

DISABILITIES LAW PROGRAM FY 2021 P&A FOR INDIVIDUAL RIGHTS (PAIR) PRIORITIES

INTRODUCTION

The Disabilities Law Program (“DLP”) of the Community Legal Aid Society, Inc. (“CLASI”) provides services to individuals consistent with the following authorizing legislation:

- 1) Protection & Advocacy for Individual Rights (PAIR);
- 2) Protection & Advocacy for Individuals with Mental Illness (PAIMI);
- 3) Protection & Advocacy for Individuals with Developmental Disabilities (PADD);
- 4) Protection & Advocacy for Assistive Technology (PAAT);
- 5) Protection & Advocacy for Beneficiaries of Social Security (PABSS);
- 6) Protection & Advocacy for Individuals with Traumatic Brain Injury (PATBI); and
- 7) Protection & Advocacy for Voting Access (PAVA)

This document defines the priorities for FY 2020 (October 1, 2020- September 30, 2021) for the Protection and Advocacy for Individual Rights Program, or “PAIR.”

INTERAGENCY COORDINATION

The focus of the PAIR program is to provide services to individuals with disabilities ineligible under other protection and advocacy programs, i.e., PAIMI, PADD, and also client assistance programs (CAPs). See 29 U.S.C. §794(e). However, federal law envisions that the PAIR will coordinate advocacy with CAP as well as the Long-term Care Ombudsman.

In deference to this mandate, the PAIR program closely coordinates with the DLP’s PAIMI and PADD components as follows:

- 1) PAIMI, PADD, and PAIR program priorities are designed to be complementary;
- 2) intra-office referrals among programs are routinely made to ensure that applicants are screened for eligibility for the appropriate DLP grant;
- 3) reference materials and training resources are routinely shared; and
- 4) the DLP Managing Attorney coordinates advocacy across the three programs to minimize duplication of effort.

Likewise, the CAP director serves on the DLP’s PAIR advisory council and the DLP supplements CAP advocacy in the vocational rehabilitation context as follows:

- 1) DLP staff member attends meetings of Department of Labor’s Division of Vocational Rehabilitation [“DVR”] advisory council;

- 2) DLP Project Director and CAP Director serve together on the State Council for Persons with Disabilities;
- 3) DLP Project Director and CAP Director serve together on the State Council for Persons with Disabilities Policy & Law Committee, which acts on the DLP's monthly analyses of legislative, regulatory, and policy initiatives;
- 4) DLP staff responds to CAP requests for technical information on matters within the DLP's particular expertise;
- 5) DLP staff screens CAP referrals on matters outside the CAP's mandate; and
- 6) DLP staff offers independent or collaborative training on the vocational rehabilitation system on request.

Finally, the DLP supports and supplements Ombudsman advocacy as follows:

- 1) DLP responds to Ombudsman requests for technical assistance;
- 2) DLP staff offers independent training on abuse, neglect, and rights of constituents;
- 3) DLP staff and the Ombudsman serve together on the State Nursing Home Residents Quality Assurance Commission;
- 4) DLP Project Director and Ombudsman representative serve together on State Council for Persons with Disabilities Policy & Law Committee;
- 5) A representative from the Ombudsman's office attends the PAIR Advisory Council meetings.

SCOPE OF ADVOCACY

The scope of PAIR program advocacy includes a broad array of activities, including information and referral, counseling and technical assistance, community education, negotiation, litigation, and legislative and regulatory analysis. Given relatively modest funding, the PAIR program is guided by these priorities in determining the type and scope of services provided to eligible individuals.

SPECIFIC PRIORITIES AND OBJECTIVES

I. ACCESS TO FACILITIES, PROGRAMS AND SERVICES

GOAL: The PAIR program will promote and facilitate access to governmental programs and public accommodations.

OBJECTIVES:

0100 A. Provide direct advocacy services if an individual has been prevented from effectively accessing important governmental programs based on systemic policy barrier(s) or contrary to federal or state law.

0101 B. Provide direct advocacy services to individuals prevented from effectively

accessing important public accommodations because of barriers or discrimination proscribed by federal or state law.

OUTCOME INDICATORS:

- A. As a result of DLP intervention, 35 persons will secure equal or improved access to governmental services or public accommodations.
- B. As a result of DLP intervention, 7 laws, regulations, policies or other barriers to government services or public accommodations will be eliminated or modified.

RATIONALE

This priority promotes effective access to services and supports for individuals with disabilities living in various settings, including access to Medicaid and medical assistance and financial supports. This priority also encompasses enforcement of both Titles II and III of the ADA, as well as Delaware's equal accommodations law. Both public sector and private sector compliance with the ADA will be promoted.

In the public sector, the DLP contemplates legal assistance to protect the rights of Medicaid beneficiaries, particularly those enrolled in the DSHP and DSHP Plus managed care systems. Access to basic health care is a high priority among PAIR constituents and Delaware's Medicaid MCOs have historically denied, in whole or part, valid claims for services. Apart from health care, the DLP routinely receives requests for assistance with "safety-net" income-maintenance programs (e.g. preservation of SSI/SSDI from threatened cessation by SSA or in State child support reimbursement context; preservation of SSI/SSDI benefits through overpayment waivers or repayment agreements). Finally, a DLP representative will address accessibility of public buildings through participation in the Architectural Review Board and assist with implementation of polling site accessibility legislation codified at 15 Del.C. §4512(b).

