011 – 2012**

Mission and Guiding Principles

The mission of Michigan Protection and Advocacy Service, Inc. (MPAS) is to advocate and protect the legal rights of people with disabilities.

MPAS works to fulfill the mission and address the Board approved priorities by:

- ◆ Working toward systemic changes that advance the rights of all people with disabilities, and
- ◆ Advocating for individual rights in particular cases.

MPAS' systemic and individual case advocacy work is designed to protect and advance the rights of persons with disabilities so that:

- ◆ They can choose where and with whom they live, and can determine for themselves what supports are needed.
- ◆ They have equal employment opportunities and full protection under the law.
- ◆ Communities are accessible and inclusive.
- ◆ All children with disabilities are provided a quality education with all supports and accommodations they need to develop marketable skills.
- ◆ They are legally protected from abuse, neglect, and exploitation.
- ◆ They have equal access to affordable, quality health care.
- ◆ They fully enjoy the rights, benefits, and privileges the law guarantees.

Policy issues for consideration

Ensuring individuals with disabilities are free from abuse or neglect

People with disabilities will no longer be systematically disadvantaged or discriminated against in any aspect of life.

People with disabilities will be free from exploitation, abuse, or neglect.

Activities:

Actively promote federal and state policy to prohibit the use of restraint and seclusion in schools and Child Caring Institutions.

Actively promote state public policy to strengthening the background check laws preventing staff with substantiated abuse/neglect I or II allegations from working with individuals with disabilities.

Improving the rights protection system

Individuals with disabilities will have viable alternatives to guardianship. Individuals will have access to independent and effective rights protection systems.

Activities:

Actively promote state policy change within the Mental Health Code to strengthen the accountability of the Recipient Rights system by:

Requiring the local Office of Recipient Rights office to report directly to the state Office of Recipient Rights,

Require sanction authority to the State Office of Recipient Rights, and

Allow the state Office of Recipient Rights to be a separate entity from the Michigan Department of Community Health.

Actively promote state public policy to strengthen the reporting requirements for guardians.

Actively promote federal policy to maintain or strengthen access authority within the protection and advocacy system.

Eliminating employment barriers and enforce rights

Individuals with disabilities will have increased opportunities to become economically self sufficient by obtaining gainful employment in the community.

Individuals with disabilities with gainful employment will be able to retain their assets and not be penalized by reducing eligibility for essential services and supports.

Activities:

Actively promote federal and state enforcement of employment rights and research options for improvement.

Actively promote federal policy to reauthorize the Rehabilitation Act.

Improving access to necessary services

People with disabilities will no longer be systematically disadvantaged or discriminated against and will have 100% equal access to government and public facilities/services including access to all electronic information and participation.

The right to coordinated home and community based services and supports from local, regional, and state service providers will be maintained.

Every individual will have an equal opportunity to privately and independently participate in the electoral process.

Activities:

Actively promote state policy to require ADA standards to be met prior to changing polling locations.

Actively promote state policy to implement the recommendations set forth in the 2004 Michigan Mental Health Commission Report as they relate to transition from facility to community.

Ensuring the right to high quality education

The right to appropriate school services and supports will be maintained.

Students with disabilities will be integrated into general and special education systems with all supports necessary to maximize successful outcomes.

Students will be free from disability-based harassment and bullying.

Activities:

Actively promote state policy to develop a standard definition of functional behavior assessment and positive behavior support.

Budget issues

MPAS will monitor annual state budget negotiations and advocate as necessary to ensure that the budget is not balanced on the backs of persons with disabilities and to advance the agency's policy platform as listed above.

For more information contact:

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Congratulations to Winners of MPAS' Annual Personal Disability Advocacy Contest!

Thank you to everyone who submitted essays describing ways in which they or someone they knew overcame barriers related to a disability and achieved success. The selection committee reviewed all submissions and selected their top three essays.

The winners of the contest were invited to attend the February, 2011, MPAS Board of directors meeting held at the Capitol in Lansing to meet with their legislators and receive a framed certificate and their cash prize. Entrants who did not place first, second, or third were mailed a certificate of recognition.

Winning first, second, and third place respectively were: Doris Ostrander from Adrian, Dylan Somberg from Shelby Township, and A. Lesa Quade from Flint. To read the winning essays, visit www.mpas.org.

