

# **DisabilityRights**



## **ARKANSAS**

Protection and Advocacy and Client Assistance Program  
Services in the 2<sup>nd</sup> Congressional District  
Fiscal Year 2018

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## BACKGROUND

**DISABILITY RIGHTS ARKANSAS (DRA)** is a private, non-profit agency located in Little Rock, Arkansas. Since 1977, the Governor of Arkansas has designated DRA the independent Protection and Advocacy system for persons with disabilities in Arkansas. DRA operates under authority outlined in federal law, is funded primarily by the federal government, and is governed by a board of directors. DRA collaborates with other disability rights and civil rights organizations, service agencies, the private bar and legal services to accomplish identified goals and objectives.

### **Protection & Advocacy for Individuals with Mental Illness (PAIMI)**

PAIMI serves individuals with a diagnosis of serious mental illness. PAIMI prioritizes services to individuals receiving care and treatment in a facility, and has a mandate to investigate complaints of neglect and abuse. See the Protection and Advocacy for Individuals with Mental Illness Act of 1986, as amended, 42 U.S.C. § 10801 *et seq.*

### **Protection & Advocacy for Individuals with Developmental Disabilities (PADD)**

PADD serves individuals with developmental disabilities, including intellectual disabilities, autism, epilepsy, cerebral palsy and neurological impairments. A developmental disability is a mental or physical impairment beginning before the age of 22, which is likely to continue indefinitely, limits certain major life activities, and reflects a need for special care, treatment and/or individualized planning. See the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. § 15001, *et seq.*

### **Client Assistance Program (CAP)**

CAP assists individuals with disabilities who have questions or who have encountered problems while applying for or receiving vocational rehabilitation (VR) services from state VR agencies. CAP also advocates for those who receive services from independent living centers (ILCs), the Division of Services for the Blind (DSB), and for those applying for or receiving services from tribal VR offices. See the Rehabilitation Act of 1973, as amended, Title I, Part B, Sec. 112, 29 U.S.C. § 732.

### **Protection & Advocacy of Individual Rights (PAIR)**

PAIR serves individuals with disabilities who do not qualify for the protection and advocacy services described above. It is not limited to individuals with a specific disability or facing a certain issue. See the Protection and Advocacy of Individual Rights Program of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794e.

### **Protection & Advocacy for Assistive Technology (PAAT)**

PAAT serves individuals with disabilities with issues related to assistive technology devices and services. This includes investigating the denial of, and negotiating access to, assistive technology devices and services, as well as educational outreach efforts. See the Assistive Technology Act of 2004, 29 U.S.C. § 3004.

### **Protection & Advocacy for Beneficiaries of Social Security (PABSS)**

PABSS serves individuals with disabilities who receive Social Security Disability Insurance (SSDI) or Supplementary Security Income (SSI) and who are trying to return to work, obtain employment, or receive certain employment-related training and services. PABSS educates beneficiaries about Social Security's work incentives, and provides vocational rehabilitation and employment services advice.

Additionally, PABSS assists beneficiaries with understanding their rights regarding representative payees. See the Ticket to Work and Work Incentives Improvement Act of 1999, as amended, 42 U.S.C. § 1320b-21.

**Protection & Advocacy for Traumatic Brain Injury (PATBI)**

PATBI serves individuals diagnosed with a traumatic brain injury (TBI). PATBI provides advocacy support to individuals with TBI and their families. See the Traumatic Brain Injury Act, authorized as part of the Children’s Health Act of 2000, 42 U.S.C. § 300d-53.

**Protection & Advocacy for Voting Access (PAVA)**

PAVA educates and assists individuals with disabilities so they may enjoy full participation in the electoral process. These efforts include ensuring physical accessibility of polling places and informing individuals about the rights of voters with disabilities. See the Protection and Advocacy for Voting Access program of the Help America Vote Act of 2002, 42 U.S.C. § 15461-15462.

