



South Dakota REPORT

Advocating the Rights of South Dakotans with Disabilities

THE PROTECTION AND ADVOCACY SYSTEM FOR SOUTH DAKOTA

Volume 31, Issue 1

November, 2015

Remembering Roots of Disabilities Act

by Randolph J. Seiler*

**Randolph Seiler is a U.S. Attorney, District of South Dakota. Reprinted by permission by Mr. Seiler and the Sioux Falls Argus Leader.*

Over 55 million Americans – nearly 20 percent of our population – live with a disability. This year commemorates the 25th anniversary of the passage of the Americans with Disabilities Act, the federal law that requires businesses, public services, and telecommunications to provide reasonable accommodations to people with disabilities.

The ADA was the result of a movement that continues in full force today. It was not so long ago that people with disabilities were regularly marginalized and separated from mainstream society, ridiculed as though living with physical or mental disabilities is not challenging enough. Many trace the roots of the civil rights movement for people with disabilities back to World War I, when veterans returning with disabilities demanded that the government provide rehabilitation for the sacrifices they made in service to our nation. World War II brought with it another wave of returning veterans who again made disability issues visible to a nation indebted to them for their service.

Without federal legislation, however, people with disabilities still lacked the basic rights necessary for independence and self-reliance, and they were not afforded fair employment and economic opportunities.

As the 1960s civil rights movement spread across the nation, disability ad-

vocates seized the opportunity to join other minority groups, and an organizational structure emerged that focused the movement toward national goals, such as federal legislation to address physical and social barriers. In 1973, the Rehabilitation Act was passed, requiring equal employment opportunities and prohibiting discrimination against people with physical or mental disabilities with the federal government. These protections were extended to cover federally funded programs and public services.

In 1975, the Education for All Handicapped Children Act was passed, guaranteeing equal access to public education for children with disabilities. And in 1990, it was further refined into the Individuals with Disabilities Educa-

tion Act, which mandated full inclusion of children with disabilities.

Seiler

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BEST WISHES IN THE NEW YEAR



From South Dakota Advocacy Services

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With those successes in hand, the movement turned toward equal treatment of people with disabilities more broadly, seeking an enforceable right to full participation and integration in all levels of society. When the ADA was signed into law in 1990, our nation made a bold statement to itself and to the rest of the world, that people with disabilities are entitled to equal access to employment opportunities, public services, places of public accommodation, transportation and telecommunications services.

Of course, passing a federal law does not remedy problems overnight. Over the years, many battles have been fought to enforce the demands of the ADA, and many still remain.

As the state's chief federal law enforcement official, I am keenly aware that many question the federal government's role and its priorities. But this should be beyond dispute: ours is a nation committed to ensuring that people with disabilities are able to lead independent, satisfying lives. Along with the Department of Justice, I stand by the commitment to enforce laws that foster that goal.



SDAS Joins Partners Across the Country to Celebrate the National Event

by C.J. Moit

On September 22, 2015, Americans celebrated National Voter Registration Day (NVRD) with a massive 50-state effort to register voters for the 2016 General Election. In light of the national election, this year's National Voter Registration Day theme was *Celebrating Democracy in America*. With a historic presidential election approaching in November, all eligible American voters should exercise their right to be heard at the ballot box. National Voter Registration Day helped start the process by getting people to register. Communities across the country used NVRD to increase voter participation.

Started in 2012 for the presidential election, National Voter Registration Day is designed to create an annual moment when the entire nation focuses on registering Americans to exercise their most basic right — the right to vote. More than 356,000 Americans have been registered to vote since the inaugural National Voter Registration Day.

South Dakota Advocacy Services (SDAS) was a proud National Voter Registration Day partner. In the spirit of the day, South Dakota Advocacy Services reached out to nursing care facilities, assisted living centers, and community support providers (CSPs) across the state to assist senior citizens and individuals with disabilities to register to vote.

National Voter Registration Day
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South Dakota Advocacy Services (SDAS) is an independent (not a part of state or federal government or any service provider), private, non-profit corporation established in the State of South Dakota and designated by the Governor to provide protection and advocacy services to eligible South Dakotans with disabilities. SDAS is funded in part by the U.S. Department of Health and Human Services, U.S. Department of Education, and Social Security Administration. Articles are intended for informational purposes only and are not intended as legal advice. Comments on SDAS services and priorities are welcome.

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The South Dakota Report is an official publication of South Dakota Advocacy Services and is published three times yearly. 3,525 copies of this newsletter were printed by SDAS at a cost of \$1.08 each utilizing federal funds.

Peyton's Story: Another Example of Illegal Exclusion from School

by : Emily Garcia

"Unfortunately, due to Peyton's frequent tardies, we will be referring her to the State's Attorney and dropping her from our enrollment."*

Isabel's* heart sank when she read the letter sent from her daughter's school. Peyton had battled for years with the symptoms and behaviors related to Attention Deficit Hyperactivity Disorder (ADHD) and Oppositional Defiant Disorder (ODD). Throughout virtually her entire school career, Peyton has struggled both academically and behaviorally. These struggles have resulted in strained relationships with both school personnel and family members. During her 8th grade year, Peyton's teachers placed her on an Individualized Education Plan (IEP) due to her disabilities. [*names have been changed]

Isabel had high hopes when her daughter began high school. She was optimistic that the transition from middle school would help her daughter mature and take her studies more seriously. Sadly, the opposite was true. Peyton frequently skipped class, which resulted in detentions. Peyton did not attend the detentions, resulting in either an in-school or out-of-school suspension. During the course of one quarter, Peyton had been excluded from school 10 times. School administrators felt out of options, as Peyton had frequently violated the district's attendance policy. The principal at Peyton's school wrote a letter to the State's Attorney, referring Peyton as Child in Need of Supervision Petition (CHINs). The school district also informed the State's Attorney that the district would be dropping Peyton from its enrollment.

A Flawed Process

The Individuals with Disabilities Education Act (IDEA) has procedural safeguards for situations similar to Peyton's. When a student on an IEP is to be excluded from school for over 10 consecutive school days (or in Peyton's case, "dropped from enrollment"), the student's IEP team is required to con-

duct a meeting to determine if the behaviors that caused the student to be excluded were a result of the student's disability. This process is called a Manifestation Determination. If, during the Manifestation Determination process, the student's behavioral infraction is found to be caused by the student's disability, the student must be returned to his or her original educational placement prior to the 11th day of suspension. If the team determines the behaviors are *not* caused by the student's disability, the school has the ability to discipline the student like anyone else (except that the school must continue to provide educational services in accordance with the student's IEP in another setting). 34 C.F.R. §300.530.

Peyton's IEP team performed a Manifestation Determination. The IEP team concluded Peyton's behaviors were not a result of her disability. The SDAS advocate felt this process was completed erroneously because the team did not accurately assess Peyton's behaviors. This inaccurate behavioral assessment, in turn, allowed the district to exclude Peyton from school.

A couple days later, in an attempt to circumvent IDEA's procedural requirements by removing Peyton from school without formally expelling her, the principal wrote the letter to the State's Attorney stating the district was dropping Peyton from its enrollment. Contrary to the district's view, SDAS believed that dropping Peyton from enrollment was an act of expulsion. It is SDAS's stance that ANY time a student on an IEP is dropped from a district's enrollment due to a behavioral infraction, it should be considered an expulsion.

IDEA provides protections for students on IEPs upon expulsion. The law states: "A child with a disability who is removed from the child's current placement ... must continue to receive educa-

tional services ... so as to enable the child to continue to participate in the general education curriculum ... and to progress toward meeting the goals set out in the child's IEP."

Peyton was not offered/provided educational services from the district during the time she was excluded from school. She was too young to begin GED classes at the local alternative school. She was stuck with no prospects for completing high school.

Providing Assistance

Frustrated with Peyton's situation, Isabel spoke with the SDAS intake team, which assigned Peyton to a staff advocate. SDAS has had a growing concern about the expulsion and exclusion of students on IEPs. Illegal exclusion from school is an area of focus and has been deemed a priority issue for SDAS in FY 2016.

