

Advocacy Dimensions



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Minnesota State Planning Agency and the Developmental Disabilities Protection and Advocacy Network

Governor Quie Transfers P&A Agency Designation

Effective October 1, 1980, the official agency for administering the Minnesota Protection and Advocacy Network will be Central Minnesota Legal Services, Inc., in Minneapolis. Under the provisions of the Developmental Disabilities Assistance and Bill of Rights Act, P.L. 95-602, the Governor of each state has the authority to designate the appropriate agency for administering Protection and Advocacy Services. Until now, the State Planning Agency has served in this capacity.

The transfer of agency designation was deemed necessary and appropriate in order to meet new requirements issued by the Department of Health and Human Services in Washington, D.C. Also included in Governor Albert H. Quie's decision was the recognition of the long and successful history of Central Minnesota Legal Services in providing advocacy services for persons with developmental disabilities. This agency has operated Legal Advocacy for Developmentally Disabled Persons in Minnesota since July, 1973.

According to the Governor's Office, this transfer of designation will not change the quantity or the quality of previously existing services. The Developmental

Consent Decree Presents Challenges To Newly Appointed Court Monitor

As a first step in implementing the Welsch vs. Noot consent decree, U.S. District Court Judge, Earl Larson, has accepted the nominations by both parties in the suit and has appointed Lyle Wray, Ph.D. to serve as the court monitor. Now settled in an office provided by the State Planning Agency, Dr. Wray is preparing to meet the many challenges that are presented in the consent decree.

In essence, the court monitor is a neutral officer of the Court who sets up monitoring systems, oversees compliance and intervenes to assist in resolving issues of alleged non-compliance. The court monitor's powers and responsibilities are limited to those specified in the decree. For example, recommendations made by the monitor cannot be implemented except on motion by either party of the suit or by the Court.

The main provision of the decree involves a reduction in the population of all state hospitals serving people with mental retardation by 31% (or, more than 800 people) by the year 1987. This in turn necessitates efforts by state hospitals and county service providers to find and develop appropriate community place-



Dr. Lyle Wray
Court Monitor

ments and services for those currently residing in state hospitals.

- State hospitals must meet staff ratio expectations, provide in-service training for personnel, make physical plant improvements and follow detailed policies and procedures in using "mechanical restraints, seclusion and separation" in the behavior management of residents. Individual service plans must be provided for each resident and an annual assessment conducted by an interdisciplinary team.

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Advocacy Program Highlights

SPARC Merger Creates New Program

By the time this newsletter is published, the St. Paul Association for Retarded Citizens will have moved to their new headquarters in the St. Paul YWCA. October 1, 1980 also marked the beginning of a new program that will combine citizen advocacy and recreational concepts. According to Joyce Lang, Director of the Citizen Advocacy Program, the new "Social Club" did not happen overnight. It has taken five years to plan. "The ultimate success of the program," said Lang, "will depend on how well we can sell the concept and involve the community."

Philosophically, the expressive advocacy program directs itself toward leisure activity in a most normalized manner, with emphasis on both time and activity choices. The Social Club similarly gives emphasis to individual choice of options. Members of the Social Club will be offered a continuum of services through one agency; services including a location to relax, meet friends, attend group events, signing up for a one-to-one friendship program, and finding assistance in areas of special concern (instrumental advocacy).



*Joyce Lang
Advocacy Coordinator*

Recruitment of volunteers in the Citizen Advocacy Program has always been a problem because of its non-visible nature. The Social Club espouses to solve this problem in that it will be highly visible, both in its physical plant and the services offered. Volunteers will not only have greater options for involvement, but can be better utilized according to their interests and talents.

Training methods for volunteers will be more exciting and diverse. Opportunities for direct observation and interaction under supervision can take the place of the traditional lecture/classroom approach, for example. The new setting will also have great potential for training student interns in human services.

Cost effectiveness of the merger is anticipated. Getting "two-for-the-price-of-one" has been an appealing virtue in this day of ever-tightening budget constraints and the reluctance to launch any new programs.

In conclusion, the combination of the Social Club and the existing Citizen Advocacy Program not only promises the continuation of current services, but the expansion and implementation of something that is really exciting and new for people in St. Paul. "Most important," said Lang, "we do not see the activities confined to the four walls of the Social Club. Rather, the community is ours to explore. The Social Club will be the launching pad to greater community participation and involvement."