**CLIENTS**

The United States Census Bureau’s 2017 American Community Survey indicates the 2<sup>nd</sup> District’s total population is estimated to be 765,193, with a civilian, noninstitutionalized population of 755,696. Of that 755,696 total, 132,676 (17.5%) have a disability. In FY2018 (October 1, 2017-September 30, 2018), DRA received 440 service requests from the 2<sup>nd</sup> District, or an average of 37 service requests per month.

**Clients by Age**

While DRA assisted every age demographic in the district, the table below shows that 31.3% of service requests were for clients under the age of 20 and 24.6% of requests were for those ages 55 or older.

<b>Age Group</b>	<b>Number of Service Requests</b>	<b>Percentage</b>
<b>Unknown</b>	4	0.9%
<b>4 and Under</b>	6	1.3%
<b>5-9 Years</b>	33	7.5%
<b>10-14 Years</b>	54	12.3%
<b>15-19 Years</b>	41	9.3%
<b>20-24 Years</b>	26	5.9%
<b>25-34 Years</b>	46	10.4%
<b>35-44 Years</b>	61	13.9%
<b>45-54 Years</b>	61	13.9%
<b>55-59 Years</b>	40	9.1%
<b>60-64 Years</b>	25	5.7%
<b>65 or Older</b>	43	9.8%

## Clients by Underrepresented Groups

DRA seeks to provide services to underrepresented groups in our state. The following chart compares race and ethnicity demographics for the entire 2<sup>nd</sup> Congressional District with that of DRA's requests for services in the 2<sup>nd</sup> Congressional District.

Race	Estimate	As Percentage	DRA SR's	As Percentage
<b>Total Population</b>	765,193	---	---	---
<b>One Race</b>	745,536	97.4%	---	---
<b>White</b>	540,475	70.6%	228	51.8%
<b>Black or African American</b>	175,520	22.9%	179	40.7%
<b>American Indian and Alaska Native</b>	1786	0.23%	1	0.2%
<b>Asian</b>	12,811	1.7%	0	---
<b>Native Hawaiian and Other Pacific Islander</b>	402	0.05%	3	0.7%
<b>Unknown or Some other race</b>	14,542	1.9%	22	5%
<b>Two or more races</b>	19,657	2.6%	7	1.6%

## SERVICE REQUESTS

DRA received 440 requests for services in FY2018 from residents of the 2<sup>nd</sup> Congressional District. The charts below show the distribution of the requests by grant funding and by priority. The "none" category represents requests for services that did not fall into one of the established priority areas; requests that do not meet a priority are still provided assistance, but usually will be provided with information and referral services rather than case-level advocacy.

### Service Requests by Program

Program Funding Source	CAP	PAAT	PABSS	PADD	PAIMI	PAIR	PATBI	PAVA
<b>Count of Service Requests</b>	27	10	13	91	93	197	9	0

### Priority Areas Covered by Service Requests

Priority Area	Count of Service Requests
<b>Abuse, Neglect, and Exploitation</b>	51
<b>Community Integration</b>	47
<b>Access</b>	66
<b>Education</b>	81
<b>Employment</b>	68
<b>None</b>	127

Service Requests in the 2<sup>nd</sup> Congressional District reflect the most common problem areas to be education, employment, and issues involving access (architectural barriers, interpreters for the deaf,

etc.). DRA also continues to receive numerous calls related to housing, government benefits and services, and abuse, neglect, and exploitation. Information and assistance is provided to clients wanting to return to work and clients wanting to leave institutional settings to live in the community. DRA monitors for abuse and neglect at facilities housing individuals with disabilities, and continues to be a primary resource for parents/guardians requesting assistance with special education issues.

Whenever possible, DRA seeks to inform and educate clients so they may effectively self-advocate. In addition to empowering an individual to resolve issues for themselves, this serves to make the relationship between the client and the other party less adversarial than when a third party intervenes, and also is a means for DRA to serve more individuals with fewer resources.

