



OHIO LEGAL RIGHTS SERVICE . . . for people with disabilities

PROGRAMMATIC PRIORITIES for Federal Fiscal Year (FFY) 2010

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The following priorities will guide the Ohio Legal Rights Service (LRS) as it provides legal advocacy for eligible clients in federal fiscal year 2010 (October 1, 2009 to September 30, 2010). Development of priorities on the agency's work is required by law in the Protection and Advocacy (P&A) programs administered by LRS under the Developmental Disabilities Act (PADD); the Protection and Advocacy for Individuals with Mental Illness Act (PAIMI); and the Rehabilitation Act of 1973 (PAIR).

This is the third year LRS has used these broad themes for case acceptance and systemic outreach. Initial ongoing discussion with, and input from, people with disabilities, their families, and other advocates, as well as the experienced staff at LRS led to their development in FFY 2008. They have been reviewed by the PAIMI Advisory Council and the LRS Commission, as required by federal law. For FFY 2009, public comment was obtained through a survey that was widely distributed, both on paper and via the Internet, in which over 85% of the over 950 respondents indicated support for LRS' ongoing work in these areas.

Starting this year, LRS will launch a new round of outreach to people with disabilities, their families, and advocates, to reevaluate the legal advocacy needs of people with disabilities. For FFY 11, some work that was begun will be continued; other directions may be suggested for LRS' work.

This document will also guide the agency's work in other programs. This includes our work with the P&A programs for assistive technology (PAAT), people with a brain injury (PATBI), and beneficiaries of Social Security (PABSS); the Client Assistance Program (CAP); the Ombudsman Section; and the Work Incentive Planning and Assistance program (WIPA). As an example, work under CAP, PABSS, WIPA, PAIR, and to some degree PATBI and PAAT, will be coordinated to help people with disabilities who want to maintain or return to employment. New initiatives for LRS, such as investigation of representative payees at the direction of the Social Security Administration, also compliment that work.

In addition, LRS will work with voters with disabilities to ensure voting rights under the Protection & Advocacy for Voting Access (PAVA) program. This work will include direct representation of voters who are discriminated against in registration or voting and systemic activity intended to improve accessibility to polling places.

As required by federal law, LRS will implement these priorities through individual and systemic activity, including the pursuit of administrative, legal, and other appropriate remedies. LRS will also monitor, evaluate, and comment on the development and implementation of federal, state, and local laws and regulations that affect people with disabilities. In appropriate cases, LRS staff will inform and educate lawmakers on the impact of proposed legislation on people with disabilities.

In addition to the activities set out in the priorities, LRS will provide information and referral and other short term assistance in all areas of disability law through its now fully operational intake department. This includes short term counsel and advice by lawyers and disability rights advocates. It is LRS' policy to provide such assistance, even when limited resources preclude direct representation.

Finally, LRS will continue to expand its communication with people with disabilities and their families through the LRS web site and publications and its collaboration with the Ohio Developmental Disabilities Council in publication of the DDQuarterly.

Theme: Access to Courts /Criminal Justice

Activities:

- Represent people with disabilities who claim discrimination or denial of needed accommodations in prison or jails.
- Represent people with disabilities who have been denied psychiatric treatment or services in prisons or jails, and collaborate with legal services and justice advocates to improve re-entry services for prisoners with disabilities.
- Develop materials, including legal strategies, related to mental health courts, particularly fairness of plea bargain structure; continue involvement in Supreme Court Advisory Committee on Mental Illness and the Courts.
- Based on involvement in Supreme Court Advisory Committee Subcommittee on Adult Guardianship, develop information for people with disabilities related to guardianship proceedings and potential changes in the law and court rules.
- Continue collaboration with juvenile court officials and the Ohio Judicial College to provide information and education to court personnel on the IDEA rights of children.
- Continue to work with legal services, the state bar association, and other advocacy organizations to ensure right to adequate counsel in proceedings affecting fundamental rights, such as child custody and guardianship, including direct representation or amicus support in cases that will advance such a right.

