

**DISABILITIES LAW PROGRAM
DEVELOPMENTAL DISABILITIES PRIORITIES
AND CASE ACCEPTANCE STANDARDS FOR FY 2014**

INTRODUCTION

The Disabilities Law Program ("DLP") of Community Legal Aid Society, Inc. ("CLASI") provides services to individuals consistent with the Developmental Disabilities Act ("DD Act"), codified at 42 U.S.C. 15001 et seq.. This document identifies the priorities, case acceptance standards, and projected outcome measures of the DLP's Protection and Advocacy for persons with Developmental Disabilities (PADD) component.

Eligibility for DD services is limited to persons who meet the federal definition of developmental disability, or those acting on behalf of persons with developmental disabilities. Information and referral services, which do not require assessment for eligibility as a DD client, are also provided.¹

I. EDUCATION

GOAL: The PADD will promote the provision of a free, appropriate public education to eligible students with developmental disabilities.

INDIVIDUAL ADVOCACY OBJECTIVES:

- 0100 A. Provide direct advocacy services to students when there is an actual or proposed total exclusion from needed direct or related services, or where lack of services poses a significant threat to health or safety.
- 0101 B. Provide direct advocacy services to students when systemic issues are presented by proposed or actual denial of services.
- 0102 C. Provide direct advocacy services to students when there is actual or proposed expulsion or long-term suspension from school without alternative education.
- 0103 D. Educate and empower students and parents through provision of technical assistance in response to inquiries.

SYSTEMIC ADVOCACY OBJECTIVES:

- 0200 A. Collaborate with GACEC, DDC, and SCPD in analyzing proposed State legislation, regulations, and policies with significant impact on special education,

¹A key to common abbreviations used in this document is included at p. 9.

including accountability, diploma eligibility, transportation, discipline, IDEA and Section 504 eligibility, summer school, “needs-based” funding, charter school admissions and practices, transition planning, and inclusion-related initiatives.

- 0201 B. In conjunction with GACEC, assist the Department of Education with preparation of regulations implementing recently-enacted, PADD-authored legislation (S.B. No. 100) limiting use of seclusion and restraint in public schools and related sites.
- 0202 C. Educate and empower parents, students, and professionals by conducting training in procedural and substantive special education entitlements and through development of multiple training modules for students transitioning to the adult services system.

OUTCOME MEASURES:

- A. As a result of DLP intervention, a minimum of 35 students with disabilities will secure or maintain a more appropriate education.
- B. As a result of DLP intervention, a minimum of 12 laws, regulations, or policies will be changed and other barriers to appropriate education reduced.

II. HOUSING; COMMUNITY LIVING

GOAL: The PADD will decrease housing discrimination based on disability and increase viable housing opportunities for constituents.

INDIVIDUAL ADVOCACY OBJECTIVES:

- 0300 A. Provide direct advocacy services to individuals aggrieved by significant violations of fair housing laws.
- 0301 B. Exclusive of routine evictions, provide direct advocacy services to tenants threatened with eviction when attributable to disability.

SYSTEMIC ADVOCACY OBJECTIVES:

- 0400 A. In collaboration with DDC, CDS, and SCPD, reduce barriers to community living through the following: a) promotion of consumer protections in health-based utility termination deferral program authorized by recently revised Title 26 Del.C. §117(d); b) participation in the Governor’s Commission on Community-based Alternatives for Persons with Disabilities Housing Committee; c) deterrence of restrictive local zoning and land use initiatives; d) support of pending legislation

(H.B. No. 196) which would bar housing discrimination based on source of income, including government benefits; e) reform of guardianship system to deter unnecessary institutionalization of wards based on prioritization of safety over quality of life considerations; and f) promotion of consumer-oriented State attendant services, caregiver, respite, and other programs providing independent living supports.

- 0401 B. Empower consumers and advocates through training in fair housing standards and enforcement.

