

LEGISLATIVE REFERENCE LIBRARY  
KFM5765 .A84  
Minnesota. Deve - State of Minnesota plan for the pr



3 0307 00039 4414



77-0418

STATE OF MINNESOTA

PLAN FOR THE PROTECTION OF THE INDIVIDUAL  
RIGHTS OF AND ADVOCACY FOR PERSONS WITH  
DEVELOPMENTAL DISABILITIES

UNDER THE  
DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES  
CONSTRUCTION ACT, AS AMENDED BY  
SEC. 113 of P.L. 94-103

FOR FY 1978

OCTOBER 1, 1977 - SEPTEMBER 30, 1978

KFM  
5765  
.A84

LEGISLATIVE REFERENCE LIBRARY  
STATE OF MINNESOTA

TABLE OF CONTENTS

	<u>Page</u>
<u>PART I - ADMINISTRATION</u>	
SECTION 1.1 - Designated Agency	1
SECTION 1.2 - General Methods of Administration	9
SECTION 1.3 - Grants Administration Requirements and SECTION 1.4	13
SECTION 1.5 - Employment of Handicapped Individuals	14
EXHIBIT A - Grant Administration, Operating Standards	15
SECTION 1.6 - Fiscal Administration	21
SECTION 1.7 - Reports	22
<u>PART II - GOALS AND OBJECTIVES</u>	
SECTION 2 - Goals and Objectives	23
<u>PART III - THE STATE'S PROTECTION AND ADVOCACY SYSTEM</u>	
SECTION 3 - The Protection and Advocacy Plan	34
<u>PART IV - SUMMARY OF PROPOSED EXPENDITURES</u>	
SECTION 4 - Proposed Expenditures	78

*Disability Handicapped  
Planning*

PART I - ADMINISTRATION

General and Fiscal Administration

SECTION 1.1 - DESIGNATED STATE AGENCY (AND/OR PAYEE)

ATTACHMENT 1.1, (preprinted), as follows:

The Agency designated by the Governor as responsible for the implementation of the State's Protection and Advocacy System is:

Name: State Planning Agency  
Address: Developmental Disabilities Planning Office  
Capitol Square Building  
St. Paul, Minnesota 55101

State Clearinghouse # (after Plan has been through A-95 Process):

77061301

\* EIN #: #1-416-007-162-D8

\* PIN # or CRS #: P-5465

If the Designated Agency will not be the actual recipient, (payee), of the grant, the following section should be filled out:

Name of Actual Payee Agency: State Planning Agency  
Address of Payee: Developmental Disabilities Planning Office  
Capitol Square Building  
St. Paul, Minnesota 55101

State Clearinghouse # after Processing: 77061301

\*EIN #: #1-416-007-162-D8

\*PIN # or CRS #: P-5465

\* See instructions under PART IV, infra., for obtaining EIN #, PIN # and CRS #.

## SECTION 1.1 (con't)

### ATTACHMENT 1.1A - THE DESIGNATED AGENCY FOR PLANNING AND IMPLEMENTING THE STATE'S PROTECTION AND ADVOCACY SYSTEM

#### 1. The State Planning Agency:

On April 20, 1976, Governor Wendell R. Anderson designated the State Planning Agency as the agency to be responsible for planning and implementing the Minnesota Protection and Advocacy System for Persons with Developmental Disabilities.

The planning function for protection and advocacy operates within the Developmental Disabilities Planning Office and these activities are guided by the Advocacy and Protective Services Committee, which reports to the Governor's Planning Council on Developmental Disabilities.

The 1970 DD Act as amended by P.L. 94-103 required that each state designate a single agency to administer the State DD Plan and the monies which flow to the state under the DD Act. The selection of an appropriate agency was left up to each state. In Minnesota, the State Planning Agency was named in March, 1972, by the Governor as the designated agency for administering the DD Council and the DD State Plan. A DD Planning Office was established within the State Planning Agency.

The State Planning Agency is an executive agency under the supervision and control of the Governor (who is the state planning officer). Provisions under the statute establishing the State Planning Agency (Minnesota Statute 4.12) emphasize long-range inter-departmental planning. The statute mandates review of all plans filed with the federal government by Minnesota state departments and agencies, and review of current programming and future planning of all state departments and agencies (consequently, the agency is responsible for coordinating "review and comment" activities under programs such as the U.S. Office of Management and Budget's "A-95" review). The statute further emphasizes that the powers and duties of the State Planning Agency include the preparation of "comprehensive, long-range recommendations for the orderly and coordinated growth of the state." These provisions are similar in mission, intent, and requirement to the 1970 Developmental Disabilities Act, as amended by P.L. 94-103.

The State Planning Agency is comprised of seven offices, and each deals with particular planning activities occurring within Minnesota. The DD Planning Office works to closely coordinate its activities with other programs being carried out by the State Planning Agency, particularly in the following areas (see Table I):

- Health Planning (regional Health Systems programs under the National Health Planning and Resources Development Act)
- Office of Local and Urban Affairs (which guides substate "regional development commission" activities who administer regional DD programs, community development programs under the Community Development Act of 1974, open space/recreation programs under U.S. Dept. of Interior and state supports)
- Transportation planning (including U.S. Dept. of Transportation Urban Mass Transit Authority grants for vehicles for the elderly/handicapped)
- State Demographer (who prepares official analyses and projections of state growth, population trends).

SECTION 1.1 (cont'd)

ATTACHMENT 1.1A (cont'd)

2. Developmental Disabilities Planning Office:

The DD program is supported by a full-time Planning Office staff of seven: a Director, Assistant Director, three planners, and two secretaries (with part-time graduate student intern assistance, as necessary).

As employees of the State of Minnesota, staff for the DD Planning Office are hired under civil service policies of the State of Minnesota/Dept. of Personnel, and affirmative action policies of the State Planning Agency, as approved by the Dept. of Personnel. (These policies cover the employment of women, minority and handicapped individuals.)

The State Planning Agency DD Planning Office is responsible for implementing the annual State Council Plan and work program, in accordance with applicable federal and state laws, regulations and review procedures. Accounting practices appropriate for proper fiscal management are employed by the Office in carrying out its responsibilities. Funds are expended for activities directed at developing and improving the delivery of services, and assurances are required of all grant recipients that they will comply with requirements of Title VI of the Civil Rights Act of 1964, affirmative action hiring practices (including the guidelines of the Rehabilitation Act of 1973), maintenance of effort, confidentiality and right to privacy for clients, and provision of a reasonable volume of services for those unable to pay.



STATE OF MINNESOTA  
OFFICE OF THE GOVERNOR

ST. PAUL 55155

WENDELL F. ANDERSON  
GOVERNOR

April 20, 1976

Mr. Stanley B. Thomas, Jr.  
Assistant Secretary for Human Development  
Department of Health, Education, and Welfare  
Office of the Secretary  
Washington, D. C. 20201

Dear Mr. Thomas:

I am pleased to designate the Developmental Disabilities Planning Office, State Planning Agency, as the Agency in Minnesota for planning and implementing a statewide advocacy system under Title II of the Developmentally Disabled Assistance and Bill of Rights Act. The State Planning Agency is the host agency for the Governor's Council on Developmental Disabilities, and it possesses the necessary independence and ability to develop statewide services to assure the protection and rights of developmentally disabled persons as provided under Title II. The Agency already has considerable experience in this area, and it has no responsibility for providing direct services to developmentally disabled persons. During the past three years, the Minnesota Governor's Planning Council on Developmental Disabilities and the State Planning Agency already have developed and implemented statewide programs to assure protective and other direct advocacy services to developmentally disabled people. Some of these efforts have received national recognition.

Your letter requests a brief description of the purposes for which funds will be expended under Title II of the Developmental Disabilities Act. Presently, we plan to allocate these funds for the following activities:

1. Support for a statewide legal assistance program to protect and advocate for the rights of persons with developmental disabilities. This effort, supported for the past three years by the Governor's Planning Council on Developmental Disabilities, has provided needed legal assistance to developmentally disabled persons, and assisted in drafting legislation on state guardianship services and prevention of discrimination in community housing for developmentally disabled persons. I supported and signed this important legislation during our last legislative session.
2. Part of the special state allocation to Minnesota will be used by the State Planning Agency to develop the statewide plan required by October, 1977 under Title II of the Developmental Disabilities Act.

Our preliminary findings show that Minnesota already has in operation many advocacy services and functions serving persons with developmental disabilities, such as consumer services; Human Rights Department; state guardianship; nursing home advocacy; and ombudsmen in Corrections, Aging, and Vocational Rehabilitation.

Mr. Stanley B. Thomas, Jr.  
Page 2

Part of the state allocation will be used to document existing advocacy services and to explore means for using available resources more efficiently and effectively.

I have directed that the Minnesota Developmental Disabilities State Plan for FY 1976 be amended to include a supplement regarding the expenditure of Advocacy funds in compliance with Section 113, pending further instructions from your office.

You may direct further correspondence on this matter to Director, Developmental Disabilities Planning Office, 110 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101.

Sincerely,

A handwritten signature in cursive script that reads "Wendell R. Anderson". The signature is written in dark ink and has a long, sweeping underline that extends to the right.

Wendell R. Anderson  
Governor

SECTION 1.1 (cont'd)

ATTACHMENT 1.1C

TABLE I

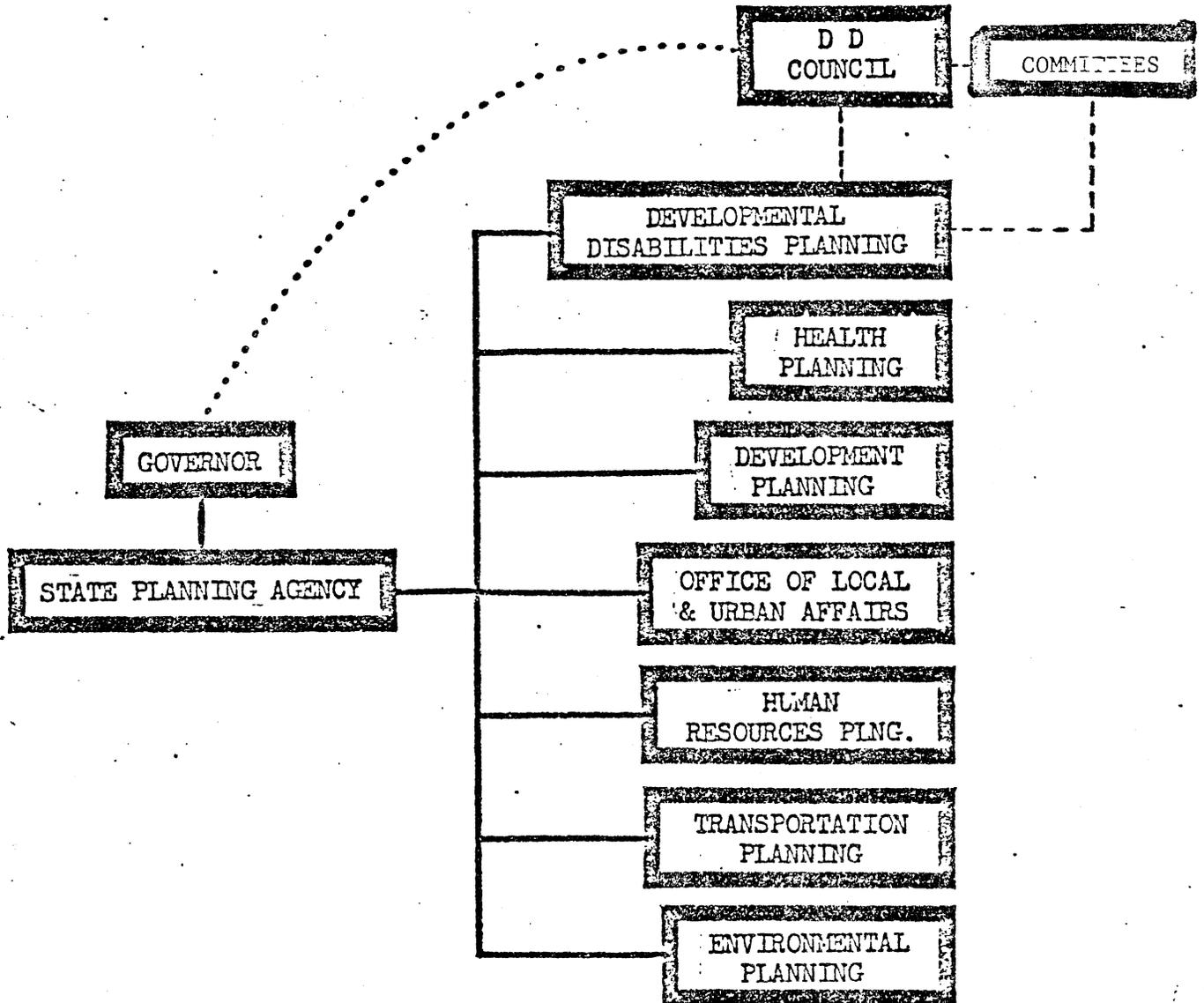
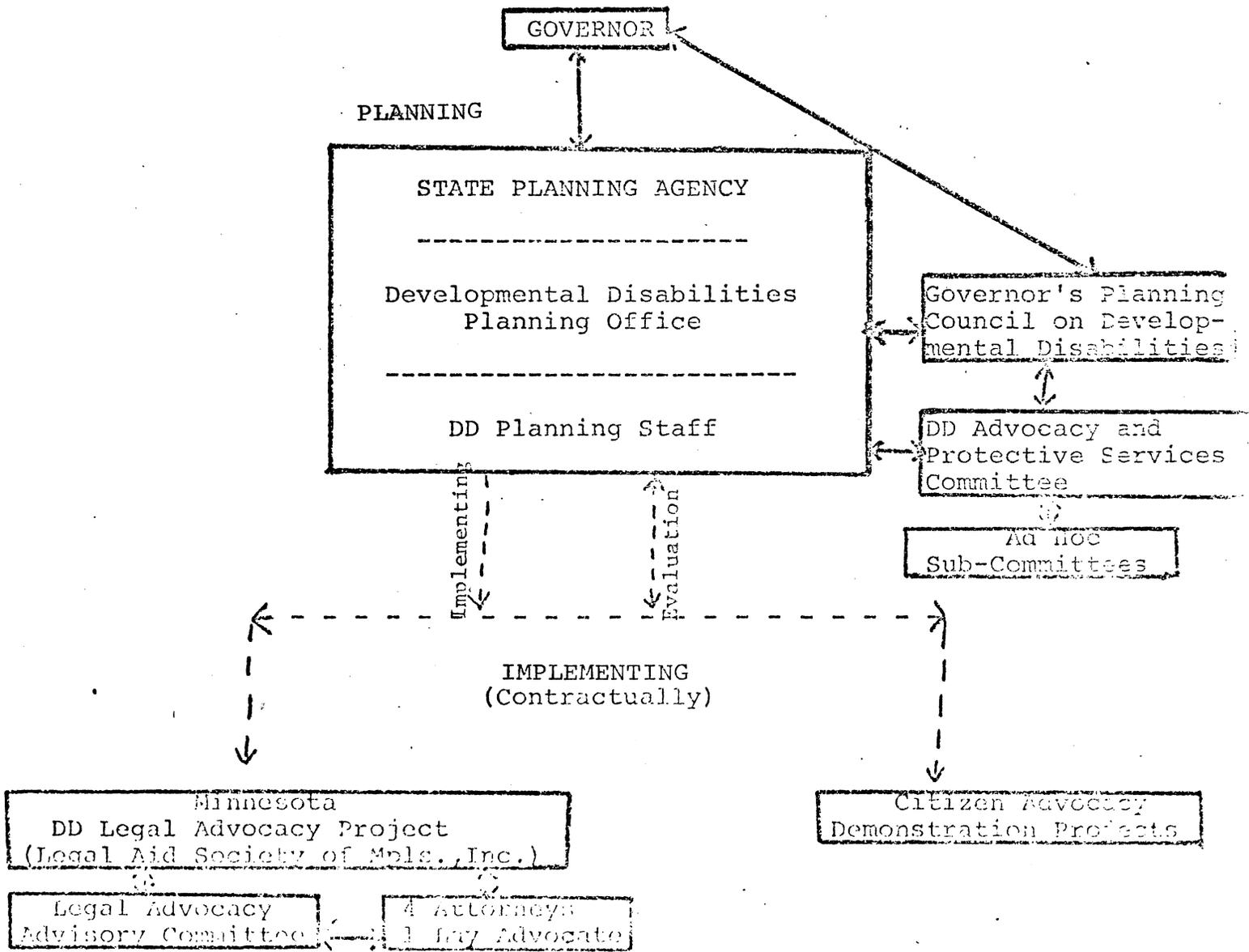


TABLE II

Organizational Structure: The Minnesota Developmental Disabilities Protection and Advocacy System; Indicating Planning and Implementation Functions (as funded by DDO, only)



ATTACHMENT 1.1D

ENDORSEMENT  
by the  
Governor of the State  
of

Minnesota

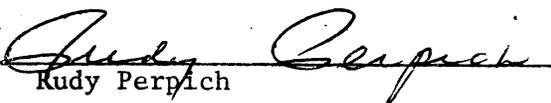
of the Plan for the  
PROTECTION OF THE RIGHTS OF AND ADVOCACY FOR PERSONS WITH  
DEVELOPMENTAL DISABILITIES

1. The Protection and Advocacy Plan as prepared by:

The State Planning Agency

for persons with developmental disabilities submitted herewith under the provision of Section 113 of P.L. 94-103, to the best of my knowledge and belief, meets or will meet the requirements of the law and has the authority to pursue legal, administrative and other appropriate remedies to insure the protection and advocacy of the rights of such persons.

