

Exchange

“Protecting the Rights of Persons With Disabilities”

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

Fall 2011

Inside This Edition

MPAS Advocacy Results in Systemic Changes Within School District

Special Education Administrative Complaints

Current MPAS Priorities in Educational Advocacy

Ask the Advocate

Disability Education Trainings

Do Your Homework Before you go to College

Help us Reach our Facebook Goal

Texas Study Shows 75 Percent of Students with Disabilities are Suspended or Expelled at Least Once

From our Executive Director: What is Really Happening in our Educational System?

Legislative Happenings at the State Capitol

Transition for Students with Emotional Impairments: What Next?

Preparing for Your Health Care Transition

Helping Young Adults with Disabilities reach Their Hopes and Dreams

Call for Advisory Council Members

Gardens in State Facilities, Part II

Transitioning Social Security Benefits at age 18

MPAS Reaches out to the Community for Feedback During Priority Planning Process

MPAS Advocacy Results in Systemic Changes within School District

(The following story is true; the names have been changed to protect the identity of the client.)

Rhonda, Editor

“Things were going from bad to worse very quickly,” says Monica. “I tried everything I could think of to get the school to withdraw the petition, but they refused.”

Monica guessed who was calling before she answered the phone. It was the school; her son Jacob had been suspended again.

Diagnosed with an emotional impairment, Jacob has difficulty controlling his emotions and had been regularly reprimanded for things like talking back, being disrespectful, refusing to complete assignments, and truancy. Although his behavior was never considered violent, after the 28th suspension, administrators at the middle school filed a charge of *school incorrigibility* against Jacob and petitioned him to Juvenile Court.

“Things were going from bad to worse very quickly,” says Monica. “I tried everything I could think of to get the school to withdraw the petition, but they refused.”

As it turned out, he was not formally charged in Juvenile Court; however, he was assigned to meet with a detention worker on a daily basis and was told to improve his conduct in school or be sent to the youth home.

Confused and frustrated, Monica contacted Michigan Protection and Advocacy Service (MPAS) to have Jacob’s records reviewed to determine whether or not the school district was meeting its legal obligations as specified by special education law.

The MPAS advocate determined that although Jacob was qualified for special education services, he had not been offered services other than the resource room. There were no specific goals for behavior, no personnel supports for behavior planning or data collection, and no behavior support plan in his current individualized education program (IEP).

“The school was relying heavily on removal from the instructional setting as a way to deal with Jacob’s challenging behavior, rather than developing an individualized plan of positive behavior supports,” says the advocate. “After reviewing the school records and speaking with Jacob’s parents, we determined that a special education administrative complaint might help address that problem – not only for Jacob, but for other students with challenging disability-related behavior, too.”

Beyond the question of whether appropriate services were provided, communication in general between the school and Jacob’s parents was also lacking. They were not contacted regarding 18 of the 28 disciplinary infractions. In cases where they were contacted, messages were left on their voicemail simply stating that Jacob had been suspended.

Due to time lost from school, Jacob’s academic performance was also suffering, and there was discussion that he would be required to repeat the eighth grade. Since the suspensions were for similar behaviors, which the school acknowledged were related to his disabilities, Jacob should have received out-of-school services during the suspensions after 10 days of removal. At least once, however, the manifestation determination review (MDR) meeting was not held until day four of a five-day suspension, with no services provided in the interim.

The MDR is a meeting held with the student’s individualized education program (IEP) team (parents, school administrators, teachers, and others) to determine if the behavior is due to the child’s disability. It also triggers a responsibility by the school to consider what the student needs in order to address the behavior so that it does not recur. By failing to hold the MDR meeting until the fourth day of his suspension, neglecting to provide any services during those four days or to consider additional supports for his return to school,

Jacob did not get support needed to help him develop more appropriate behavior, *and* missed out on four days of instructional services.

The practice of removal without instruction, coupled with failure to reconvene to consider additional supports, heightened concern for both Jacob and other students with challenging disability-related behavior, so the MPAS advocate – with the assistance of Jacob’s parents – filed a complaint on Jacob’s behalf. The complaint, which was filed with the Michigan Department of Education (MDE), asked the Department to consider systemic concerns as well as the individual allegations related to Jacob. Because the behavior related to Jacob’s disabilities was handled primarily as a discipline problem, he was denied a free and appropriate public education (FAPE) as required under the Individuals with Disabilities Education Act (IDEA).

The complaint triggered an immediate – and positive – response from the school. Rather than waiting for the MDE to investigate a complaint against them, district administrators (working with the intermediate school district compliance monitor) contacted MPAS and asked to meet to discuss working out an agreement. As a result of agreements reached, the school has taken steps to ensure that both Jacob and other students with challenging disability related behaviors will receive appropriate academic and behavioral supports.

Highlights of Jacob’s agreement with the school include:

- ◆ Academic assessments in math and language arts to determine his current level of educational performance,
- ◆ Addressing academic deficits during the summer through tutoring, online coursework, and one-on-one instructional support,
- ◆ Conducting a functional behavior assessment (FBA) focusing on behaviors which have resulted in the highest number of suspensions,
- ◆ Developing a behavior support plan, based on the results of the FBA,
- ◆ Designing an IEP which incorporates the information obtained through the functional behavior assessment, and
- ◆ Notifying Jacob’s parents in writing when any disciplinary action is taken.

Jacob has already accessed the summer instructional support and has mastered the eighth grade requirements, addressing the deficits caused by removal from school. He will be entering high school in the fall with academic skills equal to his peers.