### **Service Requests Specific to the 2nd District**

**Example 1:** A Disability Rights Arkansas (DRA) advocate investigated an incident of reported abuse at a juvenile assessment and treatment facility; the individual involved was 16-year-old male diagnosed with emotional disturbance, attention deficit hyperactivity disorder, bipolar disorder, and oppositional defiant disorder. A staff member of the facility allegedly entered the room where the client was lying in the top bunk of a bed to transfer him to an isolation area. The client stated he refused to move off of the top bunk, whereupon the staff person pulled him off the bunk, causing him to hit his brow on the opposite bunk. DRA investigated the incident, which included watching videos of the event and interviewing staff. The advocate determined that the technique used to remove the client from the top bunk caused his injury. The staff person was subsequently terminated, and the remaining staff in the unit underwent retraining.

**Example 2:** An adolescent was denied a residential treatment placement after several referrals from acute treatment facilities. The client was unstable and unable to live at home with his mother. A DRA attorney submitted a Medicaid appeal on behalf of the client. In the meantime, the attorney communicated with the client's public defender and his Family in Need of Services (FINS) probation officer regarding treatment options for the client, and submitted a letter to the court in the client's FINS case regarding the status of the client's appeal. The court, which had previously ordered the client to a Civilian Student Training Program (CSTP), a military-style program that does not offer any mental health treatment, subsequently closed the FINS case. While waiting for Medicaid approval for residential treatment, the client had several acute stays and a sub-acute stay. Twice during those stays, the facilities reported child abandonment by the mother because she disagreed with the discharge dates. The sub-acute facility attempted to administratively discharge the client back home after acknowledging that he was in need in residential treatment. DRA worked with the Arkansas Department of Health (ADH), the Arkansas Department of Human Services, Division of Aging, Adult, and Behavioral Health (DAABH), and the Arkansas Department of Human Services, Division of Children and Family Services (DCFS) to address the attempt to administratively discharge the client without an appropriate discharge plan. DRA investigated and found that the facility was neglectful in its attempt to administratively discharge the client. DCFS also found that the mother had not abandoned the client and that the facility had an obligation to treat him. The facility continued to treat the client until he was transferred to a residential program. DRA sent a formal letter to the CEO of the sub-acute facility with findings and recommendations. Before the Medicaid appeal hearing could occur, Medicaid approved the client for residential treatment and he was ultimately admitted, thereby rendering the client's appeal moot.

**Example 3:** A client diagnosed with major depressive disorder and PTSD was in a residential treatment facility when her therapist contacted DRA regarding the adolescent client. The client had a guardian who had been emotionally abusive (in the therapist's opinion) and who had not visited the adolescent since she had been admitted to the facility several months prior. The biological mother, who had previously voluntarily agreed to the guardianship due to her inability to care for the adolescent, had become stable and wanted guardianship of the adolescent back. A DRA attorney worked with the therapist, the guardian, and the biological mother, who all agreed that the guardianship should be terminated and the adolescent returned to the care of her biological mother. In preparation for this, the biological mother participated in family sessions with the adolescent. Due to the concerns about the biological mother's past, the DRA attorney contacted the Division of Children and Family Services (DCFS) and, with the biological mother's consent, requested that DCFS open up a voluntary supportive services case. DCFS opened a case and agreed to provide services to keep the biological mother and the adolescent together. The DRA attorney also filed a joint motion to terminate the guardianship. The court granted the motion and the adolescent was returned to the care of her mother with supports in place.

**Example 4:** A client with PTSD was denied access to a local Family Dollar store because the manager insisted that Family Dollar's policy required documentation that the client's dog was a service animal. A DRA attorney wrote a formal letter of complaint to the Family Dollar corporate office. The corporate office's legal department contacted the DRA attorney and provided a written response in which Family Dollar provided assurances that its policies are in compliance with the Americans with Disabilities Act (ADA), and stated that it was retraining the staff at the location where the incident occurred and taking appropriate disciplinary action against the store manager who forced the client to leave the store.

**Example 5:** A parent contacted DRA for assistance with an issue involving their daughter being placed in a therapeutic day treatment program, in response to the student being involved in an altercation. A DRA attorney filed a state complaint on the student's behalf, alleging a failure on the part of the school district to implement the student's individual education plan (IEP), including a behavior intervention plan (BIP) and a transition (from high school) plan. The Arkansas Department of Education (ADE) investigated the complaint, and found that the school district had failed to adequately implement the student's IEP. The ADE ordered the school district to develop a new IEP for the student, as well as provide training to school staff on the student's BIP.