2. After July 1, 1977, the Protection and Advocacy System will be independent of any public or private, nonprofit agency which itself provides treatment, service or habilitation with developmental disabilities.
3. All units of Government are required to adhere to this plan.

  
Rudy Perpich

6-16-77  
Date

Attach or impress State Seal, if required by state law.

## SECTION 1.2 - GENERAL METHODS OF ADMINISTRATION

### ATTACHMENT 1.2A

As the designated agency, the State Planning Agency is responsible for both planning and implementing the Minnesota Protection and Advocacy System. Planning is an ongoing process whereby efforts will be made to improve and/or expand the system that is currently operating. Implementation of the protection and advocacy services is accomplished primarily by contracting with a variety of "independent agencies" to provide advocacy services for persons with developmental disabilities. As intended by the Developmental Disabilities law and the accompanying regulations and guidelines, an "independent agency" means that it is not providing treatment, services or habilitation to persons with developmental disabilities and is free of situations that might arise which would result in any conflict of interest. This type of advocacy is often referred to as "external advocacy." It is external in the sense that the advocates are supported from private sources that are outside the human service system, such as a non-profit organization.

The Minnesota Developmental Disabilities Protection and Advocacy Plan addresses a variety of advocacy functions and services, as described more fully in Part III. Primarily, however, those advocacy services which are supported and are contracted for include: 1) legal advocacy and 2) citizen advocacy.

Legal advocacy provides a variety of services: 1) direct representation and counsel to individuals or groups in legal negotiation processes, or as a last resort, in litigation; 2) legislation or policy reform; and 3) informing the public about the needs and rights of persons with a developmental disability.

Citizen advocacy provides one-to-one relationships between capable volunteers and persons who have a developmental disability. The volunteer advocate defends the rights and interests of his/her "friend" and provides practical or emotional reinforcement.

Since 1972, the creation and provision of legal advocacy services in Minnesota has remained as a top priority. Now that this service has essentially proven its value, this plan proposes to demonstrate the viability of citizen advocacy services as well.

The Minnesota Protection and Advocacy System has a very close, cooperative relationship with the Governor's Planning Council on Developmental Disabilities. The Council is a vehicle for "collective advocacy." This role is best described by the broad goals that are listed in the Council's Philosophy and Mission statement (May, 1976):

1. To undertake comprehensive, long-range planning and development efforts to promote effective services for persons with developmental disabilities, including identifying the population, assessing the needs of individuals, determining what services are available, pinpointing service gaps, assisting in the development of new and needed services, and evaluating the quality of services.

## SECTION 1.2 (cont'd)

2. To foster cooperation and collaborative efforts among the many state agencies, nongovernmental groups, consumers of services, and others concerned with services to persons with developmental disabilities.
3. To insure that developmentally disabled persons themselves and their parents and guardians become active working participants in the planning and delivery of services designed to benefit them.
4. To promote adequate advocacy services for developmentally disabled persons so that they are assured of appropriate protective and legal services.
5. To make an impact on the legislation and political policies of Minnesota and to encourage mutual plan development among agencies related to persons with developmental disabilities.
6. To promote understanding and use of the term "developmental disabilities" and understanding of the capabilities and needs of persons with developmental disabilities.

The State Developmental Disabilities Planning Council maintains close liaison with and provides back-up support to the Minnesota Protection and Advocacy System and reviews and comments on the Protection and Advocacy System Plan.

Most important, the State Council and its eight regional councils play an important role in informing the public and particularly those persons with developmental disabilities about human rights and how to gain access to the services they need.

### ATTACHMENT 1.2B. Client Notification

Each state agency will be required to provide its clients information about their rights (e.g., the right to appeal and the procedures for making an appeal). Among the proposed activities in this plan, a consumer handbook will be prepared which will index the array of advocacy services available and some basic information on human rights. These handbooks will be widely distributed at the local levels where the services are provided. (See Part II).

### ATTACHMENT 1.2C. Description of Program Outreach

Most of the outreach activities of the Minnesota Protection and Advocacy System are described by the past and current activities of the Legal Advocacy Project. In addition, many of the activities that are listed below will be enhanced and reinforced by the citizen advocacy projects that are developing throughout the state.

#### 1) Outreach -- Awareness and Knowledge of Rights:

Provide public and consumer education about legal rights of developmentally disabled persons and avenues for securing these rights.

ATTACHMENT 1.2C (cont'd)

Information to the general public is provided by means of some of the following activities:

a) The Legal Advocacy staff serve as speakers and panelists for consumer groups, professional organizations and other public meetings, e.g., conferences, conventions, etc. Literally thousands of persons have been reached by this approach. One example would be the follow-up training that took place after the passage of the Minnesota Mental Retardation Protection Act, as sponsored by the Department of Public Welfare, in cooperation with the Legal Advocacy Project staff. There were approximately eight one-day training sessions held in each area of the state, reaching protective service workers from the county social service departments, county commissioners, county attorneys, parents, etc.

b) Distribution of Literature on the Rights of Developmentally Disabled Persons: The Legal Advocacy Project has prepared small brochures for distribution by agencies and consumer groups relating to human rights and appeal procedures. These brochures include some of the following topics:

- Legal Rights of Developmentally Disabled Persons
- Legal Rights of the Epileptic Person
- Legal Rights of the Mentally Retarded Person
- The Appeal Procedures Regarding Supplemental Security Income
- The Second Injury Law as Applied to the Employment of Persons with Epilepsy

c) Training Programs and Training Materials: A major portion of the Legal Advocacy Project staff's time and effort has gone into the development of Legal Rights of Developmentally Disabled Citizens; An Advocacy Manual for Minnesota, which has served as the primary training and information tool for training approximately 250 volunteers throughout the state. One thousand copies of this 150-page manual have been published and have been distributed throughout Minnesota and to other states. Copies may be purchased at the cost of \$1.50, which covers postage and handling. These volunteers have and will serve as "lay legal advocates." This back-up service has proven to be quite invaluable to the Legal Advocacy Project staff in the following ways:

- To recognize situations where there may be an infringement of rights.
- To serve as an informed, local person who can assist the consumer or his/her representatives to resolve problems at the local level, with back-up advice and counseling from the Legal Advocacy staff.
- To train and inform others in the community about the needs and rights of developmentally disabled persons.

d) The Mass Media: Many successful efforts have been made to inform the public about the needs and rights of all handicapped persons. Emphasis has been placed on first accepting the handicapped as people with abilities rather than stressing their disabilities. As true of perhaps everywhere else in the U.S., however, Minnesota still has far to go in the areas of general public attitude about the knowledge and acceptance of persons with developmental disabilities.

SECTION 1.2 (cont'd)

2) Access to Make Complaints or Appeal by Developmentally Disabled Persons or Their Parents, Guardians or Representatives:

Besides the regularly provided internal complaint and/or appeal procedures (provided by the major service providers, e.g., welfare, education, vocational rehabilitation, social security, etc.) persons may reach outside of the service delivery system for assistance and direct representation. Legal services may be provided without ability to pay, by the Minnesota Legal Advocacy Project. Many referrals are generated by the trained lay legal advocate, the consumer agencies or by providers of services themselves. An example of the current philosophy in Minnesota is provided by the current effort of the Department of Education to implement the newly promulgated "due process" procedures and regulations. Here, the emphasis is placed upon the importance of parent participation in their child's education and, where disagreements or problems occur, for parents to first try to solve such problems at the "primary level," that is, with the teachers and school personnel who most directly influence their child on a day-to-day basis.

3) Providing Advice on Procedures of Complaints and Appeal:

As described above, many of the services provided by the Legal Advocacy Project are merely to provide information about how and where to go for resolving problems. However, this type of information is very time consuming and we have learned that much of this distribution of information can easily be handled by instrumental citizen advocates, lay legal advocates, consumer groups, etc.

SECTION 1.3 and 1.4 - GRANTS ADMINISTRATION REQUIREMENTS

The State Planning Agency has previously submitted the assurance that the requirements for non-discrimination under Title VI of the Civil Rights Act will be in full compliance. This approved Civil Rights plan is on file with the Secretary of Health, Education and Welfare as a recipient of funds under the Housing and Urban Development Program.\*

---

\* HUD Application; 701 Funds/1977, Minnesota State Planning Agency, July 1, 1976.

SECTION 1.5 - EMPLOYMENT OF HANDICAPPED INDIVIDUALS

The State Planning Agency, as the Designated Agency for implementing the Protection and Advocacy System, and as a condition for the receipt of financial assistance under Parts 1386 and 1387 of 45 CFR, assures the Secretary of H.E.W. that it will take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals under the provisions of the Rehabilitation Act of 1973, which govern employment: (a) by State rehabilitation agencies and rehabilitation facilities, and (b) under Federal contracts and subcontracts. (This assurance is agreed upon by sub-grantees as indicated in Exhibit A.)

DEVELOPMENTAL DISABILITIES  
PLANNING OFFICE  
 9/10/76

GRANT ADMINISTRATION, OPERATING STANDARDS

The points presented in this section outline conditions and basic operating procedures that must be followed by grants receiving Federal Developmental Disabilities funds administered by the State Planning Agency/Developmental Disabilities Planning Office. These "Conditions and Operating Procedures" become a part of a grant application, and consequently a part of any contract with the State Planning Agency, (should an application receive approval for funding).

After an applicant has reviewed these points, the following form must be signed by the official of the applicant agency/organization who has authorization to assure such a commitment:

I, the undersigned, have read and agree to assure compliance with the conditions stated below in the operation of the proposed project,

\_\_\_\_\_  
 Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Agency/Organization: \_\_\_\_\_

Date: \_\_\_\_\_

.Project Director

If a project director was not named in the application, the project director should be appointed with the qualifications set forth in the project proposal. A resume of employment experience must be sent when an appointment is made.

.Temporary Absence of Project Director

Whenever the absence of the project director is anticipated to exceed one month, plans for the conduct of the project during his/her absence need to be approved by the State Planning Agency. A request for such approval must be signed by an authorized official of the recipient agency and submitted at least thirty (30) days before the departure of the project director, or as soon as it is known he/she will be absent.

.Withdrawal of Project Director

The State Planning Agency must be notified in advance of the withdrawal of the project director. The grant recipient, in submitting such notification to the State Planning Agency, may request that:

- (a) The grant be terminated, in which case the grant recipient must also submit a terminal progress report, a report of expenditures, and a final product statement; or
- (b) the project be continued under the direction of another project director.

.Transfer of Interest

As a term of the contract signed with the State Planning Agency, a grant recipient may not delegate or transfer responsibility for the use of grant funds to any other organization, agency, or individual. Contracts related to the project can be allowed, subject to the approval of the State Planning Agency.

.Conflict of Interest

No employee of the State Planning Agency, or member of the Governor's Planning Council on Developmental Disabilities or one of its committees, who exercises any responsibility in the review and/or approval of the selection and/or operation of a grant shall

- participate in any decision related to a grant which affects personal, and/or proprietary interests (individual, corporate, partnership, association), and/or
- have financial and/or proprietary interest in a grant or its proceedings.

Grant recipients shall not have or acquire an interest that will conflict with performing services required under a grant's contract. Grant recipients similarly shall not employ any person having such an interest.

.Suspension or Termination of Developmental Disabilities Support

If a grant recipient does not fulfill obligations under the grant's contract, in a timely and proper manner, or if the recipient violates conditions of the grant, the State Planning Agency may terminate the contract. Written notice of the termination and effective date are given to the grant recipient, under the terms initially set forth in the contract (frequently, sixty days). In such event, all finished or unfinished documents, data, studies, surveys, reports prepared under the grant shall, at the option of the State Planning Agency, become its property.

.Records and Audits

Adequate accounting records must be maintained by the project, and a separate account should be established for DD funds. The grant recipient must permit review of such records and accounts at any reasonable time by authorized representatives of the State Planning Agency. An independent audit of the use of these funds must be performed, and submitted to the State Planning Agency, at the close of a project's Developmental Disabilities support.

.Budget Changes

Funds are provided to grant recipients on a quarterly basis, in accordance with the line item budget approved at the outset of grant operations. If the allocation for any particular line item must be altered by an amount exceeding 10% (either increase or decrease), a "budget revision" form must be submitted for review to the State Planning Agency.

.Reporting Requirements

Grant recipients must submit periodic progress reports to the State Planning Agency/Developmental Disabilities Planning Office, as outlined in the granting and/or contract format (usually on a quarterly basis). Such reporting generally entails a narrative and expenditure report.

.Non-Profit Status

Under the provisions of the Developmental Disabilities Act, funds are made available to public or non-profit, private agencies, institutions, and organizations. Proof of voluntary, non-profit status must be submitted in support of a proposal. A copy of the letter from the Internal Revenue Service exempting the institution from taxation under the appropriate provisions of the Internal Revenue Code is acceptable as demonstration of non-profit status.

.Patents and Inventions

Any invention made in the course of, or under, any Developmental Disabilities grant must be promptly and fully reported to the Administrator, Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, 330 Independence Avenue, Southwest, Washington, D.C. 20201. The grant recipient and the project director cannot have or make any commitments or obligations which conflict with this requirement. A final invention statement and certification have to be submitted after termination of support for a grant.

All products created or developed through the use of public funds become public domain and, consequently, must be distributed without copyright vested to the specific project or person developing the product.

.Materials and Products

All products of a grant should indicate the grant number and granting agency. Specifically, the following notice should appear on the inside front cover:

"The (Title of Grant) Project was funded in part by the Governor's Planning Council on Developmental Disabilities and the Minnesota State Planning Agency. This report does not necessarily reflect the position or policy of the Governor's Planning Council on Developmental Disabilities or the Minnesota State Planning Agency."

When a project will be producing materials which will later be available for distribution, these materials will remain with the grant recipient for distribution.

When Developmental Disabilities support is ended, if there are materials to be transferred to the State Planning Agency, these materials (along with the program's final report) should be submitted within the first quarter (three months) following the termination of support.

#### .Employment Practices

Grant recipients must assure that in the selection, compensation or other employment practices with respect to technical or professional personnel, there shall be no discrimination because of race, creed, color, sex or national origin, according to Title VI of the Civil Rights Act of 1964.

Additionally, the Vocational Rehabilitation Act of 1973 contains very comprehensive provisions regarding the hiring, employment, and advancement of qualified individuals having a handicap by any program receiving Federal financial support. Developmental Disabilities grant recipients must actively seek individuals having a handicap to fill positions available with a grant.

#### .Individualized Program Plans

Under provisions of the DD Act, projects receiving DD financial support that are involved in the provision of a direct service must provide assurance that an individualized program plan is being developed or in effect for any person having a developmental disability who is receiving a project's service.