The advocate immediately spoke with the school principal and relayed our concerns regarding the expulsion and our belief that this procedure conflicts with IDEA. Within days, an IEP meeting was held and the school agreed to re-enroll Peyton in classes. Changes were made to Peyton's IEP to suit her educational needs. The team also agreed that the school would begin a Functional Behavior Assessment to explore what steps should be taken to improve Peyton's attendance.

The advocate asked that the school make changes to the disciplinary piece of the district's attendance policy. As a result of Peyton's ODD, the advocate was concerned she would be unable to comply with the district's attendance policy. The advocate argued that being tardy and skipping classes was part of Peyton's disability and should be ac-

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commodated to suit her unique needs. School staff stated that because Peyton was not on an IEP for ODD, they could not accommodate her needs in this area. The advocate disagreed because the IDEA requires an IEP to accommodate a child's "unique needs." It was pointed out that Peyton's behaviors were classic to ODD and should be addressed in the IEP. In fact, the DSM-5 defines the diagnostic criteria for ODD as, "often actively defies or refuses to comply with requests from authority figures or with rules." American Psychiatric Association, 2013). It seemed clear that behaviors Peyton was exhibiting were related to her disability. District staff disagreed with her diagnosis (even though its own evaluation agreed with it) and further disagreed that the IEP Team had to address her ODD when emotional disturbance was not her eligibility category. As a result, the district refused to include accommodations for Peyton's ODD in the IEP.

The district's refusal to amend the attendance policy and the consistency of Peyton's behaviors puts Peyton at risk to be expelled again. SDAS continues to work with this family to ensure that Peyton receives the education that she is entitled to receive.

Not Alone

Unfortunately, Peyton's situation is not unique. Seven students in Texas filed a complaint alleging they were forced out of school due to truancy. The students stated that the various reasons for truancy were related to their disability. The complaint noted that schools would use the threat of truancy charges to get students to enroll in alternative programs such as GED or homeschooling (neither of which has a high-passage rate for students with disabilities). Numerous federal violations were found in the named districts and corrective actions were ordered. (Binkovitz, 2015).

Peyton's situation, coupled with the complaints from Texas, highlights the

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Scholarship Opportunities for Students with Disabilities

ACLSMedicalTraining.com contacted the National Assistive Technology Project and asked that people be made aware of a site it created, <https://www.aclsmedicaltraining.com/financial-aid-opportunities-for-disabled-individuals/>. This website lists many sources of scholarships for persons with disabilities who are or will be attending college. Below is a very short excerpt from that website:

College is an exciting time, but it's also quite expensive. And while student loans can help you afford your education at the time, repaying these loans can make it extremely complicated to save money and get ahead once you've graduated.

If you're an individual with a disability, however, there are multiple scholarships, grants, and awards available to you that can make it simpler to afford your education. And here at ACLS Medical Training, we want to make sure you find all available options to enable you to pursue higher education.

Below, you'll find general disability opportunities and others related to specific conditions. We hope that by the end of this article, you'll have specific scholarships you can apply to as you further your education.

General Disability Scholarships

Like all scholarships, general disability scholarships are awarded on many different criteria including merit, financial need, interests, or any other relevant criteria.

The scholarships that follow are available to all individuals with disabilities, though each will have different eligibility requirements, award amounts, and application processes. Read on to find out more about each and how you can save on your education!

disABLEDperson National Scholarship

DisABLEDperson is a public charity that focused on disability employment

and has done so since 2002. Part of the charity's mission is to offer scholarships for students with disabilities to keep them in school and give more individuals the opportunity to find work. The charity offers two opportunities to obtain the \$1,000 award, once in the fall and once in the spring.

- ◆ **Who's Eligible:** Applicant must be an undergraduate or graduate student currently living with any medically documented disability.
- ◆ **Award Amount:** Up to \$1,000
- ◆ **Deadline:** March 4

Disability Awareness Scholarship

Whether you're about to begin college and have been accepted into a program or are currently enrolled, MilitaryVALoan.com proudly offers a \$1,000 scholarship to one recipient each year. The organization strives to raise disability awareness while improving schooling for those with disabilities, both those who receive the scholarship and the millions of others that don't.

- ◆ **Who's Eligible:** Applications are welcomed and accepted from any undergraduate or graduate student, 17 years of age or over, who has been accepted to or is currently enrolled at an institution of higher learning.
- ◆ **Award Amount:** \$1,000
- ◆ **Deadline:** January 10, Annually

Chronic Health Condition Scholarships

Treating chronic health conditions can put a strain on any individual or family, especially when college tuition is thrown into the mix. Luckily, there are several chronic health condition scholarships you can apply for to lighten the financial burden of a college education.

Scholarships
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Tech Bytes

by Carrie Geppert

Can Cell Phones Contribute to Independent Living? The answer may surprise you! Androids are no longer the cute little Martians that you see in the movies; however, they



may become the gateway to independent living. Throughout the decades, we have asked, “have you seen my keys?”

“can you read this for me?” or “does this outfit match?” Imagine an app that identifies where your glasses are located, reads your mail for you, or plans your outfits for the week. Yes, there are apps for that! Cell phones have become a convenient handheld tool to access these supports.

TILE

Need support in locating items?

IOS has an app called **TILE**. It is a free download in the Apple app store. Individual TILES can be purchased for \$25. You simply attach the small TILE to your keychain, wallet, glasses, purse, or any other item you struggle to find.

How does it work? Items can be located through a tiny blue tooth chip inside the TILE. Once you open the app on your IOS device, the app will send a signal to the TILE and it will begin beeping. The app also shows how close you are to the device and when you are moving closer or farther away.

Who would benefit from this app?

Everyone! This app would be particularly useful for individuals with low vision/visual impairment, traumatic brain injuries, and recent onset of dementia.

Text to Speech

Need support in reading?

Both Android and IOS have an app called **Text to Speech**. It is a free app that allows individuals to have their emails, text messages, and web browsing read to them out loud. With the newer phones, this app is built into the phone and can be found in “settings.”

How does it work? Androids go to Settings> Language & input> Text to speech output.

IOS go to Settings> General> Accessibility> Speech> Speech Selection toggle to ON.

Then, simply double tap on the text to be read and select “Speak.” The information will be read to you.

Who would benefit from this app?

Everyone! This app would be particularly useful for individuals with dyslexia, low vision, and specific learning disabilities.

123 Dress Me

Need support selecting clothing?

IOS has an app called **123 Dress Me**. 123 Dress Me is a free app that allows you to scroll through pictures of your clothing from your closet and pick out your outfit for that day. This app also lets you plan for the whole week/month if you are feeling ambitious. By selecting outfits, it also assists you with determining what laundry needs to be done.

How does it work? Take photos of your clothing and upload them into your virtual closet. You can also photograph accessories. The photos will then be organized into categories and seasons. You are now ready to scroll through your closet and choose your outfits without taking anything off the hangers.

Who would benefit from this app?

Everyone! I would have really enjoyed having this app a few years earlier. The crisis of “what should I wear” would have been over. This app would be particularly useful for individuals with ADHD, anxiety disorders, and depression, as it is a good organizational tool and helps plan ahead for those days that might be a struggle to get started.

For other useful technology-related ideas, check the back issues of the **South Dakota Report**. You can access this information at <http://www.sdadvocacy.com/sdreport/>.

Illegal Exclusion

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need for change to how we discipline students with disabilities. Schools have been dropping students from their enrollment or informing students they may not return to school in order to effectively suspend/expel students without going through the required procedural steps. This practice of constructive suspension/expulsion needs to be discontinued and more positive approaches to keeping kids in school should be adopted. By keeping kids' futures and the law in mind, schools can provide appropriate educational opportunities to *all* students.

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34 C.F.R. § 300.530.

34 C.F.R. § 300.1.

34 C.F.R. § 300.530.

National Voter Registration Day

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SDAS sent out 21 packets to nursing homes, assisted living centers, and CSPs. Through SDAS participation in NVRD, 23 individuals with disabilities were registered and are now able to exercise their right to vote.