Making School Safe for Everyone

By Crystal

Many people recall their high school years as one of the greatest times in their life. However, for sixteen year old Ian Forster from Albion, Michigan his experience during high school was much different. Ian, who has cerebral palsy, uses a wheelchair from time to time and also has a shunt that extends from his head to his abdomen to drain fluid off of his brain. While at school, classroom bullies tortured him throughout middle school and the abuse continued during his freshman and sophomore years in high school. On one occasion, a student dumped Ian out of his wheelchair and onto the floor. Two students then proceeded to step on Ian's shunt, an action that could have resulted in serious injury or death. While both bullies have been prosecuted in juvenile court, going to school still causes Ian some anxiety over the incidents.

Students with disabilities are particularly vulnerable to bullies nationwide. Studies dating back to 2001 show that between 15-25% of U.S. students are bullied with some frequency, while 15-20% of students report they bully others with some frequency (Nansel et al, 2001). The issue of bullying of school children has gained national attention as some victims of bullying have resorted to suicide.

Recently, Ian was invited to The White House to attend a conference on Bullying Prevention. The conference was designed to bring together communities from across the nation who have affected by bullying, as well as those who are taking action to address the behaviors. Ian and other participants will have the opportunity to talk with President Obama and representatives from the highest levels of his Administration about how all communities can work together to prevent bullying. He and his family continue to fight for a safe school environment here in Michigan.

NDRN Releases Report on Barriers to Employment

The National Disability Rights Network (NDRN) released a report entitled, "Segregated & Exploited: The Failure of the Disability Service System to Provide Quality Work." The report focuses on the issues with segregated work, sheltered environments and low wages and highlights a breakdown between good federal and state policies and their implementation and oversight.

It identifies the barriers to employment that people with disabilities face and dispels myths about their capability to be fully employed, equally compensated, and an integral member of American workplaces and communities. The report seeks to show the system failure to provide hope and opportunity to young people

with disabilities who want to transition into traditional work but instead wind up “trapped” in a sheltered workshop.

“For decades we have worked to ensure federal laws guarantee the right of people with disabilities to live and work in their chosen communities,” said NDRN executive director Curt Decker. “Yet, our investigation found that many people with disabilities are still being segregated and financially exploited.”

The report calls for:

Ending segregated employment and the subminimum wage by restricting all federal and state money that is spent on employers who segregate employees with disabilities from the general workforce.

Strengthening current and create new tax incentives for employers to hire people with disabilities in integrated workplaces at comparable wages.

Increasing labor protections and enforcement of existing law.

“MPAS does not agree with all the statements in the NDRN report” stated Elmer L. Cerano, executive director. “Although MPAS firmly believes that advocacy must state the goal of full inclusion and equal pay, the process of moving from what is to what can be is a process of open and honest dialogue among people with disabilities.”

The report can be viewed at www.ndrn.org.

From The Executive Director

Why do we Still Have Segregated Work sites For People with Disabilities?

By: Elmer L. Cerano

As promised in my last article on deviated wages for people who produce at a rate below

that which is considered *average*, I want to attempt to shed some light on the issues surrounding segregated work sites for people with disabilities.

Let me start out by stating unequivocally that I am in full support of integrated community work sites, where people with and without disabilities have good working conditions and are paid a decent wage. I am also unequivocally committed to the principles of Self-Determination and people being in charge of their own destiny.

I know, I know – I also support motherhood and apple pie, too, but two of the difficult discussions on this topic are:

- ◆ What is meant by *segregated* or *integrated* work site --- is it defined solely by observation?
- ◆ What role, if any, does individual choice play?

Perhaps some history here will help frame the discussion.

We inherited an invalid tradition of assuming that it is okay to segregate people with disabilities. Our predecessors did this, not out of malice, but at the time with all good intentions. In 1938, the U.S. Congress passed and President Franklin D. Roosevelt signed the **Wagner-O'Day Act**.

This new and innovative law allowed people who were blind to manufacture mops and brooms to sell to the federal government. The idea was to use the buying power of the federal government to employ people who were blind. In 1971, under the leadership of Senator Jacob Javitz, Congress amended this Act to include all people with severe disabilities and it required government agencies to buy certain goods and services from approved nonprofit vendors. This became known as the **Javitz-Wagner-O'Day Act (recently renamed the AbilityOne Program)**.

To assure that this new government program honestly benefited the people for whom it was intended, the law required nonprofit agencies to maintain a workforce of at least 75 percent people with disabilities.

Wow! What a great idea for the time. The problem is that the law, as it is written, perpetuated a segregated work site where 75 percent of the employees must have a disability.

It is still too easy to find the traditional *sheltered workshops* where only people with obvious disabilities (whatever that means) work and earn a few cents on a dollar. There is little disagreement that such facilities are segregated and outdated. And, if people had any choice, they would, in all likelihood, choose not to work in such facilities.