#### ."Confidentiality," "Right to Privacy" for Individuals Receiving Services

Federal and State guidelines (in particular, the "Minnesota Official Records - Collection, Security, and Dissemination Act") set standards for the gathering and release of information regarding individuals receiving services from projects supported by Developmental Disabilities funding. "Confidentiality" and "right to privacy" must be observed, and while the terms and specific definitions may vary between the different standards, the following general guidelines may be used:

- Data in which a person can be identified by name, or particular characteristics is usually classified as "private," and sometimes "confidential." Access to such data is usually only afforded to the individual, and release is only permitted after written consent is obtained.

EXHIBIT A

- Data recorded in aggregate form, in which identity or unique characteristics cannot be discerned is usually classified as "public" or "summary" data, which can be used for various reporting and planning activities.

The "Official Records - Collection, Security and Dissemination Act" is found in Minnesota Statutes 15.162 - 15.169. Grant recipients who may be gathering and utilizing information that may be "private" or "confidential" in nature should review state standards, and contact the State Planning Agency to review their information-gathering and usage practices.

.Experimental/Research Practices

If a grant is experimental or research-oriented in nature, projects should consider certain dimensions of proposed activities. (A "subject" is defined as any individual about whom information is gathered as a result of research, development, or demonstration activities. "Research" includes information-gathering activities conducted in classrooms, individual or group therapy sessions, public places and the home, as well as in laboratories and other controlled settings.)

Risk to which the subject is exposed and, when such exposure takes place, how long it lasts and what after-effects it may have. It is possible that the researcher may be able to "take advantage" of a situation in which the subject is voluntarily participating in a non-research activity (e.g., therapy diagnoses special training, education). In this situation, the problem of risk is quite different from instances in which the subject volunteers for research only.

Consent - who, when and under what conditions informed consent is obtained. The consent form should indicate what the subject is consenting to, when the form was signed relative to the project (e.g., before data are collected or after), and the date the form is signed.

Subject Contacts - Every effort should be made to avoid the use of deception; in cases in which deception is necessary, deception must be minimized and manipulations must later be explained to the subjects and/or their representatives.

Deception - Specify the nature of the deception which is employed. The researcher will make specific, written plans concerning how he intends to explain the deception to the subject and make amends for any negative consequences that may arise.

Assessment/Evaluation Measures - Evaluation of results and assessment of individuals may involve psychometric tools as a component of the project. Attitude or behavioral measures to be used must be explicitly identified in the evaluation or procedure section of a work program. If a standardized test is being used by a project, a discussion of the rationale for selecting that test, its adequacy, and the applicability to the task and the target population should be provided to the State Planning Agency. Under

Federal regulations regarding research involving human subjects, final approval for the use of research techniques must be obtained from the U.S. Department of Health, Education and Welfare.

.Service Standards

Grant recipients must assure that:

- Programs providing services will meet the applicable state standards, licensing and certification requirements, local zoning laws;
- Services are being provided by, or supervised by personnel qualified to perform such services, in accordance with state and local licensing laws (including requirements for paraprofessionals);
- Funds will be used to augment, and not supplant existing levels of service;
- The program will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and requirements of the U.S. Dept. of Health, Education and Welfare to implement this Title. (In accordance with Title VI, no person on the ground of race, creed, color, sex or national origin shall be excluded from participation in, or denied the benefits of, or otherwise subject to discrimination under programs or activities supported by Developmental Disabilities funds);
- The services of the program will not be denied to any person within the community served solely on the ground that such person does not meet a minimum period of residence in such community;
- The program will furnish a reasonable volume of services to persons unable to pay for them (persons who are otherwise self-supporting but unable to pay the service's full cost).

Section 1.6' - FISCAL ADMINISTRATION

A. State Planning Agency Fiscal Administration:

The State Planning Agency's accounting system is an integral part of the Minnesota Accounting System which is a single, unified, computer-based system. All receipts are deposited in the Treasury and update the system. All disbursements, with the exception of petty cash, are produced by the system and mailed separately from the input source. There is an allotment, encumbrance aspect to the system as well as major funds. All accounts are maintained within the computer and are subservient to the actual cash balance. Payroll information is automatically posted every two weeks to all accounts.

B. Grant Administration

In order to provide central information and the information needed for Federal reports regarding grants to local/regional agencies, books will be maintained manually. Double entry books will be kept using a posting card in lieu of a journal and a general ledger with predetermined transactions. The object of these accounts is to display the status of the federal grant by showing the obligation of money to local units, cash on hand, cash anticipated and cash advanced to local units. The expense items reflect the certification of expenditures by the local units and justify the cash advance. Upon closing the expense, it indicates our obligation has been fulfilled.

Section 1.7 - REPORTS

The State Planning Agency shall make such reports in such form and containing such information, and at such time, as required by the Secretary of Health, Education and Welfare, and shall comply with such provisions as he may find necessary to assure the correctness and verification of such reports. These reports include, but are not limited to:

- a) an annual program performance report, and
- b) financial reports.

## PART II - GOALS AND OBJECTIVES

### SECTION 2 - GOALS AND OBJECTIVES

#### ATTACHMENT 2.1 - LONG RANGE GOALS

According to Title II, "Protection and Advocacy on Individual Rights" - of the newly enacted Developmental Disabilities Assistance and Bill of Rights Act (P.L. 94-103), "each state must assure the Secretary of Health, Education and Welfare that it will...have in effect (by October 1, 1977) a system to protect and advocate the rights of persons with developmental disabilities. Such a system will have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the state. Such a system will be independent of any state agency which provides treatment, services or habilitation to persons with developmental disabilities (Developmental Disabilities Act, Public Law 94-103)."

Minnesota has already accomplished much toward achieving this requirement by providing specialized legal services, but relatively little has been done toward providing citizen advocacy services for persons with developmental disabilities. Therefore, the Minnesota Plan calls not only for the continuation and improvement of its legal services to persons with developmental disabilities, but also for planning, piloting, implementing and evaluating other types of advocacy and protective services in the state.

Currently, statewide legal advocacy services are made available through the Minneapolis Legal Aid Society, a non-profit agency. The legal and para-legal staff are housed in the Twin Cities central office and travel throughout the state in order to provide services. Annual grants have been awarded by the State Planning Agency out of the Developmental Disabilities demonstration grant program, with acquired local contributions used as match.

Citizen advocacy services are being developed at the local and regional levels and will, in large part, be provided by local consumer or other volunteer organizations. Two citizen advocacy demonstration projects will be funded (over a two to three year period) with the intent to demonstrate the need for and viability of citizen advocacy services and to serve as guides or models for developing similar services in other communities.

As an expansion of legal advocacy services, the Minneapolis Legal Aid Society will be negotiating with Region 3, Duluth, for possibly establishing a branch office in that region. This venture would address the "first step" in achieving the long range goal of making advocacy services more accessible throughout the state. The purpose of a regionalized system will be to blend legal and instrumental advocacy by means of providing advocacy services either directly or indirectly (e.g., providing training, technical assistance to and coordination of local advocacy services). This approach is somewhat unique in that it integrates and/or coordinates legal and instrumental citizen advocacy services and provides a "system" which can be easily managed at every level: state/regional/local.

The long-range goals toward which the Minnesota Developmental Disabilities Protection and Advocacy System will direct its activities during the next five (5) years are stated as follows.

## SECTION 2

### ATTACHMENT 2.1 (cont'd)

#### LONG RANGE GOAL #I:

All people who have a developmental disability, including their parents or guardians, who need and receive services will be informed and knowledgeable about their basic human rights and will have quick and easy access to:

- a. Information about the services available to them as well as their rights to and procedures for receiving such services.
- b. Legal and/or quasi-legal services when in need of such services.
- c. Citizen advocacy services, whereby well-trained, competent volunteers from the general community are readily available to serve as "friends."

#### LONG RANGE GOAL #II:

All persons who have a developmental disability and are actively involved in receiving any type of service within the human services spectrum will have a comprehensive service plan which is appropriately geared toward meeting individual needs and interests.

#### LONG RANGE GOAL #III:

All components of the Minnesota Protection and Advocacy System, both public and private, at the state, regional and local levels will be identified and described, and this information will be widely disseminated to the general public.

#### LONG RANGE GOAL #IV:

To the maximum extent feasible, all advocacy agencies (internal to and external from government) will coordinate efforts and resources and will work together, where mutual interests and benefits exist, in order to strengthen and make accessible protection and advocacy services for persons with a developmental disability.

SECTION 2

ATTACHMENT 2.2 - OBJECTIVES FOR FISCAL YEAR 1978

OBJECTIVE #I: (Legal Advocacy)

To maintain financial support to and liaison with Minnesota Legal Advocacy Project at the Legal Aid Society of Minneapolis in order to continue protecting the rights of all developmentally disabled persons residing in Minnesota.

Task I.A. Monitor the contract agreements with the Minneapolis Legal Aid Society for the period ending June 30, 1978. (Staff).

Task I.B. Provide ex-officio liaison representation on the Legal Advocacy Advisory Committee. (Staff).

Task I.C. Provide technical assistance to the Minneapolis Legal Aid Society as they attempt to procure additional funding for the purpose of establishing a branch office in Region 3, Duluth. (Staff).

Task I.D. Review and evaluate quarterly reports as submitted by the Legal Advocacy Project, and make any recommendations to the project personnel regarding possible changes in activities. (Staff).

Task I.E. Facilitate the implementation of a plan for an ongoing statewide funding base for legal services to persons with developmental disabilities. (Staff and Outside Services).

OBJECTIVE #II: (Citizen Advocacy)

To monitor, evaluate and provide technical assistance to two pilot/demonstration projects and disseminate information to other communities as they develop and/or expand citizen advocacy services.

Task II.A. Provide technical assistance to the demonstration projects. (Staff, Outside Services).

Task II.B. Evaluate each project. (Staff, Project Staff, Outside Services).

Task II.C. Monitor each project's publication and dissemination of final reports and products from each project. (Staff, Project Personnel).

SECTION 2

ATTACHMENT 2.2 (cont'd)

OBJECTIVE #III: (Citizen Advocacy)

To provide technical assistance to groups who plan on establishing citizen advocacy services, upon request.

Task III.A. Compile a centralized library of resources, e.g., written materials, instructional materials, and lists of audio-visual resources, which can be purchased.

Task III.B. Compile a listing of people who can provide consultation and training in the area of citizen advocacy.

Task III.C. Compile a list of funding resources.

Task III.D. Provide information and technical assistance upon request.

(Staff, existing citizen advocacy programs, Governor's Office of Volunteer Services, other).

OBJECTIVE #IV: (Inter-agency coordination)

To coordinate efforts and resources with other advocacy agencies, (See Part III) in order to:

- 1) Work together toward the long-range goal (as stated above) of providing comprehensive service and treatment plans for all persons with a developmental disability in the human service delivery system.
- 2) Strengthen and make accessible advocacy services to developmentally disabled people and their families.

Task IV.A. Follow up on the study that was conducted by Office of Human Services on the advocacy roles and functions of state governmental agencies, as well as review and comment on the recommendations they will be making in their report to the State Legislature.

Task IV.B. Coordinate plans and activities with an array of other advocacy agencies which are internal to state and local government operations, such as:

- (a) Office of Health Facility Complaints, Dept. of Health.
- (b) Division of Vocational Rehabilitation Ombudsman.
- (c) Council on Aging Ombudsman.
- (d) State Hospital Patient Advocates.
- (e) Corrections Ombudsman.
- (f) The Human Rights Department.
- (g) The Office of the Attorney General
- (h) The Office of Consumer Services.

SECTION 2

ATTACHMENT 2.2 (cont'd)

- (i) The Governor's Office of Volunteer Services.
- (j) The Minnesota Foster Grandparent Program.
- (k) The Minnesota Council on the Handicapped.

and support efforts to coordinate, consolidate and strengthen their roles as "in-system advocates." Such coordination activities may include:

- collect funding source information.
- developing common definitions of advocacy terms.
- inter-committee representation.
- sharing of plans, minutes, training materials and other information.
- co-sponsorship of meetings, conferences and special projects, e.g., training.
- combining efforts in public information/education activities.

(Staff, ad hoc committees, other agencies).

OBJECTIVE #V: (Legislation, Regulations and Policy Reform)

In conjunction with the Governor's Planning Council on Developmental Disabilities, study and make recommendations regarding the implementation of federal and state legislative and other legal mandates for protecting individual rights:

- (a) Privacy Act of 1974, P.L. 93-579; 88 Stat. 1896.
- (b) Employment under federal contracts, Section 503 of the Rehabilitation Act of 1973, P.L. 93-112, regarding "affirmative action."
- (c) H.F. 2041, Minnesota Chapter 275, 1976, relating to the elderly and handicapped; requiring the Board on Aging to recommend to the State Legislature no later than January 1, 1977, a proposed state policy for citizens dependent on long-term care and services.
- (d) H.F. No. 1993, Minnesota Chapter 211; Due Process Procedures in Education.
- (e) Minnesota Patient Bill of Rights Act.
- (f) Minnesota Hospitalization and Commitment Act.
- (g) Minnesota Mental Retardation Protection Act, Chapter 208, H.F. No. 48.

Task V.A. Compile all available laws, regulations and policies, as listed above.

Task V.B. Determine priority issues to be studied and make recommendations to the appropriate sources.

(Staff, Advocacy and Protection Services Committee and other related committees of the State Developmental Disabilities Planning Council, legal services, and the Affirmative Action Task Force of the State Council on the Handicapped.)

## SECTION 2

### ATTACHMENT 2.2 (cont'd)

#### OBJECTIVE #VI: (Protective Services)

In conjunction with the Governor's Planning Council on Developmental Disabilities, to assess and make recommendations for strengthening the scope and quality of protective services being provided in the State of Minnesota for persons with developmental disabilities and their families.

Task VI.A. Collect and summarize in a written report all available information which pertains to the provision of protective services to the developmentally disabled population in Minnesota, e.g.:

- Aversive treatment practices.
- Sterilization issues.
- Title XX (Social Services)
- Title XIX.
- The Minnesota Mental Retardation Protection Act (Guardianship and Conservatorship).
- The Minnesota Hospitalization and Commitment Act.
- Judicial issues, e.g., right to treatment.
- Child abuse.
- Dependency and neglect.
- Patient Bill of Rights Act.
- Barriers to deinstitutionalization.

(Such studies will be conducted as prioritized by the D.D. Council's Advocacy Committee and will depend on the resources available, e.g., staff and finance). (Staff, Committee, Outside Services).

Task VI.B. Work cooperatively with the appropriate monitoring and evaluation divisions (e.g., in the Department of Public Welfare) and other key informants, to collect data, analyze data, evaluate the scope and quality of protective services in Minnesota. (Staff, Outside Services).

Task VI.C. Publish and disseminate findings of the studies, with specific recommendations on methods for improving protective services in Minnesota. The studies should especially address:

- (a) Manpower and training needs among protective service workers.
- (b) Needs for legislative and policy reform.
- (c) Coordination of services, e.g., in referral methods, developing individual program plans and in providing support services to families.
- (d) Patterns and levels of funding.
- (e) Maintenance of individual rights, e.g., due process procedures, etc.

Task VI.D. Work cooperatively with the appropriate state agencies in developing plans for implementing the recommendations of the study. (Staff, Student Intern, Committee, Resource Services).

SECTION 2

ATTACHMENT 2.2 (cont'd)

OBJECTIVE #VII: (Directory of Advocacy Services)

In conjunction with the Governor's Planning Council on Developmental Disabilities, publish and distribute a statewide directory of advocacy services to be used primarily by consumers, but also by service providers.

Task VII.A. Identify all advocacy services at the local, regional and state levels.

Task VII.B. Survey each agency in order to describe the types of advocacy services provided.

Task VII.C. Determine audiences to be addressed, the format to be used, and the cost involved.

Task VII.D. Prepare, publish and disseminate the advocacy service directory.

(Staff, the Protection and Advocacy Committee and Public Information Committee of the State D.D. Council, Consumer Agencies, State Agencies, Outside Services.)