Monitor from p. 1

- The State Department of Public Welfare will oversee the deinstitutionalization process by providing three technical assistants to aid community service developers, assuring adequate number of and training for licensing staff and coordinating reports related to the decree. The Commissioner of Public Welfare has consented to make substantial monetary requests to the State Legislature for expansion and improvement of community-based programs: Semi-independent Living Services, Developmental Achievement Centers, Community Residential Facilities and the Family Subsidy Program. The feasibility of providing low-interest start-up loans to community service developers will be studied. Currently, it is less expensive for a county to place a person in state hospitals than to provide services in the community. Methods must be sought to remove financial disincentives for placement of people in community facilities.

- The county social service agencies and/or mental health centers will be expected to participate in discharge plans prior to community placement, provide substantial evidence for any person recommended for placement in state hospitals and utilize the individual habilitation plans (of those residing in state hospitals) for planning and developing more appropriate community services. Ongoing coordination of individualized services are specified in DPW Rule #185.

Implementation of the decree requires coordination among many parts of the human service field. Meeting the challenges will undoubtedly be different in rural and urban regions. In recognition of this, there are plans to set up Regional Advisory Groups on the basis of each state hospital's catchment area to assist in oversight of implementation and to seek solutions to emerging problems.

New Laws Affect Handicapped Children In Out-Of-Home Care Placements

by Anne L. Henry

Juvenile court review of all children in foster homes, group homes or residential facilities in Minnesota is now required. The court hearing is required by three state laws, one passed in 1978 and two passed in 1980.

The most recent changes in state law are Chapter 555, the Petition to Review and Chapter 580, the Juvenile Justice Act. Chapter 555 relates specifically to developmentally disabled children in foster care and Chapter 580 applies to all children in residential facilities, presumably including Rule 34 facilities.

In order to understand why the parents of a multi-handicapped youngster who is placed in a foster home or a Rule 34 group home may be called to juvenile court for a hearing, some background on recent statutory changes is necessary.

In 1978 the Minnesota legislature passed a law (Chapter 602) designed to reduce the use of temporary foster care for children. The bill was promoted by foster parents who felt foster children were subject to endless shuffling which never afforded the children a sense of permanence. The new law provided that after 18 months in foster care, the natural parent must take the child in foster care home or face a juvenile court petition for dependency, neglect, neglected and in foster care, or termination of parental rights.

While the bill was promoted as a positive step for children, it's effect on handicapped children, often in placement for reasons quite different than non-handicapped children, was not considered. The Minnesota Association for Retarded Citizens and Legal Advocacy for Developmentally Disabled Per-

sons in Minnesota proposed an amendment to the 1980 legislature which allows for a petition to review handicapped children in foster care rather than requiring the more onerous petitions for dependency, neglect, etc.



Anne L. Henry
Legal Advocacy Services

The Petition to Review, Chapter 555, provides for review of developmentally disabled children in foster care for 18 months or longer. If the court finds the child's needs are being met, then the case can be scheduled for another review in two years. If the court finds the child has needs which aren't being met, appropriate changes could be ordered. Finally, if the court, upon a petition to review the placement of a handicapped child in foster care, finds the child has been abandoned by the natural family, it can order a petition for dependency, neglect, etc. to be brought.

The Petition to Review for developmentally disabled children was designed to assure that the needs of these children were being met while not disrupting family ties where the natural family maintains involvement.

As the Petition for Review foster care for developmentally disabled children was being passed in order to correct a problem resulting from failure to consider the effect of a new law upon handicapped children, the problem was being repeated in the form of the "Juvenile Justice Act." This time the situation of handicapped children in residential treatment was not separated from the circumstances of other children in residential centers for reasons such as chemical abuse, violations of the law or family problems. The Juvenile Justice Act, Chapter 580, 1980 Session Laws, requires that for all children in residential facilities, a petition on grounds of dependency, neglect, neglected and in foster care, or termination can be brought when the child remains in placement for 18 months.

Unfortunately, the Juvenile Justice Act and the Petition to Review do not refer to each other since both were "in process" and not known to individuals concerned with each bill during the legislative session. The result is confusion for parents of handicapped children who are in residential treatment.

The problem has been compounded by a Department of Public Welfare bulletin to counties concerning these new laws affecting custody. DPW, while recognizing the "unfortunate oversight" which occurred during the legislative session, directs counties to file petitions for dependency, neglect, neglected and in foster care, or termination against parents whose children have been in Rule 34 facilities for more than 18 months. Many advocates for handicapped children strongly disagree with DPW's position.

