

DISABILITIES RIGHTS CENTER
STATEMENT of GOALS/PRIORITIES and OBJECTIVES/STRATEGIES
For October 2007—September 2010
Including 10/07—9/08 Annual Goals/Priorities

PART A: INTRODUCTION

Background and Purpose

The Disabilities Rights Center, Inc. (DRC) on a periodic basis reviews its goals, priorities and activities to determine what changes are needed. The DRC is the federally designated protection and advocacy system (P & A) for New Hampshire, and its federal grantors (funders) require that it set priorities. For example, the Developmental Disabilities Assistance and Bill of Rights Act, requires that each P & A “develop, submit to the Secretary [of USHHS], and take action with regard to goals...and priorities, developed through data driven strategic planning.” 42 USC 15043(a)(2)(C). Guidelines issued by the Secretary state that the “objectives and priorities should reflect the general purpose of the [Act]”, which specifically includes promoting “increased independence, productivity and integration into the community...[of people with developmental disabilities].” DRC federal grantors are:

- Protection and Advocacy for Persons with Developmental Disabilities (PADD) (above mentioned)--This was the original P & A grant, dating back to the mid 1970s;
- Protection and Advocacy for Persons with Mental Illness (PAIMI);
- Protection and Advocacy for Individual Rights (PAIR) - to cover all other Persons with disabilities;
- Protection and Advocacy for Traumatic Brain injury (PATBI);
- Protection and Advocacy for Assistive Technology (PAAT) - Small grant to do assistive technology advocacy primarily on system change level;
- Protection and Advocacy for beneficiaries of Social Security concerning employment issues (PABSS); and
- Protection and Advocacy for Help America Vote Act (PAVA)--To address barriers individuals with disabilities face in federal elections. Most recent grant; begun in 2003.

A priority process is, of course, essential for any organization, but particularly for one like DRC in which the resources it receives are not nearly enough to provide individual advocacy for all eligible individuals in the state. It is estimated that 200,000 to 250,000 individuals have a disability in New Hampshire, and it is highly likely that most have legal or related issues pertaining to their disability arising from the actions or inactions of others. Because of the challenges presented by limited resources and based on the mandates and guidance from DRC's federal grantors, DRC has adopted a multi-faceted approach to advocacy on behalf of and with people with disabilities. DRC offers not only traditional forms of advocacy, such as legal advice and representation, but also information and referral, short term assistance, systemic, legislative and other policy work, outreach, community and public education, much of which is done in

*BS & FR mean brief service and full representation respectively (and hereinafter will sometimes just be referred to as “direct advocacy”).

collaboration with consumers and other advocacy, professional, and government organizations. This approach enables the DRC to maximize its resources in order to have a positive and significant impact for as many people as possible, including individuals who are unaware of DRC or who are unable to directly contact DRC. This approach is also consistent with the principle that to bring forward significant and long-lasting change, it is necessary to use multiple methods.

In short, the function of the Statement of Goals/Priorities and Objectives/Strategies? As indicated, because DRC has limited resources and cannot serve all individuals with disabilities or address every disability-related issue, the function is to help determine what issues, as well as strategies and activities, should have the highest priority. Concomitantly, the process and statement also define DRC's case acceptance policy. By cases, we mean the types of short-term assistance, full representation and systemic cases DRC will handle. The case selection policy is set out in Part C, below.

Method

The goals/priorities and objectives/strategies were developed with these principles in mind, which was further reinforced by the feedback received during the nearly 6-month goal/priority setting process DRC engaged in for this planning. With regard to that process specifically, DRC used a combination of methods to arrive at these goals/priorities and objectives/strategies.

The following were conducted by the DRC:

- Two regional forums, in Conway and Manchester
- DRC Input Survey of clients
- Analysis of client database of the previous year
- Analysis of DRC Client Satisfaction surveys
- DRC Leadership Focus Group
- Needs Assessments done by other groups
- DRC Special Project Teams' input
- Federal Program Performance Reports
- PAIMI Advisory Council input
- DRC Board and staff input, prior to, at, and after the October, 2007 two day retreat at Waterville Valley

The DRC Board approved this Statement at its January, 2008 Board meeting. The actual statement, which is contained in Part B, is divided into six broad goal or focus areas. However, for operational purposes, the goals were divided into the following six focus areas:

- I. Rights Of People With Disabilities To Choice, Self-Determination, And To Be Free From Coercion, Undue Exercise Of Control, Abuse And Neglect, Inappropriate Restraint And Seclusion, And Other Harm;

- II. Access To, Or Discrimination In, Public Accommodations, Transportation, Government And Government Funded Services, Including Voting And Assistive Technology;
- III. Access To Necessary Services, Including Health Care In The Least Restrictive, Most Integrated Environment;
- IV. Access To Quality Education And Comprehensive And Coordinated Provision Of Other Quality Services To Enable Children With Disabilities To Lead Healthy, Independent And Productive Lives;
- V. PABBS/Employment Goals and Advancing The Rights Of People With Disabilities To Obtain Employment Opportunities Of Their Choice; and,
- VI. Outreach, Self-Advocacy, Public Education, Collaboration, and Diversity Goals

Caveats

This is a statement or a plan about the future. Like all such statements, it is a projection or guide rather than a precise prescription of what DRC may end up doing. In approving this, the Board expressed the principle that the statement or plan, as well as the case acceptance policy, should be applied flexibly. For example, while there are certain priorities or strategies that are expressly contingent on resources being available, in some sense that is a condition that underlies the plan generally. At any given time a small nonprofit agency like DRC may have to further refine its priorities, based on funding cutbacks or unforeseen or emergent issues or increased demands in critical areas. Any one goal, or even objective, could consume most, if not all, of the resources of DRC; so, there is a constant need to re-evaluate and adjust. On the other hand, there may be situations in which goals and priorities are accomplished earlier or with less effort than expected, which would free up personnel to do the resource -contingent priorities or take on issues not listed. The key principle here is flexibility, though as much as possible, it is DRC's intention to work diligently on the goals and strategies in this statement.