SUMMARY OF OBJECTIVES, TASKS, AND TIME SCHEDULES

OBJECTIVES/ TASKS	SCHEDULE															
	1977						1978									
	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	
<u>OBJECTIVE #I:</u> Legal Advocacy																
<u>Task I.A.</u> Monitor Legal Advocacy Project	X															
<u>Task I.B.</u> Provide liaison representation	X															
<u>Task I.C.</u> Provide technical assistance on regionalization funding	X		as needed													
<u>Task I.D.</u> Reporting and evaluating				X			X			X				X		
<u>Task I.E.</u> Ongoing funding	X								X							
<u>OBJECTIVE #II:</u> Citizen Advocacy																
<u>Task II.A.</u> Provide technical assistance to two C.A. Demonstration Grants	X												X			
<u>Task II.B.</u> Evaluate each project.				X			X			X			X			

SUMMARY OF OBJECTIVES, TASKS, AND TIME SCHEDULES

OBJECTIVES/ TASKS	SCHEDULE															
	1977						1978									
	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	
<u>OBJECTIVE #II:</u> (cont'd) Citizen Advocacy																
<u>Task II.C.</u> Publish and disseminate reports and products.												X				X
<u>OBJECTIVE #III:</u> Citizen Advocacy																
<u>Task III.A.</u> Compile resources	X					X										
<u>Task III.B.</u> Compile list of resource persons	X					X										
<u>Task III.C.</u> Compile list of funding resources	X					X										
<u>Task III.D.</u> Provide information to groups upon request	X															X
<u>OBJECTIVE #IV.</u> Inter-agency coordination																
<u>Task IV.A.</u> Follow up on Office of Human Services study	X										X					

SUMMARY OF OBJECTIVES, TASKS, AND TIME SCHEDULES

OBJECTIVES/ TASKS	SCHEDULE															
	1977						1978									
	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	
<u>OBJECTIVE #IV.</u> (cont'd) Task IV.B. Coordinate plans of other agencies	X														X	
<u>OBJECTIVE #V:</u> Legislation, regulation and policy reform																
Task V.A. Compile laws, regulations and policies	X							X								
Task V.B. Determine priority issues and make recommendations				X											X	
<u>OBJECTIVE #VI:</u> Protective Services																
Task VI.A. Collect and write reports on selected priorities				X											X	
Task VI.B. Work cooperatively with appropriate agencies				X											X	
Task VI.C. Publish and disseminate findings								X							X	
Task VI.D. Work on implementation plans with agencies									X						X	

SUMMARY OF OBJECTIVES, TASKS, AND TIME SCHEDULES

OBJECTIVES/ TASKS	SCHEDULE															
	1977						1978									
	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	
<u>OBJECTIVE #VII</u> Directory of Advocacy Services																
<u>Task VII.A.</u> Identify all advocacy services	X					X										
<u>Task VII.B.</u> Survey each agency				X		X										
<u>Task VII.C.</u> Determine format, audiences, and costs			X						X							
<u>Task VII.D.</u> Prepare, publish and disseminate.								X					X			

PART III - THE STATE'S PROTECTION AND ADVOCACY SYSTEM

SECTION 3 - THE PROTECTION AND ADVOCACY PLAN

ATTACHMENT 3.1 - DESCRIPTION OF THE MINNESOTA DEVELOPMENTAL DISABILITIES PROTECTION AND ADVOCACY SYSTEM (Resources Presently Available)

A. State Planning Agency Personnel

- 1) Director of the State Planning Agency:  
Mr. Peter Vanderpoel  
Telephone No. 612/296-4933
- 2) Director of the Developmental Disabilities Planning Office:  
Mrs. Marylee Fithian (See Exhibit B for qualifications)  
612/296-4018
- 3) Assistant Director of the Developmental Disabilities Planning Office and Chief Planner for Protection and Advocacy Services:  
Mr. Roger O. Strand (See Exhibit C for qualifications)  
612/296-4018

As "Chief Planner" for Protection and Advocacy Services for Persons with Developmental Disabilities, Mr. Strand performs the following functions:

- a) Provides coordination and administration of the overall planning and implementation of the Protection and Advocacy Service Plan for Developmentally Disabled Persons in Minnesota;
- b) Provides administrative, technical assistance and evaluation services to advocacy projects under contract and funded through the Developmental Disabilities Grant Program out of the State Planning Agency, e.g., the Minnesota Legal Advocacy Project and the Citizen Advocacy Project of the St. Paul Association for Retarded Citizens, the Duluth ARC Citizen Advocacy Project, and The Reachout Today Citizen Advocacy Project in Minneapolis.
- c) Develops "Requests for Proposals" for planning and implementing Protection and Advocacy Services, e.g., demonstration of Citizen Advocacy Services.
- d) Provides technical assistance to the eight Developmental Disabilities Regional Planning Councils and their respective regional planners regarding planning and implementing protection and advocacy services at the local/regional levels.

## SECTION 3

### ATTACHMENT 3.1 (cont'd)

#### B. Legal Advocacy Services

The Minnesota Developmental Disabilities Legal Advocacy Project provides comprehensive legal services throughout the State of Minnesota to citizens with mental retardation, autism, epilepsy and cerebral palsy. Seventy per cent of the project's time is devoted to representation of clients. In addition to representation, the project drafts legislation and regulations, engages in public education and training on legal rights of the disabled, prepares training materials and advocacy manuals and handbooks for lay advocates, parents and consumer organizations, develops and evaluates systems of legal advocacy and operates as a backup center and clearinghouse on socio-legal matters affecting the developmentally disabled.

The project has been in existence since 1973 and until recently its major funding was received from the Minnesota State Planning Council on Developmental Disabilities, State Planning Agency. Some of the project's activities include:

- Consultation and direct representation of more than 560 cases during its first 3 years of operation.
- Currently serves an open caseload of approximately 350 cases, an increase of 88% since December, 1975.
- Approximately 230 people throughout the state have been trained to serve as lay advocates. These volunteers attempt to solve problems at the local level and receive back-up support from the Legal Advocacy staff.
- Four major bills (drafted by project staff) have been passed through the 1975 and 1976 Minnesota Legislature, including: The Minnesota Mental Retardation Protection Act, probably the most progressive guardianship law in the United States, a zoning bill which lowers the barriers for developing future group homes for mentally retarded and physically handicapped persons: the legislation will help pave the way for community placement of at least 50% of the 3,700 state hospital residents.
- A wealth of training material has been developed and disseminated throughout Minnesota and to other states, including a 150-page Advocacy Manual which has been published and 1,000 copies have been distributed throughout the state and the United States.

The Developmental Disabilities Advocacy Project is operated by the Legal Aid Society of Minneapolis, a non-profit agency. The parent agency is a grantee of the National Legal Services Corporation, the Congressionally chartered public corporation. The Developmental Disabilities Advocacy Project has received its major funding from the Minnesota Developmental Disabilities Council. (See Table V, which indicates sources.)

## SECTION 3

### ATTACHMENT 3.1 (cont'd)

With a staff composed of four attorneys and one paralegal advocate, the project feels itself bound to a professional obligation of loyalty to its clients. The Code of Professional Responsibility, to which the attorney members are subject, unequivocally requires that professional judgment be exercised "solely for the benefit of the client and free of compromising influences and loyalties." Furthermore, as a program within an agency funded by the Legal Services Corporation Act, its attorneys must be mindful of the Congressional findings that:

...attorneys providing legal assistance must have full freedom to protect the best interest of their clients in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession. (42 USC 2296(6), P.L. 93-355, Section 1001(6)).\*

Regional activities in Duluth: In an effort to provide closer contact with consumer groups, individual clients and local social service agencies; to address the pressing needs on the Range and in the Arrowhead Region; and as part of the legal services corporation plan for Minnesota, the Legal Aid Society plans to open a branch office in Duluth. The branch office's DD activities will be managed by Rebecca Knittle of Minneapolis.

For the 1978 fiscal year, instrumental advocacy services shall be provided by a centralized office in Minneapolis serving the entire state and a regional office in Duluth. The central office shall consist of one managing attorney, three attorneys, two paralegals, one secretary plus assorted miscellaneous office costs, such as travel and printing. The regional office in Duluth shall consist of one attorney and one paralegal plus additional assorted office costs. The regional office shall make every effort to coordinate its activities with any existing citizen advocacy projects.

#### Pursuit of Remedies

The Legal Advocacy Project has the authority and capacity to seek the full range of remedies specified in Section 113 of Title II. The core of the project's activity is directed to serving individual clients. In addition, it has offered assistance of an "advice only" nature to many other persons, and has engaged in a wide variety of public education, training, and material dissemination activities.

On matters of general direction and policy, the project receives advice from a variety of sources and operates within a mesh of accountability checks. On matters of client representation, the project members are responsible to the client to use their professional judgment according to the dictates of the Code of Professional Responsibility.

In short, the Developmental Disabilities Legal Advocacy Project aims at training consumers and advocates to be sufficiently knowledgeable to protect and assert the legal rights of developmentally disabled people.

---

\*ABA, Code of Professional Responsibility, EC 5-1.

## SECTION 3

### ATTACHMENT 3.1 (cont'd)

#### Access to Make Complaints or Appeal by Developmentally Disabled Persons or Their Parents, Guardians or Representatives

As illustrated in Table VI, practically all of the federal and state supported services have explicit legal responsibility for informing clients of their right to appeal decisions and to provide complaint and appeal mechanisms to their clients. An example of the current philosophy in Minnesota is provided by the current effort of the Department of Education to implement newly promulgated "due process" procedures and regulations. Here, the emphasis is placed upon the importance of parent participation in their child's education and, where disagreements or problems occur, for parents to first try to solve such problems at the "primary level," that is, with the teachers and school personnel who most directly influence their child on a day-to-day basis. Detailed procedures are provided to families and school administrators for resolving and negotiating disagreements over a student's educational plan.

Besides the regularly provided internal complaint and/or appeal procedures (provided by the major service providers, e.g., welfare, education, vocational rehabilitation, social security, etc.) persons may reach outside of the service delivery system for assistance and direct representation. Legal services may be provided without ability to pay, by the Minnesota Legal Advocacy Project. Many referrals are generated by the trained lay legal advocate, the consumer agencies or by providers of services themselves. As described above, many of the services provided by the Legal Advocacy Project are merely to provide information about how and where to go for resolving problems. However, this type of activity is very time consuming and much of this distribution of information can easily be handled by instrumental citizen advocates, lay legal advocates, consumer groups, etc.

#### C. Citizen Advocacy

There is a growing interest (in Minnesota) in providing citizen advocacy services. The current status of citizen advocacy services is described more fully in Section II under the goals, objectives and tasks to be performed. It is important to note, however, that Minnesota has effectively demonstrated the value of legal advocacy and can now apply a heavier emphasis on the development of citizen advocacy services.

The few existing citizen advocacy programs, however, will serve as invaluable resources for building the future, statewide structure. Those currently operating, that are known, are in the following agencies:

- The St. Paul Association for Retarded Citizens (initially funded by the Developmental Disabilities Planning Office during FY 1976).
- The Minneapolis Association for Retarded Citizens.
- The Multi-Resource Center in Minneapolis, who has provided self-advocacy training (Region V Rehabilitation Grant).

## SECTION 3

### ATTACHMENT 3.1 (cont'd)

- The Anoka County Association for Retarded Citizens.
- The Washington County Association for Retarded Citizens.
- The Duluth Association for Retarded Citizens.

As part of the FY 1977 Protection and Advocacy Plan, as well as the FY 1977 Minnesota Developmental Disabilities Plan of the State Planning Council, a "Request for Proposals" was issued for the purpose of establishing two demonstration projects to provide citizen advocacy services. These selected projects will concentrate efforts on certain critical areas within the citizen advocacy concept. The two projects will demonstrate two different models: 1) Citizen advocacy services for developmentally disabled persons involved in the criminal justice system; and 2) Citizen advocacy services that will be related within a framework of providing leisure time opportunities. The goals of these projects are described below:

1. CADRE (Citizen Advocacy Development, Recruitment and Evaluation for the Developmentally Disabled in the Criminal Justice System) (Reachout Today, Inc., National Foundation for Community Justice)

#### Project Goals

Major activities will be to:

- Identify without labeling and match with appropriate community support mechanisms those developmentally disabled youth and adults entering within, or leaving the criminal justice system, whether as victims, witnesses or individuals charged with a crime or convicted of crime.
- Recruit, train, motivate and retain a CADRE of Citizen Advocates to work as EXPRESSIVE-INSTRUMENTAL CITIZEN ADVOCATES on a one-to-one basis with developmentally disabled youth and adults entering, within or leaving the criminal justice system, whether as victims, witnesses, individuals charged with a crime or convicted of crime.
- Survey existing and where necessary, advocate for improved early referral, diversionary and alternative sentencing procedures within the system...in joint effort with criminal justice personnel.
- Survey existing and where necessary, advocate for new or improved community support mechanisms...as need is jointly identified by the community, criminal justice system and CADRE Project Team.
- Educate the Developmentally Disabled to be "self-advocates" as they relate to the criminal justice system.

## SECTION 3

### ATTACHMENT 3.1 (cont'd)

#### 2. Citizen Advocacy - Duluth (Duluth Association for Retarded Citizens)

##### Project Goals:

- Developing a core of trained advocates (recruitment through community; develop training program schedule, administrative issues).
- Identify persons with a developmental disability who may need advocacy services (through agencies for referrals).
- Develop complete assistance program for the protege and advocate (guidelines for selection, matching, maintaining relationships; arrangements for capitalizing upon experience of the proteges and advocates in positively changing service delivery practices).
- Develop administrative/back-up structure (set up advisory committee; establish/maintain regular contacts with service providers to review project operations, provide public education on it for service provider personnel).
- Focus system development on issues of recreation/leisure time use (develop inventory of programs/activities in the Duluth area; use information to sponsor workshops, clinics on alternative recreation/leisure options; attempt to increase opportunities for advocate/protege participation in fee-charging recreational activities).

#### Developmental Disabilities Funding Allotments for Protection and Advocacy

Table V describes the past, present and projected costs for supporting the Minnesota Developmental Disabilities Protection and Advocacy System. Note that these costs cover only those services in which Developmental Disabilities monies have been (or will be) invested, e.g., central administration costs, legal advocacy. Case management is mentioned because it relates to the current activities of the Developmental Disabilities Planning Office to influence the case management process and particularly to systematize individual habilitation and treatment plans.

TABLE V. Developmental Disabilities Funding Allotments  
for Protection and Advocacy Services in Minnesota  
(Expenditure and Projected Costs)

Source of Funds by F.Y.	ADVOCACY ACTIVITIES AND SERVICES				
	State D.D. (% = planner position)	Legal Advocacy (M.L.A.S.)	Citizen Advocacy	Case Management	Other (Minn ARC Youth Advocacy)
1973 F.Y.					
Local		23,300			9,700
State	1,500				
DD	(25%) 3,700*	32,650			22,300
Total	\$ 5,200	\$ 55,950			31,000
1974 F.Y.					St. Paul Schools Student Advocacy
Local		17,879			7,775
State	1,700				
D.D.	(25%) 4,000*	59,300			16,510
Total	\$ 5,700	\$ 77,179			24,285
1975 F.Y.			(SPARC)		U. of M. Law Curriculum on D.D.
Local		32,876	9,966		
State	1,700				
D.D.	(25%) 4,000*	76,710	22,300		5,000
Total	\$ 5,700	\$109,586	\$32,266		5,000
1976 F.Y.					
Local		10,168			
State	1,400				
DD Title II		25,262			
D.D.	(25%) 4,200*	34,503			
Total	\$ 5,600	\$ 69,933			
1976 Transi- tional qtr. 1/1/76-9/30/76					
Local		5,894			
State	1,500				
DD Title II	(100%) 4,500*	17,683			
DD					
Total	\$ 5,000	\$ 23,577			
1977 F.Y.			RFP proj.)		
Local		20,000	27,000	20,000	
State	3,000**				
DD Title II		45,000			
DD	(50%) 6,000**	45,000	50,664	60,000	
Total	\$ 9,000	\$110,000	77,664	\$80,000	
1978 F.Y.					
Local		34,000*	15,000*	20,000*	
State	3,160**				
DD Title II		25,000*	25,500*		
DD	(50%) 6,500**	75,000*	20,000*	60,000*	
Total	\$ 9,660*	\$134,000*	\$60,500*	\$80,000*	
1979 F.Y.	(To be completed)				

Estimated

\* Protection and Advocacy System Administration

SECTION 3 (cont'd)

ATTACHMENT 3.2 - EVALUATION COMPONENT

Evaluation will be a continuous process to measure the overall impact upon the lives of persons with developmental disabilities and the effectiveness of the advocacy services being provided. The methods to be employed will include but not necessarily be limited to the following:

- (a) Advisory and Evaluation Committees, which will represent the appropriate consumer and provider groups or agencies, as well as the appropriate disciplines and the general public.
- (b) Observation and review by outside experts from within or outside of the State of Minnesota.
- (c) Regular (quarterly and annually) review and reporting by grantees, which will reflect the success and/or slippages in the accomplishment of each project's goals and objectives.
- (d) Regular reports to and evaluation by the State Planning Agency and the Governor's Planning Council on Developmental Disabilities.
- (e) Random sample surveys of the clients and/or their representatives who have utilized protective and advocacy services in Minnesota.

