

FINAL REDESIGNATION OF THE NEW YORK PROTECTION AND ADVOCACY SYSTEM AND CLIENT ASSISTANCE PROGRAM FOR PEOPLE 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 system). Similarly, the Rehabilitation Act of 1973 mandates that a state must establish a client assistance program (CAP) to assist individuals who apply for or receive vocational rehabilitation or independent living services under the act, 29 U.S.C. § 732 (CAP).

The designation may be removed (redesignated) only for good cause. Within 30 days after the redesignation becomes effective, the Governor must submit an assurance that the newly designated Protection and Advocacy agency meets the requirements of the statute and the regulations.

The Commission on Quality of Care and Advocacy for Persons with Disabilities (“CQCAPD”), a state agency established under Article 45 of the Mental Hygiene Law, is designated as both the P&A system and the CAP. CQCAPD is located at 401 State Street, Schenectady, New York 12305.

As the P&A system, CQCAPD provides advocacy to residents of New York State who have a physical or mental condition that substantially limits at least one major life activity and who fall within the agency's priorities and case selection criteria as determined through the priority setting process each year. CQCAPD serves individuals with a wide range of disabilities – including, but not limited to, those with cognitive, mental, sensory, and physical disabilities – by protecting against abuse and neglect; advocating for civil rights; and ensuring accountability in access to and the delivery of services to persons with disabilities in health care, education, employment, housing and transportation, and within the juvenile and criminal justice systems. CQCAPD maintains a presence in facilities that provide care for and services to people with disabilities, where they monitor, investigate and attempt to remedy adverse conditions.

As the CAP, CQCAPD provides advocacy to people who are applying for or receiving vocational rehabilitation services or services from an independent living center, as well as providing information on rights under Title I of the Americans with Disabilities Act.

In addition to the Protection and Advocacy for Persons with Developmental Disabilities (PADD) program and the CAP, CQCAPD 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 Ticket to Work Act for Beneficiaries of Social Security Disability, 42 U.S.C. § 1320b-21 (PABSS); the Assistive Technology Act of 1998, 29 U.S.C. § 3004 (PAAT); the Help America Vote Act of 2002, 42 U.S.C. § 15461 (PAVA); and the Traumatic Brain Injury Act of 2008, 42 U.S.C. § 300d-53 (PATBI).

The goals of the P&A system and CAP were developed in collaboration with people with disabilities and other interested parties. They include advocacy in six broad areas:

- Protection from abuse, harm and neglect;
- Protection of the educational rights of children and adults by ensuring the provision of disability related services and vocational rehabilitation, consistent with state and federal laws;
- Effective life transitions and supports that promote community inclusion and prevent institutionalization;

- Full range of services for community integration and access to quality, inclusive community living choices, integrated and competitive employment and adult education, voting, access to assistive technology and public and private health care and health care insurance; and
- Provision of information, referrals, outreach and education that promote individual rights, remedies, policy development and systems change.

More detailed information can be found at <http://cqc.ny.gov/advocacy/protection-advocacy-programs>.

On February 15, 2013, the Governor issued a Notice of Intent to Redesignate the Protection and Advocacy System and Client Advocacy Program. In issuing this Notice, the Governor determined that it is in the interest of New Yorkers with disabilities to redesignate the P&A and CAP.

The Governor's Office received public comment on this proposed redesignation until April 5, 2013, and conducted a public hearing on the proposed redesignation on April 9, 2013. The public hearing took place at Empire State Plaza, Albany, New York, with regional videoconference locations in Binghamton, Syracuse, Rochester, Thiells, Commack, New York City, Tupper Lake, and West Seneca, New York.

Having received public comment and conducted a public hearing, the Governor has determined that he will designate a not-for-profit corporation, Disability Advocates, Inc. (DAI), as the P&A and CAP, effective June 1, 2013. DAI has been properly established as a not-for-profit corporation under the laws of this state, 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, and is registered as a charitable corporation with the Office of the Attorney General of the State of New York.

Redesignation:

- supports a more coordinated and consistent statewide P&A/CAP system;
- 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 and CAP in state government;
- allows the P&A and CAP to be more flexible with current resources and to explore financial resources for which those programs do not qualify;
- allows the P&A and CAP greater independence in personnel and other administrative matters, and facilitates compliance with federal requirements in these areas; and
- is consistent with the provisions of the Protection of People with Special Needs Act.

DAI will do business as Disability Rights New York (DRNY) and will operate all of the P&A/CAP programs authorized under federal law. DRNY will continue to serve existing clients and cases of the current P&A system or refer them to other sources of legal advocacy as appropriate, without disruption.

Larry Schwartz, Secretary to the Governor

Date