Key Terms

Focus Areas—These are the six areas that DRC will focus on over the next three years. They are designated by Roman Numerals, I-VI. They are very much all-inclusive of the disability-related issues people with disabilities face and cover areas that DRC and other P & A's traditionally focus on. While DRC's federal grantors give much discretion to the P & A's to decide on specific priorities, the general subjects in this Statement are generally required areas of focus by one or more of the federal grants. Generally DRC will not accept cases or perform work outside of these areas, but where possible will provide a referral to persons seeking assistance in other areas.

Goals or Priorities—These are what they seem to be--goals and priorities of the organization. They are designated with upper case letters, A, B, C, etc. These statements too cover a lot of important ground. It is projected that the vast majority of DRC's work will be on these goals and priorities.

Objectives or Strategies—These are designed to achieve or contribute to the achievement of the goals/priorities. They are designated with numbers, 1, 2, 3, etc, and in some cases broken down further into a, b, c (etc.) and even further into i, ii, iii, etc.

Direct Advocacy, including full representation—Direct advocacy as used at DRC generally consists of providing advice to an individual specific to his or her matter, short term assistance or brief service, or full representation in which the client formally retains DRC and signs a retainer agreement. As to the provision of advice, while there is no bright line between that service and information and referral, advice tends to be very specific to the person’s matter. It should provide sufficient guidance to allow the person to make a decision on whether or how to pursue all or a portion of the matter that he or she is calling about. Information, while covering the subject the person is calling about, tends to be far more general. Whether and what cases are accepted for full representation versus other forms of direct advocacy is within DRC’s discretion, but guided by this and by our case selection policy set out in Part C. That policy is based in large part on the goals/priorities objectives/strategies set out immediately below in Part B.

PADD, PAIMI, PAIR, PATBI, PAAT, PABSS, PAVA—These are acronyms for DRC’s federal grant programs. Their full names and a brief description of each is provided on page one. For more information on each, see www.napas.org. You will note that each goal/priority in Part B, below, has assigned to it one or more of these federal acronyms. This means that the goal or priority is applicable to the programs specified. For example the applicable federal programs for I(B)—“Strive to end abuse and neglect for people with disabilities”—is PADD, PAIMI, PAIR, and PATBI. This is because it is very likely that persons in each group covered by these grants may be or will be subject to abuse and neglect and DRC will be taking action as it has in the past. If that is in fact the case we will also be utilizing funds from each of the four grants or fewer if in fact one or more groups end up not benefiting from DRC’s efforts, an outcome which is highly unlikely.

Other—Abbreviations or Acronyms – See Part D.

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Note: Because this is a three-year plan, unless specified otherwise, the intention is that each goal and strategy will be worked on and/or accomplished over three years. Many are designated for specific years, e.g. year 2 or 3. However, where a year is not specified, the intention is that approximately one third of the work would be done each year, e.g. taking approximately 5 cases on a certain issue per year, where the overall goal is 15.

PART B: GOALS/PRIORITIES & OBJECTIVES/STRATEGIES

For October 2007—September 2010

Rights Of Persons With Disabilities To Be Free From Abuse And Neglect, Inappropriate Restraint And Seclusion, And Other Harm

- A. Monitor and review any changes in laws, regulations and policies to safeguard against infringements or cutbacks in the above specified and related rights. (PADD, PAIMI, PAIR, PATBI)**

B. Advocate to prevent abuse and neglect against people with disabilities. (PADD, PAIMI, PAIR, PATBI)

1. Resources permitting, collect and review data, trends and qualitative information (including investigation reports and corrective plans), to more precisely determine (a) the trends and scope of abuse/neglect, (b) how effectively responsible agencies are preventing/addressing it, (c) what strategies DRC or others should develop and implement to remedy the failures of system(s) to address/prevent abuse and neglect, beyond those in the next subsection.
2. Through the SB 138 Committee (relative to the DHHS—Area Agency system) and through other mechanisms (relative to other systems), advocate for:
 - (a) more independent and better quality investigations and quality assurance/enhancement mechanisms in regard to abuse and neglect against individuals with disabilities receiving services from the state.
 - (b) more effective system(s) to ensure that immediate protective services are put in place while an investigation is pending and permanent corrective actions are carried out.
3. Provide direct advocacy, and where necessary, investigate incidents of abuse and neglect against individuals with disabilities, perform secondary investigations, and make sure that protective services are in place while investigations are pending.
4. Monitor implementation of newly established adult registry, advocate for legislation to implement recommendations of the December 2006 Central Registry report which permits adult providers limited access to the DCYF registry and vice versa.
5. Continue membership on the Long-Term Care Ombudsman task force and SB 138 Committee on Quality Assurance, and Incapacitated Adult Fatality Review Committee.

C. Strive to end inappropriate use of restraint and seclusion. (PADD, PAIMI, PAIR, PATBI)

1. Provide direct advocacy (BS & FR)* in at least 8-12 restraint and seclusion cases at NHH and Philbrook. This would include use of chemical restraint. This could be either by DRC and/or other counsel. Refer others (and assist in the referral where necessary) to state complaint/investigation systems and review outcome.
2. Provide direct advocacy in restraint and seclusion cases in private facilities housing people with disabilities, including full representation.
3. Advocate for elimination of unnecessary and inappropriate use of handcuffs and shackles during transport of persons with mental illness in connection with an Involuntary Emergency Admission or Commitment.
4. Provide direct advocacy in at least 3-5 restraint and seclusion cases against school districts, including full representation by DRC and/or with other counsel. Refer others to NH Dept. of Education (DOE) or other appropriate complaint system(s) and review outcome.