### SECTION 3 (cont'd)

#### ATTACHMENT 3.3 - EXISTING PROTECTION AND ADVOCACY PROGRAMS IN THE STATE (See TABLE VI)

##### Introduction

At the state level alone, approximately fifty private and public agencies or groups have been identified which provide a variety of advocacy services on behalf of the rights and interests of persons with developmental disabilities in Minnesota. Table VI identifies each agency (and units within each agency) which either serves developmentally disabled individuals directly or to the general population on a collective basis. A major component of the Minnesota Developmental Disabilities Advocacy Work Plan addresses specific agencies or groups with which communication and cooperation will be solicited and carried out.

One long-range goal of the Minnesota DD Protective and Advocacy System is "To coordinate efforts and resources with other internal and external advocacy agencies or groups in order to strengthen and make accessible advocacy services for developmentally disabled people and other persons in need of such services." Such collaborative activities may include, but not necessarily be limited to the following types of activities:

- (a) Developing common terminology, philosophy and professional practices.
- (b) Inter-committee or agency representation.
- (c) Inter-agency referrals of clients.
- (d) Sharing of plans, minutes, training materials and other information.
- (e) Co-sponsorship of meetings, conferences and special projects.
- (f) Combining efforts in public information (education activities).
- (g) Documentation of funding sources.

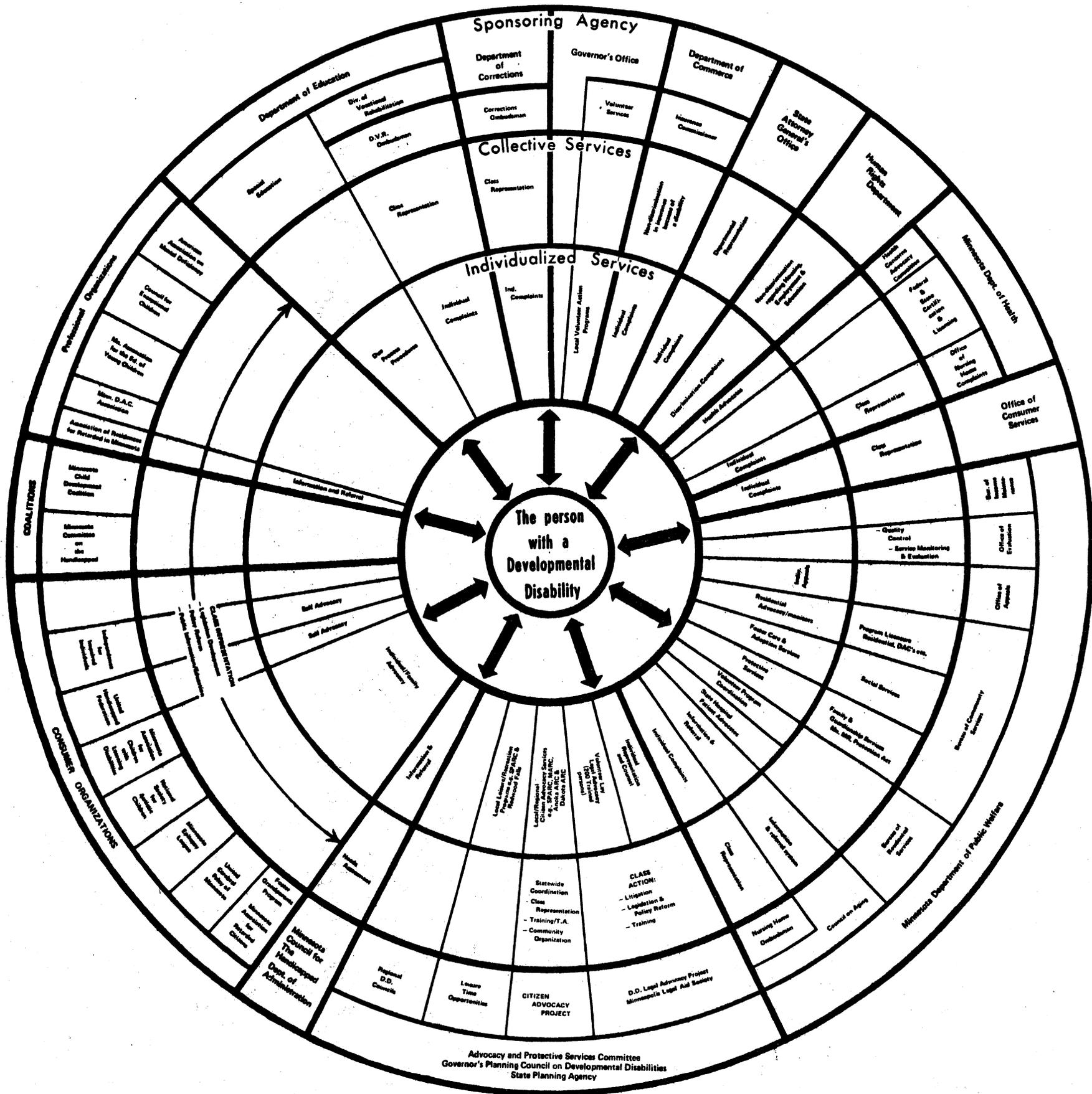
A brief description of some of the primary advocacy services to individuals and/or groups follows.

The Governor's Planning Council on Developmental Disabilities has identified five different functions of advocacy for the developmentally disabled, functions which are generally applicable to advocacy for most target groups. (See TABLE VII.)

This framework will be used as the basis for describing advocacy and ombudsman activities of the existing agencies. (It is necessary to define and separate them from administrative activities because there are tasks which have been assigned to or assumed by advocacy agencies that are not distinctly ombudsman or advocacy activities.) Planning, particularly annual program planning and the related administration of funds, is one such activity. Needs assessment is a part of this planning activity and is performed by several of the advocacy agencies. An evaluation of the services provided to client groups

TABLE VI

**CURRENT STATUS OF ADVOCACY  
FUNCTIONS AND SERVICES IN MINNESOTA FOR THE  
POPULATION WITH DEVELOPMENTAL DISABILITIES**



Developmental Disabilities Planning Office  
State Planning Agency  
April, 1976

SECTION 3

ATTACHMENT 3.3 (cont'd)

TABLE VII - ADVOCACY FUNCTIONS\*

- I. Information and Referral
- II. Group or class action programs
  - Examples: A. Voluntary interest associations
  - B. Policy advocacy
  - C. Legal and quasi-legal class action
- III. Individual representation
  - Examples: A. Passive ombudsmen
  - B. Aggressive ombudsmen
  - C. Professional manager
  - D. Instrumental citizen
- IV. Individual support
  - Examples: A. Expressive citizen
  - B. "Foster" programs
- V. Protective services
  - Examples: A. Guardianship
  - B. Adoptive parenthood
  - C. Conservatorships and trusts

\*Advocacy, A Survey Paper, March 31, 1972, by Gordon Krantz, prepared for the Minnesota Developmental Disabilities Council, p. 2.



## SECTION 3

### ATTACHMENT 3.3 (cont'd)

is another. These activities which are not included in the advocacy-ombudsman framework and are similar to the ongoing activity of the administrative agencies, except for their special target focus.

#### A. Ombudsman Activities

The ombudsman is more succinctly defined in practice than is the advocate, perhaps because it is a relatively new activity in state government. The dictionary definition describes the activities, current and proposed, of the existing corrections ombudsman:

"A government official appointed to receive and investigate complaints, report findings and help achieve equitable settlement."

This is a more passive role than the advocate. It resembles the appeal and adjudication functions of the judiciary, without the authority for final decisions.

The passive ombudsman category identified in Table V includes: the Corrections Ombudsman; the Office of Health Facility Complaints in the Department of Health, established by 1976 Legislative Act (1976 Laws, Chapter 173); the Vocational Rehabilitation Ombudsman; the State Hospital Review Boards; and the Department of Consumer Services. (The Board on Aging is developing a nursing home ombudsman program under a one-year grant from the Administration on Aging. The project is in the development stage. It will provide coordination at the state level for community volunteer advocates to work with nursing home residents. This is not an ombudsman function as defined in this analysis, but is closer to the concept of "citizen advocacy.")

The term "passive," as applied to the ombudsman, does not mean inactivity or inertia but impartial and judicious. The Minnesota Corrections ombudsman uses the term "low-profile" rather than passive. The quasi-judicial nature is defined by the acts that created the Corrections Ombudsman and the Office of Health Facility Complaints: to investigate, upon the receipt of or on his own initiative, complaints about the acts or procedures of an administrative agency or other grievances a recipient of such services may have. The ombudsman may, after investigation, recommend a course of action and monitor the implementation of the corrective action.

The enactment of ombudsmen legislation usually occurs as an attempt to remedy a situation which has received much public attention and is perceived as a crisis in a public institution. The Corrections Ombudsman was established as a result of Stillwater prison unrest. The Office of Health Facility Complaints was enacted as a response to complaints about the level and cost of care, and the administration of nursing homes. The State Hospital Review Boards grew out of an increasing awareness of the variation in commitment practices among the various probate courts. The federal government is another force for ombudsmen by providing start-up money for projects such as the Vocational Rehabilitation (VR) and the Nursing Home Ombudsmen projects.

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

#### 1. Ombudsman for Corrections

The Office of Corrections Ombudsman was established in 1972 by Executive Order and enacted into law in 1973. The ombudsman is appointed by and reports to the Governor. All employees of the office except secretarial and clerical staff are in the unclassified service. The ombudsman was given subpoena power by the 1976 legislation.

There has been an increasing volume of complaints, as would be expected of any ombudsman office when information as to the service becomes known to the recipients. In 1972/73, 935 cases were opened, 847 closed, with a carryover of 88. The numbers for 1973/74 and 1974/75, respectively, are 1026 and 1299 cases opened and 1070 and 1304 closed, with carryovers of 39 and 44. The number of complaints per complainant has decreased, however. This may be a result of a backlog of complaints which the Office of the Ombudsman is gradually reducing or possibly because the Department of Corrections, the Minnesota Corrections Authority, the State correctional institutions and other related agencies and programs are revising policies and procedures because of the ombudsman's activities. It may be a combination of these factors.

#### 2. Office of Health Facilities Complaints

The Office of Health Facility Complaints was established in the Department of Health by a 1976 legislative act. The director is appointed by the Board of Health and serves at its pleasure. The director may appoint a deputy director and a personal secretary who are also in the unclassified service. The Director of the Office does not have subpoena power but does have authority to issue a corrections order to health care facilities, and can also recommend certification or decertification of health facilities. The former nursing home complaint team which was part of Health Facilities Division of the Department of Health, has become part of this new office. Whether the Office of Health Facilities Complaints can retain the non-partisan, judicial characteristic when located within an operating agency remains to be seen. One of the powers included in the law is that they may "assist residents of health facilities in the enforcement of their rights under Minnesota law" and another is to recommend legislation and changes in rules to the State Board of Health, the Legislature, the Governor, administrative agencies or the federal government. The Act mixes ombudsmen and advocacy/advisory responsibility.

The Patient's Bill of Rights (MS 144.651) assures patients of their rights of information and of their rights of privacy. The legislation establishing the Office of Health Facilities Complaints states that the director may assist residents of health care facilities in the enforcement of their rights under Minnesota law.

#### 3. Vocational Rehabilitation Ombudsman

The Vocational Rehabilitation Ombudsman is a federally funded project located in the Division of Vocational Rehabilitation (DVR). It is administered by

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

an operating board of five consumer representatives, the DVR Commissioner, and a member of the DVR consumer committee. This board hired the ombudsman who is setting up the ombudsman office, preparing procedures, informing DVR clients of the services and of their rights to rehabilitative service. The project will initially serve the Metropolitan Region but is anticipated to become statewide. The ombudsman reports to the operating board.

Any and all decisions by the DVR Ombudsman are subject to the final approval of the Assistant Commissioner for Vocational Rehabilitation.

The Ombudsman maintains direct communications with the DVR Administration and will, from time to time, recommend changes in VR rules, policies, procedures and laws when it is felt such changes would have a positive impact on improving the agency's ability to serve clients.

The specific functions of the DVR Ombudsman are to:

- (a) provide clients with information regarding the VR system and their rights and responsibilities within that system,
- (b) investigate all client complaints and attempt to bring them to a just conclusion,
- (c) act on behalf of, speak for, and otherwise assist the cause of clients by representing them and their position to individuals and groups within the VR system,
- (d) take advocacy action when, in the judgment of the client Ombudsman, such action is appropriate, and
- (e) when necessary, assist and represent clients in the appeals process.

#### 4. State Hospital Review Boards

The State Hospital Review Boards, established by the legislature in 1967, perform an ombudsman function. The Commissioner of Public Welfare must establish a team of three or more members to visit each state hospital at least every six months to permit patients an opportunity to appear before it. Each patient must be notified at the time of admission of his right to appear before the review board, and also must be notified of the time of the next visit. In addition to the ombudsman function, however, the boards review the admission and retention of all patients for "continued need for confinement in a mental hospital." There is a special review board for "mentally ill and dangerous and psychopathic personalities." The members of the review board receive a per diem and expense compensation. Although the legislation does not state that they may not be state employees, in practice they are not. They are selected from the various hospital areas. At least one must be qualified in the diagnosis of mental illness or mental retardation and one must be learned in law. The board reports its findings to the Commissioner of Public Welfare and the head of each hospital.

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

#### 5. Office of Consumer Services

The primary focus of the Office of Consumer Services is dealing with problems of general consumers of primarily non-governmental services.

- (a) Organization. The Office of Consumer Services was created by an act of the Minnesota Legislature. Under the provisions of Minnesota Statutes, Chapter 45.15, the Office is administratively a section of the Department of Commerce. However, the Director of Consumer Services acts as the Governor's representative in all consumer affairs matters and acts as an advocate for the Minnesota consumer.

The staff complement of the Consumer Services Office totals eighteen fulltime employees. These include an assistant director, supervisor of collection agencies and field services, a fraud investigation supervisor, a complaint unit supervisor, four investigators, a research specialist, an information officer, an auditor, two consumer complaint specialists and four secretaries. A special assistant attorney general does necessary legal research and provides legal counsel to the staff.

Two of the four investigators, and a secretary provide the staff for the Duluth Regional Office. That office was established in November 1973 to improve consumer services to people of North-eastern Minnesota and is located in the Providence Building, 332 West Superior Street, Duluth, Minnesota 55802.

#### (b) Responsibilities and Functions

- 1) Advocacy: The Director of Consumer Services acts as the Governor's representative in all matters related to consumer affairs. She also serves as a liaison to the U.S. Consumer Product Safety Commission and is a member of the Midwest Regional Advisory Board to the Federal Trade Commission. The director also makes recommendations to the Governor and Legislature on consumer-related legislation.
- 2) Complaint Handling: A range of from 2,000 to 3,000 written complaints are received by the Office of Consumer Services annually. An additional 300 written complaints are referred to other agencies. Several thousand complaint-related telephone inquiries are also handled by the office each year.

About 75 percent of all written complaints are resolved to the satisfaction of the complainants. "Unsolvable" complaints or complaints out of the range of our expertise are referred to either conciliation court or to private legal counsel. The office does not offer legal advice.

Normal disposition of complaints is completed within 10 to 30 days. Whenever possible, the office attempts to take action to eliminate certain practices and to find solutions to a specific problem to the benefit of the public at large.

