

DISABILITIES LAW PROGRAM
PROPOSED FOCUS AREAS AND CASE ACCEPTANCE STANDARDS
PROTECTION AND ADVOCACY FOR:
INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES
ASSISTIVE TECHNOLOGY
INDIVIDUALS WITH TRAUMATIC BRAIN INJURY
FY 2024 (10/1/2023-9/30/2024)

INTRODUCTION

The Disabilities Law Program of the Community Legal Aid Society, Inc. (“CLASI”) serves as the Protection and Advocacy (“P&A”) system in Delaware as designated by the Governor. The P&A systems are federally mandated in each state and territory to provide protection and advocacy for the rights of persons with disabilities through legally- based advocacy. The P&A systems are made up of a number of different federally enabled programs, including those discussed in this document:

- Protection and Advocacy for Individuals with Developmental Disabilities (**PADD**), see 42 U.S.C. § 15041, et seq. and accompanying regulations at 45 C.F.R. § 1326.19 et seq.;
- Protection and Advocacy for Assistive Technology (**PAAT**), 29 USC 3004 et seq.;
- Protection and Advocacy for Individuals with Traumatic Brain Injuries (**PATBI**), see 42 U.S.C.A. § 300d-53;
- and others.

The role of the P&A includes monitoring, investigation of suspected abuse/neglect, training and community outreach, educating policymakers, advocacy and traditional legal practice (including individual and systemic litigation and administrative complaints). Because the demand and need for our services outstrips our resources, we develop annual goals, focus areas (formerly called priorities), and objectives to guide our work.

GOALS, FOCUS AREAS AND OBJECTIVES

I. FOCUS AREA: THE DLP WILL ENSURE THAT PEOPLE DISABILITIES ARE NOT SUBJECT TO DISCRIMINATION AND ARE FULLY INTEGRATED INTO SOCIETY

A. Government benefits and services; public accommodations

PADD GOAL: Effective and non-discriminatory access to publicly funded or regulated health, financial, disability/family support services, transportation, and vocational benefits and services will be assured; access to places of public accommodation and their services will be assured.

PADD PRIORITIES AND OBJECTIVES:

IA1 Protect rights through individual advocacy in at least forty (40) select PADD cases involving barriers to access to publicly funded or regulated health, financial, transportation, disability/family support, and vocational benefits and services, or access to or services from places of public accommodation.

IA2 Consistent with state council requests, prepare written analyses, or prepare/propose revisions, of at least twenty (25) proposed State bills, regulations, and policies with significant impact on publicly funded or regulated health, financial, transportation, family support, vocational benefits and services, or State bills, regulations or policies with significant impact on access to public accommodations, that potentially impact individuals with ID/DD.

PAAT GOAL: The PAAT will secure improved access to AT through Medicaid and other sources of payment and coverage, such as other state agencies; the PAAT will also ensure accessibility for individuals using AT at places of public accommodation.

PAAT PRIORITIES AND OBJECTIVES:

IA1 Protect rights through individual advocacy in at least six (6) select PAAT cases involving barriers to access to AT via publicly funded or regulated health, financial, transportation, disability/family support, and vocational benefits and services, or accessibility barriers at places of public accommodation.

IA2 Collaborate with CDS and State councils to provide analytical assessment of proposed legislative, regulatory, policy, and funding initiatives which facilitate access to or use of appropriate AT. At the request of councils, a minimum of eight (8) non-Federal laws, regulations, policies, and funding initiatives affecting access to AT will be analyzed, with recommendations as appropriate.

PATBI GOAL: The PATBI will advocate for enhanced access to “safety-net” health and financial benefits for persons with TBI and promote access to government programs and services, as well as access to public accommodations.

PATBI PRIORITIES AND OBJECTIVES:

IA1 Provide advocacy services to at least five (5) individuals with TBI facing program eligibility or significant service denials/terminations in “safety-net” health and financial public benefits contexts (e.g., SSI; Medicaid; Food Supplement Program; Veterans’ Benefits and Services) or 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; PATBI will also assist with individuals experiencing barriers to access to places of public accommodation.

IA2 Collaborate with the SCPD Brain Injury and Policy & Law Committees in analyzing 10 State legislation, regulations, Medicaid initiatives, and selected policies with significant effect on access to “safety-net” health and financial benefits and reduce statutory, regulatory, and policy barriers and promote effective constituent access to governmental programs, as well as those that increase accessibility at places of public accommodation.