5. Track reports to DRC from Center for Medicaid and Medicare Services of deaths related to seclusion and restraint and take action, if necessary. Inform providers of their reporting obligations.

D. Address bias and stigma against people with mental illness amongst the courts, lawyers, DCYF, CMHCs and related institutions in family law, custody and visitation matters. (PAIMI)

1. By participation in Access for Justice Commission
2. Continued collaboration with the NH Bar Pro Bono program and NH Legal Assistance.
3. Assisting clients where possible with respect to complaints.

-II-

Discrimination in Public Accommodations, Transportation, Government and Government Funded Services, and Voting And Access to Assistive Technology

A. DRC will address discriminatory architectural and program barriers in public services¹ and public accommodations,² and especially town halls and other municipal buildings, under Title II and III, respectively, of the ADA and other relevant federal and state law. (PADD, PAIMI, PAIR, PATBI, PAAT, PAVA)

1. Educate people with disabilities and entities providing public accommodations or public services, and their associations (e.g. businesses, chambers of commerce, Main Street programs, hospital & municipal associations) relative to legal obligations and methods to accommodate individuals with disabilities, including by continuing a multi-faceted approach to include television programming, brochures, articles, training as well as awards and other forms of recognition.
2. DRC, through **direct advocacy**, address discriminatory physical and program access barriers in public services³ and in public accommodations⁴ under Title II and III, respectively, of the ADA and other relevant federal and state law. Direct advocacy shall include:
 - a. brief service and full representation on at least 8-12 individual cases and 2-4 impact cases if needed, including enforcement of accessibility provisions of state building codes if HB 1571 passes.⁵

¹In addition to state, local and county government agencies, entities that provide public services include public transportation services, state post-secondary education in state colleges and state technical colleges in NH.

² Examples of public accommodations are businesses, professional offices, entertainment facilities, daycare centers, private schools, colleges, private transportation companies and private hospitals.

³See note 1.

⁴See note 2.

⁵HB 1571 gives DRC authority to bring enforcement actions in its own name to enforce accessibility provisions of state building codes, which are at least as stringent as the ADA.

b. In developing and implementing strategies for A1 and A2, consider, as applicable:

(1) The need and desirability for statewide-level-initiatives (e.g. focusing on 2-3 associations) and local-level initiatives (e.g. focusing on 2-3 Main Street communities).

(2) Resources permitting, consider addressing some or all of the following issues unique to particular disabilities:

- Accessibility to telecommunication systems, internet, and private carrier systems like UPS and Federal Express.
- Confusing applications and devices, and other auxiliary aids for deaf and hard of hearing persons, process for SS and other benefits or services
- Need for interpreters, assistive listening to include assistive listening devices in emergency rooms and individualized amplifying systems at theatres, etc. and signs so indicating; WMUR doing more real-time teleprompting on 11:00 pm news; the need for state issued badges or cards for deaf and hard of hearing persons so that they may let others know of their communication needs especially in emergency or high stakes situations; and the obligation of law enforcement to provide interpreters when needed.

B. DRC through advocacy and other strategies will strive to ensure full participation of people with disabilities in the electoral process. (PAVA, PADD, PAIMI, PAIR, PATBI)

1. Address issues with regard to the voting machines that the State of NH selected, both with regard to the need for improved training of poll workers and the appropriateness and legality of the machines, e.g. the fact that they do not guarantee voting selection confidentiality, particularly in small towns.
2. DRC in collaboration with other groups (e.g. Secretary of State and groups mentioned in II(A)(1), above), should continue to have a role in the education, training and assistance to people with disabilities to promote their participation in the electoral process, to include education on voter registration, actual voting and their legal rights pertaining to voting, and tips to overcoming anxieties or fears about the actual acts of registration and voting. Options will continue to include a direct role, a collaborative role, encouraging other groups to take lead role, or a trainer to trainer model.
3. Continue to participate in the coalition overseen by the Secretary of State to address barriers that people with disabilities encounter in the registration and voting process.
4. If resources permit, and in collaboration with other organizations, participate in the training of election officials, poll workers and election volunteers.
5. Handle any
 - a. Cases in which it appears that a Probate court unjustifiably took away a person's right to vote.

- b. Cases in which election or other government officials deprived or discouraged someone from voting.
 - c. As resources permit, undertake administrative appeals representation for voters with disabilities who use the administrative complaint procedure regarding HAVA or other voting rights violations.
6. In collaboration with other groups, develop solutions to ensure that persons with disabilities can access transportation to the polls, where it is needed.

C. Advocate for ensuring availability of assistive technology (AT) and services to children and adults with disabilities who require it. (PAAT, PADD, PAIR, PATBI)

- 1. In addition to the AT related priorities under removing architectural barriers (section A, above), voting (section B, above), and services to persons with developmental disabilities (section III(H)(4)), and employment (section (V(D))), DRC will engage in the priorities set forth below.
- 2. Provision of direct advocacy, handling at least 2-4 brief service or full representation cases per year in this area.
- 3. Engage in outreach and training strategies to potential users of AT both to encourage individuals to contact DRC when they need DRC's services as well to enable people to successfully advocate for needed assistive technology devices and services.