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

Complainants are asked to initially attempt to resolve their problems on their own; this permits the business involved to show its good faith, while avoiding unnecessary expense and formalities. However, if this fails, the Consumer Services Office acts as a mediator between the complainant and the company in negotiations for settlement of the grievance.

- 3) Research and Public Information: A staff of two fulltime consumer research and information specialists is responsible for:
- gathering factual and statistical information related to selected consumer problems for the purpose of public information and establishing the department's position on proposed consumer legislation and on regulatory proposals of federal, state and local agencies.
  - responding to requests during the legislative session for research information on consumer problems from legislators.
  - monitoring the progress of consumer-related bills in the legislature.
  - preparation and dissemination of news releases and consumer alerts.
  - responding to inquiries and informational requests from citizens, legislators, educators and other agencies.

The staff also researches and prepares testimony or position papers for presentation to local, state and federal governmental bodies or agencies, occasionally during policy-making deliberations, on issues of consumer interest.

A comprehensive collection of information on consumer issues is compiled and maintained, including a reading list of publications and periodicals, consumer newsletters, model legislation from other states and related federal publications.

In a daily feature on a local radio station, the Director presents consumer information on a wide range of topics, reaching an audience estimated as high as 150,000.

To inform citizens of Minnesota about the activities of the Consumer Services Office or to address specific consumer issues, the Director, as time permits, occasionally makes appearances before civic, trade or church organizations. Several hundred such invitations are received annually.

#### (c) Legal

- 1) General: The Office of Consumer Services is primarily responsible for administration of Section 325.78-79 of the state consumer fraud

SECTION 3

ATTACHMENT 3.3 (cont'd)

statute. The office also administers the collection agency licensing statute and the toy safety statute.

- 2) Consumer Law Enforcement: A primary responsibility of the office's compliance unit is to respond to consumer inquiries and complaints and to conduct investigations into selected industry practices to determine the extent of non-compliance with the state's consumer fraud statutes.
- 3) Investigation: Selected investigations on retail advertising claims and alleged unethical or unlawful sales techniques, product warranty violations and consumer complaints are undertaken by the office as the need becomes apparent.

Some investigations turn up alleged violations to state statutes. In these cases, assurances of discontinuances are sought or lawsuits are initiated seeking a halt to the alleged violations and practices, plus civil penalties.

The investigative staff of the compliance unit is responsible for enforcement of the state's toy safety act, which prohibits the importation, manufacture, sale and distribution of hazardous toys within the state.

- 4) Auditing: The audit staff of the compliance unit is responsible for reviewing license applications and operations of collection agencies licensed to do business in Minnesota. To assure compliance with the state law, the staff conducts periodic audits or investigations into the practices of collection agencies in response to consumer complaints.

The audit staff also receives, investigates and disposes of all applications for collection agency licenses, new and renewals. The FY 1976 annual budget was \$313,189.

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

#### B. Advocacy Functions

A precise definition of advocacy\* is difficult to establish, in part because it has been defined operationally by the various groups who are providers or consumers of advocacy services. These services range from providing information about existing services to advising on legislative policy to helping a person receive legal aid. The problem is to define advocacy in a manner which permits a separation of the advocacy and administrative functions.

Table VII shows the range of activities which fall within the dictionary definition of advocacy, which is defending a cause or purpose, or pleading the cause of another. Advocacy for human service clients occurs within and without government.

The agencies described under the advocacy heading in Table VIII were established to act as planning and policy advocates for special target populations and advisors to the Governor, the Legislature, and the state operating agencies.

The five agencies which function in whole or in part as advocates for target groups are the Minnesota State Council for the Handicapped, the Minnesota Board on Aging, Governor's Planning Council on Developmental Disabilities (DD Council), Migrant Affairs Task Force to the Liaison for Spanish Speaking Persons, and the Indian Affairs Intertribal Board. The latter is located within the legislative branch.

#### 1. Council for the Handicapped

The duties and powers prescribed for the Council for the Handicapped are typical of those assigned to many of the agencies described above. MS 256.482, Subd. 5 states:

The Commission shall have the following duties and powers:

- 1) To advise the governor, appropriate state agencies, and the public on matters pertaining to public policy and the administration of programs, services and facilities for handicapped persons in Minnesota;
- 2) To encourage the development of coordinated, inter-departmental goals and objectives and the coordination of programs, services and facilities among all state departments and private providers of service as they relate to handicapped persons;
- 3) To serve as a source of information to the public regarding all services to handicapped persons;

---

\*The word advocacy comes from a Latin root, advocatus, meaning "a counselor." Advocacy involves intervention on behalf of a person or group in relation to services or institutions that affect their lives. Typically, the persons or groups are not able to represent themselves because they are disabled, old, young, physically ill, or members of a minority.

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

- 4) To review and make comment to the governor, state agencies, the legislature, and the public concerning adequacy of state programs, plans and budgets for services to handicapped persons and for funding under the various federal grant programs;
- 5) To research, formulate and advocate plans, programs and policies which will serve the needs of handicapped persons.

A handicapped person is defined as "one who, because of a substantial physical, mental, or emotional disability or dysfunction requires special services in order to enjoy the benefits of our society" (MS 256.481). The functions of the Governor's Commission on the Employment of Handicapped Persons which was created by the legislature in 1965, and the Minnesota Advisory Board on Handicapped, Gifted, and Exceptional Children, created by a 1959 act, were transferred to the Council for the Handicapped by this same legislative act. State funds are appropriated directly to the Council to implement the general purpose of the legislation. The FY 1976 and 1977 appropriation amounted to \$133,000. The Council established priorities for 1976 which include studying job placement services for persons with disabilities, the development of a statewide transportation policy for the disabled, and recommendations for the reorganization of the service delivery system to the 1977 legislature; one of the tasks in the latter category is to determine the extent to which handicapped persons are represented on policy-making bodies and to promote additional representation where appropriate.

The population which the Council for the Handicapped serves encompasses portions of the target group of other advocacy agencies. The broadness of the clientele contributes to the broadness of the charge. It may well limit the effective contributions of the Council to (1) serving as a conduit between the private organizations representing the various categories of handicapped persons and the state policy makers -- a linkage which can lead to policy development, an advocacy/advisory function, and (2) providing information by newsletter, conferences, seminars, and workshops, and (3) serving as a catalyst for inter-agency coordination. An example of the latter function is the action of the Council in bringing together the various agencies to discuss the need for a statewide information and referral (I and R) service rather than individual client group or geographic area I and R services. An inter-agency committee was formed and the Minnesota Information and Referral System, which grew from the Board on Aging's project to a statewide system, was established.

#### 2. Board on Aging

The Board on Aging provides an example of the mixture of advocacy/advisory and administrative functions. The Governor's Citizen's Council on Aging was established in 1956 by executive action, followed by state legislation in 1957 which statutorily defined its composition and duties. This legislation placed the Council within the Department of Public Welfare, with the commissioner authorized to appoint a special consultant on aging in the classified service, and other employees as deemed necessary by the commissioner. The consultant

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

serves as executive secretary to the Board and its committees. Succeeding legislation has given the Board authority to administer and make policy relating to all aspects of the Older Americans Act of 1965. Its relationship to DPW has changed as a result of 1973 legislation. The staff remain part of the DPW complement; the federal Older Americans Act funds flow through DPW to the Board on Aging, which is designated the single state agency. It makes the final decision on allocation of the funds, and accounts for them primarily to the federal government.

The Board on Aging administers Title III, start-up (3 year) grants for community service projects, and Title VII, nutrition program for the elderly, of the Older Americans Act. Title III funds are allocated to federally required area agencies on aging to make grants to local projects. The designated area agencies in Minnesota are the Regional Development Commissions in Regions 2, 3, 4, 5, 10, and 11. The area agencies have been delegated the responsibility for administering all the Title III funds. They must prepare an area plan which provides for: 1) the establishment of a comprehensive and coordinated system for the delivery of social services within the area, determining the needs for social services, evaluating the effectiveness of services in meeting the need, and contracting with providers to meet such need; 2) the initiation, expansion, or improvement of social services in the area based on federal priorities; 3) establish or maintain an information and referral system; 4) assurance that the area aging will: (a) conduct periodic evaluations of activities carried out pursuant to the plan, (b) render technical assistance to service providers in the area, (c) provide legal services, when feasible, (d) take into account the views of service recipients, (e) provide opportunity, where possible, for older persons to assist on a voluntary basis, in providing day care services to children, (f) establish an area advisory council, consisting of representatives of the target population and the general public, to advise on all matters relating to the administration of the plan and operations thereof. (Underlining is done to emphasize the functions which appear throughout the legislation which has created the various advisory/advocacy bodies. These functions provide the basis for the conclusions and recommendations on the advisory/advocacy functions.)

Community services are provided by a variety of agencies and encompasses a wide range of services: home health aids, health assessments, advocates, chore-home maintenance, transportation, education, home-delivered and congregate meals, legal assistance, recreational services. Approximately two-thirds of the project sponsors are private non-profit agencies; the community action agencies sponsor a number of projects throughout the state.

Title VII funds for nutrition programs are contracted directly from the Board on Aging to the local provider, rather than through the area agencies. There are eighteen projects throughout the state, with 180 dining sites. All but one are operated by private non-profit agencies, eleven by community action agencies.

A 1976 Legislative Act, Chapter 275, seems to broaden the advisory and advocacy focus of the Board on Aging in that it requires the Board to recommend to the state legislature no later than January 1, 1977, a proposed state policy for citizens dependent on long-term care. In the introduction it says the Act

SECTION 3

ATTACHMENT 3.3 (cont'd)

"relates to the elderly and the handicapped," not the elderly handicapped. It also requires the proposed policy to address the development of alternatives to institutionalization, methods for ensuring citizens dependent on long-term care or services an effective voice in determining which programs and services are made available to them, (methods of) protecting these citizens from unnecessary governmental interference in private and personal affairs, and (methods) of informing them of programs and services for which they are eligible.

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

#### C. Other Advocacy Agencies

There are other agencies in addition to the ones described above who also function as advocates. Four such state agencies are the Department of Human Rights, the Department of Veterans Affairs, the Indian Affairs Intertribal Board, and the Department of Commerce. The Department of Human Rights serves as an ombudsman, policy formulating, and semi-judicial role. Its primary clientele is all persons who have complaints of discrimination. The Department of Veterans Affairs, in addition to its administrative responsibilities, has certain ombudsman-like authority prescribed by statute. As a result of 1976 legislation, the Indian Affairs Intertribal Board (the former Indian Affairs Commission) has been given authority not only to advocate for tribal government and Indian people but to become an advisory, coordinating, and mediating agency with statutory powers to recommend or to provide critical comment to the legislature on legislation affecting Indian people. It has been given more defined and broader powers than the other advocacy/advisory agencies. It was established by and is accountable to the legislature.

There are also advocates at the state and community levels, such as legal advocacy, the voluntary non-profit associations such as the Association of Retarded Citizens, Minnesota United Cerebral Palsy, Minnesota Epilepsy League, Minnesota Association for Children with Learning Disabilities, National Society for Autistic Children, the Metropolitan Senior Federation, Migrants in Action, plus literally dozens more. It is important to recognize these activities as part of the whole picture of advocacy, and as vital forces and supports for the clients of human services.

#### 1. Migrant Affairs

The Minnesota Task Force on Migrant Affairs, including the Office of State Coordinator of Migrant Services, was established in 1974 by Executive Order and is located in the Department of Administration. Its purpose is to coordinate the activities of the various public and private agencies and organizations working with migrant workers and their families. Because the migrant workers are predominantly of Mexican descent and a number have become permanent residents of Minnesota, the focus of the Office is both coordinating the seasonal services provided by a variety of agencies, and serving as advocates for a minority group. A current high priority task is broader implementation by local school districts of Title VII of the Elementary and Secondary Education Act which provides federal funds to school districts to implement bilingual bicultural educational programs.

Its official coordinating duties involve serving as a group advocate, liaison, and advisor to the State Departments of Education, Welfare, Employment Services, Labor and Industry, Health, and Human Rights. The Department of Employment Services has a monitor/advocate for seasonal farmworkers and migrant workers as a result of a court order which requires all state employment services to implement a complaint procedure; unresolved complaints are forwarded to the Federal Employment and Training Administration.

The coordinating function is important from the state perspective because it promotes utilization of existing services by modifying them for special populations, rather than establishing separate ones. Examples of services of existing

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

state agencies which are being tapped for migrant workers are unemployment insurance, job placement, child care, food stamps, general assistance, medical assistance, education -- elementary, secondary, and vocational and rehabilitative, child labor law enforcement, occupational safety and health, housing (OSHA is now responsible for enforcing standards for migrant housing with some Department of Health technical assistance), Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) for children and other health services, and investigation of price fixing and job discrimination. Part of this coordination involves functioning as an individual advocate, an active ombudsman, to assist a client to receive services which are provided by the departments but which migrants may be denied access to either as individuals or a group.

#### 2. Department of Human Rights

The Department of Human Rights was established by the state legislature in July of 1967, with the passage of the Minnesota Human Rights Act, (M.S. Chapter 363). The department succeeds the State Commission Against Discrimination, the Governor's Human Rights Commission, and the Governor's Commission on the Status of Women. Under the act, the Department of Human Rights is charged with securing for persons in this state, freedom from discrimination in employment, housing, public accommodations, public services and education. The act prohibits discrimination on the basis of race, color, creed, religion, national origin, sex, marital status, disability and status with regard to public assistance.

Beginning August 1, 1973, the Minnesota Human Rights Act prohibits discrimination because of disability. As defined in the Act, a "disability" means a mental or physical condition which constitutes a handicap.

In carrying out this responsibility, the Department of Human Rights is authorized by law to issue complaints, receive and investigate charges alleging unfair discriminatory practices and determine whether or not probable cause exists for a hearing. The Department also conducts research and studies discriminatory practices, and attempts by means of education, conference and conciliation to eliminate unfair discrimination.

The Department of Human Rights is headed by a commissioner who is appointed by the governor. To facilitate carrying out the statutory functions of the Department, the commissioner has concentrated on two basic programs which include a variety of activities.

The enforcement program includes the Investigation Division, the Conciliation Division, the Legal Division and the Compliance Division.

The Investigation Division is the largest division, consisting of a director and a staff of field representatives. This division receives charges of alleged discrimination, and assigns field representatives to carry out investigations of facts which may credit or disprove the charges. Based on a summary of an investigation, including pertinent evidence and testimony of witnesses, the commissioner of human rights determines whether or not there is cause to believe the Human Rights Act was violated.

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

Following the commissioner's determination of probable cause, the Conciliation Division initiates an attempt to settle the matter without going to a costly and time consuming public hearing. The large majority of cases are settled through conciliation meetings, which usually result in satisfactory settlements for all concerned.

If the Conciliation Division fails to settle the case, it is referred to the Department's Legal Division. A public hearing on the case is then held and the resulting judgment may be appealed to district court if either side is dissatisfied. A Special Assistant Attorney General is permanently assigned to the Department of Human Rights, and represents the Department in all legal matters.

The Compliance Division insures that all state, county and local governments and private contractors bidding on state jobs are in compliance with the state Human Rights Act. This Division works to improve equal employment opportunity and affirmative action programs as preventive measures against unfair employment discrimination.

The planning and information program includes the Women's Division, the Planning and Programming Division, the Communication Division and General Support.

The Women's Division and Women's Advisory Committee function in an advocacy role for women's rights in Minnesota. The Women's Advisory Committee assists and advises the commissioner of human rights in all matters concerning women's rights. Standing committees within the Women's Advisory Committee include the Women's Skills Bank, Legislation, Employment, Sexual Stereotypes in Education and Task Forces committees. The Women's Division follows legislation, makes referrals, counsels individuals and provides public information on women's rights.

The Planning and Program Development Division does research for the Department of Human Rights on both internal and external interests. The processing and evaluation of research by this Division leads to development of programs and adoption of policies which keep the Department informed and abreast of current human rights trends.

Dispensing information to the public concerning the Department of Human Rights and its activities is the responsibility of the Communications Division, while executive and administrative functions are handled by General Support.