B. Housing, deinstitutionalization, independent living supports, and autonomy

PADD GOAL: Safe, non-discriminatory, and integrated community -based settings with desired support services, that promote autonomy and self-direction, will be readily available.

PADD PRIORITIES AND OBJECTIVES

IB1- Protect rights through individual advocacy in at least six (6) select cases involving enforcement of laws promoting fair housing and integrated housing; prevention of diversion to restrictive settings; need for appropriate discharge planning and/or transition to community-based settings, access to care or support services including educational services and assistive technology in some contexts; individuals who need access to other independent living supports including developing decision-making documents (including supported decision-making agreements, AHCDs and Powers of Attorney) when needed to promote autonomy, self-direction and prevent guardianship.

IB2: Prepare written analyses of ten (10) proposed State bills, regulations, and policies, referred by state councils, with significant impact on: the availability and integration of support services; the fair housing rights of people with disabilities, the institutionalization of individuals with developmental disabilities and diversion of such individuals to appropriate community-based housing options, and on the provision of other appropriate supports that promote autonomy.

PATBI GOAL: The PATBI will deter inappropriate institutionalization of persons with TBI and promote the availability of appropriate community-based housing options and other supports.

PATBI FOCUS AREAS AND OBJECTIVES:

IB1 The PATBI will provide direct advocacy services to at least three (3) individuals with TBI who have experienced housing discrimination in violation of fair housing laws or who are struggling to access safe, affordable housing options, in collaboration with CLASI's fair housing program; who need access to other independent living supports, including developing decision-making documents (including supported decision-making agreements, AHCDs and Powers of Attorney) when needed to promote autonomy, self-direction and prevent guardianship; or to facilitate appropriate discharge planning and/or transition to community-based settings, access to care or support services including educational services and assistive technology in some contexts.

IB2 The PATBI will collaborate with the SCPD Brain Injury and Policy & Law Committees in analyzing at least three (3) State legislation, regulations, and selected policies with significant effect on the fair housing rights of people with disabilities, institutionalization of individuals with TBI, diversion of persons with TBI to appropriate community-based housing options, and the provision of appropriate supports that promote autonomy.

PAAT GOAL: The PAAT will provide direct advocacy services to at least 2 individuals with TBI who have experienced housing discrimination in violation of fair housing laws or who are struggling to access safe, affordable housing options, or who need access to other independent living supports, and developing decision-making documents (including supported decision-making agreements, AHCDs and Powers of Attorney) when needed to promote autonomy, self-direction and prevent guardianship.

PAAT FOCUS AREAS AND OBJECTIVES:

IB1 In collaboration with CLASI's fair housing program, the PAAT will provide direct advocacy services to at least 2 individuals with AT who have experienced housing discrimination in violation of fair housing laws or who are struggling to access safe, affordable housing options, or who need access to other independent living supports, and developing decision-making documents (including supported decision-making agreements, AHCDs and Powers of Attorney) when needed to promote autonomy, self-direction and prevent guardianship.

II. FREEDOM FROM ABUSE, NEGLECT AND RIGHTS VIOLATIONS

PADD GOAL: Individuals with developmental disabilities in community or residential settings will be free from abuse and neglect and live in healthier, safer, or otherwise improved environments.

PADD PRIORITIES AND OBJECTIVES

II-3: Protect rights of DDDS residential clients through participation in Human Rights and Mortality Review Committees resulting in review and selected revision of at least one hundred (100) individual plans, practices, or policies.

II-4: DLP will conduct at least two (2) of the following: 1) monitor facilities to ensure that individuals with developmental disabilities are free from abuse, neglect and disability rights violations through monitoring activities, 2) encouraging appropriate intervention by state licensing agencies, and 3) screening and investigating on a case-by-case basis, any reported or discovered incidents of neglect, injury, or unexpected death of an individual with a developmental disability, which occurred while receiving services in a facility.

PATBI GOAL: Individuals with traumatic brain injury receiving services from facilities, including schools, will be free from abuse and neglect and live in healthier, safer, or otherwise improved environments.

PATBI PRIORITIES AND OBJECTIVES:

II-4 DLP will conduct at least one (1) of the following: 1) monitor facilities providing services to ensure that individuals with traumatic brain injury are free from abuse, neglect and disability rights violations through monitoring activities, 2) encouraging appropriate intervention by state licensing agencies, and 3) screening and investigating on a case-by-case basis, any reported or discovered incidents of neglect, injury, or unexpected death of an individual with a developmental disability, which occurred while receiving services from a facility.