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Advocacy Program Highlights

The Vocational Rehabilitation Ombudsman Project, Inc.

December, 1980 marked the fifth anniversary of the Vocational Rehabilitation Ombudsman Project, Inc. (V.R.O.P.). This program is designed to assist clients of the Division of Vocational Rehabilitation and sheltered workers having difficulties or questions about their rehabilitation. When the Ombudsman Project started out in 1975, the services were limited to people residing only in St. Paul and Minneapolis. Last year, these services expanded to cover the entire State of Minnesota. To date, over 1,700 clients of the Division of Vocational Rehabilitation and sheltered workers have benefited from these services.

According to Carolyn Emerson, Director of the Minnesota Vocational Rehabilitation Ombudsman Project, the creation and continued expansion of this nation-wide effort can be largely attributed to the handicapped consumers who have provided public testimony before the U.S. Congress. In the early 1970's, such testimony demonstrated that there were many problems within the delivery system that warranted third-party intervention, such as from an ombudsman. Congress acted upon this testimony and included Section 112, "Client Assistance Projects" in P.L. 93-112, The Rehabilitation Act of 1973.

The Minnesota Vocational Rehabilitation Ombudsman Project has received national recognition due to the degree of leadership and policy control which is placed in the hands of consumers who are handicapped. "We believe very strongly," said Emerson, "in the tenet that responsibilities accompany the acquisition of rights." The composition of the Board of Directors reflects this philosophy in that all nine positions with voting power are occupied by consumers, those who are or have been DVR or sheltered workshop clients. There are an additional five non-voting status members on the Board that represent the Division of Vocational Rehabilitation, counselors, and sheltered workshop directors. "The active participation by both consumers and providers of services is essential to the entire communication and policy setting process," said Emerson.

A staff of six people (comprising of the Director, four Ombudsmen and an Information Officer) provide the following types of services:

- Information is provided regarding vocational rehabilitation, sheltered employment, and clients' rights and responsibilities;
- Client complaints are investigated and an attempt is made to bring about fair conclusions;
- Clients are encouraged and assisted in voicing their concerns about their rehabilitation;
- When necessary, clients are assisted and/or represented in appeals proceedings;
- Information and referral for other needed services is provided; and
- DVR counselors are encouraged to communicate their ideas for improving services to their clients.

In addition, a slide-tape presentation has been produced and staff members are available to speak about the project and other topics concerning the rights and responsibilities of people with handicaps. The newsletter, *VROP Balance* is also available to the general public. For further information, call or write: VROP, Room 278 South, 1821 University Avenue, Griggs-Midway Building, St. Paul, MN 55104. Telephone: 612/645-3468 or TTY 612/645-5245.

Four Advocacy Grants Use Federal Dollars To Initiate Programs

Four new advocacy projects were launched on October 1, 1980. A total of \$95,350 was awarded with the use of federal dollars made available to Minnesota under the provisions of Protection and Advocacy and the Developmental Disabilities Assistance and Bill of Rights Act, P.L. 95-602.

Two projects were selected for demonstrating models of advocacy services in community residential settings. The 'urban model' will be administered by Advocating Change Together, Inc. in Minneapolis. The 'rural model' will be conducted by the Region 9 Association for Retarded Citizens, located in Mankato.

Statewide training and technical assistance will be provided by the other two grants. Project CADRE, operating out of the Minneapolis Association for retarded Citizens, will be addressing the needs of criminal justice personnel throughout the state. The ultimate aim of this project will be to assist communities to better understand and cope with the many problems that people with developmental disabilities face when becoming involved with the law as offenders or victims of crimes.

Citizen Advocacy training and technical assistance will be the focus for the newly established Minnesota Citizen Advocacy Coalition. The Coalition is comprised of several consumer organizations who share the common goal of improving and expanding citizen advocacy services throughout the state. The sponsoring administrative agency for this project is the Minnesota Epilepsy League.

Ombudsman Offers Third-Party Ear in Rehabilitation

"Effective communication is the cornerstone upon which the Vocational Rehabilitation Ombudsman Project (V.R.O.P.) is built." This was the central theme of a recent interview with Carolyn Emerson, Director of V.R.O.P., who went on to say that most of their work involves solving communication problems. (For additional information on V.R.O.P., see Advocacy Program Highlights).