Individuals can register to vote at any time throughout the year. Voter registration deadlines for the 2016 elections are:

Primary Election - June 7, 2016;

General Election - October 24, 2016.

Voter registration cards can be requested from your local County Auditor's office, on the Secretary of State's website, SDSOS.GOV, or at a local Department of Social Services office.

Transcranial Magnetic Stimulation (TMS) - -- An ECT/Psychotropic Drug Alternative?

by Brian G. Gosch

Transcranial Magnetic Stimulation (TMS) is a non-invasive treatment method for those suffering from depression, anxiety and insomnia. TMS stimulates the brain to produce serotonin and other neurochemicals required for healthy mood and sleep.

Serotonin is a chemical found in the human body. It carries signals along and between nerves and it is mainly found in the brain, bowels, and blood platelets. Research indicates it is especially active in constricting smooth muscles, transmitting impulses between nerve cells, regulating cyclic body processes, and contributing to one's well-being and happiness. Serotonin is regarded by some researchers as a chemical that is responsible for maintaining mood balance, and that a deficit of serotonin leads to depression.

TMS has been proven to be safe and effective in multiple published studies and has been cleared by the FDA for the treatment of depression, anxiety,

and insomnia. It works under the theory the brain can be stimulated by magnets. Magnetic fields easily pass through the skull and into the brain, and a TMS device has a lot of magnetic energy flowing to affect the neurons inside the head. TMS works by magnetic fields being produced by a passing current in a coil. The shape of the coil determines properties and size of the field. The coil goes around the scalp, but no direct contact is made with the scalp by the coil. TMS machines send a pulse through the brain every three seconds. The process has very few side effects and is capable of modifying the brain.

Not every patient responds well to psychotropic medication or electroconvulsive therapy (ECT) treatments. TMS has become another tool psychiatrists can use, and in some locations have used with up to an 80 percent success rate. Such a place is Avera Behavioral Health Clinic in Sioux Falls, South Dakota. As reported by Donna Farris with Avera Health, Dr. Matthew Stanley DO

(Vice President for Avera's behavioral health clinic service line, Medical Director of Avera Behavioral Health Services in Sioux Falls, South Dakota and Marshall, Minnesota, board-certified psychiatrist with Avera Medical Group University Psychiatry Associates) stated he was "incredibly impressed with this technology." At Avera, TMS is surpassing expectations with up to 80 percent of patients experiencing improvement.

TMS is very non-intrusive and, unlike electroconvulsive therapy (ECT), it does not generally cause seizures or require complete sedation with anesthesia. However, TMS does have some risks and can cause some side effects. The most common side effects are headaches, scalp discomfort at the site of stimulation, tingling, spasms or twitching of facial muscles, lightheadedness, and discomfort from noise during treatment. Some uncommon side effects are seizures, mania (particularly in people with bipolar disorder), and hearing loss due to inadequate ear protection during treatment.

ECT is more intrusive as electrodes are attached to the patient's head and electrical current is emitted into the patient causing convulsions. The patient is put to sleep and also given anti-convulsive drugs. A doctor, nurse, and an anesthesiologist are required for ECT and the patient wakes up confused and often disoriented. TMS does not have these side effects. When TMS treatment is over, the patient is alert and able to leave the hospital. ECT is a quicker fix than TMS, but it is still not known exactly how ECT works. Generally, a patient is taken off medications before receiving ECT, while during TMS patients can stay on the medications and get benefit from them.

TMS treatments have become a viable alternative to ECT and may reduce or eliminate the need for psychotropic medications for some individuals.



TMS Machine - Photo courtesy of Avera Behavioral Health

Legal Pull-out Section

November 2015

At Last - Regulations for the DD Act

by Tim Neyhart

The programs and services provided by and through South Dakota Advocacy Services (SDAS) originate with federal legislation. One way to understand what the program is designed to do is to read the federal legislation, then read the federal law, and then ultimately read the federal regulations. The way laws and regulations are cited can make it very confusing for people who attempt to read them for the first time or for people that do not routinely refer to laws or regulations as part of their day-to-day activity. This article is being written to provide information about the federal law and regulations that establish and direct the Protection and Advocacy Developmental Disabilities (PADD) Program.

Those of you who have had Partners training or have worked with SDAS are familiar with the standard advocacy question, "What regulation or law is that policy based on?" One of the important laws that affects the rights and services for people with developmental disabilities is the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act). While the law was passed in 2000, it has taken 15 years to complete and publish the new regulations that will assist with implementing this law.

Where to Find the DD Act/Regulations

All federal legislation is initially given a public law number, abbreviated "Pub. L." or "P.L." The Developmental Disabilities Bill of Rights Act (DD Act) is Pub. L. No. 106-402. A public law is then put into statute form in the United States Code ("U.S.C."). The DD Act is located at 42 U.S.C. §§ 15001 *et seq.* This Latin abbreviation, "*et seq.*," is used to denote a beginning page or section of multiple pages/sections. The new regulations are published in the Federal Register at 80 Fed. Reg. 44796 (July 27, 2015). They became effective on August 25, 2015, and are located at 45 C.F.R. Pts. 1385, 1386, 1387, and 1388. "C.F.R." and "Pts." are abbreviations for "Code of Federal Regulations" and "Parts," respectively.

The regulations authorizing the Protection and Advocacy Developmental Disabilities (PADD) Program, the University Center, and the Developmental Disability Planning Council are contained in the DD Act regulations. It is within the DD Act and its regulations that the Federal partner structures how these programs are to work together to meet the needs of people with developmental disabilities.

PADD Program Regulations

The DD Act has always contained provisions that provide the PADD Program with authority to access both facilities and the people receiving services in those facilities. The new language changes the term "facility" to "service provider."

The PADD Program staff can access places where services, supports, and other forms of assistance are provided to individuals with developmental disabilities. The term, "service provider," is not defined in the regulations and allows a broader interpretation of the places where PADD staff can access people with developmental disabilities.

In addition to the regulation changes regarding access to facilities, the regulations also clarify a number of other issues regarding the authorities of Protection & Advocacy agencies (P&A). The regulations state that P&As must have immediate access to the premises of a service provider or premises under the control or supervision of the provider. There is no requirement for advance notice when the P&A seeks to conduct an abuse or neglect investigation. The regulation also requires immediate access upon either oral or written request when the P&A wishes to conduct a monitoring visit. The previous regulations were silent regarding advance notice.

The P&A will have greater access to people who have been denied visits by P&A staff due to concerns expressed by the agency about possible impact to treatment or therapeutic services being provided to the person with a disability. P&As are authorized to attend treatment planning meetings with the consent of the individual or their guardian/conservator or in some cases without consent if the individual does not have a guardian or the state is the guardian. The new regulations also clarify the type of public and private investigative records available to the P&A.

The P&A is required to keep the records and information gathered in these activities confidential. The P&A may release public reports about investigations so long as the identity of the individuals served remains confidential. If the P&A becomes aware of abuse and neglect during its visits to facilities, it may provide confidential information to other investigative and enforcement entities that reveals identities and certain confidential information.

The new regulations incorporate the decisions of various federal courts in allowing P&A access to peer review records, individual records if the guardians refuse to grant access, and by requiring educational entities to give the P&A contact information for parents or guardians of students. The new regulations also address the Health Insurance Portability and Accountability Act (HIPAA) by incorporating a determination made in 2005 by the Department of Health and Human Services that HIPAA does not bar P&A access to records.

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Stop Me If You've Heard This - Should Good Teaching Methods Determine IEP Content?

by Gail C. Eichstadt

Children with disabilities were guaranteed the right to a free appropriate public education by the Education for All Handicapped Children Act (Public Law 94-142) in 1975. Congress has reauthorized EAHCA several times, most recently in December 2004 as the Individuals with Disabilities Education Improvement Act (IDEA). Educators should be familiar with IDEA's requirements, given the law was passed forty years ago. Yet, it is amazing the misinformation SDAS staff hears!