The definition of segregated work site and the individuals' choice to work in what are now called a "Community Rehabilitation Programs" (CRP's) is far less clear when the disabilities of the employees are not observable and when the employer, under contract with the federal government or private industry maintains a well-paid workforce in settings that are inter-mingled with the general public. Some of these contracts offer opportunities to engage in valuable training and meaningful work, such as:

- ◆ Custodial service, grounds maintenance, or total facility management,
- ◆ Production of internment flags for the U.S Military,

- ◆ Vehicle fleet management and maintenance for the federal government,
- ◆ Assembly of ammunition clips for the military,
- ◆ Manufacturing of Chemical Suits for the military,
- ◆ Secured Document Destruction,
- ◆ Pass Port Call Centers.

Integrated? Of course not, but it sure becomes a little more understandable as to why a person with a disability might determine for themselves to choose such a job, especially when some of the more progressive CRP's around the country do the following:

- ◆ Successfully accommodate the jobs to increase the employee's productivity and earning potential,
- ◆ Aggressively works to provide marketable skills training and community job placement,
- ◆ Pay the employee an average of \$11.24* per hour and provide health and dental benefits and a 403(b) retirement plan,
- ◆ Provide upward mobility opportunities within and outside the company.

It is disingenuous for those of us who have fought for years to protect the individual's right to self-determination to now say that it is valid only if the individual's decisions align with our philosophical standards.

Muck like our right to the "Pursuit of Happiness" – we are not guaranteed the outcome of happiness, we are only guaranteed that the pursuit is protected. We need to constantly remind ourselves that "Self-determination" is a PROCESS, not the outcome.

Some employees with disabilities, with whom I have spoken have made it very clear to me that; "Earning a decent wage (with benefits) is THE key to true community integration."

Several friends who work at CRP's stated that the segregated nature of their work site is simply not as important to them as:

- ◆ Having a job,
- ◆ Having meaningful and enjoyable work, and

- ◆ Having a job that pays a decent wage with benefits.

I have been told flat out, that I have no right to limit the employment opportunities of others simply because I have philosophical disagreement with the segregated nature of their workplace.

These words, not easy to hear but honest.

Self-determination and the right to control one's own destiny have nothing to do with a disability agenda. They are the underpinnings of what it means to be an American – disability or not. It has been a struggle, over the years to assure people with disabilities were not left out of this fundamental American concept.

There is no argument that segregating people with disabilities against their will is wrong. There is also little argument that segregation of people with disabilities continues to stereotype and perpetuate an assumption that people with disabilities are incapable of working in the community or incapable of contributing along with non-disabled peers. Segregation perpetuates a perception of lesser value and a perception that people with disabilities must work in a *protected* environment.

Here's another "eye opener." A friend said; "I have no discomfort working with other people who have disabilities or with people who do not have disabilities. Why is this so important to all you other people?"

Ouch!

The AbilityOne law, like so many others, was written in a time past, where the approach was to create jobs and then find people with disabilities to fill those jobs. This model offered no real incentives to match a job to the unique characteristic, skills and interests of the individual and it allowed very little room for Job Carving, or the using the vast improvements of technology to accommodate work.

Many of the progressive CRP's around the country have recognized this rapidly changing field of vocational redesigning and have successfully moved beyond traditional employment initiatives for people with the most significant disabilities. Although still tied to buildings, laws and contracts of the past, some CRP's have (or are in the ongoing process of) re-thinking how to assist people with a wide variety of abilities to find viable employment options.

So here is the dilemma:

- ◆ We have laws, like the AbilityOne Program that was last modernized in 1971, when President Richard Nixon was in his first term.

- ◆ The 40-year-old *modernized* AbilityOne language precedes Mandatory Special Education, Deinstitutionalization, the Rehab Act, and the Americans with Disabilities Act.
- ◆ Federal laws need to be updated to provide incentives for private business and industry to hire, accommodate, retain, and promote people with disabilities.
- ◆ New techniques and technologies need to be incentivized to increase productivity.
- ◆ Jobs, other than traditional food, filth, and flowers need to be added to federal procurement lists to offer expanded opportunities for CRP's to create new employment options in the community for people with disabilities.
- ◆ CRP's need to look to the future and create new product lines that can allow them to deploy their vast knowledge on work accommodations and technologies to new industries and ideas.
- ◆ Artificial financial disincentives to work need to be eliminated and people with disabilities should be allowed to retain assets and better protect their benefits until employment is stabilized and profitable.