**Example 6:** DRA investigated a complaint regarding materials blocking the accessible ramp and sidewalk outside a McDonald's restaurant located on a major thoroughfare in Little Rock. DRA made the restaurant management aware of the accessibility issues, and they subsequently removed the objects obstructing the pathway to the accessible entrance to ensure sufficient space for wheelchair/mobility device access.

**Example 7:** A client contacted DRA about signing a lease agreement with an apartment complex, then finding out they did not have adequate accessible parking. In negotiating this issue with the complex on his own, the client was offered accommodations that would involve him incurring a cost for parking. Once DRA advocated on his behalf, the client was released from the 12-month lease and was refunded his deposit, which was a satisfactory outcome for him.

**Example 8:** DRA represented a client in a Client Assistance Program (CAP) case when Arkansas Rehabilitation Services (ARS) refused to provide assistance for the client in obtaining her bachelor's degree, based on the fact that she was already employed. DRA prevailed in an administrative review of

the client's case, and the client subsequently was able to receive assistance with educational expenses, including assistive technology, from ARS.

**Example 9:** A client had been working with the Division of Services for the Blind (DSB) on a plan for self-employment. The client requested additional computer training from DSB to allow her to develop a website to grow her business. When her DSB counselor refused to authorize continued computer training and related transportation expenses, DRA filed for an administrative review on her behalf. In response to the administrative review, DSB agreed to pay for the client to attend computer training as well as provide accommodations and transportation for the client.

**Example 10:** An elderly client reported that a newly built community center complex was inaccessible. The city had placed two accessible parking spaces around the side of the building by a door that remained locked. The main entrance is located at the front corner of the other side of the building. It was reported that elderly patrons had been injured trying to get around the building and that some had to discontinue using the community center due to the lack of accessibility. A DRA attorney reached out to the city's attorney regarding the issues with ADA compliance at the complex. After the city's attorney stopped responding to DRA, the DRA attorney mailed a formal letter of complaint to the city's manager. The city's attorney immediately responded. The city subsequently added four new accessible parking spaces to the front lot, closest to the main entrance. DRA followed up by visiting the complex and ensuring the slope from the parking spots to the main entrance and the main entrance doors were ADA compliant.

**Example 11:** A client diagnosed with schizoaffective disorder and cancer sought DRA's assistance with employment discrimination. Her complaint concerned her request to take five to ten days off work to implement a new medication regimen designed to combat the anxiety that arose as a result of her recent cancer diagnosis. The client was told that she could take this time off and keep her job; however, when the client contacted her supervisor about returning to work, she first did not get a response, then was told that she no longer had a position and that her employment record indicated she had quit her job. The client also had filed a complaint about being harassed by a coworker that the employer had not investigated. DRA provided legal advice to the client about her options, to include writing to her employer regarding her return to work and the lack of contact from her supervisor about this, as well as the possibility of filing an EEOC charge. The client wrote a letter to her employer, which resulted in a resolution of the client's employment complaints, including the client returning to work at a mutually agreed work site and receiving 10 weeks of back pay for the time that she was not allowed to return to work. Additionally, the supervisor who refused to let the client return to work lost her job with the employer.

## PROJECTS

### **Systemic Issues**

DRA participated in the State's Youth Reform Board, which has advocated for legislative changes that promote more community-based services in lieu of secure residential treatment. This board played an important role in initiating systemic change to address problems related to the confinement and treatment of youth in the state's juvenile justice system, a number of whom have mental illness or serious emotional disorders. DRA met regularly with the state Division of Youth Services (DYS) officials,

collaborated with the juvenile public defender ombudsman, monitored secure juvenile treatment facilities, and sought correction by DYS of problematic conditions related to facilities and treatment. The collective efforts of DRA and other stakeholders led to the State bringing in several national experts to assess treatment facilities and policies, and to make recommendations for change that included, among other things, closing at least two of the secure facilities with demonstrated records of problematic conditions.