At an Individualized Education Program (IEP) meeting, the team identified the goals, specific accommodations, and modifications the student needed based on her unique needs. Instead of listing the accommodations and modifications on the IEP, the special educa-

tion director stated that the accommodations and modifications were "good teaching," so "we don't need to write that down." The special education director seemed to be saying if a student has a good teacher (one capable of "good teaching"), the teacher will know what the student needs. Thus, according to this special education director, whether accommodations and modifications are included in the IEP is dependent on the competency of the teacher, not the student's needs.

In another situation, a student had a diagnosed learning disability in math, which had been addressed in the student's IEP for several years. The IEP Team removed the student's math goal and accompanying special education services from the IEP because the student's math teacher for the coming

school year was going to be a former special education teacher.

Under IDEA, special education is defined as "specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability." See 34 C.F.R. § 300.39(a). Specially designed instruction means "adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction." See 34 C.F.R. § 300.39(b).

Even if the accommodations and modifications the student required in the first example can be classified as "good teaching," they must be included on the IEP because they affect content, methodology, or delivery of instruction. Special education services – what is included in the IEP – must be governed by each child's unique needs, not on the qualifications of a particular teacher.

In another case, school district staff classified a student's specialized instruction as being taught in the general education curriculum. School staff did not want to include the specialized instruction on the IEP because it was included in the general education curriculum already.

The Office of Special Education Program addressed this issue in *Letter to Chambers* in 2012. The letter stated a school district must provide specially designed instruction that "ensures access by the child to the general curriculum, even if that type of instruction is being provided to other children, with or without disabilities, in the child's classroom, grade, or building."

For forty years, special education law has required that the content of the IEP must be based on each student's unique needs. Qualifications of particular teachers or service providers provide no basis for removing or failing to include needed services in students' IEPs.

New Staff Attorney, PAIR Director, in Sioux Falls Office

Kate Dykstra joined the SDAS team on October 15th as the new PAIR Director and Staff Attorney. She is located in the Sioux Falls office. Prior to working for SDAS, Kate worked for two years at Great West Casualty Company in Sioux City as a Subrogation Attorney.

Kate is a graduate of the University of South Dakota School of Law. She also obtained her MBA from the University of South Dakota School of Business. Kate received her Bachelor's degree in Business Administration from the University of Sioux Falls.

Kate's boyfriend, Craig, lives in Rock Rapids, Iowa, and works as an accountant for DGR Engineering. One of Kate's favorite activities includes cheering on her boyfriend's favorite

sports teams. She also loves to travel, cook, sew, paint, crochet, and anything else that can be found on Pinterest.



Kate Dykstra

The Work Force Innovation and Opportunity Act

by Cole Uecker

The Work Force Innovation and Opportunity Act (hereafter WIOA), Pub.L. 113-128, 128 Stat 1425, was signed into law on July 22, 2014. It is the long-overdue reauthorization of the Workforce Investment Act of 1998 (Pub.L. 105-220, 112 Stat. 936), which expired in 2003. Though WIOA is law, there is a lengthy process to develop regulations to implement the changes mandated by the statute. Those provisions not subject to public notice and comment went into effect on July 1, 2015, and the remaining regulations are scheduled to be published by the Departments of Labor, Education, and Health & Human Services on January 22, 2016. Vocational Rehabilitation and public schools have expressed concerns about the effects of this new legislation and its related regulations on the delivery of services provided by these agencies. This article will provide a synopsis of some of the major changes that have occurred, the effects that they are having with the various public agencies, and the role that South Dakota Advocacy Services (SDAS) will have in its implementation.

WIOA focuses on issues regarding transition for students, services for young people, and people who are working at sub-minimum wages. The subset of individuals described as “Students with Disabilities” is defined in WIOA as those persons between the ages of 16 and 21 who are *potentially eligible* for Vocational Rehabilitation services (currently on a 504 plan or an IEP, but not necessarily a Vocational Rehabilitation client). WIOA focuses a great deal on these children. The regulations mandate that 15% of each state’s Vocational Rehabilitation budget must be allocated to Pre-Employment Transition Services, also known as “P.E.T.S.” These services can include supporting efforts in job exploration counseling, providing students with learning experiences in a work context, pre-college counseling, independent living skills, and fostering self-advocacy. Many states have expressed concern that they will have difficulty in meeting this requirement. The South Dakota Division of Rehabilitation Services has stated that South Dakota is well-positioned to meet this requirement because of the existing programs such as the Youth Leadership Forum, Catch the Wave, Project Skills, and Project Search, as well as current case management practices.

Another key element of WIOA is that the employment experiences must be provided in an integrated setting at a wage that is comparable to anyone else that does the same work with similar experience. This concept is known as “Competitive Integrated Employment.” The purpose of this requirement is that students with disabilities will not be isolated from non-disabled workers and paid less than similarly situated employees. Gone are the days that schools can simply send students to low-paying sheltered workshops and call it Transition Services. Furthermore, WIOA has a strict prohi-

bition on the practice of educational institutions contracting with sub-minimum wage providers for services relating to Transition. The Division of Rehabilitation Services has expressed a willingness to work with SDAS to ensure that these requirements are observed in all school districts in the state.

Another group discussed within WIOA is “Youth with Disabilities.” This group is defined as people who are between the ages of 14 and 24 who are eligible for Vocational Rehabilitation. WIOA makes employing this group of people for less than minimum wage more difficult. There is a presumption that all people are able to work in a competitive integrated setting until proven otherwise. The process for ensuring that people are given adequate opportunity to achieve substantive employment is specifically articulated within WIOA. Young people who fall into this category must be provided with services from Vocational Rehabilitation. An evaluation must be completed with opportunity to explore various employment fields in order to find a good occupational fit. Once the person served has achieved competitive integrated employment, supports may be extended for up to four years.

Section 511 of WIOA specifically addresses sub-minimum wage. Many organizations, including the National Disabilities Rights Network (NDRN), have expressed a desire to eliminate sub-minimum wage entirely. New Hampshire has abolished sub-minimum wage by statute. While opinions on the wisdom of such a universal ban are varied, it is widely accepted (and statutorily required by WIOA) that wages less than the set minimum wage should be a last resort rather than a matter of course. Regulations to WIOA implementing this principle will go into effect on July 22 of 2016. They will mandate that Vocational Rehabilitation agencies counsel employees on their right to competitive employment and provide services and referrals geared to achieve this outcome. Vocational Rehabilitation will go into businesses and organizations holding a 14c certificate (the license required to pay less than minimum wage) and counsel employees twice in the first year of their employment and every year thereafter regarding these requirements. Only after VR services have been rejected by the individual or it can be demonstrated by clear and convincing evidence that the individual would not benefit from the offered services will VR determine that the individual is not eligible for its services. Trial work may not be used as a “holding pattern.” WIOA mandates that once the client has been determined to be eligible for Vocational Rehabilitation services, an Individual Plan for Employment (IPE) must be developed within 90 days -- unless an extension is agreed-

WIOA

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SDAS Special Education Legal Clinic

by John A. Hamilton

South Dakota Advocacy Services (SDAS) sponsored and held its first Legal Clinic on August 12, 2015, at the downtown EmBe building. This Legal Clinic was designed specifically to provide the public with free legal advice on issues relating to special education. The goal of the Legal Clinic was to train volunteer law students and attorneys on special education law, which, in turn, allowed them to be able to assist families with special education issues.