To adequately and fairly address complex issues, where we are dealing with the livelihood of others, we must embrace a clear and unqualified commitment to the individual's right to self-determination even (and I don't like saying this) if they choose something that we would not choose for ourselves.

As advocates, we must assure that the options are good ones, that employment laws are strictly enforced and that people with disabilities have a right to change their minds if and when their circumstances change.

* National Wage Averages taken from the November 16, 2010 State of the Organization Report from Nish on the AbilityOne program.
 Historical Data on the Ability-One Program provided by John B. Kelly Jr. | Senior Manager Grassroots Advocacy, Nish

When Will MPAS Represent Me?

Mission and Guiding Principles

The mission of Michigan Protection and Advocacy Service, Inc. (MPAS) is to advocate and protect the legal rights of people with disabilities.

We work to fulfill our mission by (1) working toward systemic changes that advance the rights of all people with disabilities and (2) advocating for individual rights in particular cases that meet our board approved priorities.

Due to limited resources, it is not possible for MPAS to provide legal services or direct representation to everyone who calls for assistance. MPAS provides several different levels of support and assistance, and we believe that people with disabilities are their own best advocates when they have accurate information. Therefore, when appropriate, MPAS will provide you with information, training, advice, and written materials that can assist you in speaking for yourself.

MPAS' systemic advocacy work is designed to protect and advance your rights as a person with disabilities so that:

- ◆ You can choose where and with whom you live, and you can determine for yourself what supports you need.
- ◆ You have equal employment opportunities.
- ◆ Communities are accessible and inclusive.
- ◆ All children with disabilities are provided a quality education with all supports and accommodations they need to develop marketable skills.
- ◆ You are legally protected from abuse, neglect, and exploitation.
- ◆ You have equal access to affordable, quality health care.
- ◆ You and all other individuals with disabilities fully enjoy the rights, benefits, and privileges the law guarantees.

Services Provided

Call the MPAS Information and Referral Service when you have a question about your rights or advocacy needs related to your disability. When appropriate, MPAS will provide information, referrals, or short-term technical assistance.

You may also be referred for MPAS direct legal or other advocacy representation if you are eligible and if your issue falls into one of the agency's priorities (listed on the following pages.) Unfortunately, ***MPAS is not able to accept every case for direct representation.*** MPAS reserves the right to select cases that:

- ◆ align with the MPAS mission,
- ◆ have sound legal merit,
- ◆ have the potential for effecting broad policy or systemic change,
- ◆ are consistent with legal and ethical standards, and

- ◆ are within current MPAS priorities.

MPAS cannot take your case if you have other advocacy assistance or you have the right to appointed counsel, we however may be able to assist your advocate or attorney.

MPAS periodically redefines its priority issues by gathering input from consumers, advocates, and family members. Reviews of disability research, local and national trends, and data analysis also help us to determine priority issues.

2011 – 2012 Priority Issues Considered for Assistance or Direct Representation

Priority #1 Ensuring individuals with disabilities are free from abuse or neglect

- ◆ Allegations of abuse or neglect, including deaths, involving a person with a disability.
- ◆ All complaints of inappropriate or excessive use of restraint or seclusion.
- ◆ Allegations of staff working with residents who are believed to have been found guilty of abuse or neglect in the past.

Priority #2 – Improving the rights protection systems

- ◆ Individuals who need assistance in filing or appealing a Recipient Rights complaint.
- ◆ Violations of a Recipient Right as identified in Chapter 7 of the Mental Health Code.
- ◆ Individuals who want to challenge a guardianship order that violates their civil right or a guardian who is exercising authority outside the scope of the guardianship order.

Priority #3 – Eliminating employment barriers and enforcing rights

- ◆ Individuals who have been denied access and rights to services within Michigan Vocational Rehabilitation Service (MRS), Employment Networks (EN), Centers for Independent Living (CIL), and Work Incentives Planning and Assistance (WIPA) programs.

- ◆ Individuals needing information on employment rights under the ADA and/or Section 504 of the Rehabilitation Act, as well as other employment laws.
- ◆ Individuals needing help securing due process with work-related overpayments including assistance in applying for work incentives.
- ◆ Employees with disabilities who have their employer as their Representative Payee at the Social Security Administration and where there is suspicion of exploitation, abuse, or neglect.

Priority #4 – Improving access to necessary services

- ◆ Individuals who have or are at risk of institutionalization because of a denial or termination of public or private services (i.e. Community Mental Health, Department of Human Services).
- ◆ Individuals who have been denied a reasonable accommodation that would allow them to remain in their current home/setting.
- ◆ Individuals who have been recommended for discharge from a facility and have not been discharged.
- ◆ Individuals who are trying to access assistive technology.
- ◆ Individuals who have been denied access to voting.
- ◆ Individuals who have been denied access or an accommodation to a critical program or service.