D. To address discrimination in and the need for accessible and affordable transportation, DRC shall: (PADD, PAIR, PATBI)

- 1. Provide advice, short-term assistance and full representation as needed to individuals whose rights to transportation are being denied because of their disability, including if a case came in disability discrimination by auto rental company .
- 2. In collaboration with other groups advocate for a regional consortium approach to transportation which is user friendly, accessible, and comprehensive and particularly enables people with disabilities to access work and community like all citizens.
- 3. Review existing local and state government public transportation structure to determine whether changes are needed to ensure priorities in this section are met, e.g. the establishment of a state level agency, authority or coordinating council with necessary and appropriate responsibilities and consider advocating for those changes, e.g. through a change in legislation.
- 4. Both with regard to existing public transportation and transportation that goes on line in the future, in collaboration with other groups, promote widespread use of transportation by:
 - a. Ensuring that responsible and appropriate entities on the state and local level (e.g. the Manchester Transit Authority) engage in effective publicity and outreach activities.
 - b. DRC and/or other groups engage in reinforcing and ancillary publicity and outreach activities.

c. To help overcome anxiety and fear about using transportation, get appropriate authorities and entities to:

- (1) Ensure that accommodations necessary to accommodate physical, sensory or intellectual disabilities be easy to use, highly accessible, continuously functioning and welcoming.
 - (2) Provide training to transportation personnel so that they are knowledgeable about using the equipment referenced in (c)(1) and that they customer-friendly and welcoming towards individuals with disabilities.
 - (3) Ensure that the publicity and outreach efforts in 4(a) and (b) convey a welcoming and inviting message and how easy it is to use the transportation system.
5. Consider the need to re-establish more grass roots group advocacy to get localities, regions/counties, and/or state to act in improving transportation.
6. In all of these activities a priority should be toward rural areas of the state that have less transportation currently.

E. Continue membership and participation in the Commission on the Deaf and Hard of Hearing, Statewide Independent Living Council, and Disability Law Committee of the Bar. (PAAT, PADD, PAIR, PATBI, PAIMI)

-III-

Access To Necessary Services, Including Health Care In The Least Restrictive, Most Integrated Environment/Community

A. Monitor and review changes to service delivery system, regulations, rights, and funding to determine the impact on people with disabilities, and advocate accordingly, particularly in areas that pertain to the goals and priorities of this section. (PADD, PAIMI, PATBI, PAAT, PABSS)

PERSONS WITH MENTAL ILLNESS

B. In order to (i) prevent unnecessary admissions to and reduce unduly lengthy stays at New Hampshire Hospital (and possibly other restrictive/institutional settings, such as nursing homes or NHH transition housing), (ii) ensure access to appropriate community-based supports and services in home communities or communities of choice, and (iii) provide opportunities for self-improvement, independence and community integration, the DRC shall: (PAIMI)

1. Advocate for the implementation of strong and comprehensive Olmstead Plan or equivalent initiative(s) (beginning in 3 months) and/or
2. Determine the viability and scope of systemic strategy to increase and improve community based services, including independent and supported housing, clinical and other supports and services in accord with best or emerging best practices, the principles

of choice, self-determination and independence, freedom from abuse, neglect, coercion, and exploitation. (in 6 months.) In this process identify, consider, and/or prioritize factors such as:

- a. Disincentives or rigid reimbursement schemes.
- b. The extent to which categories of services are missing from some, many, or all areas of state agencies, e.g. services to treat PTSD.
- c. Whether there should be a focus on certain populations are e.g. children, adults, elder adults.
- d. Adequacy of provider rates to attract well-qualified providers.

If viable, initiate such systemic litigation in 12 months.

3. Alternatively or in addition:

- a. advocate for legislation which will cap length of mental commitment, promote voluntary admission/services, strengthen least restrictive alternative requirement in mental commitments.
- b. Advocate for enhanced training or certification of attorneys handling mental commitments.
- c. Handle 4-8 mental commitments per year.

C. To promote choice and control by mental health consumers DRC will: (PAIMI)

1. Handle 4-8 brief service or full representation cases which advocate for putting of choice of service provider and/or case manager in the hands of the consumer.
2. Handle a minimum of 1-2 brief service or full representation cases per year which enables mental health consumers to change or eliminate representative payee
3. Handle a minimum of 2-4 other cases per year which raise other choice and control issues such as overly controlling conditional discharges (CD's) or CD process.
4. Advocate for policy changes which:
 - a. Give mental health consumers choice of service providers and service coordinators
 - b. Eliminate conditional discharges (CDs) or significantly reduce the controlling nature of CD's and shorten length of mental commitments per B(3)(a), above.
 - c. Prohibits a service provider or case manager from being a person's representative payee.
5. Resources and opportunities permitting (in addition to individual representation), to the extent medical and mental health system overuses medication in lieu of other more appropriate therapies or services, engage in systemic change advocacy to correct the problem. Overuse could be use of medication when not needed, excessively high dosages, ill advised polypharmacy.

D. To promote provision of high quality services, DRC will handle 2-4 brief service and full representation cases per year advocating for right to quality services in accordance with needs and wishes of the clients. (PAIMI)

E. Continue to disseminate user-friendly information pamphlets informing individuals of their rights relative to mental health system and services. (PAIMI)

F. If funding becomes available, provide training to consumers and other stakeholders on how to exercise their rights relative to the mental health system and services. (PAIMI)

G. Continue membership on the State Mental Health Commission and the DHHS Children and Adult Mental Health Planning Advisory Committee. (PAIMI)

PERSONS WITH DEVELOPMENTAL DISABILITIES

H. Monitor, and advocate on a systemic and policy level for full implementation of SB 138, An Act Amending RSA 171-A relative to the waitlist for services and improving service quality, by: (PADD, PATBI, PAIR)