“I’m happy that Jacob has received the supports and services he needs to be successful in school,” says Monica. “And I’m also pleased that Jacob’s experience has jump started system wide changes in the school district. Now other kids as well as Jacob will benefit from these positive improvements.”

Summary of the Public School Agreement

Although the complaint MPAS filed with the Michigan Department of Education specifically named Jacob, the school district voluntarily agreed to work toward improving the way the district responds to challenging disability-related behaviors overall. The

district committed to a plan for developing a district policy on positive behavior supports, as well as increasing staff understanding of positive behavior supports. The district plans to follow up by doing the following:

- ◆ District staff will receive, at a minimum, two trainings on positive behavior supports.
- ◆ The Regional Educational Service Agency (RESA) will include a session on positive behavior supports as part of its professional development day.
- ◆ The district will provide professional development on positive behavior supports for district staff including: administrators, instructional staff, and paraprofessional staff.
- ◆ District will convene a committee to develop a district-wide policy for positive behavior supports that aligns with the State Board of Education Policy entitled *Positive Behavior Support Policy*.
(http://www.michigan.gov/documents/mde/SchoolwidePBS_264634_7.pdf)
- ◆ The district will include information regarding the positive behavior supports policy in all student handbooks.

Special Education Administrative Complaints: Can they be used to Address Push out from School?

Kris, Advocate

The special education administrative complaint process provides parents and other concerned individuals a unique way to challenge violations of special education laws. In fact, in comments to the Individuals with Disabilities Education Act (IDEA) regulations the federal Office of Special Education Programs (OSEP) noted:

“...we believe that the State complaint process is ... necessary for the proper implementation of the Act and these regulations. [A] strong State complaint system provides parents and other individuals an opportunity to resolve disputes early without having to file a due process complaint and without having to go to a due process hearing...”

Administrative Complaints – what can they cover?

Some people believe that a special education administrative complaint is limited to issues related to the processes followed in developing an individualized education program (IEP), or the school’s failure to implement an IEP. That is not what the federal agency responsible for IDEA has said, however. In comments to the 2006 IDEA regulations, (OSEP) stated:

“State complaint procedures can be used to resolve any complaint that meets the requirements of §300.153 including matters concerning the **identification, evaluation, or educational placement ...or the provision of FAPE [Free and Appropriate Public Education] to a child.** ... We believe that [a state], in resolving a complaint challenging the appropriateness of a child’s educational

program or the services or the provision of FAPE, should not only determine whether the [school district] has followed the required procedures to reach that determination, but also whether the [district] has reached a decision that is consistent with the requirements in Part B of the Act in light of the individual child's abilities and needs ... If necessary, the [state] may need to ... determine whether the agency followed procedures and applied standards that are consistent with ... the Act, and whether the determination made by the [district] is consistent with those standards and supported by the data.”

The complaint process *can* be used to challenge a school's failures to provide an appropriate IEP—including an IEP that does not adequately address behavior.

Substantive Administrative Complaints

Sometimes, even when the IEP team has included the proper participants and the form has been completely filled out and implemented, the student has still not received a free and appropriate public education. For example, if the student has been repeatedly removed from instruction for behavior related to disabilities, and the IEP team has never addressed the need for positive behavior supports or other services, a special education complaint may be one way of addressing the problem.

The Michigan Department of Education (MDE) has included information about how it investigates an allegation involving the appropriateness of an eligibility determination, IEP or placement decision on its Web site, where it states:

“The MDE will determine if the public agency followed the required procedures and reached a decision that is consistent with the rules and regulations.

The MDE will find that the public agency complied with the rules and regulations if they followed required procedures, applied required standards, and reached a determination that is reasonably supported by the student's specific data and is consistent with the rules and regulations.” Section V.D., page 17

http://www.michigan.gov/documents/mde/StateComplaint_Procedures_340115_7.pdf

Addressing substantive failures to provide a free and appropriate public education to students with challenging disability-related behavior also offers opportunities for correcting policies or practices in local school districts that lead to improper removal from instruction. The Office for Special Education Programs noted:

“In light of the [state's] general supervisory authority...we believe the [state] should have broad flexibility to determine the appropriate remedy or corrective action necessary to resolve a complaint in which the state educational agency (SEA) has found that the [local district] has failed to provide appropriate services to children with disabilities...”

The MDE has authority to determine both individual remedies for the student, and corrective action to ensure that other similar students are provided with an appropriate education in the future. Properly handled, special education complaints provide a means of improving outcomes for students with challenging disability-related behavior.

MPAS began surveying parents of children with disabilities in November 2010 through our information and referral service. We asked parents if their children were having problems related to behavior, including problems that could suggest future behavior challenges such as academic struggles, retention, or multiple absences. MPAS callers completed 263 surveys between April and June 2011. Among the results:

- ◆ 179 reported their children were having behavior problems in school.
- ◆ 130 reported their children had bad grades for a year or more.
- ◆ 111 reported their children had been absent 10 or more days in a year.
- ◆ 55 reported their children had been held back a grade.
- ◆ 105 reported their children had been sent to the office 10 or more times in a school year.
- ◆ 125 reported they been called to pick up their children from school or asked to keep their children home from school because of behavior problems.
- ◆ 89 reported their children had been suspended from school.

The survey is not intended to produce scientifically valid data, but is designed as an informal measure of the scope of current or possible future behavior issues facing students with disabilities in Michigan.