Priority #5 – Ensuring the right to high quality education

- ◆ Children and youth with disability-related behaviors who have been denied special education eligibility or evaluation processes.
- ◆ Children and youth whose disability-related behaviors place them at risk of exclusion from school because of unaddressed special education services, diagnosis, treatment, and supports.
- ◆ Children and youth with disabilities who are denied appropriate transition evaluations because of disability-related behaviors.

Partnership Proves to be Successful Polling Place Access for All

In the early spring of 2011, Michigan Protection and Advocacy Service, Inc. (MPAS) will be releasing its mid-term report highlighting the progress of

ensuring accessible polling locations in Michigan. The report will also detail the next steps MPAS will take to ensure that all polling places are accessible.

MPAS has already been to 95% (3,457) of the state's polling places and have found:

When physical barriers were present, 50% were due to parking and 17% were due to entrance problems (ramps, thresholds, etc).

Physical barriers were identified within 443 municipalities. Over 85% of the local clerks notified, responded detailing their plan of corrections.

The partnership between MPAS and the Secretary of State of Michigan has been crucial to the success in working toward the goal of increasing physical access to polling locations throughout Michigan. Information suggests, however, that much work is still required. Look for more detail in the mid-term report available at www.mpas.org.

Thank You for Your Generous Donations

On behalf of all the people we serve, we thank the many individuals and organizations that have so generously supported the work of Michigan Protection and Advocacy Service.

Thank you to all the individuals and organizations that have so generously supported the work of Michigan Protection and Advocacy Service. Due to the fact that most of the agency's funding comes from government grants, very strict guidelines govern how those funds may be used. To reach beyond those limits and to better respond to the requests of our clients, we need additional resources that can be used to advance our mission.

Gifts to MPAS may take many forms: cash, appreciated securities, and mutual fund shares, matching gifts from the donor's business, planned gifts, and bequests. To make a cash donation or to discuss provisions for gifts other than cash, please contact us at 800.288.5923.

Listed in the Exchange are all donors who made gifts to MPAS from January 1 to December 31, 2010.

Thank you to all the donors who have supported Michigan Protection and Advocacy Service, Inc.

Following is a list of those who donated to MPAS in 2010.

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Mr. and Mrs. Jack Byers
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Ask the Advocate

Q: I have heard the rules which require parents to sign the IEPs have changed. Is this true?

A: Yes it is true. There were changes made to the State Model Individualized Education Plan (I.E.P.) Form last year which removed the signature requirement from most IEPs. Not only has this change confused many parents, it has created a perception that parent participation in the IEP process has been eliminated or is diminished. Parental participation continues to be an important part of the IEP planning process and is not affected by this change.

Prior to the IDEA 2004 (federal special education law), a parent could object to an IEP by signing in disagreement and checking a box to request a due process hearing. Doing these two things invoked stay put and stopped any recommended changes temporarily until a due process hearing happened.

IDEA 2004 changed this rule. Under IDEA 2004, a parent could no longer request a due process hearing by checking the box and signing in disagreement. Now, the only way to request a due process hearing is to file a due process hearing request with the state. Michigan recognized this change in 2010 and changed the State Model IEP Forms.

One change to the State Model IEP Form involves notice. The school district must issue prior written notice to change the IEP or when declining a parent's request to change it. The prior written notice must include a description of action and why, evaluations, supporting the action, procedural safeguards statement, and other options considered and why they were rejected.

There are two new notice forms which are separated from the IEP form. The first form is for the initial or new provision of programs and services for those students who are not currently in special education. The second form is for students currently receiving special education services. The parent signature or consent is only required on the notice form for initial or new provision of programs and services. Parents may revoke consent to services, as well.

Although the signature lines have been removed on an IEP form, it is important to remember, parents do not lose their due process rights. They still may appeal through a due process hearing request. It is also the only way a parent may assert stay put rights under which a student stays in his current placement pending the outcome of the hearing. The 2004 IDEA only requires parent signature for initial or new provision of programs and services.

Under IDEA and Michigan Special Education Rules, parents are part of the IEP team, help develop the IEP, and are involved in meetings about eligibility or the provision of appropriate services and supports.

For additional information regarding prior written notice and due process hearing rights, call Michigan Protection and Advocacy Service and ask to speak to an Information and Referral advocate at 1.800.288.5923.

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Elmer L. Cerano, *Executive Director*