"Actually," said Emerson, "the Vocational Rehabilitation Ombudsman function has no legal authority behind it. Nor does the Ombudsman have the legal obligation to follow the wishes of the consumer, as does a lawyer. On the other hand, the success of the Ombudsman Project depends upon our ability to listen and upon our power of persuasion."



Carolyn Emerson
Ombudsman

"As an impartial, non-adversarial, Ombudsman, we don't automatically take the side of the client. Rather, we listen to both sides of a dispute, find out the necessary information, and then make recommendations based on our findings," said Emerson.

The basic principles of effective communication dictate that both the 'sender' and the 'receiver' of information work toward a common understanding of that information. People either understand or they don't. Most commonly, they misunderstand and this brings about much confusion.

"...success...depends upon our ability to listen and upon our power of persuasion."

"Basic to the communication process is that necessary and appropriate information be shared in the first place," replied Emerson. "For example, we get many calls from people who have applied for Supplementary Security Income (SSI), who are automatically referred to the Division of Vocational Rehabilitation for an eligibility interview. Their frequent questions of, 'Why?' and 'What is D.V.R.?' are certainly justified, for the process and the kinds of services available to them were never explained to them."

"Many people, both the client and the D.V.R. counselor alike, in an attempt to avoid the appearance of being stupid will often say, 'I understand.' when in fact they don't," said Emerson. Repetition and simplification of the facts can often resolve such situations. In the past, too much was being expected of D.V.R. clients by having them seek other eligible benefits before receiving financial assistance from D.V.R. Upon recommendation by the Ombudsman Project, the counselors are now responsible for coordinating this search and the process has been speeded up considerably."

"Misunderstanding and confusion comes about most often because people don't listen to each other." As an intervening third-party, the Ombudsman

may simply point this out and can, hopefully, strengthen the counselor-client relationship.

Training for consumer groups has brought about a better understanding of the services, individual rights and the accompanying responsibilities. With increased knowledge and self-

confidence, consumers are encouraged to express 'their right to disagree.' "This is the most essential aspect of the total communication process," said Emerson. "It is important that the consumers know how to effectively use many channels for expressing and acting upon their grievances, which are very real," said Emerson.

An important feature of the Minnesota V.R.O.P. is that it is a separate, non-profit corporation and is independently operated. The Client Assistance Projects in most other states, according to Emerson, are located and administered within the respective state rehabilitation agencies. Although the Minnesota D.V.R. Assistant Commissioner has veto power over any activity of the V.R.O.P., so far, this authority has not been utilized. "This is probably due to the fact that we have been communicating effectively along the way," said Emerson, "and that the service providers at the state, regional and local levels have, on the most part, been accessible and open to us." V.R.O.P. now helps in the training of new D.V.R. personnel throughout the State.

Carolyn Emerson concluded by saying, "We try to emphasize our role as a third-party ear in the rehabilitation process. We are here to help make the process work."

Incentives Reunify Families

Congress Enacts Adoption, Child Welfare Act*

President Carter has signed P.L. 96-272, a new law that will provide a chance for the over half million children growing up in foster, group and institutional care to return home or be placed for adoption. The new law should help prevent unnecessary removal of children from their own families and help those children already in foster care gain family permanence.

Spotlighting some of the law's components, the following features are of particular interest to advocates: the new law will:

- Redirect current federal fiscal incentives away from costly out-of-home care and toward alternative services which would prevent unnecessary placements, reunify children with their families, or ensure adoption when appropriate.

- Provide federal reimbursement for adoption of foster children with mental, physical or emotional handicaps or other special needs. Medicaid eligibility is continued after adoption to facilitate family permanence for children with handicaps.

- Encourage states to implement an inventory of children in their care over six months, a data tracking system, case review systems, and preventive and reunification services programs — all of which encourage permanence and prevent children from being lost.

- Require states to provide both foster care and adoption assistance programs and to provide federal matching on a permanent basis for both programs.

An authorization of \$164 million to implement the new provisions is included in the budget for the fiscal year of 1981. Advocates are working to ensure that this amount is, in fact, appropriated by Congress.

For more information, contact Children's Defense Fund, 1520 New Hampshire Avenue N.W., Washington, D.C. 20036.

"Adapted from *CDF Reports*, a publication of the Children's Defense Fund.

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The passage of Chapter 555, "Petition to Review" demonstrates that the legislature understands that handicapped children may be in out-of-home care for reasons other than problems with the parental home; and thus, use of petitions for dependency, neglect, etc. may not be appropriate. There is no rational basis for directing the use of "Petitions to Review" for foster care and petitions for dependency, neglect, neglected and in foster care, or termination for Rule 34 facilities.