### 3. State Hospital Patient Advocates

The State Hospital Patient Advocates are Dept. of Public Welfare employees who are part of each state hospital's staff complement. There is no specific patient advocate position. They are classified employees, and therefore have recourse to individual employee appeal and grievance in event of termination, but are accountable to the individual hospital administrator. They are the result of an administrative decision by the Residential Service Bureau of the Department of Public Welfare. The establishment of the Patient Advocates is part of a general policy of DPW on advocacy as expressed in DPW's Administrative Manual:

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

#### POLICY ON ADVOCACY

The Department hereby authorizes development and implementation of advocacy procedures by departmental units and operating agencies for consumers of human services that will ensure that legal, civil, and human rights will be upheld in a way that is recognizable and immediately responsive to grievances of consumers and will, at the same time, provide an approach for modifying the decision-making process.

It is also Department of Public Welfare policy on advocacy that all employees of the public welfare system, welfare boards, area boards, and institutions, are responsible for helping to protect the consumer's human, civil, and legal rights to apply for, as well as receive, if eligible, financial assistance, social services, and medical, education, and related care and treatment.

Implementation of this policy was to be monitored by the Consumer Concerns Division which was established in 1972. Continuation funding for the Division was not appropriated in 1975, however, and other than the State Hospital Patient Advocates and several county welfare department advocacy programs, the client advocate program for public welfare recipients has not been implemented.

#### 4. Protective Services

The final category in the classification of advocacy, as constructed by the Developmental Disabilities Council, is protective services. Examples of these are state guardianship, adoptive parenthood, temporary custody, and conservatorships and trusts. These are formal arrangements, prescribed by law, for protecting the interests of dependent individuals. The following paragraphs describe the Guardianship Program in Minnesota.

##### (a) Family and Guardianship Services -- Department of Public Welfare\*

Guardianship is established when a court appoints one person, the guardian, to supervise the protect the interests of another person, the ward, when the ward cannot adequately handle financial affairs or other living needs. Most guardianships involve one private individual supervising another. Such private guardianships may be created because some disability, such as old age or deterioration of mentality, makes a person incapable of self care or unable to care for property. (M.S.A. Chapter 525.54).

In addition to private guardianships, Minnesota has a system of state guardianship in which the Commissioner of Public Welfare acts as guardian for mentally retarded wards.

---

\*Rebecca A. Knittle, Ed., Legal Rights of Developmentally Disabled Citizens; An Advocacy Manual for Minnesota, Minneapolis, Minnesota 1977, pp. 22-24.

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

There are three types of guardians in Minnesota. The guardian of the person is responsible for the ward's housing, education, and general proper care. The guardian of the estate is responsible for supervising the ward's real and personal property to insure that it is used to benefit the ward. A general guardian has duties of both the previous types of guardians, and therefore supervises both the person and the property of the ward.

#### 1) State Guardianship in Minnesota

State guardianship in Minnesota is technically a guardianship of the person only; the Commissioner of Public Welfare has responsibility for her wards' daily activities. But Minnesota Statute permits the Commissioner to act as guardian of her wards' estates as well. M.S.A. Chapter 252A.11 Subd. 1(a) and (b). In carrying out her guardianship responsibilities, the Commissioner acts through county social workers, but ultimate responsibility for guardianship decisions rests with the Commissioner and her immediate staff. M.S.A. Chapter 252A.21 Subd. 2.

Minnesota guardianship laws, enacted in 1917, remained substantially unchanged until 1967. The law originally covered people with epilepsy as well as those who were retarded. In 1967, however, epileptic individuals were removed from the law's coverage. Substantial revisions were enacted in 1975 with the passage of the Minnesota Mental Retardation Protection Act (MR Protection Act). M.S.A. Chapter 252A.01 - .21. This Act consolidated all laws dealing with state guardianship and removed the Commissioner's power to commit mentally retarded wards to state or private hospitals without a prior court hearing. Commitments now proceed under the Minnesota Hospitalization and Commitment Act, discussed in Chapter 8.

Minnesota's guardianship laws protect mentally retarded individuals requiring supervision because of "significantly subaverage intellectual functioning" and "demonstrated deficits in adaptive behavior." M.S.A. Chapter 252A.02 Subd. 2. Although state guardianship is now intended only for mentally retarded people, some 250 individuals with epilepsy still remain under state guardianship. Further, many more state wards have combinations of either epilepsy and mental retardation or cerebral palsy and mental retardation. At present, a total of approximately 8,200 individuals are state wards.

#### 2) State Conservatorship

The MR Protection Act also establishes a limited form of guardianship, known as "conservatorship," for retarded people who need only partial supervision. People under conservatorship are considered legally competent, and their rights are restricted only as expressly designated by the court following a hearing. Within statutory limits, the court fashions the conservatorship to meet the individual's unique needs, abilities and disabilities. M.S.A. Chapter 252A.11 Subd. 2.

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

Conservatorship answers a 1963 call by the Task Force on Law of the President's Panel on Mental Retardation for a "limited guardianship carefully adapted to the specific requirements of the case" and granting greater freedom for mentally retarded adults. The MR Protection Act establishes such a limited guardianship while preserving unrestricted guardianships for those retarded persons requiring general supervision.

#### 3) General Impact of Guardianship and Conservatorship

The radical effects of guardianship on legal rights make guardianship the single most important area of law for the large number of mentally retarded wards in Minnesota. Generally, state guardianship and conservatorship do not affect eligibility for financial assistance or other services, such as SSI, Medical Assistance, Day Activity Centers, or pre-school classes. While all of these programs have eligibility criteria, none consider state guardianship or conservatorship as a basis for obtaining services. Even state hospitals now permit voluntary admission of retarded individuals without requiring that the person be under state guardianship. M.S.A. Chapter 253A.03 Subd. 1.

The main advantage of state guardianship or conservatorship is the guidance and supervision provided to the ward or conservatee by the Commissioner of Public Welfare. As guardian, the Commissioner assumes the role of a parent, insuring that the retarded individual receives proper housing, care, and educational, medical, social and financial services. The Commissioner typically fulfills these responsibilities by making referrals to various services. The Commissioner may also restrict the activities of a ward, as, for example, refusing to approve a marriage or contract, thereby protecting the retarded person from possible exploitation or abuse. The value of the Commissioner's role as guardian or conservator should not be underestimated. Many retarded individuals need another's guidance to insure that their needs are fulfilled by a full range of services. By making one person legally responsible, the MR Protection Act meets an important need of Minnesota's retarded citizens.

Mentally retarded people are not automatically placed under state supervision. Many retarded individuals in Minnesota are not under any form of guardianship, state or private; many others are under private guardianship. A person will be made a ward or conservatee only if a petition for appointment of a guardian is filed and the court finds guardianship or conservatorship necessary to protect the individual. Upon such a finding, the retarded person may be placed under guardianship or conservatorship despite the individual's objections and contrary to his or her wishes.

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

#### (b) Child Protection (Child neglect and abuse)

The Minnesota Statutes 1974, Chapter 626 H.F. 306, Chapter #221, established the following public policy about child protection:

"The legislature hereby declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through physical abuse, neglect or sexual abuse; to strengthen the family and make the home safe for children through improvement of parental and guardian capacity for responsible child care; and to provide a safe temporary or permanent home environment for physically or sexually abused children.

"In addition, it is the policy of this state to require the reporting of suspected physical or sexual abuse of children; to provide for the voluntary reporting of neglect of children; to require the investigation of such reports; and to provide protective and counseling services in appropriate cases."

Unlike most states, Minnesota has legally identified a single agency--the local county welfare department--to be responsible for the investigation and providing treatment services to abusing families. Each county welfare department has the legal mandate for providing service to physically abused children. There has been a recent proliferation of other child abuse programs, especially in hospitals, and there is a great need to coordinate these many efforts in the interest of developing the best use of professional as well as volunteer services.

Today all 50 states have laws which relate to the reporting of child abuse. Most of these laws require persons in the helping professions and/or "healing arts" to report suspected child abuse to the local authorities.

In 1963, an amendment to the law concerning reporting of gunshot injuries was passed in Minnesota, requiring mandatory reporting of suspected child abuse, obligating physicians, other health practitioners, and hospitals to report such cases to the police. In 1965, a separate "battered child law" was passed to include notification to county welfare departments. In 1975, the statute was updated to broaden the definition of abuse to include sexual abuse and to further include professional persons in addition to the healing arts; social services - public and voluntary; those engaged in child care, education and law enforcement. It further expanded immunity from liability to any person participating in good faith in making such a report.

It has taken about 12 years for definitions of physical abuse to take shape in the law. Struggles over legal definitions and areas of responsibilities have tended to contribute to fragmentation of community services.

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

The Minnesota law indicates that local welfare agencies are responsible for investigating and offering protective social services to the child and the family. However, each community designs its own program around the welfare department - some using a single agency approach; others using an interdisciplinary team approach.

The law does not deal specifically with child abuse as a crime but only with the reporting of child abuse. There is no violation such as child abuse. Hennepin County Welfare Department deals with child abuse under the Children's Code in their mandate to "protect children" and only in rare cases is the abuse considered under the criminal code and then only by the County Attorney's Office. Its findings may be assualt by the abusing person. There can be a civil action of neglect and subsequent termination of parental rights.

Child protective service workers see their primary responsibilities to protect children and rehabilitate families so that the child can remain in or return to his/her own home, rather than identifying parents for prosecution through the courts.

The Minnesota Statute does not define grades or levels of child abuse nor does it say at what time or level intervention in the family should take place.

The Law does obligate certain professional persons to report suspected child abuse to the county welfare department. Once a doctor or teacher reports a case, he or she must be willing to appear in court and confront the family in person. The professional might lose contact with the family as a result of such reporting. This has put great pressures on these professionals.

The Law says that "any person participating in good faith and exercising due care in the making of a report...shall have immunity from any liability, civil or criminal..."

Failure to report on the part of those required by law to do so can be judged a misdemeanor. However, no persons have been so charged as yet.

The Child Abuse Prevention and Treatment Act passed by Congress and signed January 31, 1974, sponsored by Senator Walter Mondale, created the National Center on Child Abuse and Neglect, Office of Child Development, Department of Health, Education and Welfare. The law authorizes the Center to:

- 1) "to make grants to, and enter into contracts with, public agencies or non-profit, private organizations (or combinations thereof) for demonstration programs and projects designed to prevent, identify and treat child abuses and neglect."

SECTION 3

ATTACHMENT 3.3 (cont'd)

- 2) "to establish 12 centers to provide comprehensive services to abused children and their families."
- 3) "to establish 11 resource projects which will provide technical assistance to professionals, agencies and community persons in child abuse and neglect."

Cases in which there is suspected criminal aspects of child abuse, i.e., sexual assault, are referred by the county welfare department to the police for investigations. There are no direct referrals by Child Protective Services to the County Attorney's Office for prosecution.

"Privacy laws," both state and federal, make it difficult if not impossible for agencies and hospitals to share information about abusing families. It is therefore possible for a child to be repeatedly injured and brought to different health centers and/or physicians before any pattern of abuse is recognized.

(c) Education of Handicapped Children and Due Process Procedures

Regarding education, there are important ramifications regarding the rights of handicapped children in recently enacted federal and state laws and regulations. According to the Education of the Handicapped Act (P.L. 94-142) and Minnesota Statute Chapter 120.17, Subd. 3a, every school district must provide to all school-age handicapped children special instruction and services appropriate to their needs.

The Due Process Amendment, signed into law as Chapter 211, Minnesota Session Laws, 1976, sets forth procedures to protect the rights of handicapped students and to afford their parents full and satisfactory involvement in their education.

"All handicapped children," the Due Process Amendment states, are to be provided the special instruction and services which are appropriate to their needs." The local school districts will thus bear the responsibility for providing each handicapped student with an individualized program that is best suited to meet his or her particular and special needs. Under the Due Process Amendment, school districts will be required to establish educational alternatives for handicapped students for whom more "normal" school settings would be appropriate. This means that school districts should have a variety of educational alternatives available to handicapped students. All evaluations and assessments of handicapped children must utilize testing and evaluation materials that have been "selected and administered so as not to be racially or culturally discriminatory." Whenever a handicapped student is to be evaluated or assessed, their parent or guardian must receive prior written notification that such an evaluation process is to take place.

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

Parents and guardians of handicapped students, under the Due Process Amendment, must be afforded the opportunity to "participate in decisions involving identification, assessment and educational placement of their handicapped children." Whenever a placement or a transfer to a special education program is proposed for a handicapped student, his or her parent must receive prior written notification. Parents and guardians must also be notified whenever any denials or removals of special education services are proposed. Parents or guardians who are dissatisfied with decisions made by their local school districts regarding their children's assessment, placement in, or removal from a program can take advantage of the appeals procedures set forth in the Due Process Amendment. The various stages of the appeals process are described below. A parent or guardian would begin by requesting that the local school district hold a conciliation conference.

#### 1) Conciliation Conference

A conciliation conference with the appropriate staff of the school district can be requested by a parent or guardian whenever he or she objects to any proposed assessment, placement, transfer or denial of educational services to their child. If the parents or guardians continue to have objections even after the conference, they can obtain an informal due process hearing.

#### 2) Due Process Hearing

The informal due process hearing will be conducted in the school district in which the child resides. The hearing will be conducted by either:

- the school board
- a person selected by the board
- a person agreed to by both the board and the parents or guardians
- a person selected by the Commissioner of Education

The decision of the hearing officer must be issued within five days, and must include the basis for the decision, evaluation of whether the resources of the district are adequate and appropriate to meet the needs of the child, and what additional expenditures would have to be made by the district to meet these needs.

If the parents or guardians object to the decision rendered by the due process officer(s), they can request an appeal of that decision within 15 days to the Commissioner of Education.

#### 3) Review by Commissioner

A local decision regarding 1) a proposed denial or removal of educational services, or 2) a denial or removal of a handicapped student from a special educational program can be appealed to

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

the Commissioner of Education. A local decision involving 1) an assessment, 2) a placement in or transfer to a special education program, or 3) provision or addition of special educational services can be appealed to the Commissioner or, if the parents wish, to the Office of State Hearing Examiners which will present findings upon which the Commissioner will issue the final decision. The Commissioner's decision will be final but can be appealed to the district court of the county in which the school district is located.

#### (d) The Minnesota Foster Grandparent Program

The Minnesota Foster Grandparent Program started in 1966 and receives both federal and state funds. The Council on Aging is the designated agency for planning and implementing the Federal Action Grant. However, the program is actually administered by the Minnesota Association for Retarded Citizens under an annual contract with the Council on Aging, which is part of the Department of Public Welfare.

Currently, 265 foster grandparents have been recruited, trained and assigned to children (under age 21) in 20 different locations in the state. (Minnesota is just one of 160 such programs in the United States.) Foster grandparents differ from the usual "citizen advocate" in that they are paid for their services. However, many benefits result far and above any monetary reward. Companionship is a two-way street between the senior citizen and the mentally retarded child. These relationships occur primarily in settings such as state hospitals, day care centers, community residential settings, and day activity centers.

Administratively, each area of the state has a full or part-time Area Coordinator, who provides training and supervision for the foster grandparents. The annual budget is approximately \$630,000, of which \$230,000 is contributed by the state.

#### (e) The Governor's Office of Volunteer Services

The Governor's Office of Volunteer Services (GOVS) was established in 1975, funded by an ACTION grant and state funds, to provide coordination and technical assistance. One of the first projects of the Office was to survey health facilities, including nursing homes and state hospitals, to find out how many utilize volunteers and in what capacity. This Office is an important support service for the citizen advocacy movement. There is currently a bill before the 1977 Legislature which will continue and strengthen this Office.

This non-partisan, central office, at the highest level of state government, can provide statewide leadership to coordinate and strengthen Minnesota's voluntary force.

## SECTION 3

### ATTACHMENT 3.3 (cont'd)

The Governor's Office of Volunteer Services is able to provide a forum for cooperative efforts by public and private volunteer groups. GOVS can improve communication between volunteer organizations through its newsletter, regional forums and state meetings.

The Office is able to provide information and assistance relative to volunteerism, particularly to small rural groups or communities where there are few resources and little coordination or exchange of information.

Through the Governor's Office of Volunteer Services, statewide visibility and recognition will be given to volunteer efforts, projects and programs.