OUTCOME MEASURES:

- A. As a result of DLP intervention, 10 persons with disabilities will secure equal access to or maintain housing.
- B. As a result of DLP intervention, 10 laws, regulations, or policies will be changed and other barriers to housing reduced.

III. HEALTH & FINANCIAL BENEFITS

GOAL: The PADD will advocate for preservation and enhancement of constituent access to public health and financial benefits with emphasis on Medicaid and children's SSI.

INDIVIDUAL ADVOCACY OBJECTIVES:

- 0500 A. Provide direct advocacy services to children in SSI cases involving systemic issues, termination of benefits or denial of eligibility.
- 0501 B. Provide direct advocacy services to children and adults aggrieved by denial of Medicaid eligibility or curtailment of important Medicaid services.
- 0502 C. Provide direct advocacy services to SSI and SSDI recipients subject to inappropriate support orders.

SYSTEMIC ADVOCACY OBJECTIVES:

- 0600 A. In collaboration with ARC and NAMI Delaware, provide technical assistance and support for implementation of community trust enabling legislation through Delaware CarePlan Inc.
- 0601 B. In collaboration with the DDC and SCPD, foster enhanced access to health care through governmental programs, including refinement of personal attendant services program through participation in DSAAPD PAS work group.

- 0602 C. Monitor and promote consumer-oriented implementation of Medicaid managed care system [DSHP and DSHP+] and improvements in overall Medicaid program [e.g. implementation of Medicaid Buy-in and money follows the person initiatives; coverage of adult dental services; and development of DDDS family support waiver].
- 0603 D. Foster improvements in state-regulated insurance system, including implementation of recently enacted legislation (S.B. No. 22) which, effective December, 2012, requires insurance coverage of diagnosis and treatment of autism spectrum disorders.

OUTCOME MEASURES:

- A. As a result of DLP intervention, 20 persons with disabilities will secure or maintain access to health care.
- B. As a result of DLP intervention, 20 persons with disabilities will secure or maintain access to financial benefits (e.g. SSI).
- C. As a result of DLP intervention, 15 laws, regulations, or policies will be changed and other barriers to financial and health care benefits reduced.

IV. ABUSE & NEGLECT IN STATE LICENSED OR REGULATED SETTINGS

GOAL: Protect the rights of individuals served in State licensed or regulated settings under state and federal patient rights statutes.

INDIVIDUAL ADVOCACY OBJECTIVES:

- 0700 A. If not duplicative of investigation by other public entities (e.g. Ombudsman; DLTCRP; Attorney General's Office), investigate incidents of significant individual abuse or neglect in State licensed or regulated settings as reported to the PADD.
- 0701 B. Provide direct advocacy services to individuals aggrieved by a substantial violation of a patient rights statute which provides the opportunity for systemic reform including involuntary termination from community-based residential settings without adequate due process and failure to offer grievance opportunities which conform to federal and State law.
- 0702 C. Provide direct advocacy services to promote deterrence of unnecessary institutionalization proscribed by Olmstead.

SYSTEMIC ADVOCACY OBJECTIVES:

- 0800 A. Promote adoption and enforcement of State licensing regulations and policies which deter use of seclusion and restraint.
- 0801 B. Review DHSS client deaths, screen restrictive procedures, monitor DHSS quality control, review DDDS client rights complaint dispositions, and submit individual and systemic recommendations through participation in DHSS Mortality Review Committee, DDDS Mortality Review Committee and DDDS Human Rights Committees (“HRCs”).
- C. Collaborate with DDC and VCAP Advisory Council as follows:
 - 0802 1. assist Victim Rights Task Force Disability Subcommittee to improve protection and remedies available to residential crime victims with disabilities; and
 - 0803 2. assist VCAP in development of consumer-responsive policies and procedures to facilitate timely receipt of compensation by residential violent crime victims with disabilities.
 - 0804 3. analyze and comment on legislation, regulations, and selected policies with significant impact on abuse or neglect in State licensed or regulated settings.