Within the next few weeks the Minnesota Association for Retarded Citizens' Governmental Affairs Committee will discuss possible amendments to Chapter 580 to bring it into line with Chapter 555 Petition to Review provisions. Any persons interested in this issue may call Anne Henry, Legal Advocacy, 612/338-0968 or Abby Struck, of Minnesota Association for Retarded Citizens, 612/827-5641.

NOTE: The Department of Public Welfare has issued a new policy statement, dated December 29, 1980, on the issue of children with developmental disabilities in out-of-home care. This bulletin changes DPW's position and now directs that all developmentally disabled children in out-of-home care go through the "petition to review" process rather than dependency or neglect petitions.

Understanding the Law: An Advocate's Guide to the Law and Developmental Disabilities, D.D.

Rights Center of the Mental Health Law Project and the Center on Human Policy, 216 Ostrom Avenue, Syracuse, NY 13210, (315) 423-3851, August, 1979.

This publication is a handbook on understanding and researching the law relating to the rights of persons with developmental disabilities. It contains clear step-by-step information on the system of laws and how they interrelate litigation from the pretrial through implementation stages, researching the law (sources of legal information and how to use them), a case study showing how to build a case, and a special chapter on systematic change and community organizing. The handbook also contains a glossary of legal terms and concepts, an index, and a bibliography.

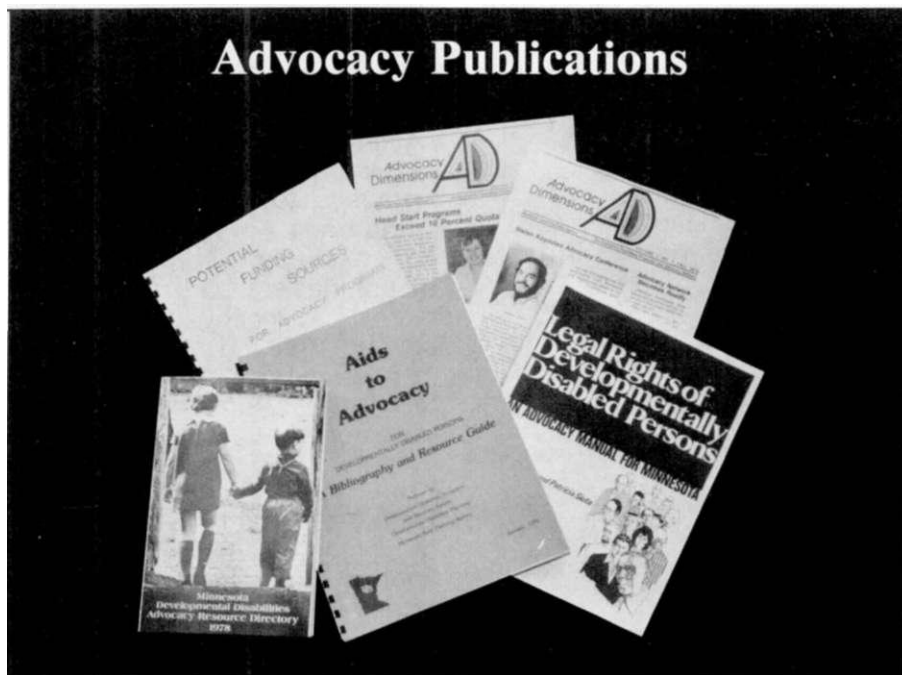
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The New Clients: Legal Services for Mentally Retarded Persons

by Stanley S. Herr (1979), Legal Services Corporation, Washington D. C. 20005.

The author gives a strong message to the legal profession, "While the legal services community has made a promising beginning, the gap between advocacy needs and advocacy resources is shockingly wide . . . Until affirmative steps are taken . . . the mild, patient and sometimes hidden people we call retarded will be destroyed in countless ways."

Advocacy Publications



Minnesota Developmental Disabilities Advocacy Resource Directory, 1981.

This is an updated and revised version of the 1978 *Directory*. Many new advocacy services have been added, primarily to reflect the expanded definition of what constitutes a developmental disability under the D.D. Act and the many new programs that have started during the past two years. Besides listing the Protection and Advocacy Agencies in other states, there are a wealth of public information materials available by the various advocacy organizations listed. The three-ring notebook format is expected to facilitate future revisions. (Copies will automatically be sent to those listed in *The Directory*).