SDAS trained 13 volunteer attorneys and two law students (the law students assisted with intake). SDAS thanks the following local attorneys for giving of their time to this Legal Clinic: Nicole Tupman (Lindquist & Venum);



Volunteer attorney, Alison Ramsdell (l), with SDAS PADD Director, Emily Garcia



Law student, Amanda LaCroix (l), with volunteer attorney, Marilyn Trefz (r)

Brad Reynolds, East River Legal Services; Nathan Mellema, Sonifi Solutions; Jennifer Bunkers, Boyce Greenfield Pashby & Welk; Lisa Prostrullo, Murphy Goldammer & Prendergast; Eric Hanson, Dakota Homestead Title; Marilyn Trefz, Dorothy & Krause; Todd Miller, Miller Law; and Alison Ramsdell, Randy Seiler, Diana Ryan, and Kevin Koliner, U.S. Attorneys. Those conducting intake were Amanda LaCroix and Brianna Palomaki, law students from USD School of Law, and Emily Garcia and Carrie Gepfert of SDAS. South Dakota Parent Connection, the Center for Disabilities, and SDAS provided outreach tables containing numerous resources for par-

ents. SDAS thanks all the volunteers for their time and EmBe for hosting the event.

Former SDAS Staff Attorney, Elizabeth Overmoe, organized and publicized the Legal Clinic. To provide extra publicity, KELO TV aired a story both the night before and morning of the Legal Clinic. SDAS Legal Affairs Director, John A. Hamilton, acted as a resource to the volunteer attorneys as they met with community members.

SDAS Legal Clinic
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Volunteer attorney, Eric Hanson (l), with SDAS Legal Affairs Director, John Hamilton

WIOA

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upon by both of the parties. Documentation of VR visits must be maintained by both the vocational rehabilitation agency and by the employer. This requirement creates an opportunity for South Dakota Advocacy Services to ensure that sub-minimum wage workers have benefited from the protections of the law. SDAS may use its access authority under both its PADD and PAIR programs to visit sites employing persons with disabilities to ensure that no concerns of abuse or neglect are present. While there, advocates may speak with employees regarding their relative satisfaction with their employment and may even view the records regarding the counseling done by VR. If the records are not there, or not up-to-date, VR can be notified and requested to go to that site to conduct the required visits.

WIOA also has the effect of creating greater interagency collaboration between Vocational Rehabilitation, the Department of Labor, School Administrations, Employers, and Protection and Advocacy agencies. The intent of this collaboration is to be able to more effectively and efficiently create a unified system that would lead to competitive employment for individuals with disabilities.

DD Act Regulations

(Continued from page 7)

These changes in the regulations should allow P&As more access to people with developmental disabilities, while at the same time reducing the amount of time spent challenging service providers for access to records, facilities, and people. This brief summary of the changes in the regulations is based on large part by an analysis by David Hutt, an attorney for the National Disability Rights Network (NDRN).

If you have any questions or concerns about the DD Act regulations, please feel free to contact South Dakota Advocacy Services, at 1-800-658-4782, or (605) 224-8294, for further information.

In summation, the Work Force Innovation and Opportunity Act (WIOA) is a powerful piece of legislation that has been long anticipated. Its effects are still being discussed and determined by many in the disability services field. Nonetheless, it sets the framework to help many people obtain integrated, gainful, and satisfying employment in the communities in which they live.

SDAS Legal Clinic

(Continued from page 10)

Approximately 15 individuals attended the Legal Clinic to receive advice from a volunteer attorney. The volunteer attorneys were very positive about the event and most stated they would volunteer again for similar events.

South Dakota Advocacy Services is in the beginning stages for planning another Legal Clinic for April 22 in Sioux Falls. More details will follow in the March edition of the *South Dakota Report*.

Overmoe Leaves SDAS

Elizabeth Overmoe, Staff attorney/PAIR Program Director in the SDAS Sioux Falls Office, resigned her position as of the end of August to begin working for the State Bar of South Dakota. She had worked as a Staff Attorney for nearly five years and had also been the PAIR Director for eleven months.



Among other things, Elizabeth was instrumental in SDAS holding its first Legal Clinic and with cultivating SDAS' relationship with the USD School of Law. SDAS wishes her the best at her new job.



Three members of the PAIMI Advisory Council recently left the Council due to term limits. SDAS thanks (l-r) Art Conners of Brookings, Ellen Washenberger of Aberdeen, and Wanda Peacock from Rapid City for their dedication to the Council and for their years of service. Your input and advice was greatly appreciated and a valuable asset to the Council.

Assistive Technology in Schools - An Overview

by Amanda LaCroix*

**Amanda LaCroix is a law student attending U.S.D. School of Law. She participated in a Disability Rights Practicum class at SDAS during the fall semester, 2015.*

Assistive Technology (AT) is critical to students with disabilities so they are not denied the full benefit of education programs. (Alper and Raharinirina 2006, p. 53). With AT devices and services, students can gain or maintain access to the general curriculum and maximize their independence and success in academics. This article discusses many questions that students, parents, and teachers face when dealing with assistive technology.

What is Assistive Technology?

“Assistive technology device” is any “any item, piece of equipment, or product system ... that is used to increase, maintain, or improve the functional capabilities of a child with a disability.” 34 C.F.R. § 300.5. The term does not include medical devices that are surgically implanted or the replacement of such device. “Assistive technology service” is, in part, “any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.” 34 C.F.R. § 300.6. Assistive technology is available to help individuals with many types of disabilities. AT services and devices can help people who have difficulty speaking, typing, writing, remembering, pointing, seeing, hearing, learning, walking, etc.

What does an AT Device Look Like?

Almost any tool can be considered an assistive technology device, except for a “medical device that is surgically implanted, or the replacement of such device.” 20 U.S.C. 1401 (1). AT devices can range from low to high technology. Low technology AT devices are relatively inexpensive. An example would be a pencil grip that is used by a student with a physical disability to improve handwritten communication by increasing the student’s grip and control over pens and pencils. An example of a high technology device would be computer software that would allow a student with limited speech to type messages that would be spoken out loud to increase the student’s communication ability. *Georgia Project for Assistive Technology* (2014), Georgia Department of Education.

Assistive technology devices are available to address a variety of functional capabilities of students with disabilities, such as: academic and learning aids; aids for daily living; assistive listening devices and environmental aids; augmentative communication; computer access and instruction; environmental control; mobility aids; pre-vocational and vocation aids; recreation and leisure aids; seating and positioning; and visual aids. *Georgia Project for Assistive Technology* (2014), Georgia Department of Education.

How do Schools use Assistive Technology?

Technology can help students with disabilities to enhance and improve their independence in academic and employment

tasks, participation in classroom discussion, and help them accomplish some difficult academic tasks. (Alnahdi 2013, p. 21). AT devices and services may help students with disabilities to be able to “mainstream” into, or remain in, a general education classroom. See the table on the opposite page for a list of advantages of using technology for students with disabilities.

Does IDEA Cover AT Needed for use in Settings Other than the Classroom?

The regulations provide that decisions about assistive technology devices for students should be made “on a case-by-case basis.” 34 C.F.R. § 300.105(b). The IEP team can determine that a student requires a school-purchased device outside of the classroom in order to receive a free and appropriate public education. If it is in the IEP, the device must be provided at no cost to the parents.

Are Schools Required to Provide Assistive Technology?

Part B of the IDEA (Individuals with Disabilities Education Act) requires public agencies to insure that assistive technology devices or services, or both, are made available to a child with a disability if required as part of the child’s special education, related services, or supplementary aids and services. 34 C.F.R. § 300.308. The Office of Special Education Programs (OSEP) stated, “a public agency must evaluate a student in all areas of suspected disability, including whether the student’s functional capabilities require the use of AT devices or services.” *Letter to Fisher*, 23 IDELR 565, 23 LRP 3411 (OSEP December 4, 1995). If the school refuses to evaluate in the area of AT, the parent has a right to an Independent Educational Evaluation (IEE) to “assess the child in that area to determine whether the child has a disability and the nature and extent of the special education and related services that child needs.” *Letter to Baus*, 65 IDELR 81, 115 LRP 8855 (OSEP February 23, 2015). The parent can also request that the school conduct a re-evaluation of the student’s need for assistive technology. *Letter to Fisher*, 23 IDELR 565, 23 LRP 3411 (OSEP December 4, 1995).