1. Advocating for necessary policy/legislative changes to ensure implementation of wage, benefits and workforce recommendation of the SB 138 committee as well as related changes that DRC determines are necessary and feasible.
2. Through the SB 138 Committee (or other means as necessary) advocate for changes to improve the DHHS-Area Agency (AA) Quality Enhancement and Assurance systems and remedy the monopolistic nature of the Area Agency system.
3. Monitor Legislative Waitlist Oversight Committee's activities to ensure that he committee carries out their new SB 138 duties.
4. Monitor and make sure AAs carry out their new responsibilities regarding Assistive Technology Evaluations. (Year 2 and 3)
5. Monitor and make sure that DHHS-AA system implement the new waitlist provisions of SB138 when they become fully mandatory in July 2010. Beginning year 3.
6. Advocate that, where needed, DHHS regulations, other policies, and contracts incorporate or reflect SB 138 requirements. (in six months)

I. Provide direct advocacy in at least 4-8 cases per year (brief service and full representation) which advocate for employment or other high quality needed service supports or opportunities for persons with developmental disabilities or which relate to or advance issues in H above. (PADD)

J. Make changes to DRC information pamphlets to reflect recent changes to DHHS regulations relative to AA services and SB 138 and disseminate them. (PADD, PATBI)

K. If funding becomes available, provide systematic training to consumers and families as to how to access high quality services employment or other meaningful or rewarding opportunities, year 2 and 3. (PADD)

L. Continue membership in the DD Policy Group and the DD Council, SB 138 committee, ABLE-NH, a newly established NH affiliate of ARC-US. (PADD, PATBI)

PERSONS WITH TRAUMATIC AND OTHER BRAIN INJURIES

M. Carry out all SB 138 activities listed in H, above, with regard to persons on Acquired Brain Injury Waiver (ABI) waiver. (PATBI)

N. Develop an arrangement with NH Brain Injury Association (BIA) to provide their client neuro-resource facilitators and case managers (once and if they begin doing independent case management) technical assistance in carrying out their activities and to receive referrals to ensure that the clients involved are fully protected. (PATBI, PAIR)

O. To ensure that students with brain injury are identified when they need special education services, by: (PATBI, PAIR)

1. Handling brief service or full representation cases in which school district are unjustifiably refusing or failing to identify child a child as having a traumatic or acquired brain injury and/or utilize special education pro bono attorneys to handle these cases.
2. Explore with BIA, and develop and implement accordingly, a systemic strategy which will address the under-identification of children with brain injury as needing special education services, giving consideration to:
 - a. Changing statutes or regulations to require that school health screening include screening for brain injury and criteria for referral for special education evaluations;
 - b. Enacting or changing current law, protocol, or practice to promote or require referrals by health facilities as part of discharge and discharge planning of a child who suffered brain injury to the special education department of the child's school district.

P. Provide direct advocacy in 5-10 cases (if contacted) in which the client on ABD wavier is being denied individualized, quality services and individual.

Q. DRC staff will continue membership on the NH Brain Injury Association Board. (PATBI, PAIR)

Cross Cutting Issues

R. With regard to people with developmental disabilities, traumatic brain injury or other disabilities who are hospitalized or institutionalized in inappropriate settings for behavioral reasons, provide direct advocacy in a minimum of 4-6 cases. (PADD, PAIMI, PAIR, PATBI)

S. Advocate for system change and through direct case work improved services from state (and as needed private sector, including insurers), for persons with dual or multiple diagnoses such as mental illness and drug or alcohol addiction, TBI, and/or DD. In developing and implementing systemic strategies include consideration of: (PADD, PAIMI, PAIR, PATBI)

1. Advocating for improved, more comprehensive and flexible services from CMHCs to

respond to persons with dual or multiple diagnoses.

2. Better interagency agreements and arrangements on paper and in reality between relevant points of responsibilities, e.g. Area Agencies and CMHC
3. Increased choice for consumer to choose providers outside the state supervised systems.

T. Advocate for policies and practices to ensure that children and adults with disabilities have access to quality health care, i.e. acute, disability-related care, dental care (for adults), through information and referral and direct advocacy, and resources permitting, systemic advocacy. This could include addressing shortage of health providers willing to take Medicaid. (PADD, PAIMI, PAIR, PATBI, PAAT)

U. To address discrimination in and the need for accessible and affordable housing, DRC shall: (PADD, PAIMI, PAIR, PATBI, PAAT)

1. Provide advice, short-term assistance and full representation as needed to individuals whose rights to housing are being obstructed because of their disability.
2. Resources permitting, work with stakeholders, educate policy makers and communicate with the public to develop policies, practices, initiatives that will result in more safe, affordable, decent and accessible housing for individuals with disabilities. Year 2
3. Access additional resources for DRC to develop and implement strategies to increase affordable and accessible housing for people with disabilities. year 2 A strategy to consider is to select 1-2 communities and work with local consumers, other stakeholders, developers, banks and local and state officials, to increase the number of affordable, decent and accessible housing units for individuals with disabilities in those communities. This could be followed or accompanied by training individuals with disabilities or other advocates to initiate efforts in up to 6 other communities and provide back-up support.

V. Continue membership in the Medical Care Advisory Committee to HHS. (PADD, PAIMI, PAIR, PATBI, PAAT)

ISSUES CONCERNING CORRECTIONS SYSTEMS AND DISABILITIES

W. Provide (1) direct advocacy in cases involving failure of the state prisons or jails to accommodate individuals with physical or sensory disabilities in their programs and services, including the provision of full representation, (2) *direct advocacy or referral to other attorneys on substantial or egregious and clear cut cases of denials of essential medical or mental health care, not covered by Laaman enforcement.* (PAIMI, PADD, PAIR, PATBI, PAAT)

X. Consider addressing any systemic special education issues at NH State Prison and County Jails pertaining to enforcement of HB 766. (PADD, PAIMI, PAIR)

Y. Resources permitting and in collaboration with NAMI, Consumer Council, and NHPD, NHLA and others, as appropriate consider, develop and implement strategies to address one or both of the following (year 2 or 3): (PAIMI, PADD, PATBI, PAIR)

1. Adequacy of parole planning and transition of parolees with disabilities to the community.
2. The need to improve training of law enforcement when interacting and determining appropriate approach to persons with mental illness with the goal of (a) preventing escalation of problematic behavior or de-escalating such behavior and (b) promoting non criminal approaches, solutions or dispositions, whenever appropriate.