CHILD ABUSE AND DEVELOPMENTAL DISABILITIES. Free of charge from: Region I — Developmental Disabilities Office, Room #2011, John F. Kennedy Building, Boston, Massachusetts 02203.

Among the reported cases of child abuse, it is strongly suspected that a high percentage are developmentally disabled. For example, a recent study by the Denver Department of Welfare discovered that seventy percent of abused children exhibited either a mental or physical deviation. Everyone is a potential child abuser. Given stress, in large enough doses, can cause normal parents and caretakers to abuse children. The successful solution to preventing and dealing with (child abuse and neglect is to understand the potential violence in oneself and where to seek professional help.

* * *

INCENTIVES FOR JOB PLACEMENT OF MENTALLY RETARDED WORKERS; A GUIDE FOR MINNESOTA JOB COUNSELORS AND EMPLOYERS. Available at no cost by The Employment Committee, Association for Retarded Citizens of St. Paul, 65 East Kellogg Blvd., St. Paul, MN. 55101. Telephone 612/224-3301.

This handy brochure emphasizes the utilization of several key resources for successful job training and employment. Such a brochure could easily be adapted to include the resources that are unique to other localities in Minnesota.

Advocacy Training Material

The Research and Training Center in Mental Retardation at Texas Tech University has developed two new publications on volunteers in protection and advocacy programs for persons with developmental disabilities. *Citizen Advocacy: How to Make It Happen* is a manual for administrators of citizen advocacy or other volunteer programs. Establishing a program, management, and working with volunteers are the main topics.

Action Through Advocacy: A Manual for Training Volunteers provides a five-part training program for volunteers working with developmentally disabled people. Topics included in the training are attitudes toward people with developmental disabilities, communication skills, assertiveness, and methods of taking action for change. These two books are part of a series of four being produced through a Project of National Significance on volunteers in protection and advocacy. An annotated bibliography, *Citizen Advocacy Resources*, was distributed last year, and a manual on advocating for people in residential programs will be completed in 1981. Copies of these books are being distributed nationwide to state P&A agencies, developmental disabilities directors and councils, national consumer organizations, citizen advocacy programs, research and training centers, and university affiliated programs.

Additional copies of *Citizen Advocacy: How to Make It Happen* (cost \$5.50) and *Action Through Advocacy* (cost \$8.75) can be obtained by contacting Carolyn Rude, Project Coordinator, Research and Training Center in Mental Retardation, Texas Tech University, Box 4510, Lubbock, TX 79409.

ADVOCACY III CONFERENCE

More Than A Place To Live: Building The Community For Persons With Developmental Disabilities

Monday and Tuesday
March 16-17, 1981

Earle Brown Center for Continuing Education
St. Paul Campus
University of Minnesota

Intended for advocacy practitioners and people in human services, this conference will address issues relating to deinstitutionalization and community living for persons with a developmental disability. The conference will be sponsored by the Governor's Planning Council on Developmental Disabilities, the Developmental Disabilities Planning Office of the State Planning Agency, in cooperation with the Minnesota Developmental Disabilities Protection and Advocacy Network and Continuing Education in Social Work of the University of Minnesota.

For Registration Information Contact:
William Hoffman or Shirley Zimmerman
Continuing Education in Social Work
338 Nolte Center
315 Pillsbury Drive S.E.
Minneapolis, Minnesota 55455
(612) 373-5831 or
(612) 373-0064 — Vickie DeSanto, Program Assistant

P & A Transfer from p. 1

Disabilities Planning Office (located in the State Planning Agency) will continue to actively participate in and provide leadership to the Minnesota Protection and Advocacy Network. For example, Developmental Disabilities staff will continue to publish *Advocacy Dimensions*, conduct training seminars and conferences, and provide technical assistance for advocacy practitioners.

"The real significance of the transfer," said Eric Janus, Managing Attorney of Legal Advocacy for Developmentally Disabled Persons in Minnesota, "is that we have outgrown the status of being called a 'project.' With the continued support of the U.S. Congress, we are assured of a more dependable funding base and, with the strong backing of the Governor's Office, can continue to pursue the human and legal rights of persons with developmental disabilities with confidence."

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Lew Miller, Acting Director
Roger Strand, Advocacy Planner
Fern Oveson, Admin. Secretary

The staff welcomes reactions and input from the readers.

612/296-4906 4018
TTY 612/296-9962