IDEA mandates that AT needs must be considered at every IEP team meeting for students found eligible for special education services. (Smith & Jones 1999). If the student is found to need AT services, the burden is on the school district to determine what specific assistive technology devices or services the student requires. *School Board of Independent School District No. 11 v. Pacht*, 2002 U.S. Dist. 23205, 2002 WL 32653752 (D. Minn. May 10, 2002). The school also has the burden to prove the appropriateness of the AT services they are proposing to provide in the IEP. *East Pennsylvania School District v. Scott B.*, 1999 U.S. Dist. LEXIS 2683 (E.D. Pa. Feb. 19, 1999).

AT in Schools

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Are Schools Required to Provide “State-of-the-Art” Technology?

Maybe. School districts are not required to provide “state-of-the-art” technology if the student’s needs do not require it to provide FAPE. If the IEP team determines the student requires a specific device or service, the school district must provide the device or service. However, if a less expensive device or service would serve the same goals for the student, the school is not required to buy the more expensive option. *Assistive Technology Frequently Asked Questions* (2007-2008), Iowa Department of Education.

Should Assistive Technology Services be Written in the IEP?

Yes. If the IEP team determines the student requires an AT device, the IEP must not only describe the device, but must also state how the AT device will be acquired. If the device must be specially designed, fitted, customized, and/or adapted for the particular student, it should be detailed in the IEP. The IEP should include how the device will be maintained, repaired, or replaced, including providing the student with a back-up device while the student’s regular device is being serviced. The IEP should include how AT devices will be used with other therapies and services, and when the student will use the AT device during the course of the day. The

IEP should include any training the student, parents, or professionals require in learning how to use the AT device and how to assist the student in using the device.

Where Should Assistive Technology Services be Documented in the IEP?

AT services may be documented as special education, related services, supplementary aids and services, and/or transition services. AT services may be written as special education when AT services are identified in the IEP as a necessary tool to achieve the student’s goals and objectives. *Guidelines for the Provision of Assistive Technology to Students with Disabilities under IDEA Part B* (September 10, 2015), North Dakota Department of Public Instruction. AT services may be documented as a related service when AT services are needed to train the student, parents, and staff to use the proposed AT solution. Training to support the use of AT should be documented as a related service. AT services may be documented as a supplementary aid and service when specific accommodations reference the use of AT. These must be identified in the IEP for classroom instruction. *Guidelines for the Provision of Assistive Technology to Students with Disabilities under IDEA Part B* (September 10, 2015), North Dakota Department of Public Instruction. AT services may be written as a transition service to address the ways in which the AT devices and service will be transferred from one school to

Advantages	Examples
1. Maximize independence in academic and employment tasks	A student with a mobility impairment uses a hands-free keyboard and mouse to operate a computer to take class notes, access resources, and complete papers rather than have an assistant write for her.
2. Participate in classroom discussions	A student who cannot speak uses a computer-based communication device to deliver speeches and participate in class discussions.
3. Gain access to peers, mentors, and role models	A student who is deaf uses email to chat with other teens, gain support for college and career transition from mentors, and meet role models.
4. Master academic task that students cannot accomplish otherwise	A student with a learning disability uses software to support her management of reading, writing, and study demands in a postsecondary setting.
5. Gain access to the full range of educational options	A student who is blind and uses speech output technology fully participates in an online learning course that employs universal design principles to assure access to people with disabilities.
6. Participate in experiences not otherwise possible	A young man with no functional use of his arms and legs experiences completing a chemistry experiment through a computer simulation and observing sea life while swimming in the ocean through virtual reality.
7. Succeed in work-based learning experiences	A student who has no use of hands independently operates a computer with speech recognition software to draft and edit articles in a journalism internship at the local newspaper office.
8. Secure high levels of independent living	A young person who has a developmental disability uses a cell phone to maintain regular contact with caregivers as he participates in community activities.
Alnahdi 2013, p. 22-23.	

another or to assist the student with transitioning from the school to adult settings.

Can AT Devices Come Home with the Student?

If the AT device is purchased by the school, it can be used in the student's home or other settings if required to ensure a FAPE (Free Appropriate Public Education). This must be documented in the IEP. The school-purchased AT devices belong to the school and may be shared with another student who needs access to the device. If the parents purchase the device, the device belongs to the parent and is meant for the exclusive use of the student.

When a Student Moves from School-to-School, does the Device Follow the Student?

If the device is included in the student's IEP, it must be provided to the student by the school. The same device may not follow the student to a new school, but the new school would be required to provide a device that fulfills the assistive technology needs identified in the IEP.

Who Funds Assistive Technology?

The Office of Special Education Programs (OSEP) stated that school districts must bear the cost of the AT evaluation and that hearing, vision, communication, and motor abilities should be assessed in the evaluation. *Letter to Fisher*, 23 IDELR 565, 23 LRP 3411 (OSEP December 4, 1995). Public agencies may use whatever State, local, Federal, and private funds may be available to pay for the services. *Letter to Anonymous*, 21 IDELR 1057, 21 LRP 2776 (OSEP August 9, 1994). If the IEP team determines the student needs AT devices and/or services, the school district must provide "appropriate AT devices and services at no cost to the parents." *Letter to Rose*, 18 IDELR 531 (OSERS September, 1991) (emphasis added). Family insurance may be used to provide services if given on a voluntary basis to the schools. (Smith & Jones 1999). If the parents agree to use a family-owned AT device to fulfill an IEP, the school is responsible for maintenance and repair of the device if damaged on school property. (Smith & Jones 1999).

Funds are allowed for students who are parentally-placed at parochial or other private schools. IDEA requires public schools to spend a proportionate amount of federal funding on children with disabilities who attend private schools. 20 U.S.C. § 1412(a)(10)(A)(i). These funds used at parochial schools cannot be used for religious instruction. The fact a student attends a parochial school does not prohibit a district from providing AT devices or services. *Letter to Moore*, 20 IDELR 1213, 20 LRP 2386 (OSEP November 2, 1993).

What are the Limitations to AT Services?

A school district is only required to provide AT devices and services that are necessary to provide FAPE. If the school is already found to be providing FAPE without assistive technology, then there is no requirement on the school to provide AT devices or services. *Zigich v. Independent School District No. 623*, Civ. No. 99-1212 at 12 (D. Minn. 2000)

(unpublished opinion). IDEA does not require schools to maximize a student's potential or provide the best possible education. (Grant). However, even if a school argues the student is already receiving FAPE, schools would still need to provide AT devices and services if needed as supplementary aids and services to assist students to be educated in the regular education classroom to the maximum extent appropriate.

Conclusion

School districts should consider whether a student might need an assistive technology device or service when evaluating for special education. With the aid from assistive technology devices and services, more students with disabilities are able to be educated in general education classrooms. If AT devices and services are determined to be needed, schools are required to provide them at no cost to parents and must sufficiently describe the devices and services in the IEP.

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Promoting Social Interactions for Children with Multiple Disabilities

by Marie McQuay

Parents of children with multiple disabilities are faced with finding ways for their children to have social opportunities with peers to enhance their lives. Most children with multiple disabilities spend virtually all their social interaction time with close family members or service providers, such as therapists. They miss out on opportunities like birthday parties or sleepovers.

Kimberly Christensen is a program co-coordinator of inclusive early childhood education at Bowling Green State University in Ohio. She not only has knowledge of this area, but she experienced it first hand with her son, Bryce, who survived a near drowning accident. As a result of this accident, he was left with multiple disabilities. Ms. Christensen recruited children in the school system to read to her son through a volunteer program in his school. When Bryce was two years old, she arranged for children at the elementary school to read to him for 30 minutes every day. This provided Bryce with opportunities to be stimulated by listening to children read to him, and also made the other children aware that her child existed. She also recommended that parents coordinate with community service organizations and faith based groups, which could include the church you attend regularly.

Ms. Christensen provided the following tips to assist in socially engaging children with multiple disabilities.

Present child's strengths –

Emphasize the child's skills and interests in a strength-based manner. Be sure to focus on what the child can do rather than what he or she cannot do. It is important to answer all the questions the child without a disability has about children with disabilities, and try to point out similarities and things they both might have in com-

mon, such as a favorite food, TV show, etc.