-IV-

Access To Quality Education in Least Restrictive Environment (LRE) and other Comprehensive, Coordinated Quality Services To Enable Children With Disabilities To Lead Healthy, Independent And Productive Lives⁶

A. Get state and school districts (and where needed USDOE) to fulfill their responsibilities (1) to close the achievement, graduation, and drop out gaps between students with disabilities and all other students (2) to address unnecessary and unjustified suspensions, expulsions, diversions to the JJ system, out of district placements, and or constructively forced home schooling, alternative school placements, or other exclusionary school practices (3) and to otherwise ensure that students with disabilities make excellent progress on relevant performance and outcome measures. (PADD, PAIMI, PAIR, PATBI, PAAT, PABSS)

1. Implement Strategies to get NH state government/state educations agency (NHDOE) to carry out its responsibilities for oversight, supervision, and monitoring over school districts to ensure that all children receive FAPE and an adequate education in the LRE as required by IDEA, other federal law (e.g. NCLB) and/or state law (to include Claremont). (12-15 months.)

a. Refine non-litigation strategies depending on whether state HB 679 and HB 766 passes. (within 3 months and ongoing thereafter.)

b. Determine and develop contingent strategies, including work plan (within 4 months.)

c. With regard to strategies in (a) and (b), consider or determine:

(1) To what extent individual school districts need to be targeted;

(2) The involvement of USDOE as a partner, enforcing authority, or target;

(3) With whom DRC should collaborate or partner to obtain added resources, leverage and/or expertise.

d. Continue to explore additional funding to carry out this goal.

2. Monitor implementation of legislation that came out of the Stiles special education task force, of which DRC was a member, specifically HB 661 (enacted in 07, HBs 679 and 766, passed House, awaiting Senate action). In addition to the strengthened DOE monitoring responsibilities that are covered in Strategy 1 above, pay particular attention, and as needed,

⁶ This is the only section that applies exclusively to children (up to 21). All the other sections of this document apply to both children and adults.

ensure implementation through collaborative activities, individual case work and/or advocacy or systematic strategies in the following areas:

- a. HB 661 Executive Commission's charge to address education personnel shortages and training and competencies in provision of education to children with disabilities. (Beginning Jan 2008 and ongoing thereafter.)
- b. Interagency coordination and implementation of services required by HB 766 and related laws and standards. (After passage and ongoing thereafter.)
- c. Local school district capacity building provisions in HB 766. (primarily contingent on additional funding to DRC) (One year and thereafter)
- d. Contingent primarily on additional funding, provision of special education in NHSP and county jails in accordance with HB 766 and other laws and standards.
- e. Principally through case work and Special Education Pro Bono program, ensure that schools are adhering to amended extended year and day program provisions of HB 766 and other laws and standards.
- f. Principally through DRC GAL work, and through training, support and consultation to CASA and public defenders ensure that HB 679 changes and related pre-existing laws in Abuse and Neglect, CHINS and Delinquency statutes concerning children with disabilities are being implemented, particularly in regard to the interface of special education and these laws.

B. Revise brief service and case acceptance guidelines in this focus area (by March 1 and further as needed) to handle approximately 20-40 brief service or full representation cases⁷ each year, prioritizing the following subject areas (many of which are interrelated):

1. Matters which raise issues under (A)(1) and (2), above.
2. Inclusion
3. Quality instruction in classroom; best practices in an inclusion and/or universal design framework
4. positive behavior supports or PBIS
5. Advocacy against restraint and seclusion
6. Advocacy against suspension and expulsion
7. Assistive technology
8. Transition and Graduation
9. Misidentifying children with TBI and ABI as LD, ED etc. and not or mis-identifying children with emotional disorders as learning disabled
10. Matters which demonstrate IDEA and Claremont definition of education as including more than academics.

C. Contingent upon additional funding, in the graduation and transition services area, research and develop in technical-legal format and in a user friendly format for dissemination (e.g. a Q and A) for use by parents, professionals, officials and others:

⁷ A revision decreasing these targeted numbers may be needed if DRC were to institute major omnibus, systemic or class action strategy per IV(A)(1), unless substantially more funding was obtained.

1. An analysis of the standards and processes for graduation of students with disabilities in NH and the role of transition.
2. What changes may be needed to ensure that students with disabilities upon graduation have earned all required credits, have acquired needed competencies and skills, have and are receiving appropriate transition services, and are graduating based on their own wishes, needs, education-legal standards, and not based on the fiat of the local school district. An analysis and recommendations would also be included with respect to current practices, legality and desirability of tiered graduation diplomas/certificates.

Timeframes: Casework ongoing; analysis and recommendations (contingent on funding) completed within 15-18 months. If needed implementation of systemic strategies (legislative, administrative, and/or litigation) 18 to 24 months.

Note: Where needed project done in collaboration with other stakeholder groups.

D. Contingent on additional funding or by encouraging other group(s) taking the lead or a primary role, institute a medium or long-term public education campaign, addressing one or more of the following: (PADD, PAIMI, PAIR, PATBI)

1. Achievement and other gaps and between students with disabilities and other students and reasons therefore and consequences to children and society.
2. Educating the public that students with disabilities with high quality teaching and supports have capacities to learn, perform well, become productive and independent citizens, etc.
3. Debunking the myth of special education funding and specifically that school districts have shouldered virtually all of the funding themselves.