Current MPAS Priorities in Educational Advocacy

Jennifer, Advocate

This past year, MPAS' education priority focus is to ensure the right to a high quality education for all students with disabilities. In order to achieve this, our focus has been on three separate objectives:

- ◆ Students will be identified and evaluated for special education
- ◆ Eligible students at risk of discipline due to disability-related behavior will remain in school.
- ◆ Transition needs from post education to community living will be identified and addressed.

MPAS is also working to eliminate abuse/neglect in schools. This is being achieved by investigating the use of seclusion and restraint by educational staff.

Ask the Advocate

Mark, Legal Director

Q: My child is turning 18 in a few months. He is receiving special education services. At our last individualized education program (IEP) meeting, the school staff told us that we had to apply for guardianship for him. Is that true?

A: No. There is no requirement that you file for guardianship for your child when he turns 18. Guardians are appointed by probate courts. The process begins when someone believes that an individual lacks the ability to make important life decisions about finances, medical care, housing, and so on. The probate court then usually appoints a lawyer for the individual, orders that a psychological report be submitted, and directs that a guardian ad litem investigate the need for a guardianship. A hearing is held in probate court. Parents should be aware that the guardianship hearing is an adversarial process. They should also understand that by seeking guardianship, they are asking the court to take away some or all of the rights of their child to make important decisions.

When a school recommends that parents seek guardianship over their child, it often means that the school has failed to help the student gain the life skills necessary to make important decisions and to communicate them effectively. Therefore, it is important for parents and others to realize there are alternatives to guardianship. The two main issues where guardians are appointed relate to money and medical care. Fortunately, there are viable alternatives to guardianship for both of these issues.

Many individuals with disabilities receive Social Security Disability Income (SSDI) or Supplemental Security Income (SSI). With both of these programs, the beneficiary can ask that the Social Security Administration appoint a representative payee. The representative payee receives the SSDI and/or SSI payments and helps the beneficiary manage his or her money. Every year, a report summarizing the handling of the money must be filed by the representative payee. This is a simple and free way of helping a person who may be challenged in handling money.

Another option is to consider placing money in a joint bank account. When this is done, the individual with a disability and a trusted family member or friend can share the responsibility for managing the money. If a large amount of money is involved, it is best to consult with an attorney who specializes in trusts and estates.

When it comes to making medical decisions, it is especially important to preserve the autonomy and self-determination of the individual with a disability. Decisions about medical care are the most personal and fundamental decisions a person can make. One way to preserve the person's right to make their own medical decisions is through a Patient Advocate Designation (PAD). A PAD allows the person to designate someone to

make medical and/or mental health decisions when he or she is not capable of doing so. Preferences regarding treatment options can be included in the PAD.

These are but a few of the options available to help a person manage his or her own life without the intervention of a guardian. For more information about these and other options, contact MPAS at **800.288.5923**.

Disability Education Trainings

The Michigan Alliance for Families is scheduling a full set of special education trainings throughout Michigan in the coming year. For up-to-date information and schedules, please visit their Web site, www.michiganallianceforfamilies.org, or call **800.552.4821**.

Do Your Homework *Before* You go to College

Laurel, Advocate

Everyone knows there are federal laws protecting the rights of people with disabilities from discrimination. These laws also require public programs to accommodate people with disabilities so they can use the programs. Accommodations might involve changing a policy or procedure or making a building physically accessible. If you are a student with disabilities going to college or graduate school, you might want to find out if you will need any accommodations and deal with it before you even start class.

Visit the school. If you have a problem with traveling, see how easy it is to move around campus and in school buildings. Find out from other students how quickly snow is removed. Find the buildings for your classes to see if you will have a problem getting in. If you plan to live in a dorm, check to see if it's accessible.

Most colleges will have an office for students with disabilities. If you expect you will need services, talk to them. Find out what the procedure is for requesting an accommodation. Also find out what they would do if someone at the school did not let you have that approved accommodation.

You do not need to tell anyone that you have a disability, and the college cannot ask. If you do need accommodations, though, you will need to provide information about your disability. This information should be kept private, but it is still smart to keep it limited.

Information about your disability from high school or a doctor's note might not be good enough to prove you have a disability. It also might not have enough detail to support your need for accommodations. The college can ask for more detail and you might need to find a way to pay for an evaluation.

A school does not have to provide exactly the accommodation you request but usually must provide something that gets the job done. The school has to work with you to figure out what that is. It does not have to provide personal assistance services (such as help

using the restroom) or change its requirements for a program that is considered crucial learning for that program. The school cannot usually charge you any more for the cost of any accommodation than they charge everyone else for the same service.

If you have trouble, you have rights under the law that allows you to formally complain. For example, you can ask that the school's Section 504 coordinator attend meetings. You can use your college's internal grievance process. You can ask for a hearing or file an administrative complaint, usually with the U.S. Department of Education's Office for Civil Rights.

Set this all up before you start school and get it in writing. Though you may have some problems, knowing what to do should make fixes faster. This will free you to concentrate on more important things such as pizza and final exams.

For more information, please see:

Auxiliary Aids and Services for Postsecondary Students with Disabilities
<http://www2.ed.gov/about/offices/list/ocr/docs/auxaids.html>

A Practical Guide for People with Disabilities Who Want To Go to College
http://tucollaborative.org/pdfs/education/College_Guide.pdf

Help us Reach our Goal: Become a Fan of MPAS Facebook

Many regular readers of *Exchange* know that Michigan Protection and Advocacy Service (MPAS) is now on Facebook. It's a great way to connect with others like you who are interested in disability issues and to keep up on the latest news and legislation affecting the disability community.