In the private sector, the DLP anticipates addressing complaints regarding both policy and physical barriers to community integration. In this regard, DLP will focus on compliance with Title III of the ADA and the state equal accommodations statute.

II. TRANSPORTATION

GOAL: The PAIR program will promote a consumer-friendly transportation system and reduction of barriers to constituent travel.

OBJECTIVES:

- 0200 A. Through systemic and individual advocacy, and through collaboration with advocacy organizations and councils [e.g. Elderly & Disabled Transportation Advisory Council (EDTAC); State Council for Persons with Disabilities (SCPD); Victim Rights Task Force (VRTF)], improve access to the fixed route system, promote improvement in Delaware's paratransit system, improve access and quality of Medicaid-funded transportation services, and increase the availability of emergency accessible transportation to shelters and temporary housing.
- 0201 B. Collaborate with the SCPD to promote:
- 1) consumer-oriented motor vehicle license, operation and parking laws, ordinances, regulations, and policies;
 - 2) enhanced access to State subsidized vehicle modifications; and
 - 3) safety-related transportation laws, regulations, and policies to prevent or reduce injuries to "at risk" individuals with disabilities.
 - 4) improved reliability and quality of Medicaid-funded non-emergency transportation
- 0202 C. Provide direct advocacy services to individuals prevented from effectively accessing public and private vehicular transportation systems, including access to accessible parking, or otherwise experiencing significant barriers to travel contrary to Federal or State law.

OUTCOME INDICATORS:

- A. As a result of DLP intervention, 4 persons will secure equal or improved access to transportation.
- B. As a result of DLP intervention, 2 laws, regulations, or policies will be changed or barriers to transportation eliminated or reduced.

RATIONALE

This priority is intended to facilitate travel for people with disabilities both within the State and to regional transportation centers. Advocacy would include improving the public transportation system (including DelDOT and Delaware Medicaid paratransit and non-emergency transportation capacity, policies, and practices); promoting the availability of accessible parking; promoting availability of accessible private provider and taxi service; and enhancing pedestrian travel through barrier removal (e.g. curb cuts) and sidewalk maintenance initiatives. The DLP envisions enforcement of accessible parking standards through affirmative resort to administrative or judicial remedies. The DLP will continue to serve on a DelDOT advisory and appeals council

(EDTAC) to promote constituent rights.

III. HOUSING; INDEPENDENT LIVING

GOAL: The PAIR program will promote freedom from disability-based discrimination housing and the reduction of barriers to independent living.

OBJECTIVES:

0300 A. In collaboration with CLASI's fair housing program, provide advocacy services to constituents aggrieved by significant violations of fair housing laws.

0301 B. Promote the availability of independent living supports (e.g. attendant services; home health services; private duty nursing services; home modifications; caregiver services, and public financial incentives).

OUTCOME INDICATORS:

A. As a result of DLP intervention, 8 persons with disabilities will secure equal access to or maintain housing or independent living supports.

B. As a result of DLP intervention, 8 laws, regulations, or policies will be changed or other barriers to housing and to community supports will be eliminated or reduced.

RATIONALE

This priority addresses both enforcement of fair housing laws and promotion of the availability of community-based housing options and community-based services and supports. The DLP envisions addressing both individual housing discrimination complaints and systemic barriers to independent living. The DLP, in collaboration with CLASI's fair housing program, typically protects client rights to reasonable accommodations by landlords and freedom from discrimination in the housing application context. The DLP envisions continued support of DHSS efforts to offer community-based options to residents of long-term care facilities. Lack of access to community-based housing and supports results in people with disabilities experiencing homelessness, substandard living arrangements, and over-institutionalization. Advocacy includes litigation, policy development and analysis, and participation on the Delaware Nursing Home Residents Quality Assurance Commission and other committees to promote alternatives to guardianship and alternatives to institutionalization.

IV. AUTONOMY

GOAL: The PAIR program will promote constituent autonomy and self-assurance through training, information dissemination, and assistance with supported decision-making agreements and substitute or advance consent documents.

OBJECTIVES:

- 0400 A. Offer individual technical assistance and information and referral services on substantive disability law (e.g. employment, housing, public benefits) and enforcement options.
- 0401 B. Offer group training on substantive disability law, enforcement options, and self-advocacy.
- 0402 C. If not readily available through other agencies, assist with preparation of a limited number of routine advance directives, powers of attorney, supported decision-making agreements and similar authorizing documents.

OUTCOME INDICATORS:

- A. The DLP will provide information and referral services to 80 individuals and agencies.
- B. The DLP will provide training to 10,000 individuals through articles, seminars, training events, and dissemination of training materials.
- C. The DLP will prepare a minimum of 7 powers of attorney, advance directives, supported decision-making agreements, and similar authorizing documents.

RATIONALE

This priority encompasses the provision of individual technical assistance as well as group training activities. For example, the DLP anticipates presentation of seminars, drafting articles, enhancing its Website, and other information dissemination activities to promote informed constituent decision-making and empowerment. An informed constituency is confident, self-reliant, and enabled to engage in proactive advocacy. The DLP leverages resources through wide dissemination of information and advice to consumers.

**GENERAL STANDARDS FOR DETERMINATION OF LEVEL
AND TYPE OF SERVICES**

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 to be offered to an eligible applicant:

- 1) potential impact on client;
- 2) merits of case (both factually and legally);
- 3) realistic alternate sources for referral and assistance;
- 4) applicant's ability to self-advocate; and
- 5) potential impact on other constituents or systems.