Interpret communicative intent -

Sometimes the child with disabilities may not respond in a way that others might interpret as meaningful. Give the child doing the reading suggestions on what books your child might enjoy and point out how your child might respond to the reading if certain sections are read with emphasis and excitement.

Avoid making all communication go through the adult –

In situations where a child may have disabilities that may significantly affect speech, the parent may be the one talking to the peer who is reading. Set up the conversation by talking to your child and saying what you want the other child to hear so that the peer can, in turn, respond to your child and the communication is between the two children. This provides a way of giving voice to your child who does not have a voice to express himself or herself.

Provide staff training –

Inspire others by helping them understand the importance of having established friendships for children with multiple disabilities. Other ways that children could socially interact with your child would be to sing and act out portions of the song for your child or perform ballet and dance routines to approved music. Music can be very soothing and therapeutic to your child. Think outside the box and ask for input from teachers on ideas of how those friendships can be cultivated and what methods can be used. Ask the teachers to share the opportunities with the children in their classroom. There will most likely be children who will volunteer, and then they will, in turn, be

able to share their experience with their peers.

Sidestep common pitfalls –

Have support structures in place in your community or church. Volunteers can be utilized to send messages out to children. The volunteers can put a schedule together on when the children would read to your child or interact with your child. If you want to build a sustainable program, then volunteers should be utilized because if only one person is driving the program, then the program is not likely to sustain. Be sure to recognize the volunteers for their work. Some ideas are for the parent to donate a book to the library at the end of every school year with a disability-focused theme. An inscription can be placed in the book to recognize the children who read to your child during that year. A small party could be organized at your church or school for the volunteers who organized the schedules and for the children who read to your child. Cupcakes and ice cream could be used to reward the volunteers and would be an inexpensive way to say thank you. It would also be a social interaction that would be fun and stimulating for your child.

Assess success –

Survey the parents of the children who were involved in the program and read to your child. Also survey the children in the program and their teachers. This program can help other children build character and become less aware of the differences of children with disabilities and focus on how they are alike in many ways.

Source material: "Promote Social Interactions for Children with Multiple Disabilities," Larry Graff, LRP Publications, October 30, 2015, <http://www.specialedconnection.com/LrpSecStoryTool/servlet/GetStory?docid=22700326&printer=1>.

Changing Systems One Class at a Time - Year 24 Began in November -

by Sandy Stocklin Hook

Thirty-one individuals from 15 counties throughout South Dakota make up the Partners in Policymaking Class of 2016 (Year 24). This year's class includes nine self-advocates, 16 parents, one family member, and five partner/assistants. There are six males and 25 females in the class. Class participants include David Colling, Howard; Kara Conner, Anne Cosgrove Wimberly, Catherine Godes, Chris Goodfellow, Amanda Hemmestad, Frances Squashingroof, and Miranda Thorson of Brookings; Brent Craft, Aberdeen; Kate Dykstra and Janelle Whitlock of Sioux Falls; Lisa Harpster of Prairie City; Trevor Helton and Mary Paulette Lenz, Chamberlain; Kim Jones, Melissa McClelland, Judy Shields Him, Cole Uecker, and Sammy Voegelé from Pierre; Rebecca Kidder and Brendon Sato, Rapid City; Betsy Luke, Hartford; Pattie Mayrose, Salem; Abbey Merchen, Spearfish; Jenna Miedema of Wolsey; Jennifer Nesseim from Lennox; Anna Swift, Hot Springs; Stacy Two Lance, Porcupine; Emily Weber, Wessington; Barb Wilson from Kimball; and Sierra Wolcott of Sisseton.

Partners in Policymaking is an innovative leadership and advocacy training program designed to involve and empower individuals with developmental disabilities, parents of children with disabilities, and other family members. It requires a serious commitment by each



participant both during the training and after graduation. The expectation is that each Partner will commit to actively use the acquired skills to encourage positive changes in the areas of community awareness, sensitivity, accessibility, and inclusion for people with disabilities.

Participants attend six two-day training sessions from November through April. At each session, experts in disability and advocacy fields present information and interact with the class. Partners have the opportunity to work on communication skills, assertiveness, decision-making skills, legislative testimony presentation skills, and group activities. Each participant must complete monthly homework assignments.

When choosing the participants, the selection committee uses criteria including representation from varying ethnic and cultural backgrounds, different geographic regions of the state, and a mix of parents and consumers. Partners graduates, Darci Bible (Year 19), Angel Magaard (Year 22), Jonna Powell (Year 23), and Lori Douville (Year 7) served on this year's selection committee. Serving in an advisory capacity were Arlene Poncelet, Director of the SD Council on Developmental Disabilities, and Emily Garcia (Year 23), the Protection & Advocacy Developmental Disabilities Program Director for South Dakota Advocacy Services (SDAS).

The Class of 2016 met in November at the Governors Inn in Pierre for Session One. Tim Neyhart, SDAS Executive Director, and Garcia, both of Pierre, welcomed the class and spoke about SDAS and the DD Network.

Dennis Hook of Pierre opened the session with a fun ice breaker, literally throwing things at the class! Through this exercise, participants learned each other's names and became at ease with each other, all the while learning that it is okay to be afraid of change, but if change does not happen, progress is not made.

Partners in Policymaking
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Partners in Policymaking

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Kathie Snow of Colorado Springs, CO, challenged the class to think “different.” She stressed the importance of Partners Top 10 Values and how car pooling and room sharing all add to the networking process of Partners. She spoke of People First Language, putting the person first and the disability second, and how it helps to change attitudinal barriers. “Labels are used for services and for nothing else. People First Language will help change the attitudinal barriers that face people with disabilities on a daily basis.” Snow introduced the class to the history of Partners in Policymaking and the positive impact it can have on their lives. She stressed upon the class the importance of fulfilling their responsibilities to the program and the empowerment and connections gained by being a Partner. “You have responsibility as a Partner to network together and to change the status quo. Partners will have a positive impact on your life, so be open-minded and ready to accept and generate change.”

Neyhart spoke on the History of Disabilities and History of the Parent and Independent Living Movement. He provided a historical perspective of the landmark decisions that affect individuals with disabilities. Neyhart explained that the history of people with disabilities is full of examples of discrimination and segregation. There have been many improvements, but discrimination and segregation still exist and it is the job of Partners to change the system.

Katherine Munson from the Department of Human Services in Pierre and Brenda Smith (Year 5) from Sioux Falls trained the class on Person Centered



Thinking. The class had an opportunity to develop a one-page profile and to determine the difference between what a person needs and what a person wants.

Eight Partners graduates shared how Partners changed their lives. Year 15 graduate, Lisa Merchen of Spearfish, stressed the importance of networking. “I did Partners because first and foremost, I am a mom of a son who has Down syndrome, but I gained so much - friendships, support, knowledge, and I learned to forgive myself. Partners is about sharing our stories, positive conversation and working forward.” Max Merchen, Year 21, also of Spearfish, encouraged the class, “I learned to move forward, how to have patience, persistence, and how to get involved. I learned to do it right!” He also encouraged the class to get to know each other “and not just those in your immediate class, but also the 500+ graduates throughout the state.”

Julie Yellow Cloud of Porcupine (Year 15) explained how Partners gave her a voice and she is sharing her voice throughout her reservation, helping families to learn to advocate for their children. “Advocating on a Tribal Nation

is totally different than in an urban area, but Partners gave me the knowledge and voice to educate others and to make a difference,” stated Yellow Cloud.

Self advocates Katy Clement and John Hodgson, Year 23 of Pierre, spoke about how Partners helped them to gain self-respect and friendships. They stated they learned that “we are all the same and deserve dignity and respect.” Nancy Schlichenmayer of Pierre, Year 22, told of her experiences as a support provider.

Wendy Figland, a parent and Year 23 graduate of Mitchell, expressed the importance of listening to everyone’s stories and challenges because “everyone has something to offer and even if you don’t realize it at the time, you will learn from each of your classmates.”

