

DISABILITIES LAW PROGRAM
PROPOSED FOCUS AREAS AND CASE ACCEPTANCE STANDARDS
PROTECTION AND ADVOCACY FOR INDIVIDUAL RIGHTS (PAIR)
FY 2024 (10/1/2023-9/30/2024)

INTRODUCTION

The Disabilities Law Program (“DLP”) of the Community Legal Aid Society, Inc. (“CLASI”) provides services to individuals consistent with the Protection & Advocacy for Individual Rights Act, 29 U.S.C. §794(e). This document defines the priorities for FY 2024 (October 1, 2023- September 30, 2024) 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., Protection and Advocacy for Individuals with Mental Illness (“PAIMI”), Protection and Advocacy for Individuals with Developmental Disabilities (“PADD”), and the Client Assistance Programs (“CAP”). 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. The DLP will be the CAP grantee effective 10/1/2023. The DLP will coordinate all programs.

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;
- 4) the DLP Legal Director and Project Director coordinate advocacy across all programs to minimize duplication of effort; and
- 5) DLP staff participate in a number of overlapping councils and other activities, including without limitation: Department of Labor’s Division of Vocational Rehabilitation (“DVR”) advisory council; the State Council for Persons with Disabilities; the State Council for Persons with Disabilities Policy & Law Committee, which acts on the DLP’s monthly analyses of legislative, regulatory, and policy initiatives; 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 or referral;
- 2) DLP staff offers independent training on abuse, neglect, and rights of constituents;

- 3) DLP staff serves on the State Nursing Home Residents Quality Assurance Commission; and
- 4) DLP staff and the Ombudsman's office coordinate trainings and participate in periodic meetings to discuss mutual areas of concern.

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.

GOALS, FOCUS AREAS AND OBJECTIVES

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

A. ACCESS TO FACILITIES, PROGRAMS AND SERVICES

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

PRIORITIES AND OBJECTIVES:

IA1 Provide direct advocacy services to thirty-five (35) individuals experiencing barriers to important 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 Council's requests, seven (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. 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). 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.

B. HOUSING; INDEPENDENT LIVING; AUTONOMY

GOAL: The PAIR program will promote freedom from disability-based discrimination in housing, the reduction of barriers to independent living and autonomy, and will assist with overcoming barriers to community integration.

PRIORITIES AND OBJECTIVES:

IB1 In collaboration with CLASI's fair housing program, the PAIR will provide direct advocacy services to at least twelve (12) individuals 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 (attendant services, home modifications, caregiver services, technology, etc.), 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.

IB2 Consistent with Councils requests, DLP will analyze nine (9) laws, regulations, or policies concerning barriers to housing, community supports, and autonomy, to eliminate or reduce barriers to integration.

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.

II. FOCUS AREA: THE DLP WILL ENSURE THAT INDIVIDUALS WITH DISABILITIES ARE FREE FROM ABUSE AND NEGLECT AND IN THE LEAST RESTRICTIVE SETTING

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

PRIORITIES AND OBJECTIVES

II-1: Protect rights through individual advocacy in at least three (3) select cases involving facilities that serve people with disabilities including correctional facilities, diversion from restrictive settings and/or transition to community-based settings, access to care or support services including educational services and assistive technology in some contexts, and freedom from abuse/neglect.

II-2: Prepare written analyses of four (4) proposed State bills, regulations, and policies with significant impact on the availability, integration, linked support services, and safety of facilities, referred by state councils.

II-4: DLP will conduct at least one (1) of the following: 1) monitor facilities to ensure that individuals with 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 disability, which occurred while residing in a residential services facility.

RATIONALE

Individuals with disabilities in institutional or community-based settings have historically been subjected to abuse, neglect and over-institutionalization. Advocacy will include diversion to community settings, abuse/neglect investigations, complaints to licensing agencies, and monitoring activity to ensure freedom from abuse, neglect, and unnecessary institutionalization.

III. FOCUS AREA: THE PAIR PROGRAM WILL PROMOTE ACCESS TO TRANSPORTATION

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

PRIORITIES AND OBJECTIVES:

IA1 PAIR will provide direct advocacy services to at least two (2) 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.

IA2 PAIR will collaborate with the SCPD to prompt two (2) laws, regulations, or policies to be changed or barriers to transportation be eliminated or reduced, including through:

- 1) consumer-oriented motor vehicle license, operation and parking laws, ordinances, regulations, and policies;
- 2) enhanced access to State subsidized vehicle modifications;
- 3) safety-related transportation laws, regulations, and policies to prevent or reduce injuries to “at risk” individuals with disabilities; and
- 4) improved reliability and quality of Medicaid-funded non-emergency transportation.

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.

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

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.

PRIORITIES AND OBJECTIVES:

IV-1 The PAIR will offer individual technical assistance and information and referral services on substantive disability law (e.g., employment, housing, public benefits) and enforcement options to eighty (80) individuals.

IV-5 The PAIR will offer group training on substantive disability law, enforcement options, and self-advocacy; seminars; website information; articles; and other events. The DLP will provide training to 10,000 individuals through articles, seminars, training events, and dissemination of training materials.

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.

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