If you haven't already, MPAS would like to challenge *Exchange* readers to join Facebook. Get your friends to join, too!

Texas Study Shows 75 Percent of Students with Disabilities are Suspended or Expelled at Least Once

Mark, Director of I&R and Education Services

A new study of nearly one million Texas public secondary students showed that 75 percent of students with disabilities, and 90 percent of students with emotional impairment, were suspended or expelled at least once from school.

The study, conducted by the Council of State Governments (CSG) and Texas A&M's Public Policy Research Institute, also found that 15 percent of all students were expelled 11 times or more, and nearly half of those students ended up in the Texas juvenile justice system. Only 40 percent of those students graduated from high school.

Students with emotional impairment fared particularly badly in school. The report concluded that these students were disciplined far more often because of their disability:

“When controlling for all other study variables, the study showed that ... [EI students] had a 23.9% higher probability of being suspended or expelled for a discretionary action.” (p.51)

Such a finding calls into question the basic assumption that the Individuals with Disabilities Education Act (IDEA) has succeeded in guaranteeing access to school for students with disabilities, especially students whose disabilities include emotional or behavioral challenges.

The sobering findings were made possible by providing researchers access to nearly six million school and juvenile justice records of all Texas 7th graders in a three-year period. “This report reflects an impressive commitment among Texas leaders to developing state-of-the-art electronic record keeping systems and then using the data to answer important questions,” said CSG Justice Center Director Michael Thompson. “Such data-driven policymaking should be the goal of state officials everywhere.”

Following the report, U.S. Secretary of Education Arne Duncan and U.S. Attorney General Eric Holder announced a new federal initiative to address the “school-to-prison pipeline” and the disciplinary policies and practices that can push students out of school and into the justice system. The initiative aims to support good discipline practices to foster safe and productive learning environments in every classroom.

Go to http://justicecenter.csg.org/files/Breaking_Schools_Rules_Report_Final.pdf to see the Council of State Governments report. To learn more about the federal initiative, go to <http://www.ed.gov/news/press-releases/secretary-duncan-attorney-general-holder-announce-effort-respond-school-prison-p>.

Changes in Medicaid Home Help Services will Stop for Thousands of Medicaid Recipients

Starting October 1, 2011, the Department of Human Services (DHS) will begin to apply new limits to Medicaid Home Help Services.

Will my Home Help Services be cut?

Your Home Help Services may stop in or after October, 2011 if you ONLY need help with:

- ◆ Meal preparation
- ◆ Taking medication
- ◆ Shopping
- ◆ Laundry

- ◆ Housecleaning, but you don't need help with personal care like the services listed below.

Your Home Help Services will NOT STOP if you need help with:

- ◆ Bathing
- ◆ Toileting
- ◆ Transferring
- ◆ Eating
- ◆ Grooming

Note: If you need help with personal care, you should be able to keep your home help services, even if someone other than your Home Help Services provider helps you with that care.

** Tell your DHS Adult Service worker about ALL YOUR NEEDS **

How will I know if my Home Help Services are stopping?

The Department of Human Services (DHS) must send you advance notice if they intend to stop your Home Help Services. If you have questions about your legal rights, please contact MPAS Information and Referral at **800.288.5923**.

From the Executive Director

What is Really Happening in our Educational Systems?

“Teaching students to read would be a lot wiser investment in our national security and economic health than building more prison beds.”

A recent study of the Texas Educational System (referenced by Mark McWilliams in an article on page 7 of this newsletter) indicates some alarming facts about the rates of suspension and expulsion from school for students with identifiable disabilities. The report also indicates how repeated suspensions have correctly predicted later involvement of youth, many of whom have disabilities, in the juvenile justice system.

Sometimes referred to as the *School- to-Prison Pipeline*, for years, observers have recognized a connection between how we educate children and the ways in which we respond to behaviors that may be indicative of the presence of a disability.

Years ago, I came across a study done by another state's correctional system (not Michigan), that made me even more suspicious about how we identify problems and solutions.

The State wanted to project their prison bed needs 20 years into the future. They used several variables but the one I found most alarming was their concentration on the reading abilities of children in the third grade. From that study, the Department of Corrections accurately predicted the State's future prison population and the number of

beds they would need to build in order to accommodate the expected 20-year growth in prison populations.

How frightening!

Not only was it frightening that the projections were accurate, it was also frightening that it was the Department of Corrections and not the Department of Education that did the study.

I am sure that some of the study's outcomes may have created a self-fulfilling prophecy where the school's expectation of failure was clearly communicated to students who may have needed additional supports in becoming proficient in reading. However, what I believe was missed in the study was the devastating disconnect between the perceived problems and the identified solution.

Problem: How do we prepare for future prison beds?

Solution: Count the number of third graders who can't read.

Or

Problem: Third Graders can't read.

Solution: Build more prison beds.

Get the point?

The Texas report is unique in that it did not take a random sampling of students. They studied nearly one million Texas 7th graders and found that 75 percent of students with disabilities and 90 percent of students with emotional impairment were suspended or expelled from school, many of whom ended up in the Texas juvenile justice system. What a waste of valuable human potential.

I know that some people in Michigan will be critical of the Texas report – after all, “Michigan is not Texas,” but come on, give me a break! Neither Texas nor Michigan has a lock on 7th graders who are in or heading for a lifetime of problems. I would venture to guess that a similar study in Michigan would produce results that parallel the Texas study. I would love to be proven wrong on this.