III. EDUCATION

PADD GOAL: Students will be provided non-discriminatory, high-quality, individualized educational programs resulting in attainment of objectively favorable outcomes commensurate with their potential.

PADD PRIORITIES AND OBJECTIVES

III-1: Evaluate and provide referral, technical assistance, or direct advocacy services in at least fifteen (15) cases when systemic issues are presented, there is actual or proposed expulsion or long-term suspension without alternative education, lack of services poses a significant threat to health or safety, or there is actual or proposed total exclusion from needed direct or related services.

III-3: Prepare written analyses of at least twenty (20) proposed State bills, regulations, and policies with significant impact on special education referred by state councils.

PAAT GOAL: The PAAT will secure timely access to appropriate AT for students with disabilities.

PAAT PRIORITIES AND OBJECTIVES:

III-1: Provide legal assistance to four (4) students experiencing barriers to access to appropriate, important AT devices and services at the preschool, primary, secondary, or post-secondary education levels.

III-2: Collaborate with Center for Disability Studies (“CDS”) and State councils to provide analytical assessment of three (3) proposed legislative, regulatory, and policy initiatives which facilitate access to appropriate AT by students with disabilities enrolled in public and private schools, including access to alternative format materials. At the request of councils, a minimum of 3 laws, regulations, or policies affecting student access to AT will be analyzed, with recommendations as appropriate.

PATBI GOAL: The PATBI will advocate for access to appropriate special education services for students with TBI.

PATBI PRIORITIES AND OBJECTIVES:

III-1 As a result of PATBI intervention, a minimum of 3 students with TBI will secure special education identification or access to FAPE or essential services.

III-3 Through participation in councils and committees, the PATBI will positively influence the development of broader definitions of what constitutes a brain injury for purposes of securing educational services and evaluate Delaware Department of Education efforts to identify and serve students with TBI.

IV. FOCUS AREA: COMMUNITY EDUCATION, TRAINING AND SELF-ADVOCACY

PADD GOAL: The DLP will offer community education, training, and technical assistance for self-advocacy to individuals and groups to promote community integration, accessibility, autonomy, knowledge of rights, understanding of service and support options, and self-direction. The DLP will provide information, referral, and brief technical assistance on disability related topics to soliciting individuals and agencies.

PADD PRIORITIES AND OBJECTIVES:

IV-1: The PADD will provide information, referral, and brief technical assistance to a minimum of 10 soliciting individuals and agencies to promote community integration, accessibility, autonomy, and self-direction.

IV-5: The PADD will offer training on disability-related topics to one thousand persons, through seminars; training events (including LIFE conference); website information; and articles. One thousand persons will receive training through articles, seminars, web- based materials, and other educational activities.

PAAT GOAL: The DLP will offer community education, training, and technical assistance for self-advocacy to individuals and groups to promote community integration, accessibility, autonomy, knowledge of rights, understanding of service and support options, and self-direction. The DLP will provide information, referral, and brief technical assistance on disability related topics to soliciting individuals and agencies.

IV-1: The PAAT will provide information, referral, and brief technical assistance to a minimum of 10 soliciting individuals and agencies to facilitate access to AT.

IV-5: The PAAT will offer training on AT-related topics to one thousand persons, through seminars; training events (including LIFE conference); website information; and articles. One thousand persons will receive training in AT through articles, seminars, web- based materials, and other educational activities.

PATBI GOALS:

The PATBI will educate persons with TBI, their families, and professionals to understand the service needs of persons with TBI, civil rights protections, and sources of supports, and the PATBI will promote TBI prevention and resource options.

PATBI PRIORITIES AND OBJECTIVES:

IV-1 The PATBI will provide technical assistance to at least 10 persons with TBI, their families, and professionals in response to inquiries concerning service needs, civil rights protections, and sources of support for persons with TBI.

IV-2 PATBI will collaborate with the State Council for Persons with Disabilities Brain Injury and Policy & Law Committees in development and/or analysis of at least two (2) pieces of State legislation, regulations, or selected policies with significant effect on TBI prevention and resource options.

IV-5 The PATBI will co-sponsor or support at least 3 training events which provide information on the service needs of persons with TBI, civil rights protections, and sources of supports.

GENERAL STANDARDS AFFECTING 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.