Theme: Children

Activities:

- In collaboration with Advocates for Basic Legal Equality, prosecute the case of *G.D. v Lumpkin* to successful settlement or judgment to ensure the rights of Ohio's children with disabilities to necessary medical services under the Medicaid Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program.
- After successful defense in the Sixth Circuit of the preliminary injunction, continue prosecuting the case of *Pleas v. Lumpkin* to ensure that children who need Medicaid funded intensive behavioral services and community mental health services are provided those services that will enable them to live safely in their homes and communities.
- Investigate issues affecting children aging out of foster care, and represent people with disabilities in appropriate cases where violations result in a denial of necessary services or place the person at risk of undue segregation in order to receive services.
- Represent people with disabilities who have been denied appropriate planning and services for transition to higher education or work by local schools or state education and Vocational Rehabilitation (VR) officials, including client financial contribution issues for individuals in the VR system.
- Prosecute through mediation, settlement, or trial to judgment, the case of *Doe v. State of Ohio* to ensure proper monitoring and enforcement of the IDEA by the Ohio Department of Education, and the appropriate and adequate funding of special education services in Ohio schools.
- Identify district wide failures to comply with Child Find requirements, and represent children in that district to remedy the violation.
- Under IDEA, represent within available resources children who have been denied a FAPE, particularly where:
 - the child is denied FAPE due to expulsion or suspension where the child's behavior is a manifestation of the child's disability and there is a lack of appropriate behavioral supports.
 - the child is at significant risk of entering the juvenile justice system due to the failure of the district to identify the child as eligible for services and provide a FAPE, or without appropriate evaluation or notice, determines the child is no longer eligible for IDEA services.
- Represent children and, in appropriate cases associated friends and family members, where a school district has discriminated against or failed to accommodate them in violation of the Constitution, Section 504 of the Rehabilitation Act, or the Americans with Disabilities Act.

Theme: Abuse and Neglect

Activities:

- Investigate and resolve complaints and other reports of abuse, neglect or exploitation in facilities or by community providers, especially
 - abuse or neglect that results from restraint, including chemical restraint, or seclusion
 - use of force, including patterns of TASER use, by law enforcement in clinical settings
 - facilities serving children where data indicates increased use of restraint
 - restraint of children in educational settings

- Continue systemic advocacy with state and local educational officials to obtain necessary regulation of use by educational officials of restraint and seclusion of children in educational setting. Monitor implementation of the Governor's Executive Order on elimination of prone restraint in fourteen state departments.

- Investigate and resolve complaints and other reports related to lack of specialized services in long-term care or residential treatment facilities.

- Represent people with disabilities where facility policies, patterns, or practices create a threat of loss of life or significant risks to their health and safety

- Provide representation where needed services through Medicaid are denied, including but not limited to
 - durable medical equipment
 - adequate waiver reimbursement under the individual options waiver, as implemented through the "DDP" calculation, shared service mandates, and other proposed changes in waivers
 - services for children covered by the Medicaid EPSDT program

Theme: Community Integration

Activities:

- Investigate and represent in select cases where the person with a disability is placed in a nursing facility against the person's will where services are being provided to the person in a setting that is not the most integrated appropriate to the person's needs, or where a person with a disability is at risk of institutionalization because of a lack of community based services.
- Represent people with disabilities in select cases where they have been denied access to needed housing or accommodations because of discrimination, or where the denial of housing will otherwise place the person at risk of institutionalization.
- Represent people with disabilities who are improperly denied access to a Home and Community-Based (HCBS) waiver; threatened with changes in funding / reimbursement or level of care; improperly denied county board services or eligibility; or where other issues place the person at risk of institutionalization.
- Represent people with disabilities who are discriminated against in receipt of public accommodations (Americans with Disabilities Act [ADA] Title III), or provision of services by state or local government (ADA Title II, § 504).

Theme: Employment

Activities:

- Represent people with disabilities who have been denied appropriate planning and services for transition to higher education or work by local schools or state education and Vocational Rehabilitation (VR) officials, including denial of tuition assistance for individuals in the VR system.
- Investigate systemic pattern and practices by VR authorities that discriminate against people based on the type or severity of disability, particularly where people with intellectual or psychiatric disabilities are denied services, and represent in select cases.
- Represent people with disabilities who are discriminated against in seeking employment when the person is seeking to return to work and, where resources allow, other people with disabilities who allege discrimination in maintaining employment.
- Represent people with disabilities who are employed in sheltered / segregated settings when a more integrated setting would be appropriate to their needs.
- Represent people with disabilities where financial exploitation by a representative payee occurs.
- Represent people with disabilities who seek to manage Medicaid or Social Security benefits to allow them to return to work.
- Participate in the Medicaid Buy In Advisory Committee, as required by statute, and work with other advocacy groups to ensure that return to work initiatives are fully implemented in Ohio.

Theme: Self Advocates / Peer Support

Activities:

- In conjunction with the PAIMI Advisory Council and the statewide advocacy groups, develop materials for and work to develop and train networks of peer support services in the community mental health and veterans' systems.
- Collaborate with self advocate and peer advocate groups to develop materials on the role of self - advocacy in developmental disabilities and mental health systems, including institutions, community boards, and veterans' services.
- Develop protocols for referrals from and technical support to advocacy programs, including education and outreach opportunities.