

# Exchange

*“Protecting the Rights of Persons With Disabilities”*

SUMMER 2019

MICHIGAN



PROTECTION & ADVOCACY  
SERVICE, INC.

## MPAS Complaint Triggers Systems Change in School

Children with challenging disability-related behavior are entitled to protection under federal and state school laws, according to a recent complaint finding from the Michigan Department of Education (MDE). This finding came on the heels of a complaint filed by Michigan Protection & Advocacy Service, Inc. (MPAS) against a rural Michigan school district.

MPAS heard from several families in the district who reported their children were being referred to behavior support programs only after being charged in juvenile court. Some of the students being directed out of the traditional public schools and into the juvenile system were students with disabilities who have rights under the federal Individuals with Disabilities Education Act (IDEA) and state law. Schools are required to look for clues that a student might need special education supports and services. This is commonly referred to as the “Child Find” requirement. These clues are not just problems with academics, but also include problems with behavior when that behavior happens because of a child’s disability. Many of the students that were being channeled into the juvenile system needed to be supported, not made court-involved.

MPAS staff investigated and then filed a systemic administrative complaint

with MDE. Such complaints are allowed when any person believes a school district is violating special education laws. MDE found:

- The district made little consideration to the possibility that a student might be eligible for and need special education programs and services based on socio-emotional, behavioral or attendance challenges.
- Students with medical absences, discipline issues, or mental health issues were not consistently considered for special education and were not provided positive or proactive behavior supports.
- The use of multi-tiered system of supports or response to intervention strategies (RTI) often delayed or denied special education consideration.
- Placements appeared linked to issues of attendance (truancy) and discipline (incurability). Many of the disciplinary write ups were for incidents that should be addressed by the school and would not typically cause a referral to law enforcement, such as cell phone usage and inattention in class.
- Students’ individualized education programs (IEPs) lacked appropriate goals, did not address academic, medical and behavioral concerns, and did not include

consideration of school social work services.

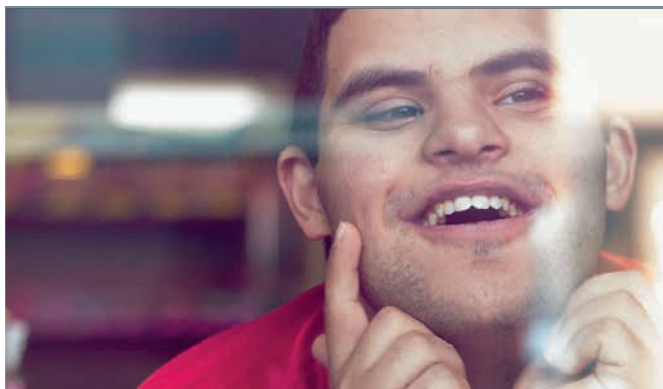
- When students had significant socio-emotional needs, including threats of self-harm, staff utilized disciplinary measures instead of providing appropriate supports. Disciplinary actions were punitive and resulted in an overuse of law enforcement, including school resource officers.
- When behavior intervention plans were developed for individuals, the implementation was inconsistent, at best.
- The point system at the high school is punitive, complicated, confusing and inconsistently applied.

MDE ordered the district to correct the systemic issues by developing child find guidance and procedures for all staff (including general education staff) and including the child find information in parent handbooks. MDE also ordered individual correction for specific students.

MPAS has used the complaint process often to correct systemic legal violations in the provision of special education services and supports. To learn more about this work, please contact MPAS through our toll-free number, (800) 288-5923, or our website, [www.mpas.org](http://www.mpas.org).

## Nursing Home Complaints Lead to Sanctions

In response to a Freedom of Information Act request, MPAS learned that the state Bureau of Professional Licensing filed 21 administrative complaints against nursing home professionals in the past year and issued sanctions against 13 more in response to MPAS filing complaints against these professionals. Over the past several years, MPAS has filed individual licensing complaints against professionals when the state issued facility-based abuse/neglect findings against nursing homes.



## DD Council Releases New Materials on Supported Decision-Making

The Michigan Developmental Disabilities Council recently released new information sheets on “supported decision making,” an approach that encourages individuals with intellectual or developmental disabilities to make their own life decisions with support from family, friends and trusted individuals. Check out the materials at [www.michigan.gov/ddcouncil](http://www.michigan.gov/ddcouncil) or call them at (517) 335-3158.



## MPAS Comments on Voting, Social Studies Standards

MPAS issued written comments on Michigan’s proposed high school social studies standards, urging the authors to include study on civil rights and voting challenges faced by people with disabilities. MPAS also commented on proposed changes to national Voluntary Voter Systems Guidelines and participated on the Secretary of State’s Election Modernization Commission.

### Did you know?

- MPAS’ new Representative Payee monitoring program conducted 30 reviews affecting over 1,000 Social Security recipients last quarter.
- MPAS’ program assisting Social Security beneficiaries helped 8 Social Security recipients with their work-related overpayments last quarter.
- MPAS-generated information on special education was viewed over 8,000 times last quarter on the Michigan Legal Help website and MPAS’ Special Education Advocates Manual web pages.

## Children’s Crisis Residential Suit Enters Discovery Phase

MPAS filed suit in June 2018 challenging Michigan’s failure to provide adequate crisis services for children under the age of 21. The federal court denied the state’s most recent motion to dismiss the case, and the parties are now beginning formal discovery.

## State House Supports MI-Choice Expansion

The Michigan House of Representatives, with support from MPAS and other community advocates, included a \$40.5 million increase in funding for the MI-Choice home nursing program. The increase would fund 1,000 additional openings and increase rates by 5%. The House budget awaits reconciliation in conference with the Senate and the Governor, whose budget proposals do not include the increase.



## State Issues Guidance on Shortened School Day

In response to complaints filed by MPAS and others, the Michigan Department of Education issued formal guidance limiting the use of shortened school days as a substitute for full-day educational services for students with challenging disability-related behavior. The guidance concludes: “Students with disabilities have the right to attend school for the same length of time in each school day as non-disabled students. ... Absent a decision by the IEP team based on a student’s unique educational needs, a FAPE includes the right to attend school for the full school day.” See [https://www.michigan.gov/documents/mde/ShortenedSchoolDay\\_655459\\_7.pdf](https://www.michigan.gov/documents/mde/ShortenedSchoolDay_655459_7.pdf).



## MPAS Comments on Regulations and Policies

MPAS staff issued written comments last quarter on use of special education due process, the Model Code of Student Conduct, federal special education data collection, revisions to the MI-Choice Medicaid provider manual chapter, and renewal applications for the Medicaid children’s waiver, SED waiver, and habilitation waiver programs.

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Voice/TTY/Language and  
accommodations available.  
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upon request.

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Michelle Roberts  
*Executive Director*

*Michigan Protection & Advocacy Service, Inc. is mandated by federal and state law to protect the legal rights of individuals with disabilities in Michigan. MPAS receives part of its funding from the Administration on Intellectual and Developmental Disabilities, the Center for Mental Health Services-Substance Abuse and Mental Health Services Administration (SAMHSA), the Rehabilitation Services Administration, and the Social Security Administration. This publication is made possible by support from these federal funders. The contents are solely the responsibility of MPAS and do not necessarily represent the official views of the federal agencies listed above. The Exchange is funded by the federal appropriations and grants, 91%; State of Michigan appropriations and grants, 5%; Other, 3%. Total copies 10,305. Total Cost: \$1,200 Cost per issue: .11¢.*