Most certainly, teaching students to read would be a lot wiser investment in our national security and economic health than building more prison beds. However, teaching children to read is not the responsibility of the Department of Corrections. Their job is to manage the fallout from an educational system that continues to fail students with disabilities.

Elmer L. Cerano
Executive Director

Legislative Happenings at the State Capitol

Repeal of Helmet Law

It has been happening for over 35 years and this year is no different. A law repealing the state's mandatory helmet law has been introduced and passed the Michigan Senate (Senate Bill 291). As passed by the Michigan Senate, motorists would be able to ride motorcycles without helmets, as long as they are 21 years or older and purchase an additional \$100,000 in insurance coverage.

Despite consistent polling showing the majority of Michigan citizens oppose the repeal, there is a strong possibility that the bill will pass the Michigan House of Representatives and make its way to Governor Snyder for his signature. Governor Snyder has not yet indicated whether he would sign the bill if it came to him.

According to the Insurance Institute for Highway Safety, Michigan has had a law in place since 1968 and is one of 20 states requiring **all** motorcyclists to wear a helmet. In fact, only three states have no laws in place requiring motorcyclists to wear helmets. Two states reinstated a mandatory helmet law after seeing the dramatic increase in deaths and hospitalization of motorcycle riders who were not wearing helmets. The motorcycle helmet law was created to save lives.

Michigan Protection and Advocacy Service (MPAS) has long advocated for the helmet law. If the issue of repealing the helmet law is one of choice, one could make the argument for the repeal of the seat belt law. When can we expect the repeal of the seat belt law and all the other laws that can be classified as choice?

Senate Bill 291 is currently in the House Committee on Transportation.

Background Check legislation

In the last issue of *Exchange*, MPAS updated its readers on the introduction of a three bill package that would prohibit new employees working or applying to work in nursing homes, psychiatric facilities, and foster care facilities if they have a substantiated history of neglect and abuse defined as Abuse/Neglect Class I or II.

Definitions of abuse or neglect include death, sexual assault, and serious physical injury, failing to supervise an individual that leads to serious injury, slapping, pulling, or exploitation. All of these definitions are defined within the Michigan Mental Health Code and Administrative Rules.

While the legislation has not seen activity, there have been meetings with the bill sponsors and interested parties to work out varying differences. In addition, MPAS is still gathering case examples to highlight the need for this important piece of legislation.

It is anticipated there will be a committee hearing in the fall of 2011 on the bills.

Bullying

Similar to the Background Check legislation, there has been activity on moving bills forward that would require school districts to adopt a policy prohibiting bullying and provides guidance on the policies.

Unfortunately, the Michigan Senate did not vote on Senate Bill 137 prior to leaving for the summer. The Michigan House of Representatives House Committee on Education held a committee hearing on House Bill 4163 (bill that is identical to SB 137) but failed to pass the bill out of committee due to questions raised by committee members. It is expected that the House Committee on Education will have a committee hearing on House Bill 4163 when they return from the summer.

MPAS continues to hear from parents whose children have been victims of bullying. These stories will be shared with legislators as the bills move forward.

Restraint and Seclusion

Rep. David Rutledge has introduced House Bill 4676, a bill that would ban or limit the use of restraint and seclusion. The bill has seven cosponsors and was assigned to the House Committee on Education. The disability community appreciates the support of Rep. Rutledge and looks forward to working with him on securing passage of the bill.

Since the last edition of *Exchange*, MPAS has been busy educating policy makers on the issues facing the disability community. While all of the issues being addressed are not listed, it does not indicate the level of priority for the agency.

To be updated on these issues, MPAS encourages readers to become fans of Michigan Protection and Advocacy Service on Facebook. As legislation moves forward, immediate updates will be posted as they become available.

Transition for Students with Emotional Impairments: What Next?

Anne, Advocate

If you are a student with a disability who has an Individualized Education Program (IEP) you have the right to education supports to assist you in making progress in school. You also have the right to planning and supports that assist you in preparing for life once you finish high school. This is as true for students with emotional and behavioral disabilities as for students with any other disability.

Transition planning should start at least by age 16, when your IEP team looks at how to support your goals for life after high school. Whenever the IEP team talks about transition, you have a right to attend the meeting, and the team must consider your input. Do you want to pursue postsecondary education or a vocational program, or do you wish to enter the workforce or military after leaving high school? Are there agencies that can assist you in reaching your goals? Are accommodations or modifications to the high

school curriculum necessary? Do your post-high school goals call for instruction in independent living skills? The transition plan should look not only at areas where you need assistance but also consider your strengths. What are your best subjects and skills? What do you enjoy doing? What are your interests? The plan should be updated every year.

Once you turn 18, you have reached the age of majority and—unless a court determines otherwise—all special education rights transfer from your parent or guardian to you. You and your parents or guardians should be informed of this before your 17th birthday so you can get ready. Some of your educational rights include the right to:

- ◆ attend any IEP held about you,
- ◆ let others (such as your parents) help you in the IEP process if you want help,
- ◆ give permission before evaluations are done or before your education records are sent to an outside agency,
- ◆ review information when evaluations are completed,
- ◆ see your education records and to disagree with information you believe is not accurate,
- ◆ get education services and supports and to disagree if you do not think the school is offering appropriate services.

