



# PLAN|NJ NEWS

THE NEWSLETTER OF PLANNED LIFETIME ASSISTANCE NETWORK OF NEW JERSEY  
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**Who will care for your loved one when you are gone?**

**PLAN NOW!**

## MEET ARLENE

### *A Longtime Member of the PLAN/NJ Family*

Planned Lifetime Assistance Network of New Jersey (PLAN/NJ) and Arlene have known each other for many years. We currently provide home visit monitoring services for Arlene, who is nearly 70 years old. With our assistance and support, Arlene is continuing to experience life's opportunities and meet its challenges with grace and dignity.

We were first introduced to Arlene after her parents passed away many years ago. Unfortunately, she did not have any other family to care for her, so she moved to an apartment for seniors and people with disabilities. Her family's mobile home was sold and the proceeds were placed in a sub-account of the PLAN/NJ Community Trust. Our home-visit monitoring services were required about a year later when a neighbor called PLAN/NJ, expressing concern that Arlene was being taken advantage of by a local person who did not have her best interest in mind. We visited Arlene and found that someone had moved into her apartment with her. We took immediate action and the person left. We assisted Arlene with a move to an assisted living home where she would have more support and medical supervision. We recognized that she needed assistance and support to socialize with others and to become more active in her community.

Because PLAN/NJ focuses on the bigger picture and strives to ensure that individuals with disabilities experience a "good life," this often involves much more than trust administration. That was more than 15 years ago and we have remained a major part of Arlene's life, visiting her several times monthly, providing full support to ensure that she maintains the quality of life that her parents would have wished for her. Arlene outlived the proceeds of her small trust, but she remains a part of the PLAN/NJ family and we have continued to provide her home visiting monitoring services free of charge. We are able to do this as a result of fund raising efforts and donations received.

Arlene has faced serious medical and residential issues throughout the years, necessitating the need for an advocate to assist her in making important decisions. PLAN/NJ supported her through two residential moves when her current homes were not meeting her needs and when it was determined that Arlene's medical needs necessitated an assisted living facility.

Since she relies on public benefits, we searched for the best available nursing homes that would accept Medicaid and involved her in the process of choosing the one where she felt most comfortable. Arlene loves animals, so she chose the home that offered a pet therapy program. During each housing transition we were there to ensure she became acclimated and comfortable.

Arlene has been doing remarkably well and is happy. She is more social and she participates in cooking and craft classes. Arlene has a great sense of humor, is kind and loves to sing. This could not have been more evident than during a recent visit when she sang along with her nurse's aide to "We Are Family." Arlene's aide also looks out for her and mentioned that she likes perfume and scented powder. These small personal items that we take for granted are the simple things in life that help to make individuals more comfortable and happy. PLAN/NJ is making sure that Arlene has items such as these when we visit her. This is a wonderful example of why PLAN/NJ exists — to help individuals with disabilities through life's challenges, whether they are residential, employment related, financial, medical, or social. Arlene was initially a trust client, but we quickly realized that she was in need of much more support in order to maintain a good life. We took the role of family in order to accomplish this.

We are proud of you, Arlene!



# Tips to Ensure a Successful IEP Meeting

In the spirit of fall and the return to school, parents of a child with special needs have much more to plan for and think about beyond the purchase of school supplies. One of these annual events is the IEP meeting, or Individualized Education Plan. IEPs are required by federal law and take place at least once a school year in order to plan a program that will meet the current and future needs (usually next school year) of a child or an adult with disabilities. IEPs are important because all goals outlined in the IEP must be addressed during the school year.

Some parents approach IEP meetings with trepidation. This is your opportunity to advocate for your child's needs, and you know him or her best. It is important to be fully prepared for these critical meetings that outline the plan of care for your child. Before the meeting is held, search online for IEP planning forms and take advantage of the many free resources that are available on the internet. Visit your child's classroom throughout the school year and observe how many students are in the class. Typically, once a certain number of students is reached, the class will require an aide. It is also important to build a positive relationship with one or more members of the IEP team, whether this person is your child's teacher, therapist, or principal.

**1.** Respond to the meeting notification and make sure you attend. The school district may offer to hold the meeting via phone. It is more advantageous and in your child's best interest to hold the meeting in person. If you plan to bring an advocate or specialist, let the district know ahead of time. If you cannot attend, ask to reschedule the meeting. Know all the members of your child study team.

**2.** Develop a list of questions and set your own goals for your child and bring the list to the meeting. Bring all relevant and important documents to the meeting. A good starting point is to review the last IEP and determine what goals can be eliminated or added.

**3.** Prior to the IEP, monitor your child's testing and evaluation process. Attend all

scheduled evaluations with your child. Make sure that you receive input from all professionals involved with the education of your child, including speech or occupational therapists and teacher's assistants. Ensure that the environment for testing is applicable to your child's learning style, i.e., no distractions.