OUTCOME MEASURES:

- A. The DLP will participate in 5 investigations of abuse or neglect.
- B. DLP intervention will contribute to 5 positive changes in laws, regulations, or policies concerning abuse or neglect in State licensed or regulated settings.

V. GOVERNMENT PROGRAMS & SERVICES

GOAL: The PADD will sustain and promote non-discriminatory and effective access to governmental programs.

INDIVIDUAL ADVOCACY OBJECTIVE:

- 0900 A. Provide direct advocacy services if an individual has been prevented from effectively accessing important governmental programs based on systemic policy or barrier(s) contrary to federal or State law.
- 0901 B. Provide direct advocacy services if familial integrity is jeopardized by State agency action based on disability-based functional limitations.

SYSTEMIC ADVOCACY OBJECTIVE:

- 1000 Collaborate with SCPD, DDC, and State ADA Coordinator to reduce statutory,

regulatory, policy and accessibility barriers and foster effective constituent access to governmental programs, including enforcement of equal accommodation statute and development of plan for a centralized internet resource site for children with disabilities through participation in State task force created by HCR No. 31.

OUTCOME MEASURES:

- A. As a result of DLP intervention, 12 persons with disabilities will secure non-discriminatory or equal access to government services.
- B. As a result of DLP intervention, 10 laws, regulations, or policies will be changed and other barriers to government services will be reduced.

VI. ACCESSIBILITY; PUBLIC ACCOMMODATIONS

GOAL: The PADD will sustain and increase effective access to public accommodations.

INDIVIDUAL ADVOCACY OBJECTIVE:

1100 If not duplicative of PAIR program advocacy, provide direct advocacy services to individuals prevented from accessing important public accommodations because of policies or physical barriers proscribed by federal or State law.

SYSTEMIC ADVOCACY OBJECTIVE:

1200 Collaborate with the SCPD to identify and reduce systemic policy and physical barriers in public accommodations.

OUTCOME MEASURES:

- A. As a result of DLP intervention, 10 persons with disabilities will secure equal access to public accommodations.
- B. As a result of DLP intervention, 5 laws, regulations, or policies will be changed or other barriers to public accommodations will be reduced.

VII. EMPLOYMENT

GOAL: The PADD will advocate against employment discrimination based on disability and promote employment opportunities for constituents.

INDIVIDUAL ADVOCACY OBJECTIVE:

- 1300 Provide technical assistance materials and attorney referral information to individuals alleging disability-based employment discrimination.
- 1301 Provide direct advocacy services to individuals if attorney referral is not a realistic option or systemic issues are presented.

SYSTEMIC ADVOCACY OBJECTIVES:

- 1400 A. Educate and empower consumers through training in employment discrimination laws and enforcement.
- 1401 B. Promote availability of remunerative, non-segregated employment opportunities through implementation of recently enacted “employment first” legislation (H.B. No. 319); promotion of incentives (e.g. tax credits for hiring DDDS clients) to enhance employment opportunities; and participation in DVR State Rehabilitation Council.

OUTCOME MEASURES:

- A. As a result of DLP intervention, 5 persons with disabilities will secure or maintain employment or other remedies.
- B. As a result of DLP intervention, 10 laws, regulations, or policies will be changed and other barriers to employment reduced.

VIII. TRANSPORTATION

GOAL: The PADD will advocate for the availability of appropriate transportation options to constituents throughout the State.

INDIVIDUAL ADVOCACY OBJECTIVE:

- 1500 Provide direct advocacy services to constituents when systemic issues are presented or eligibility for publicly subsidized transportation program is denied or terminated.

SYSTEMIC ADVOCACY OBJECTIVE:

1600 Collaborate with SCPD, DDC and PAIR Program to promote consumer-oriented public and private transportation system, including improved access to accessible parking, deterrence of overbroad disability-related driver license restrictions, improved operation of paratransit system, preservation of eligibility of persons historically served by paratransit and subsidized taxi system, improvements in proposed DelDOT ADA Self-Evaluation and Transition Plan, development of accessible taxi system, and reduction of barriers to pedestrian travel.

