

FINAL REDESIGNATION OF THE CONNECTICUT PROTECTION AND ADVOCACY SYSTEM AND CLIENT ASSISTANCE PROGRAM FOR PERSONS WITH DISABILITIES

Federal law requires that a state or territory that establishes programs under the Developmental Disabilities Act (DD Act) must have in place a system to protect and advocate for the civil, human, and legal rights of people with disabilities, 42 U.S.C. § 15041 et. seq. (P&A). Similarly, the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act, mandates that a state must establish a Client Assistance Program (CAP) to assist applicants and individuals eligible to receive services from programs funded under the Rehabilitation Act, 29 U.S.C. § 732 (CAP).

Federal law requires the Governor to designate a state or private agency as the P&A/CAP and provide assurances to the federal government that the agency, among other things, has authority to seek legal, administrative and other appropriate remedies, including remedies against the state, to ensure the protection of the rights of individuals with disabilities in the state, and is independent of any agency that provides treatment, services, or rehabilitation to individuals under the Rehabilitation Act. The designation may be removed (re-designated) only for good cause.

The Connecticut Office of Protection and Advocacy for Persons with Disabilities (OPA), an independent state agency established under Title 46a Chapter 813 of the Connecticut General Statutes, is currently designated as the state's protection and advocacy system. OPA is located at 60B Weston Street Hartford, CT 06120-1551.

As the P&A system, OPA advances the cause of equal rights for persons with disabilities and their families by increasing the ability of individuals, groups and systems to safeguard rights; exposes instances and patterns of discrimination and abuse; seeks individual and systemic remediation when rights are violated; increases public awareness of unjust situations and of means to address them; and empowers people with disabilities and their families to advocate effectively. As the CAP, OPA provides advocacy and representation to applicants and recipients of programs authorized under the Rehabilitation Act, including clients of the vocational rehabilitation service system, specifically the Bureau of Rehabilitation Services (BRS) and Board of Education and Services for the Blind (BESB).

In addition to the Protection and Advocacy for Persons with Developmental Disabilities (PADD) program and the CAP, OPA operates federally-funded P&A programs under the Protection and Advocacy for Individuals with Mental Illness Act, 42 U.S.C. § 10801 (PAIMI); the Rehabilitation Act of 1973, 29 U.S.C. § 794e (PAIR); the Assistive Technology Act of 1998, 29 U.S.C. § 2001 (PAAT); the Beneficiaries of Social Security 42 U.S.C. § 1320b-19 (PABSS); the Help America Vote Act of 2002, 42 U.S.C. § 15301 (PAVA); and the Traumatic Brain Injury Act of 2008, 42 U.S.C. § 300d-51 (PATBI). OPA also has a state-funded Abuse and Investigation Division and a Fatality Review Board established by Governor Rowland's Executive Order 25.

The current priorities of the P&A system and CAP were developed in collaboration with people with disabilities to safeguard and advance the civil and human rights of people with disabilities in Connecticut. They include advocacy in five broad areas:

1. Improved access to community services, and housing for persons with disabilities by increasing awareness about the barriers to full participation for people with disabilities and assisting with claims under the Fair Housing Act and the Americans with Disabilities Act.
2. Safeguard the rights of persons with disabilities living in congregate institutions or at risk of institutionalization.
3. Decrease exposure to abuse and neglect, and restraint and seclusion, by increasing awareness of factors and dynamics that contribute to them, and by pursuing targeted, collaborative initiatives addressing them.
4. Protect educational rights of children with disabilities as mandated by IDEA and Section 504 of the Rehabilitation Act.
5. Educate individuals with disabilities about employment rights, support options and mechanisms to address discrimination; build capacity to provide legal representation for people with disabilities who experience employment discrimination.

Additional details can be found at <http://www.ct.gov/opapd/cwp/view.asp?a=1742&q=292682>.

In 2016 the Connecticut General Assembly mandated that the federal P&A system and CAP should no longer be located within state government and should be operated by a non-profit entity as of July 1, 2017 when the OPA will be abolished by law. On January 20, 2017, the Governor issued a Notice of Intent to Re-designate the Protection and Advocacy System and Client Advocacy Program. In issuing this Notice, the Governor determined that it is in the interest of individuals with disabilities residing in Connecticut to re-designate the P&A and CAP.

The Office of Policy and Management received public comment on this proposed re-designation and conducted a public hearing on March 10, 2017. The public hearing took place at the Department of Transportation, 2800 Berlin Turnpike Newington, CT and offered teleconferencing availability.

Having received public comment and conducted a public hearing, the Governor has determined that he will designate a non-profit entity Disability Rights Connecticut (DRCT) to serve as the new P&A and CAP, effective July 1, 2017. DRCT has been properly established as a non-profit corporation under the laws of this state and has obtained the approval of the federal Internal Revenue Service to operate as a tax exempt charity under section 501(c)(3) of the Internal Revenue Code. This designation is consistent with the national trend for P&A/CAP systems and will support the system's independence in advocating on behalf of individuals with disabilities.

There is good cause for the re-designation as it:

- enhances protection and advocacy for persons with disabilities and their families;
- eliminates any perceived conflict of interest associated with the current placement of the P&A in state government;
- allows the P&A greater independence in personnel and other administrative matters, and facilitates compliance with federal requirements in these areas;
- promotes compliance with federal law related to governing authority composition; and
- allows the P&A to be more flexible with current resources and to explore financial resources for which those programs currently do not qualify.

Disability Rights Connecticut will operate all of the P&A/CAP programs offered under federal law and will continue to serve existing clients and cases currently pending with OPA or refer them to other sources of legal advocacy as appropriate, without disruption. DRCT will serve as the new P&A/CAP system as of July 1, 2017.

The Governor has simultaneously with this final redesignation, provided notice to the Connecticut Office of Protection and Advocacy for Persons with Disabilities as the existing P&A and CAP.