**4.** You have a right to receive a copy of all tests and assessment results before the

meeting. Make sure you are organized so you have a better chance that all concerns are addressed.

**6.** You should visit possible program options prior to the scheduled IEP meeting so you can accept a program that you are comfortable with and meets your child's needs.

**7.** Ask for a copy of your rights in advance so you feel comfortable signing them when asked.

**8.** Do not feel pressured to sign the IEP at the conclusion of the meeting if you are not 100% comfortable. Request a second meeting and take home the IEP to review. Know your rights and the IDEA Act, which states that you can request to take home the IEP to review further before you sign it. Even if you do sign the IEP, it is not permanent and you can request a subsequent meeting during the school year.

**9.** Network with other parents and caregivers, especially those in the same program as your child. Know and understand all of the available options for your child. Speaking with other parents will help.

**10.** Start the meeting off on a positive note and stress the abilities of your child rather than his or her disabilities. Ask many questions and offer suggestions during the meeting. You are the advocate for your child and you know your child best. Do not be afraid to speak up.

**11.** Search online for local resources and organizations that can assist with the IEP process. In New Jersey, the Statewide Parent Advisory Network (SPAN) offers classes and support through its Parent Training & Information Center. For more information, visit: [www.spanadvocacy.org/content/parent-training-info-center](http://www.spanadvocacy.org/content/parent-training-info-center).



scheduled IEP so you can preview them before the meeting. The testing and evaluation must be completed by a multidisciplinary team using two or more evaluation procedures. You may also request a copy of the proposed IEP and the actual goals in advance so you can preview them and write down questions. Correct any inaccuracies or discrepancies and discuss them during the meeting.

**5.** Do not feel rushed during the IEP meeting. This is an important meeting that happens only once a year. If you feel that you do not have adequate time to have an effective meeting, ask that more time be allowed or ask for a second

*Special needs planning spans a lifetime and involves many different stages from birth through adulthood. PLAN/NJ often partners with area organizations that provide support and advocacy through all stages of life. We often mention these organizations to assist families with their planning needs.*

# BACK TO LEGAL BASICS

## The Importance of Establishing Power of Attorney

By Debra Eckert-Casha, Attorney-at-Law

**W**ho will handle your financial affairs in the event you are hospitalized? Have you given anyone the legal authority to write checks to pay your bills? Who will pay the utility company so services continue? How will rental, mortgage, and/or property taxes be paid? Establishing a Power of Attorney (POA) is important to maintain your legal and financial affairs in the event that you cannot make important decisions. Having a relatively inexpensive POA eliminates the need and expenses for the court to appoint a guardian to oversee your responsibilities.

**Power of Attorney (POA):** New Jersey law allows a competent individual who is over 18 to sign a power of attorney (POA), an official legal document that authorizes another individual known as an “attorney-in-fact” or “agent” to perform acts on behalf of you, the “principal.” Thus, a trusted person acting as your “attorney-in-fact” can perform services that you have authorized. The authority given to the “attorney-in-fact” can be limited to specific acts such as payment of certain bills or selling a piece of real estate, or it can be much more comprehensive. How much authority the agent will be given is your decision.

**Springing Power of Attorney:** A springing power of attorney is a document that allows the agent’s powers to become effective when the principal becomes disabled. Thus, it prevents your attorney-in-fact from having any authority until you are actually disabled. Unless the document defines the disability, New Jersey law indicates that “a principal shall be under a disability if the principal is unable to manage his property and affairs effectively” (see N.J.S.A. 46:2B-8.2).

There are practical issues to be considered: Will a doctor need to be consulted (and paid) to ascertain if the principal is disabled? Will the agent have the necessary time and emotional energy to deal with a disability determination when trying to also implement the day-to-day operations of paying bills and arranging for hospital care?

**Durable Power of Attorney:** A durable power of attorney continues to be effective if you become incapacitated. New Jersey law requires words showing the principal’s intent for the authority to continue upon a principal’s disability or incapacity. Typically the document contains statutory language such as: “This power of attorney shall not be effective by subsequent

disability or incapacity of the principal, or a lapse of time” (id.) The durable POA is effective in accordance with the specific terms for the period when the principal is under a disability. Unless the document expressly states the termination time, the power is effective notwithstanding the lapse of time since the principal signed the document.

It is your decision whether you select a springing power of attorney or general durable power of attorney. Regardless of the type chosen, you need to thoroughly understand the contents.

**Revocation:** A POA can be revoked when the principal destroys all executed originals or when the principal delivers a written revocation to the agent. If you have disseminated the POA to a bank or another institution, be certain to provide written notification of the revocation to that institution. Unless expressly provided in the POA, a subsequent execution of another POA does not revoke the first one (N.J.S.A. 46:2B-8.10). A POA terminates at the death of the principal.