E. With the NH Bar Association Pro Bono program, increase the number of special education pro bono attorneys by 25%, emphasizing expansion in previously unserved or underserved areas, such as the North Country; and promote the increase of the percentage of attorneys in private bar (in or outside the pro bono program) to handle due process cases on behalf of parents. (24 months) (PADD, PAIMI, PAIR, PATBI, PAAT)

G. Continue membership on or participation in: (PADD, PAIMI, PAIR, PATBI, PAAT)

1. Statewide Advisory Council to the DOE
2. DD Council and subcommittees
3. Special Education Pro Bono Initiative
4. Suicide Prevention Council, once established
5. Manchester-based Dropout Prevention Group

PABSS⁸/Employment Goals
Advancing The Rights Of People With Disabilities To Obtain Employment
Opportunities Of Their Choice

A. Carry out responsibilities under the PABSS grant, including: (PABSS)

1. Providing advice, short term assistance, and full representation on selected cases to beneficiaries seeking rehabilitation, employment and other support services from employment networks and other service providers. This includes assuring that beneficiaries receive appropriate training from qualified providers of their choice and maintain health coverage when employed, including through the MEAD program.
2. Investigate and review complaints of improper or inadequate services provided to a beneficiary by a service provider, employer or other entity involved in the beneficiary's return to work effort.
3. Provide information and referrals to Social Security Beneficiaries with disabilities about work incentives and employment including:
 - a. Information on the type of services and assistance that may be available to assist beneficiaries in securing or regaining gainful employment.
 - b. Information and technical assistance on work incentives to individuals, attorneys, government agencies, employment networks and other services, providers and advocacy organizations.
4. Provide consultation to and representation of beneficiaries when such services become necessary to protect the rights of such beneficiaries, when the issue is directly related to employment issues.
5. Provide education and training to beneficiaries of Social Security and the community providers who are in a position to inform beneficiaries about PABSS.
6. Provide information and referral and brief service assistance on overpayment cases.

B. Address issues in the area of vocational rehabilitation issues. (1, 2, 3, 4 contingent on additional funding; 5 partially so) (PABSS, PADD, PAIMI, PAIR)

1. Both in hard copy and electronically, develop, maintain, and publicize an entitlement, services and resources directory aimed primarily at consumers of VR and other employment related agency and providers informing them of all their rights, options, services, and what funding is available; and conversely what VR (and other agencies) responsibilities are. (This could be part of or the first stage of a resources directory referenced in Section VI below.)

⁸ PABSS stands for Protection and Advocacy for Beneficiaries of Social Security.

2. Where there is overlapping responsibilities between VR and schools systems, area agencies, community mental health centers, Ticket to Work vendors, and other agencies, (a) analyze and chart how the hierarchy or order of responsibilities to the consumer by law and in practice (within 6 months of receipt of funding) and (b) determine and advocate for needed changes in law or practice or both. (within 12 months of receipt of such funding.)
3. Examine training and certification requirements of VR counselors and supervisors to determine whether the requirements are sufficient to ensure the commitment and competencies to address needs of persons with mental illness, developmental or other long term disabilities (within 6 months of receipt of funding); and (b) advocate for needed changes in law or practice or both. (within 12 months of receipt of funding).
4. Identify illegal practices at VR regarding application denial or delays waitlists generally, denial or inadequate services to certain populations and develop litigation or non-litigation strategies.
5. Handle as brief service or full representation 2-3 cases per year (up to and including due process) in subjects covered by B 1, 2, or 3 above with current funding, and more cases (the number to be determined) if additional funding were obtained through an arrangement with Governor's Commission on Disabilities/CAP or through other means.

C. Address employment discrimination to which individuals with disabilities have been subjected. (PABSS, PADD, PAIMI, PAIR)

1. Disseminate rights and informational material.
2. Design and deliver training for consumers concerning their rights and how to exercise them. beginning during year 2.
3. To the extent resources allow and in collaboration with other groups taking the lead, launch a public education campaign promoting employment of people with disabilities. Could be part of general public education described in Section VI, below. year 2
4. Continue to handle primarily through short term assistance employment discrimination cases by providing advice on how to file EEOC and HRC complaints
5. Handle no more than 1-2 full representation cases per year, referring rest out to private counsel.

D. Advocate for the provision of assistive technology when it is necessary for an individual to obtain and retain employment and gain advancement. (PAAT)

1. Provide information, advice, case advocacy, including full representation where lack of assistive technology is a barrier to employment, selecting if possible larger employers.
2. Advocate to ensure that VR provide funding or otherwise secures AT devices and services both generally and in regard to their school transition clients.

-VI-
**Outreach, Self-Advocacy, Public Education, Collaboration,
And Diversity Goals⁹**

**A. Continue to improve broad collaboration with other disability/advocacy groups and with larger coalition of individuals, to, among other purposes:
(PADD, PAIMI, PAIR, PAAT, PAVA)**

1. Gain increased leverage and impact.
2. Possibly prioritize one or two areas in which to concentrate resources to obtain systemic and widespread change.
3. Promote consistent messages
4. Obtain leverage and pool resources for common projects or to retain highly skilled individuals for certain functions, e.g. technology, public education (as elaborated on in D below), and training (as elaborated on in B below).
5. With appropriate subgroups, continue development of entitlement service directory (as elaborated on in C below).