You have responsibilities that go along with these new rights. As you approach adulthood, it is important to learn how to be an advocate for yourself. This means, first, that you obtain a good understanding of your disability and what supports can help you finish high school and move into your adult life. If you have an emotional impairment, it is very possible you have struggled with behavior problems in school. It is important to learn what can help you be successful in school, and it is important to learn what can help as you leave school. There are supports that allow people with mental illness and emotional impairments to be successful throughout their lives. Some of these supports will end once you leave high school, but some can overlap high school and whatever comes next.

Some things to consider while you are still in high school include:

- ◆ As a person eligible for special education, you can, in Michigan, receive services until you turn 26 or you graduate. If your goal is to graduate with a diploma, you and your IEP team can consider extended time to reach that goal. Some schools have a *fifth year* program for all high school students, not just those in special education. It is also possible to obtain high school credits through vocational/technical programs, online learning programs, or dual enrollment (taking college courses while still enrolled in high school).
- ◆ Under the Michigan Merit Curriculum (MMC), having an IEP is one accepted reason for requesting a Personal Curriculum (PC) to modify the high school requirements. Be aware that this might jeopardize a diploma, however, since it is up to the district to determine whether a modified curriculum under a PC merits a diploma. But do not let school staff tell you that a PC *automatically* means a certificate of completion, because the MMC legislation calls for a

planning process. A school does not have to approve a PC leading to a diploma, but it must consider it if requested.

- ◆ If you have behavior difficulties in school, you have some additional rights as a special education student if you are suspended for ten-plus days or referred for expulsion. This does not provide a *free pass*; school administrators and the Board can still refer you for disciplinary actions and expel you for serious offenses. However, you should learn about your rights by reading more or calling an advocacy organization such as MPAS.
- ◆ It is always advisable to attempt to prevent problems before they occur. Therefore, you can request a Functional Behavior Assessment (FBA) that is followed by an individualized Behavior Support Plan (BSP). This should not be a *one size fits all* plan but should be designed for you and your needs and with your participation.
- ◆ Your IEP can include specific behavior goals and objectives, accommodations (such as a quiet area if you need some respite time), modifications (such as shortened tests or assignments to relieve anxiety), services (such as social work or consultation with a specialist) and other supports (such as instruction in anger management or peer mediation techniques). Be sure any agreed-upon supports are written in your IEP; if the school does not implement them, you have complaint rights.
- ◆ Your transition plan can include consultation and involvement from other agencies, such as Community Mental Health (CMH) or Michigan Rehabilitation Services (MRS). This involvement can continue after you leave school. CMH services are addressed through a Person Centered Planning (PCP) process, and MRS services result in an Individual Plan for Employment (IPE). The underlying philosophy in both is that you have the right to choices and to be able to plan your own life. As with special education, there are appeal rights if you disagree with proposed services.
- ◆ You can request a vocational assessment, which again is helpful information to take with you when leaving school.
- ◆ If you think assistive technology might be helpful, you can request an evaluation to determine what technology might be useful; again, this (the information, if not always the device) can follow after high school.

Many, but not all, of the supports you receive in high school can transfer to a situation after you leave school. Once you receive a diploma or age out at age 26 you no longer qualify for special education supports under the Individuals with Disabilities Education Act (IDEA). As a person with a disability, however, you do have rights under other laws—such as the Americans with Disabilities Act (ADA) and Section 504 of the

Rehabilitation Act, among others—to supports that can follow to college, employment, and other situations.

For more information about transition, contact MPAS at **800.288.5923** and ask for the Information, Referral, and Education Services Team. Other resources include:

- ◆ Your school’s transition coordinator (call your local intermediate school district)
- ◆ MRS (call **800.605.6722** to find your local office)
- ◆ Disability Network (www.dnmichigan.org)
- ◆ Michigan Alliance for Families (www.michiganallianceforfamilies.org)
- ◆ Community Mental Health (find your local agency:
http://michigan.gov/mdch/0,1607,7-132-2941_4868_4899-178824--00.html)
- ◆ Great Lakes ADA Center’s *Punch In Discover Yourself* Web site (www.punchin.org)
- ◆ Michigan Transition Services Association (www.michigantsa.com)
- ◆ National Center on Secondary Education and Transition (www.ncset.org)

Preparing for Your Health Care Transition

Leah, Advocate

(Adapted with permission from Children's Special Health Care Services, Michigan Department of Community Health, *Transition Planning: A Guidebook for Young Adults and Family*, http://www.michigan.gov/documents/mdch/trans_final_308093_7.pdf)

As you get older, it’s important to think how your age might impact your health care. Getting older may change your health care coverage and your provider. You may also want to learn new skills as you take charge of your health care. Here are some things to consider.

Planning Ahead: You will want to know when or if your health insurance changes and what you can do if it does. You will want to research health care coverage options early. You may want to call your local Department of Human Services or talk with your case worker to find out what programs are available.

Eligibility: If you are currently on your family’s health plan, there are several things you need to ask:

- ◆ Is there an age limit for coverage?
- ◆ Does being a student affect coverage?
- ◆ What will you do when you are no longer eligible to be covered under a family plan?

If you are on a publicly funded program:

- ◆ How long are you eligible for this program?

- ◆ How might changes in income affect your eligibility?
- ◆ What options do you have if you are no longer eligible?
- ◆ Will you need to report changes such as living arrangements and employment?