Irene Colling, Year 13, of Howard, spoke of the importance of attending each and every session, as one session leads to the other, and how doing their homework is very important, as it helps Partners learn to advocate and to feel comfortable speaking to others. Year 7 graduate, Tim Conner of Brookings, told the class you are never too old to learn and to retain what you learn. He “still uses his Partner skills every day in the everyday world.”

Sandy Stocklin Hook of SDAS’ Pierre office is in her 19th year as Coordinator of the Partners in Policymaking training program. Assisting in Year 24 is Douville of Chamberlain.

Partners is funded in part by grants from the South Dakota Council on Developmental Disabilities, LifeScape, Center for Disabilities at Sanford School of Medicine at USD, and SD Parent Connection. It is facilitated by South Dakota Advocacy Services.



Garcia Honored

Emily Garcia, the Protection & Advocacy Developmental Disabilities (PADD) Program Director for South Dakota Advocacy Services (SDAS), was recently honored as "Head Start Parent of the Year" by the Region VIII Head Start Association. The Region VIII Conference was held October 29, 2015, in Deadwood, SD. Region VIII Head Start consists of organizations in Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

Garcia has been employed at SDAS for 14 months. She began as an advocate and was promoted to program director in December 2014. As PADD Program Director, Garcia works with staff and the SDAS Governing Board to develop and implement goals and strategies, including systemic advocacy activities. Garcia provides technical assistance, trainings, and outreach. She is a member of various disability related boards, councils, and committees.

Garcia's nomination noted, "As a former teacher and now advocate for individuals with disabilities, Emily does not work or serve for awards or associates, but simply to inspire and impact all of those she comes in contact with each and every day." The nomination went on to say, "She maintains a strong openness and approachability with her son and the Head Start teacher/program. She maintains a positive relationship with other parents and fosters a strong school-to-home connection through communi-



Emily Garcia

cation and volunteering at the Oahe Head Start in Pierre, be it for enjoying lunch with the students, to accompanying them on field trips, to collaborating with the teacher and other parents. You can always find Mrs. Garcia wearing a smile and a positive attitude."

Emily is involved in the community. She and her husband, Gabe, are parents of five-year old, Jovi, and have been foster parents to several children. Emily is a member of PEO, MOPS (Mothers of Pre-Schoolers), where she serves as co-coordinator, and is a former member of the Head Start Policy Council. She is also CASA trained.

The family enjoys spending time together traveling and boating on the Missouri River.

Law School Practicum in Sioux Falls Office

After assisting USD School of Law in spring 2015 by providing an externship location for one of its students, the relationship was expanded, with SDAS providing a more in-depth semester-long Disability Law Practicum course for students at its Sioux Falls office.

This past fall semester, Amanda LaCroix, a second-year law student, participated in the practicum. The practicum involved learning about disability law (primarily special education), writing papers, and working on SDAS cases. SDAS will be having two students participate during the spring semester.



Amanda LaCroix

Scholarships

(Continued from page 4)

Below, we discuss some of the most popular chronic health condition scholarships so you know what to apply for.

National Multiple Sclerosis Society Scholarship

If you're a prospective student with multiple sclerosis or have a parent with the condition, you may qualify for the National Multiple Sclerosis Society Scholarship. Approximately 40% of all who enter are awarded a scholarship and scholarships are awarded on an annual basis (each scholarship is valid for one year only once awarded).

♦ **Who's Eligible:** First time college students who have MS, or have a parent with MS. Applicants must be United States citizens or legal residents living in the US.

♦ **Award Amount:** \$1,000 to \$3,000

♦ **Deadline:** January 15

Diabetes Scholars Foundation

The Diabetes Scholars Foundation is designed for incoming college freshman seeking an education at a four-year university, college, or technical/trade school. Typically, recipients demonstrate exceptional academic achievement and are involved both in the diabetes community and extra-curricular activities. There are several different awards offered to those with Type 1 diabetes.

♦ **Who's Eligible:** Students who have diabetes and plan to study at an undergraduate program in the U.S.

♦ **Award Amount:** \$1,000 to \$5,000

♦ **Deadline:** April 15

Hearing Impairment Scholarships

Deaf, hearing impaired, and mute students face several obstacles most students don't, making the transition to higher education even more difficult. This difficulty is sometimes even more exacerbated by the inability to afford a college education but with hearing im-

Scholarships

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Partners in Policymaking is seeking proposals for presentations for Continuing Education for Year 24

Continuing education will be held April 23, 2016, in Sioux Falls at the Ramkota Hotel and Convention Center.

If you are interested in doing a presentation, please complete and return the form below:

PROPOSAL FOR PRESENTATION

Partners in Policymaking

April 23, 2016 -- Sioux Falls, SD

Ramkota Hotel & Convention Center

Please return to:

Sandy Stocklin Hook, Coordinator

SD Partners in Policymaking

221 S. Central Ave., Ste. 38

Pierre, SD 57501

Presentation Guidelines:

- Presentation should reflect current/trends issues occurring in today's society with regards to individuals with disabilities and their families.
- Presentations by people with disabilities and family members are encouraged.
- Presentation sessions are scheduled for 75 minutes in length.

NAME: _____

ORGANIZATION: _____

ADDRESS: _____

PHONE: _____

EMAIL: _____

WEBSITE (if available): _____

Speaker Information:

1. Professional credentials (education and experience) that qualify you to present proposed session.

2. Title & description of presentation:

3. Audio/Visual needs (circle all that apply):

Overhead Projector for Power Point

TV/DVD/VCR

FLIP CHART

4. Will you require compensation to enable your participation? If so please provide detail on expenses/fees you require.

SUBMIT BY FEBRUARY 15, 2016

South Dakota Advocacy Services
221 S. Central Avenue, Suite 38
Pierre, SD 57501
(605) 224-8294 or
1-800-658-4782
FAX: (605) 224-5125
Email: sdas@sdadvocacy.com
Website: sdadvocacy.com

Scholarships

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pairment specific scholarships, you can make your education more affordable.

Check out just some of the many hearing impairment scholarships available below!

Alexander Graham Bell Association for the Deaf and Hard of Hearing

If you're a full-time student with pre-lingual bilateral hearing loss that is moderately-severe to profound, use listening and spoken language, and are pursuing a Bachelor's, Master's, or Doctorate Degree, the AG Bell College Scholarship Program is a great fit for you. Historically, approximately 16% of all applicants receive an award for this merit-based scholarship, making it a competitive, yet highly rewarding, program to apply to.

- ◆ **Who's Eligible:** Students whose primary mode of communication is Listening and Spoken Language with diagnosed prelingual hearing loss that is moderately severe to profound and bilateral.

Calendar

- ◆ **February 10, 2016** - Disability Awareness Day at SD Capitol
- ◆ **March 2016** - Intellectual and Developmental Disabilities and Traumatic Brain Injury Awareness Months
- ◆ **March 22-23, 2016** - 2016 SD Special Education Conference, Pierre
- ◆ **March 31, 2016** - Catch the Wave, Vermillion

- ◆ **Award Amount:** Scholarships range from \$1,000 to \$10,000 for tuition, books and fees for undergraduate, graduate or doctoral study.

- ◆ **Deadline:** March 20

The above references are just a short listing of the scholarships available. The website also lists scholarships in the following categories:

- ◆ *Visual Impairment Scholarships;*
- ◆ *Intellectual Impairment Scholarships;*
- ◆ *Learning Disability Scholarships;*
- ◆ *Mental Illness Scholarships; and*
- ◆ *Physical Disability Scholarships.*

The website concludes:

As time passes and higher education becomes increasingly expensive, it's important to pursue all scholarship options to make higher education more affordable. This is particularly important if you have a disability that causes frequent medical bills, making it even more difficult to afford advanced education on your own.

We hope that you've found at least one scholarship to apply to in this article and helpful as you search for additional scholarship options. If you have any questions as you work through the process, please contact us here at ACLS Medical Training so we can offer the support or training you need.