OUTCOME MEASURES

- A. As a result of DLP intervention, 5 persons will secure equal access to public transportation.
- B. As a result of DLP intervention, 5 laws, regulations, or policies will be changed or barriers to transportation reduced.

IX. GENERAL STANDARDS FOR DETERMINATION OF LEVEL AND TYPE OF SERVICES OFFERED

Recognizing that the demand for assistance has historically outstripped available resources, the following factors will be considered in determining the level and type of services which will be offered to a group or individual:

- (1) potential impact on client;
- (2) merits of case (both factually and legally);
- (3) realistic alternate sources for referral and assistance [e.g. State agencies; other advocacy groups; Delaware Volunteer Legal Services (“DVLS”); private bar];
- (4) applicant’s ability to self-advocate; and
- (5) potential impact on other constituents or systems.

All five of the above factors should be considered for each case being evaluated for services.

KEY TO COMMON ABBREVIATIONS AND ACRONYMS

<u>ADA</u>	The Americans with Disabilities Act is a comprehensive Federal law which prohibits disability-related discrimination by covered governmental and private entities.
<u>ARC</u>	The Arc of Delaware, Inc. is a non-profit organization which serves as an advocate for persons with intellectual disabilities.
<u>CDS</u>	The Center for Disabilities Studies, part of the University of Delaware, provides technical and other services on behalf of persons with developmental disabilities.
<u>DDC</u>	The Developmental Disabilities Council is a statewide council which includes both consumer and agency representatives. It focuses on the needs of persons with developmental disabilities.
<u>DDDS</u>	The Division of Developmental Disabilities Services, part of Delaware's Department of Health & Social Services, is the primary State agency charged with addressing the needs of persons with intellectual disabilities, including autism and early-onset severe traumatic brain injury.
<u>DLTCRP</u>	The Division of Long-term Care Resident Protection, part of Delaware's Department of Health & Social Services, investigates abuse/neglect allegations in long-term care facilities such as nursing homes.
<u>DSAAPD</u>	The Division of Aging & Adults with Physical Disabilities, part of Delaware's Department of Health & Social Services, serves seniors and adults with physical disabilities and operates some public long-term care facilities.
<u>DVR</u>	The Division of Vocational Rehabilitation, part of Delaware's Department of Labor, facilitates training and employment for adults with disabilities.
<u>GACEC</u>	The Governor's Advisory Council for Exceptional Citizens is an independent State agency which focuses on the service needs of persons with disabilities with an emphasis on special education.
<u>IDEA</u>	The Individuals with Disabilities Education Act is the primary Federal special education law.
<u>NAMI-DE</u>	The National Alliance on Mental Illness in Delaware is a statewide organization of families, mental health consumers, friends, and professionals dedicated to improving the quality of life of persons with mental illness.
<u>PAIMI</u>	The Protection and Advocacy for Individuals with Mental Illness program is a component of the Disabilities Law Program which specializes in advocacy for persons with mental illness in residential settings.

- PAIR The Protection and Advocacy for Individual Rights program is component of the Disabilities Law Program which serves individuals who do not have developmental disabilities.
- SCPD The State Council for Persons with Disabilities is a statewide council which includes both consumer and agency representatives. It serves as a “hub” for other councils and organizations.
- Section 504 Section 504 of the Rehabilitation Act prohibits disability-based discrimination by covered recipients of Federal funds, including most schools.
- SSI Supplemental Security Income is a federal program operated by the Social Security Administration which provides funds and Medicaid coverage for qualified individuals with disabilities.
- SSDI Social Security Disability Insurance is a federal program operated by the Social Security Administration which provides funds and Medicare coverage for qualified individuals with disabilities.
- VCAP The Victim’s Compensation Assistance Program is a source of financial assistance for victims of violent crimes. Assistance can include coverage of medical expenses, housing, and lost income.