

## Talking Points Against P&A Class Action Limitations (H.R. 1255)

- 1) Over the last 30 years best practices have moved from institutionalization of individuals with disabilities to individuals living in the community with proper supports and services.
- 2) Civil rights laws and societal norms have come to recognize the fundamental rights of individuals with a disability to choose where they want to live, receive the services they are entitled to receive, and be free from abuse and neglect.
- 3) It is essential that Protection and Advocacy (P&A) systems continue to have the broadest authority possible to ensure protection of the rights of people with disabilities to be free from abuse and neglect and fulfill their desire to live in the community.
- 4) Class actions brought by the P&A against institutions have been to ensure proper staffing levels, ensure required therapies and services are provided, stop abuse and neglect, and ensure the right of community integration.
- 5) Enactment of legislation like Representative Frank's bill will jeopardize the well-being of thousands of individuals with disabilities by curtailing the ability of the P&A to protect these individuals from systematic problems.
- 6) H.R. 1255 breaks new and dangerous ground by allowing class representatives to opt out of cases seeking injunctive relief.
- 7) Current Federal Rules of Civil Procedure provide class members with a number of protections including appropriate notice, class certification requirements, the right to intervene, and a fairness hearing on any proposed settlement.
- 8) Should an individual whose guardian opts them out of a class action seeking increased staff levels be denied the benefits of additional staff if the class action is successful?
- 9) Should an individual whose guardian opts them out of a class action seeking to end the use of harmful restraints and seclusion be denied the benefit of banning these harmful techniques if the class action is successful?
- 10) By allowing those that would prefer to speak on behalf of individuals with developmental disabilities to have the final say, even if different than the individual's own desires, Representative Frank's bill restricts the civil and human rights of individuals with developmental disabilities.
- 11) This legislation also stops the forward progress being made to ensure that individuals with developmental disabilities who want to live in the community can do so.