Adult Providers: Some doctors, such as pediatricians, stop seeing patients when they reach a certain age. To be prepared for this change, here a few things you may want to ask your current doctor:

- ◆ At what age will you stop seeing me?
- ◆ Can you help me find a new doctor?
- ◆ Will you help me put together a portable medical summary?
- ◆ Will you communicate with my new doctor during this transition?

Important Skills: As you become more independent you may need to learn new skills to meet your health care needs. These may include making doctor's appointments, getting prescription refills, and setting an alarm to remind you to take medications. You may want to ask yourself:

- ◆ Can I describe my chronic illness or disability?
- ◆ Am I responsible for taking my own medications?
- ◆ Do I know how to contact my doctor?
- ◆ Do I know about my insurance coverage?
- ◆ Can I prepare questions for doctors and therapists?

Ask the right questions, and stay healthy!

***Helping Young Adults with Disabilities Reach Their Hopes and Dreams* Transition Toolkit Now Available**

Michigan F2FHIEC and Dan, Advocate

The Michigan Family-to-Family Health Information and Education Center (F2FHIEC) in collaboration with several state agencies and organizations recently developed a *transition toolkit* for young adults, families, service coordinators, case managers, and others who work with young adults. The toolkit is designed to help students with disabilities and special health care needs prepare to reach their hopes and dreams after high school.

The kit includes the *Helping Young Adults with Disabilities Reach Their Hopes and Dreams* DVD that shows how other young adults planned for their future after high school. It also includes information related to: Person Centered Planning; Self Determination and Self Advocacy; Career Development and Employment; Education and Education Training; Community Involvement and Recreation; Daily Living and Independence; Health Care; Housing; Legal Decision-Making and Knowing Your Rights; and Social Security. The materials are in hard copy and on interactive CD. The CD will allow you to visit a Web site to view and print updated materials.

This toolkit is built upon three core values:

- ◆ **Self-determination:** People with disabilities should be in charge of their own lives.
- ◆ **Interdependence:** All people with disabilities can build a community of support that can help them reach all their hopes and dreams.
- ◆ **Pride:** Disability is not just a medical diagnosis, but rather is an identity in which individuals can take great pride. People with disabilities have a long history, a rich culture, and a vibrant community to celebrate.

To get toolkit information or additional information and resources to help you to plan for your future, please visit: www.mifuturebuilder.com or contact your local Arc, Center for Independent Living or the Family Phone Line at **800.359.3722**.

Call for Advisory Council Members

Michigan Protection & Advocacy Service, Inc. (MPAS) is seeking individuals to serve on its Protection & Advocacy for Individuals with Mental Illness (PAIMI) Advisory Council for services to people with mental illness.

The responsibilities for PAIMI Advisory Council members include:

- ◆ Advising the MPAS Board of Directors on policies and priorities to be carried out in advocating and protecting the legal rights of persons with mental illness.
- ◆ Jointly developing annual priorities with members of the MPAS Board of Directors and MPAS staff based on input from individuals throughout the state.
- ◆ Educating the public and eligible individuals about the MPAS mission, statutory requirements, priorities, and activities.

The Council also reviews controversial issues such as “forced medication” and electric shock in order to assist the Board in creating viable policy direction for the MPAS staff.

The Council meets between 11:00 a.m. and 2:00 p.m. in Lansing, usually four times a year. Meetings may also be held at other times or in other parts of the state, depending on budget constraints and the wishes of the Council.

MPAS provides reimbursement for mileage, food, overnight lodging, child care expenses and other accommodations, if necessary.

The council is mandated to have members from the following groups:

- ◆ An Attorney,
- ◆ A parent of a child (under 18) with a mental illness,
- ◆ A Mental Health Professional,
- ◆ A Mental Health Service Provider,
- ◆ Mental Health Consumers.

If you are interested in assisting MPAS to better address the advocacy needs of persons with mental illness, please call 800.288.5923 to request an application.

Gardens in State Facilities, Part II

Michelle, Director of Advocacy

The summer 2011 edition of the *Exchange* included an article entitled “Gardens in State Facilities Provide Activity Therapy.” Since that article was featured, we’ve received some questions about it and wanted to take the opportunity to provide follow-up information.

MPAS is the organization designated by the governor to provide protection and advocacy services to people with disabilities in Michigan. Our organization was established as a private, nonprofit in order to support our role in advocating for the rights of persons with disabilities without outside influence. This mission, in combination with our mandate to protect and advocate the rights of people with disabilities, includes access to the facilities where some people with disabilities reside.

MPAS spends a considerable amount of time in state psychiatric hospitals and institutions where individuals with disabilities live and receive services. Last year, our staff conducted over 120 visits to such institutions, including the state facilities referenced in the previous newsletter article. While in the facilities MPAS staff meet with residents, investigate situations where someone has been placed in restraint or seclusion, investigate instances where a resident has a visible injury, and are always checking for signs of abuse or exploitation of residents.

In Michigan during the late 1800s, several farms were turned into large, state-run institutions for people with disabilities. The thinking at that time was people with disabilities could work the farm, get fresh air and enjoy the “therapeutic benefits of working the soil.” This led to issues of abuse, exploitation, neglect, denial of the rights of people with disabilities involving pay rates (or lack thereof) and many other rights violations.

Today, gardens at state hospitals and other such facilities are much smaller and are established as an outdoor activity. Although MPAS views a choice of boredom or gardening has hardly a fair choice, the residents are afforded a choice of whether or not they want to participate in the gardening opportunities and eating what they grow – something residents tell MPAS advocates they enjoy doing this time of the year.