In summary, the Governor's Office of Volunteer Services is a single state office concerned with volunteerism which can work with national, state and local public and private organizations to improve the conditions of life for Minnesota's citizens through voluntary action.

The functions of this office will be of great assistance for the future development of Developmental Disabilities Citizen Advocacy Programs.

### SECTION 3

#### ATTACHMENT 3.4 - CONSULTATION AND COOPERATION WITH THE STATE DEVELOPMENTAL DISABILITIES PLANNING COUNCIL

The process for consulting and cooperating with the state Developmental Disabilities Planning Council is described in Section 1, Attachment 1.2A, above.

#### ATTACHMENT 3.5 - COMMUNICATING WITH SERVICE PROVIDERS

Much of the success of the Minnesota Protection and Advocacy Plan is dependent upon extensive inter-agency and inter-disciplinary cooperation. As described above, it is evident that there are many advocacy components that have been identified and it is apparent that the Developmental Disabilities Protection and Advocacy System can play a strategic role in bringing about a more unified approach to advocacy and the protection of human rights.

Some specific ways in which such cooperation and interfacing will be attempted are described in the specific goals and objectives in Section II above.

R E S U M E

Marylee C. Fithian  
 5157 Sheridan Avenue South  
 Minneapolis, Minnesota 55410  
 927-4972 (home)  
 296-4018 (office)

After May 1, 1977:  
 1920 Dupont Avenue South  
 Minneapolis, Minnesota

EDUCATION:

North High School	Minneapolis	Diploma with honors	1954
University of Minnesota	Minneapolis	BS with distinction	1962
		MA	1972
		PhD Candidate	1974
		(Thesis in progress)	

WORK EXPERIENCE:

Director	Developmental Disabilities Planning, State Planning Agency
Executive Director	Governor's Planning Council on Developmental Disabilities 562 Metro Square Building St. Paul, Mn. 55101 August 1, 1976 - present

Responsible for administering the comprehensive planning program for developmental disabilities in Minnesota as defined by P.L. 94-103. Administer a budget of \$542,000 and a staff of ten persons. Administer the work of the Governor's Planning Council on Developmental Disabilities which, in addition to comprehensive plan development, includes coordination of program efforts in both the public and private sector, advocacy, public information, monitoring and evaluating. Maintain effective liaison with other professionals in the human services and related governmental agencies at local, state, and national levels. Participate in numerous committees, advisory bodies and task forces relating to or potentially impacting on developmental disabilities. Administer a small research, development, and demonstration grants program. Carry out small research studies relating to services for persons with developmental disabilities.

Executive Director	Dakota County Developmental Learning Center, Inc. 2001 South Victoria Road, Mendota Heights, Mn. 55118 March 1, 1974 - August 1, 1976
--------------------	---

Responsible for administering a community developmental-educational program for 130 developmentally disabled infants, children, and adults. Administer a budget of \$700,000 and a staff of about 50 persons. Maintain effective liaison with other professionals in the human services and related governmental agencies at local and state levels. Work closely with the County planners, directors of residential facilities, Mental Health Center Director and DD Coordinator, County





OTHER PROFESSIONAL EXPERIENCES:

Dakota County AVTI Instructor, Child Development, Spring/Summer, 1975  
(Paid for this \$12.00/hr.)

Cooperative School Rehabilitation Center, Inservice Trainer, Spring, 1975,  
Winter, 1973, Eden Prairie

Winona County DAC, Speaker, Community Meeting, December, 1974, Winona

AAMD State Meeting, Infant Stimulation Workshop, August, 1974, Hopkins

University of Minnesota:	Teaching Assistant, Intro to MR	Winter, 1973
	Guest Lecturer, Intro to MR	Winter, 1973
	Guest Lecturer, Educ. of SMR	Spring, 1973
		Winter, 1974
	Instructor, Intro to Spec. Ed.	Winter, 1971
	Guest Lecturer, Intro to Spec. Ed.	Fall, 1973

MinnDACA Regional Meeting, Early Stimulation Seminar, January 26, 1973, Austin

Chisago County DAC: Inservice Trainer, Spring, 1973; Parent Meeting  
Speaker, Spring, 1973, Lindstrom

Bemidji Public Schools, Inservice Trainer, Homestart Program, Spring, 1973,  
Fall, 1973, Bemidji.

Emerson School, Inservice Trainer, Spring, 1973, Minneapolis

Methodist Hospital Nursing School, Guest Lecturer, Pediatrics, 1972-73,  
St. Louis Park (each quarter)

Ramsey Hospital Nursing School, Guest Lecturer, Pediatrics, Winter, 1973, St. Paul

Goodhue County DAC, Speaker, Parents Meeting, December 19, 1973, Red Wing

Kansas State Dept. of Public Welfare, Early Education Workshop, March 17-19,  
1972, Kansas State University, Manhattan, Ks.

Boone and Erickson Show, WCCO Radio, November 8, 1972, Minneapolis

Olmstead County ARC, Infant Stimulation Workshop, December 2, 1972, Rochester

MinnARC State Convention, Early Stimulation Workshop, June, 1971, St. Joseph

MARC, Guest Speaker, Infant Stimulation, September, 1971, Minneapolis

Numerous church and community groups, guest speaker.

COMMUNITY INVOLVEMENT:

National Conference on Developmental Disabilities member

East Metropolitan Day Activity Center Council

Secretary/Vice-Chairperson 1974-75

By-Laws Committee Chairperson 1974

Chairperson 1975-76

M.R. Advisory Committee-Dakota County Mental Health Board

Member since 1974

Chairperson 1975-76

Governor's Committee on Early Intervention

Member, 1974

AAMD member

Member, Local Arrangements Committee, AAMD National Convention, 1972

Chairperson, Student Issues Forum, AAMD National Convention, 1972

NAEYC, MAEYC

Chairperson, Session on SLBP Children, MAEYC State Convention, 1973

Attended NAEYC Convention, 1973, Seattle, Washington

Clinton Association of Parents, Staff, Students, Clinton School

General Chairperson of CAPPS Coordinating Board, 1973-74

Chairperson, Policies & Goals Committee, 1973-74

Central High School PTSA member

Accountability Project--Citizen's Committee to Evaluate the Basic Skills

Curriculum in the Minneapolis Public Schools, 1973-74

Oakland United Methodist Church

Children's Activity Program Volunteer, 1970-74

Choir, soloist, 20+ years

Youth Committee Chairperson, 1972-76

Lay Witness Mission General Committee

TRUST Volunteer, 1974 - present

TCIP Host Family, 1972-75

Red Cross Disaster Services Volunteer, 1976 - present

Minnesota International Center

Host Family: 1973, 1974

Open Every Door Family: 1973, 1974, 1975

International Christian Youth Exchange

Host Family: 1975-76, 1976-77

PERSONAL RESUME

October, 1976

NAME: Roger Owen Strand

ADDRESS: 6193 - 49th Street No.  
Apt. A  
North St. Paul, Minnesota 55109  
Telephone: 612/770-6034 (home); 612/296-4018 (work)

EDUCATION: 1963 to 1965 George Warren Brown School of Social Work  
Washington University, St. Louis, Missouri;  
Masters in Social Work Degree.

1963 (Summer) Oslo International Summer School, Oslo,  
Norway; Six graduate credits in the study of  
the Medical and Public Health Services of  
Norway.

1956 to 1960 St. Olaf College, Northfield, Minnesota;  
Sociology Major, B.A. Degree

1952 to 1956 Faribault High School, Faribault, Minnesota

EMPLOYMENT: June, 1972 to Present:  
Developmental Disabilities Program, Minnesota  
State Planning Agency, Capitol Square Bldg.,  
St. Paul, Minnesota, 55101:  
Assistant Director, serving as staff to the  
Governor's Planning and Advisory Council on  
Developmental Disabilities, coordinating the  
planning efforts of State Departments of  
Health, Education, Welfare, etc. regarding  
life time service needs of the mentally  
retarded, epileptic, cerebral palsy and  
autistic individuals. Also served as planner  
for the D.D. Advocacy and Protective Services  
Committee.

March, 1970 to June, 1972:  
Synergetic Systems, Inc., 430 Oak Grove,  
Minneapolis, Minnesota. Position: Vice  
President and Director of the Synergetic  
Group Division. I helped establish this new  
firm "from the ground up." We became  
incorporated in December, 1969, and became  
operational in January, 1970. We were  
primarily an information science service  
providing consultation and research in the  
field of human services.

June, 1965 to March, 1970:

Minnesota Department of Public Welfare, Child Welfare Division, Day Care Section, Centennial Office Building, St. Paul, Minnesota.

Position: Senior Day Care Consultant. Work included a variety of experiences, e.g. licensing and providing consultation to: County Welfare Departments, Group Day Care Centers, Day Activity Centers for the Mentally Retarded, and Head Start Programs. Served as a unit supervisor during the last two years. Supervisor: Mrs. Erna Fishhaut.

June, 1964 to September, 1964:

Ramsey County Welfare Department, St. Paul, Minnesota. Caseworker during summer months in the Special and Facilitative Services Unit, Services for the mentally retarded and their families. Work included counseling parents of retarded children, counseling the adult retarded in the community, processing commitments through Probate Court and institutionalizations, community and job placements, and inter-agency collaborative planning.

September, 1961 to June, 1963:

United States Army, PFC, US55697835, Fort Leonard Wood, Missouri. M.O.S. Clerk Typist and Chaplain Assistant. Duties included directing five choirs and directing junior and senior youth groups. Six months TDY in Special Services managing an Olympic sized swimming pool, training life guards and swimming instruction. Honorable Discharge, 1967.

August, 1960 to September, 1961:

Ramsey County Welfare Department.  
(Details same as above)

Summer, 1960; Jersey City Lutheran Neighborhood Project, Jersey City, New Jersey. Youth Counselor, Summer program for culturally deprived children. Supervisor: Pastor Ronald Soderquist, St. Olaf College, Northfield, Minnesota.

Summers of 1958 and 1959:

Faribault State School and Hospital, Faribault, Minnesota. Student Social Worker and Psychiatric Technician. Work included social work assignments in the Department of Social Services and work with 110 mentally retarded children in residence.

1972 to 1977:

Member of Community Faculty of the Minnesota Metropolitan State University - Human Service Administration.

1967 and 1968

Adult Education Instructor, "Methods and Materials in the Nursery School." Ten week, once-a-week courses for preschool educators held in Wayzata and Edina, Minnesota. Hold certificate in Vocational-Technical Education.

1966 through 1970:

Training and consulting in the Head Start Programs throughout Minnesota. Also worked with the Migrant Training Programs.

1966 and 1969:

Summer Practica held at Mankato State College in Mankato, Minnesota, for directors and teachers in day activity centers for the mentally retarded. I directed and supervised these two week comprehensive training courses.

1968 through 1977:

Clinical Field Instructor. (Non-salaried) School of Social Work, University of Minnesota. Supervisory Field Instruction of a second year graduate student in social work, community organization.

1968 through 1971:

VOLT consultant, provided technical assistance and training around parent involvement, program development, community organization, curriculum design, career development, and day care planning to various Head Start Programs, such as: Bemidji, Duluth, Moorhead, (Minn.); New Castle and South Bend, (Indiana); and Oshkosh, (Wisconsin).

OFFICES HELD IN PROFESSIONAL  
ORGANIZATIONS:

Midwestern Association for the Education of Young Children (M  
1968-1970: Financial Secretary, Director  
on Board  
1970-1972: Chairman of the Long Range  
Planning Committee  
1972-1973: Vice President.  
1973-1974: President  
National Association for the Education of Young Children (NAE  
1971 Conference in Minneapolis, Program Advisor

Minnesota Association for the Education of Young Children (MAYC)  
1976-77 Director on the Governing Board  
Minnesota Daytime Activity Center Association  
1965-1970: Advisor to the Board of Directors  
State Daytime Activity Center Advisory Committee  
1965-1970: Child Welfare Division Representative

MEMBERSHIP IN OTHER  
ORGANIZATIONS:

Academy of Certified Social Workers  
National Association of Social Work  
American Association of Mental Deficiency  
National, Minnesota and St. Paul Associations for  
. Retarded Citizens  
Minnesota Welfare Association  
Minnesota United Cerebral Palsy Association

CONFERENCE  
ACTIVITIES:

1. Pre-conference Workshop on Day Care for the Mentally Retarded, Detroit, Michigan, 1968, Sponsored by the National Association for the Mentally Retarded. Panelist and Group Discussion leader - "Innovative Planning in Day-Care."
2. Region VIII Annual AAMD Conference, Des Moines, Iowa, 1968. Sponsored by the American Association for Mentally Deficient. Main speaker on "Developing Statewide Day Care Programs for the Mentally Retarded." 1973, Panelist on Developmental Disabilities, Fargo, North Dakota.
3. Minnesota Association for Retarded Children, 1966, 1967, 1968. Main speaker and panelist.
4. Child Welfare Institute on Consultation, 1968. Planning Chairman and coordinator.
5. Upper Midwest Hospital Conference, Dietitians and Food Services Association, Minneapolis, 1969, Main Speaker, "Supervising the Slow Learner in Food Services."

PUBLICATIONS AND MANUSCRIPTS:

Strand, Roger O., Lynn L. Roddy, and George S. Unger, Work Aspirations of Parents of School Age Children. Masters Thesis, Washington University, St. Louis, Missouri, 1965.

PART IV - SUMMARY OF PROPOSED EXPENDITURES

SECTION 4 - PROPOSED EXPENDITURES

ATTACHMENT 4.1: (See page 80)

PART A - DESIGNATED STATE AGENCY (AND PAYEE):

The Agency designated by the Governor as responsible for the implementation of the State's Protection and Advocacy System is:

Name: State Planning Agency  
Address: Developmental Disabilities Planning Office  
Capitol Square Building  
St. Paul, Minnesota 55101

State Clearinghouse # (after Plan has been through A-95 Process):

77061301

\* EIN #: #1-416-007-162-D8

\* PIN # or CRS #: P-5465

PART B - BUDGET JUSTIFICATION: (See page 80)

	<u>Amount</u>
*1. <u>Personnel:</u>	
Provision for hiring of student interns, approximately 800 hours	\$3,300
*3. <u>Travel:</u>	
Provision for Protection and Advocacy Staff to provide technical assistance to local and regional programs and to attend HEW Regional and/or National meetings	\$2,224
*6. <u>Contractual:</u>	
The amount to be encumbered during FY 1978 for contracting with either legal advocacy or citizen advocacy agencies as demonstration grants	<u>\$45,000</u>
TOTAL	\$50,524

SECTION 4

ATTACHMENT 4.1 (cont'd)

Please note that the contract agencies that provide either legal or citizen advocacy services generate additional funds on their own. Such additional funds are procured from such sources as:

- Local/county tax monies
- State Developmental Disabilities demonstration grants
- Cash and in-kind contributions
- Foundations
- VISTA
- CETA
- Other state and federal sources

THE CLEARINGHOUSE #:  
77061301

SUMMARY OF PROPOSED PROTECTION AND ADVOCACY EXPENDITURES

State of Minnesota  
DDO Allotment - \$ 50,524  
FY 1978

Proposed Expenditures for Implementation, by sources:

	Federal Funds		Non-Federal Funds			Total Funds
	P&A	Others+	State+	Local+	Nonprofit+	
Designated Agency: Minnesota State Planning Agency	50,524					50,524
SS Capitol Square Building 550 Cedar Street St. Paul, Minnesota 55101						
Actual Payee: (recipient) TOTALS	50,524					50,524

Minnesota State Planning Agency  
SS Capitol Square Building  
St. Paul, Minnesota 55101

IN# \_\_\_\_\_  
IN# or CRS# \_\_\_\_\_

Budget Categories:

Categories:	P & A :				
	DDO Funds	Other Federal Funds	State Funds	Local Funds	Nonprofit Funds
Personnel	3,300				
Fringe Benefits					
Travel	2,224				
Equipment					
Supplies					
Contractual	45,000				
Other					
Total Direct Charges					
Indirect Charges					
TOTALS					
PROGRAM INCOME	50,524				

Grantees are required to submit narrative justifications and descriptions for this expenditure

Grantees are required to submit narrative descriptions of income from these sources, giving amounts as indicated, agencies concerned, and time periods of these support funds, if any.