



Advocacy & resources for citizens with cognitive, intellectual and developmental disabilities

#1 PRIORITY – MAKE PEOPLE WITH INTELLECTUAL DISABILITIES A BUDGET PRIORITY

Waiting Lists – The State Office of Developmental Programs (formerly OMR) estimates that 4,617 individuals were on the “emergency” waiting list for community services as of January 2008. Another 9,501 were on the “critical” waiting list and 7,375 were on a “planning” list. The Governor’s budget proposal includes funds for 1,818 people, of whom 750 are young adults graduating from special education and need services when they transition into adult life.

COLA – Community providers in the mostly Medicaid-funded MR system need annual rate increases to account for inflation. Insurance, fuel, wages, food, and housing costs go up for community providers, but when state budgets fail to include a COLA to account for that inflation, services are cut and quality can be jeopardized. In 2007, the federal government said home care inflation was 3.3 percent, and another 3.0 percent for 2008. The Governor’s FY 08/09 proposed budget fails to include any COLA whatsoever.

- ✓ **The Arc of Pennsylvania urges legislators to include sufficient funding to serve everyone on the “emergency” waiting list, and to include a rate increase of 3% for community-based providers to mitigate the damaging effects of inflation.**

#2 PRIORITY – PASS ADULT PROTECTIVE SERVICES LAW COVERING ADULTS AGES 18-59

Pennsylvania is one of only 6 states in the nation without a protective services system for vulnerable adults ages 18 to 59. Similar to abused children protected in our state’s child protective services law, and vulnerable older adults protected by our state’s older adult protective services law, persons with intellectual and developmental disabilities are vulnerable to abuse, as well. Unfortunately, no law exists in Pennsylvania to protect them. A significant void exists when it comes to a safety net and giving local authorities the ability to step in and protect vulnerable adults when there is an a need to do so. The Legislative Budget and Finance Committee issued a report 5 years ago on this topic, calling for such a system. Legislation has moved in both the House and Senate, but no bill has yet to make it to the Governor’s desk.

- ✓ **The Arc supports passage of legislation that establishes an adult protective services system for vulnerable adults ages 18 to 59. We support Representative Matt Baker’s bill (House Bill 361) and Senator Pat Vance’s bill (Senate Bill 1049), both having passed their respective chamber’s standing committees and now awaiting action in the Appropriations Committee. The Arc also supports inclusion of \$500,000 in the FY08-09 budget in anticipation of the APS bill becoming law.**

#3 PRIORITY – PASS DEATH PENALTY LAW WITH PRE-TRIAL DETERMINATION PROVISION

The U.S. Supreme Court’s 2002 *Atkins* decision ruled that persons with mental retardation cannot be executed, but the court left it to the states to implement the decision. Pennsylvania has not yet passed any legislation in response to *Atkins*. The key two issues are how to define mental retardation and when to determine a defendant’s mental retardation. Mental retardation cannot be faked, and well-documented evidence is usually available in medical, school, and social welfare records. A person with mental retardation is not eligible for capital punishment, and therefore a presumed-innocent defendant with mental retardation should not be forced to go through a capital trial. A judge should determine whether a defendant has mental retardation before the trial, not by a jury that has just convicted the defendant.

- ✓ **The Arc supports legislation passed by the Senate (Senator Mary Jo White - Senate Bill 751) and legislation introduced in the House (Representative Kathy Manderino - House Bill 1370), which include provisions for pre-trial determination of a defendant’s mental retardation and defining mental retardation in a manner consistent with the American Association on**

#4 PRIORITY – ENSURE ACCESS TO QUALITY DENTAL CARE FOR CITIZENS WITH DISABILITIES

Poor oral health has been linked to heart disease, stroke, and diabetes. People with intellectual and developmental disabilities find it extremely difficult to even get an appointment with most dentists. Problems often cited as contributing to this situation are low Medicaid reimbursement, perceived risks associated with serving people with disabilities, the lack of accessible transportation, and the inadequate supply of dentists with the capacity and willingness to serve this population.

- ✓ **A comprehensive strategy must be developed and pursued by the General Assembly and the Departments of Health and Public Welfare to improve access to quality dental care for citizens with disabilities. The strategy must include changes in state law, regulation, professional licensing, higher education, and Medicaid funding.**

#5 PRIORITY – ELIMINATE 2ND-TIER LEVEL OF APPEAL IN SPECIAL EDUCATION DISPUTES

There are several failures in the current two-tier special education appeal system, including inconsistent decisions among panels, different judicial philosophies among panels and panel members, no decisional integrity and insufficient training and recruitment of panel members. The Arc of PA believes the two-tier system in PA's Special Education appeal process must be replaced with a one-tier system that emphasizes appropriate recruitment, training and compensation for a highly professional group of hearing officers.

- ✓ **This change was successfully incorporated into the final proposed reforms for Chapter 14 Special Education regulations. The Arc of Pennsylvania urges the speedy approval by the Independent Regulatory Review Commission so the new regulations can take effect 7/1/08.**

#6 PRIORITY – MAKE OFFICE OF DISPUTE RESOLUTION INDEPENDENT & FAIR FOR PARENTS

The federal Individuals with Disabilities Education Act (IDEA) requires that hearing officers be independent of local educational agencies at the first level of appeals and independent of state educational agencies at the second level. Currently, the Office of Dispute Resolution is funded by PDE's Bureau of Special Education and it is housed and managed by a local Intermediate Unit. This fuels concerns that PDE can inappropriately interfere with decisions and personnel matters, effectively creating a bias in favor of school districts and against parents.

- ✓ **The Arc urges passage of legislation that creates an independent entity to handle the functions of the current Office of Dispute Resolution – the entity and its budget should be separate and distinct from BSE and its Director should report to an impartial entity within state government.**

#7 PRIORITY – PLACE “BURDEN OF PROOF” ONTO SCHOOL DISTRICTS, NOT PARENTS

The U.S Supreme Court decision in *Schaffer vs. Weast* determined that, unless state rules indicate otherwise, the party “seeking relief” has the burden of proof in IDEA due process proceedings. The Court acknowledged that school districts have a natural advantage over parents in such disputes, particularly when it comes to resources. Pennsylvania has no statute or regulation that assigns the burden of proof to school districts. Few parents go into this process with the resources or knowledge to properly present their child's case against seasoned professionals and bureaucrats representing school districts.

- ✓ **The Arc urges passage of legislation that places the burden of proof in special education matters onto school districts rather than parents.**