Unfortunately, residents in such institutions have limited opportunities to engage in the kinds of recreation or leisure activities they might choose if they were not in a locked facility. Their days are often filled with classes targeted at providing rehabilitation, in addition to other structured activities chosen and planned for them. Residents who are in institutions for long stays may attend the same classes and activities hundreds of times.

MPAS advocates for people with disabilities to be part of their communities, not separated from others and housed in institutions. When people with disabilities are residents of facilities, due to court order or other reasons, we also work to protect their rights as residents to be free of abuse, given viable choices, and be provided with appropriate services.

As you may imagine, the same routine, the same classes, and the lack of opportunities to choose how to spend time does not promote efforts to return successfully to the larger community of Michigan citizens. Gardening, although a small part of life in an institution, may provide some residents with the opportunity to participate in an enjoyable activity.

Transitioning Social Security Benefits at Age 18

Rose Ann, Advocate

When a child with a disability reaches age 18, changes can occur in his/her Social Security benefits. For example, children receiving Supplemental Security Income (SSI) under the Social Security Administration's (SSA) definition of disability for children will be reviewed under adult eligibility criteria within one year after their 18th birthday.

For disability purposes in the SSI program, when a child becomes an adult at age 18, SSA uses different medical and non-medical rules when deciding if an adult can get SSI disability payments. The adult definition includes:

- ◆ Has a severe physical or mental impairment (or combination of impairments) that has lasted or is expected to last for 12 months (or result in death); and,
- ◆ is unable to engage in *substantial gainful activity* (work) suitable to the person's age, education, and work experience because of the impairment(s).

The substantial gainful activity found in the adult definition was not applied earlier when a child received SSI benefits. Often this makes the transition from child to adult benefits a bumpy road, and some may find they are no longer eligible for benefits using the adult criteria. However, a child with a disability not eligible for SSI before age 18 because of parent(s) income or resources, may become eligible for SSI at this time because his/her parent's income and resources are no longer *deemed* to the child.

The Social Security Disability Insurance (SSDI) program pays benefits to adults who have a disability that began before age 22. This is considered a child's benefit because it is paid on a parent's Social Security earnings. Parents must be receiving Social Security retirement or disability benefits or must have died and worked long enough to qualify for benefits.

Any dependent child can receive benefits up until age 18. If the dependent child is disabled at age 18, SSA uses the disability rules for adults. SSDI disabled adult *child* benefits continue as long as the individual continues to have a disability.

For additional information regarding child benefits and transitioning to adult benefits at age 18, call SSA at **800.772.1213** or visit their Web site at www.ssa.gov.

MPAS Reaches out to Community for Feedback During Priority Planning Process

Michigan Protection and Advocacy Service (MPAS) has been actively seeking input into planning our priorities for the next two years. We have solicited feedback through our Web site, Facebook, and surveys. Most recently, MPAS has scheduled various town halls around the state focusing on areas that are unserved or underserved. We have partnered with local disability groups in those communities to listen to the issues that are important to the community.

Staff held a town hall in Port Huron and Bad Axe the last week of July. In Port Huron, participants voiced the need to enhance communication between involved parties and to examine the lack of transition services within the community. In Bad Axe, those in attendance discussed rights issues related to guardianship, recipient rights, and discharge planning. In addition, we heard about the struggles with transportation and obtaining housing within the county.

As this edition of *Exchange* goes to print, MPAS will have visited the communities of Alpena, Rogers City, and Cadillac in our attempt to get feedback on issues that are important to the disability community.

What will MPAS do with the Information?

MPAS will gather all the survey results, identify top issues from callers and town hall events. The information will be condensed into draft priorities for recommendation. Those recommendations will be presented to the MPAS PAIMI Advisory Council who, in turn, will provide recommendations to the MPAS Board of Directors for their consideration when they meet September 20, 2011.

Once the PAIMI Advisory Council provides their recommendation on the priorities, we will be posting the draft priorities on our Web site (www.mpas.org) for comments prior to the board meeting. Please look for an announcement via Facebook once the draft priorities are available for comment.

Board of Directors

Mark Lezotte

President

Detroit

Michelle Huerta

First Vice President
Livonia

Kate Pew Wolters
Second Vice President
Grand Rapids

Donna DePalma
Secretary
Pinckney

Tom Landry
Treasurer
Highland

Kathy McGeathy
Immediate Past President
Flint

Pamela Bellamy, Ph.D.
Lansing
Mark Brewer, Esq.
Clinton Township

Sheila Faunce
Director Emeritus
East Lansing

Ann E. Manning
Clarkston

John P. McCulloch
Royal Oak

Susan L. Odgers, Ph.D., ABD
Traverse City

Stoney Polman
St. Johns

Ernest A. Reynolds
Roscommon

Kristy Sumera
Traverse City

Frederick A. Swegles
Director Emeritus
Port Huron

Frederick F. (Rick) Swegles, Esq.
Port Huron

Frank Turnage
Roscommon

For more information, call 800.288.5923 or 517.487.1755

Exchange is an official publication of Michigan Protection & Advocacy Service, Inc.
(MPAS).

Address: 4095 Legacy Parkway
Suite 500
Lansing, Michigan 48911-4263
Telephone: **517.487.1755**

TOLL FREE:

800.288.5923

Fax: **517.487.0827**

www.mpas.org

Find us on Facebook

Voice/TTY/Language and accommodations available. Available in alternative formats upon request.

Rhonda, *Editor*
Elmer L. Cerano, *Executive Director*