### Frequently Asked Questions

#### **Who should I name as my agent?**

You may choose any adult 18 years of age or over whom you TRUST or a qualified private pay guardian. For example: a spouse, adult child, sibling, friend or someone such as a banker or accountant can serve as an agent.

#### **May I choose more than one agent?**

Yes. If you name more than one agent, be specific as to whether they are to act independently or jointly. If the co-agents must act jointly and do not agree on a specific act to be taken, there may be a deadlock, and court intervention may result. This can generate expenses.

**What happens if my agent gets sick or dies?** You should always appoint an alternate, and it is also advisable to have a successor to the alternate.

**Can I change my POA?** Yes, so long as you are competent, you may execute a new POA. (Note: The determination of competency is outside the purview of this article).

#### **If I already have a POA, are there suggestions that I should consider when reviewing my documents?**

**Compensation:** Agents are permitted to be paid for their services if the document authorizes payment. Reasonable compensation for services is allowable, and this may be helpful for certain

potential means-tested government programs for which one must “spend down” to meet financial eligibility criteria.

**Timeliness:** A banking institution “may refuse to act or rely upon a power of attorney first presented more than 10 years after its date or on which it has not acted for a 10-year period unless the agent is either the spouse, parent or a descendent of a parent of the principal” (N.J.S.A. 46:2B-13). It is suggested that you consult with your attorney if your POA is ten years or older due to the aforementioned statutory provision and the possible statutory changes which may have occurred during that time period.

**State and Federal Agencies:** The Social Security Administration, Internal Revenue Service and other governmental agencies accept their own forms with their own special wording. It is advisable that you anticipate the agencies you would need to contact and consult with the respective institution prior to the necessity of using the POA. For example, the Social Security Administration requires completing a representative payee form, and the Internal Revenue Service will require a Form 2848.

**How much does an attorney charge to prepare a POA?** Costs will vary, so consult with your attorney. Absent extenuating circumstances, a POA should cost no more than a few hundred dollars.

Having a POA is essential. If you do not have one established, you should consult with your attorney. If you already have a POA, it is equally important to review it. Some questions to ask yourself include:

Do you have a valid reason for selecting the type of POA you signed? Have you anticipated the types of actions and the agencies your agent will need to contact on your behalf if/when you reach the point at which you cannot handle your own financial affairs? Have you recently read your POA? Do you understand its contents? Is the agent you selected still capable of performing the tasks required? Did you select an alternate agent? Is the agent to be compensated?

Be wise. If you answered “no” to any of these questions, you should review your needs and consult with your attorney.

*The information presented in this article is not to be a substitute for legal advice as each factual scenario is different. Debra Eckert-Casha, Attorney-at-Law, Casha & Casha, LL, 115 Horseneck Road, Montville, New Jersey 07045.*



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**We're on the Web!**  
Visit us at:  
[www.plannj.org](http://www.plannj.org)

For more information about PLAN/NJ, to schedule a presentation for your group or for help with planning for your relative's future, call: (908) 575-8300.

## **SAVE THE DATE!**

### **PLAN/NJ's 2014 Spring Fundraiser Celebrating 25 Years**

Join us for an evening of celebration as we honor fellow advocates for individuals with disabilities and mental health challenges.

**When:** Thursday, June 5, 2014, 6 to 8 p.m.

**Where:** New Jersey Law Center,  
One Constitution Square,  
New Brunswick, New Jersey

Sponsorship opportunities are available.

For additional information, contact  
Roberta Lee at (908) 575-8300, ext. 10,  
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**A Time to Give** Yes, I want to support  
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I would like this information to appear in the PLAN/NJ newsletter  
(amount will not be disclosed)

I have included PLAN/NJ in my estate plans

I would consider including PLAN/NJ in my estate plans

I would like to learn about establishing a bequest for PLAN/NJ

I am interested in establishing a tax-free IRA rollover to PLAN/NJ

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## *Attorneys and Financial Advisors/Planners*

The professionals included in this resource list have indicated interest and experience in estate planning when individuals with disabilities are involved. The attorneys are grouped by: 1. those focusing on elder care, guardianship, special needs trusts, public benefits, special education laws; and 2. those focused on personal injury and other legal support. Financial Advisors with experience in planning for the future of individuals with disabilities are also included.

Inclusion on this list does not represent a recommendation or endorsement by PLAN/NJ, and the list is not inclusive of all attorneys in New Jersey who provide such legal services. The following professionals contribute to PLAN/NJ, whether through financial support or in-kind contributions. Families should contact attorneys personally regarding services, fees, and to determine whether a particular attorney meets their family's needs.

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