



# 2009 Public Policy Priorities of The Arc in Pennsylvania

Updated 7/29/09

## 1. MAKE PENNSYLVANIANS WITH INTELLECTUAL DISABILITIES A BUDGET PRIORITY

**Waiting Lists** – According to DPW’s Office of Developmental Programs, 4,088 individuals are on the waiting list for community services with an EMERGENCY need, and another 9,634 are on the waiting list with a CRITICAL need. Governor Rendell’s proposed budget for FY2009-10 includes funds to provide 293 emergency diversions from institution placements.

**Annual Rate Increases** – Community providers experience annual increases in insurance, fuel, wages, health care, food, and housing. However, because the community MR system is nearly 100% funded by public dollars, the failure of state budgets to include annual increases to account for inflation devastates services. Quality is jeopardized and service capacity is cut to find the money. Governor Rendell’s FY 09-10 budget proposes another 0% (zero) increase for community services.

**Special Education** – Governor Rendell’s proposed FY09-10 budget include 0% (zero) increase in state funding for special education while proposing a \$300 million, or 5.7%, increase for basic education. The disparity between the education resources being proposed for students without disabilities versus those with disabilities is extremely disconcerting.

- ✓ **Supporting children and adults with intellectual and developmental disabilities is a core responsibility of state government. The Arc of Pennsylvania urges the Governor and General Assembly to provide sufficient funding to serve all adults on the “emergency” waiting list, an annual rate increase for community-based providers commensurate with the federal “home health care market basket index”, and a special education funding increase commensurate with the increase provided for students without disabilities.**

## 2. REFORM SPECIAL EDUCATION FUNDING FORMULA

1 of every 7 students is educated in special education and \$1 billion is spent annually on special education by state government. Yet, academic performance and readiness for adult life wanes for young Pennsylvanians with disabilities. A contributing factor is the unnecessary segregation of students with disabilities. Pennsylvania ranks 40<sup>th</sup> in the nation when it comes to including children with disabilities in their neighborhood schools and classrooms along side their peers without disabilities. In 2008, the much-hailed “Costing-Out Study” was debated in the General Assembly and many recommended reforms were adopted, but special education was left out. Promises were made to revisit the special education funding formula in the spring of ‘09.

- ✓ **The Arc of Pennsylvania supports funding reform legislation (SB 940 from Senator Dinniman and HB 704 from Representative Mike Sturla) that provides: 1) adequate funding for special education, 2) carrots & sticks for schools to improve least restrictive environment compliance and inclusion outcomes, and 3) greater accountability and oversight to protect taxpayers to ensure public special education funding is being used to properly prepare Pennsylvania students with disabilities for adult life in the community.**

## 3. CLOSE STATE INSTITUTIONS

The General Assembly embraced the shift from state institutions to community-based services when it passed the MH/MR Act in 1966. The community-based service system is now the primary system of support for citizens with intellectual and developmental disabilities. Research has demonstrated that individuals with intellectual disabilities thrive when supported in the community compared to state institutions (Pennhurst Longitudinal Study). In 1999, the U.S. Supreme Court affirmed a person’s right to receive community-integrated services rather than be segregated in an institutional setting, yet, in 2009, over 1,200 Pennsylvanians remain segregated in PA’s state institutions. The Rendell Administration has closed only 1 state MR institution in over six years in office - 5 remain open.

- ✓ **The Arc of Pennsylvania supports a review of individualized supports plans (ISP) of every citizen who remains in a state institution - to be completed within 6 months. The ISP should include a plan to enable the individual to return to their community with appropriate supports and services. The Arc of**

Pennsylvania urges the Governor and General Assembly to then instruct DPW to fund and implement these updated ISPs and permanently close the remaining 5 state-run institutions.

#### **4. PASS ADULT PROTECTIVE SERVICES LAW COVERING ADULTS AGES 18-59**

Pennsylvania is one of only 5 states in the nation without an adult protective services law. Pennsylvania has a child protective services law and an older adult protective services law, but no similar protective services law to help abused citizens ages 18 – 59. Local officials do not have the legal authority to step in and protect vulnerable adults when there is a need to do so. The PA Legislative Budget and Finance Committee issued a report 6 years ago calling for such a system.

- ✓ **The Arc of Pennsylvania supports passage of legislation (SB 699 from Senator Patricia Vance and HB 1319 from Representative Matt Baker) that establishes an adult protective services system for vulnerable adults ages 18 to 59.**

#### **5. 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 (HB 226 from Representative Dennis O’Brien) that places the burden of proof in special education matters onto school districts rather than parents.**

#### **6. 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*. Mental retardation cannot be faked, and well-documented evidence is usually available in medical, school, and social welfare records. Because a person with mental retardation is not eligible for capital punishment, a presumed-innocent defendant with mental retardation should not 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 of a heinous crime.

- ✓ **The Arc of PA supports legislation (SB 628 from Senator Mary Jo White) that includes: 1) a definition of mental retardation consistent with the American Association on Intellectual & Developmental Disabilities, and 2) a pre-trial procedure to determine whether a defendant has mental retardation.**

#### **7. MAKE OFFICE OF DISPUTE RESOLUTION INDEPENDENT & FAIR FOR PARENTS**

The federal Individuals with Disabilities Education Act (IDEA) requires hearing officers to be independent of local and state educational agencies. However, the Office of Dispute Resolution, responsible for this process, is funded by PDE’s Bureau of Special Education and housed by an Intermediate Unit. This fuels concerns PDE can inappropriately interfere with decisions and personnel matters, effectively creating a bias in favor of school districts and against parents.

- ✓ **The Arc of Pennsylvania urges passage of legislation (SB 1052 from Senator Andrew Dinniman) that makes the Office of Dispute Resolution and its operating budget independent from the Bureau of Special Education.**

#### **8. 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 get an appointment with most dentists. Problems often cited as contributing to this situation are perceived risks associated with serving people with disabilities, the inadequate supply of dentists with the capacity and willingness to serve this population, low Medicaid reimbursement, and the lack of accessible transportation.

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