DRA continued to participate in a task force created to address the need for reform of the juvenile justice system in Arkansas. DRA was particularly interested in the task force addressing the following: living conditions in several facilities, a lack of adequate treatment, including mental health and educational services, abuse and neglect that occur in these facilities, and the school-to-prison pipeline. Several member organizations, including DRA, Arkansas Advocates for Children and Families, and the Division of Youth Services, collaborated to strategize and present a united front on these major issues. This collaboration is continuing into FY2019.

DRA has been reviewing the issues with the Provider-Led Arkansas Shared Savings Entity (PASSE), both current and prospective. PASSE is the new service delivery system for people who receive ID/DD and behavioral health services in the state, and is a managed care system. Currently, DRA is accepting cases for individuals who disagree with their tier assignment resulting from the Arkansas Independent Assessment (ARIA). So far, DRA has handled seven cases for individuals who dispute whether the ARIA correctly assigned them to Tier 2. In doing so, DRA was able to obtain all of the scoring logic and algorithms necessary to validate the individuals' responses. In every case, DRA found that the ARIA questions were either incorrectly explained to the respondents or the respondents' responses were incorrectly recorded. In every case, DRA concluded that the individuals evaluated by the ARIA should have been assigned to Tier 3. Two of the seven cases are still pending, but in the five other cases, the individuals have been voluntarily reassessed and, with a better understanding of the questions, have been re-determined as requiring a Tier 3 assignment. DRA anticipates the remaining cases will be no different.

Following two years of monitoring and information gathering, DRA published a report entitled, "Sheltered Workshops in Arkansas: Moving from Segregated Work to Integrated Employment" in March 2018. This report summarized the findings of the agency's sheltered workshop monitoring efforts and provided recommendations for increasing competitive, integrated employment in Arkansas. DRA presented the report at the state Association of People Supporting Employment First (APSE) conference and discussed issues raised in the report with policy makers and others.

With assistance from the Employment First State Leadership Mentoring Program (EFSLMP), a project of the U.S. Department of Labor's Office of Disability Employment Policy, Arkansas is developing a strategic plan aimed at moving the state toward more robust employment first practices. DRA participated in the initial planning meetings, which have discussed priorities for the strategic plan, to include: emphasizing the development of potential employers, transitioning students from high school to adult services, and addressing funding issues. The EFSLMP group will reconvene throughout 2019.

DRA staff conducted accessibility surveys at 1,110, or 90%, of the polling sites in Arkansas. The results of these surveys were collected and letters were sent to county clerks and county election commissioners to notify them of any deficiencies. The information gathered was also used to prepare a public report about the issue, which was released in the first quarter of FY2019.

## **Coalition Building**

DRA is a part of the Developmental Disabilities Network, along with Partners for Inclusive Communities (Partners) and the Governor's Council on Developmental Disabilities (GCDD), which continues to collaborate on issues impacting the developmental disabilities community in Arkansas. One such collaborative effort resulted in the Self-Advocacy Network Development (SAND) initiative. A self-advocate coordinator was hired for this initiative, with a goal to develop a strong self-advocacy network in Arkansas. DRA also partners with other groups, including the Arkansas Waiver Association (AWA) and the Arkansas Autism Resource and Outreach Center (AAROC) to discuss issues impacting the disability community in Arkansas and how like-minded agencies can collaborate to address those issues.

## **Veterans' Issues**

DRA continues to be a primary sponsor of an annual conference for brain injury survivors under the PATBI grant, in collaboration with post-acute TBI rehabilitation programs and the Arkansas Trauma Rehabilitation Program (ATRP). This conference is designed specifically for people who have sustained brain injuries, their family members, and their caregivers, and focuses on various aspects of healing and recovery. The purpose of the conference is to build a strong self-advocacy and support system within the TBI community. While few of the conference attendees are veterans, the conference sponsors continue to look for ways to reach out to veterans and let them know about both this conference and monthly TBI support group meetings held around the state.

We hope this report has been beneficial in providing an overview of our programs and services. Please don't hesitate to reach out to us if we can answer any questions or provide you with further information about our work.

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