B. In collaboration or directly, develop and disseminate rights and informational material in a specified number of subject areas per year in English and Spanish, chosen on the basis of goals and priorities and areas in which there is the most need for such literature. within 12 months. (PADD, PAIMI, PAIR, PAAT, PATBI, PAVA, and/or PABSS)

C. Resources permitting, continue efforts to establish an “entitlement service directory” for consumers and other stakeholders to learn what services they are entitled to and how to navigate the system(s). Need to leverage additional funding or collaborate with other groups who have that as a significant responsibility (PADD, PAIMI, PAIR, PAAT, PAVA, PABSS)

1. As part of this effort or independent from it, provide on the web or in hard copy user friendly form letters, complaint forms and other documents necessary to file grievances or complaints against agencies or its personnel with whom individuals with disabilities interact, with links to pro se court forms.
2. As part of this effort or independent from it, have a page on the web for feedback on agencies/programs/providers/school districts, using a simple anonymous survey form screened for obscenity, inflammatory remarks, etc.

D. Increased outreach and direct advocacy to veterans, particularly veterans returning from combat with traumatic brain injuries. Continue to reach out to the Veterans Hospital at White River Junction, and engage in outreach at the Veterans Hospital in Manchester and with at least two veterans groups. (PATBI, PAIR)

E. Marketing campaign and ongoing effort to increase DRC’s visibility generally throughout NH, but particularly in minority communities and parts of the state in which our data shows disproportionately few intakes. (PADD, PAIMI, PAIR, PAAT, PAVA)

⁹ The priorities and goals in this section are generally in addition to the outreach, self-advocacy, public education, collaboration, and diversity goals mentioned in earlier sections. In other words those are generally not repeated in this section.

1. All DRC marketing and outreach literature and in-person presentations should be clear on what DRC does, does not do and refers out, both with regard to case activity and other activities (e.g. training, legislative, etc.)
2. Efforts shall include:
 - a. Continued website improvement with major announcement about new and improved website
 - b. Newsletter
 - c. Pamphlets that explain both the DRC and specific issues
 - d. Annual Reports
 - e. Utilizing list serves to disseminate items of interest such as state legal developments
 - f. Media--more news articles, press releases, TV and radio shows, appearances and spots
 - g. RAP sheet
 - h. Professional Publications, such as Bar News

PART C: CASE ACCEPTANCE GUIDELINES

I. INTRODUCTION

The purpose of this policy is to provide guidance as to when DRC will provide advice, short-term assistance, or accept a case for full representation, all of which are considered direct advocacy. DRC also provides other forms of assistance, including information or referral, which as noted below, is generally provided to individuals not eligible for these higher forms of assistance. The purpose of the policy, coupled with DRC's Statement of Goals/Priorities and Objectives/Strategies (hereinafter DRC's Statement of Priorities), is also to ensure, to the extent possible, that the limited resources of the DRC are directed to the areas of greatest need and/or will have the most impact.

This Policy will be used to enable the DRC to carefully control the type of cases accepted and the number of cases to be worked on by the DRC at any one time. The DRC recognizes that both individual representation and system-change advocacy are crucial to the protection of legal and human rights of persons with disabilities and improvement of their lives. The DRC will allocate its resources in a manner which strikes an appropriate balance between providing quality individual representation and systemic-change advocacy. For purposes of this policy, system-change advocacy includes impact litigation, the provision of technical assistance to clients,

advocates, and other stakeholder organizations, including agencies in state and federal government, administrative rule-making, and legislative advocacy. Often integral to systemic-change advocacy is working in collaboration with one or more of these stakeholders or organizations.

The DRC also recognizes that current federal funding is not adequate to meet the legal needs of persons with disabilities in New Hampshire. It is, therefore, critical that the DRC have policies which maximize its opportunities to generate income, including attorneys' fees from fee shifting statutes and charging clients who can afford to pay a reasonable fee. While revenue from attorneys' fees is critical to the provision of legal services to persons with disabilities in New Hampshire, whether a particular case will or will not earn fees shall be a secondary consideration in the selection of cases.

II. DEFINITIONS

Direct Advocacy—Direct advocacy as used in this policy, ranges from provision of advice or technical assistance to an individual, specific to his or her matter, other forms of brief service, or full representation in which the client formally retains DRC and signs a retainer agreement. It does not include Information and Referral. All are considered cases at DRC, though as described in Part III, below, different acceptance criteria may apply to each.

Brief Service—is of three types at DRC:

1. **Advice or Technical Assistance (TA)**—This is provided to enable the person to make a decision on whether or how to pursue all or a portion of the matter that he or she is calling about. It can be done verbally in person or on the phone, or in writing or both. While there is no bright line between giving advice/TA and information and referral advice/TA tends to be very specific to the person's matter. "Information" while covering the subject the person is calling about, tends to be more general. Advice should only be given out by a lawyer or someone under the direct supervision of a lawyer. The same restriction does not apply to I & R.
2. **Short term assistance**—This is beyond advice and generally involves advocacy in the form of directly contacting a third party verbally or in writing, attending one or a few conferences, meetings, etc., in order to resolve the matter promptly and without resort to formal mechanisms, such as mediation or litigation.
3. **Extensive fact gathering or research**—Whether as part of short-term assistance or in determining whether the case should be opened for full representation, DRC staff engage in fact gathering, research and analysis.

Note: As a general rule, brief service should consume no more than 5 hours of staff time. If it does and meets the criteria for full representation, it should be opened for full representation.

Information & Referral—This is provision of general information or guidance about the issue or area person is calling about. For example, if a person calls about a complaint on a matter DRC does not handle, DRC, as part of its I & R, may advise the person who the appropriate agency is to file a complaint with. This, for example, as opposed to giving the person an opinion on whether he or she has a good claim and providing assistance in writing up the complaint. Those types of assistance would come under brief service. I & R also covers situations where DRC is clearly not the appropriate agency to assist the person, e.g. the person does not have a disability or is looking for nonlegal or nonadvocacy assistance.

Full Representation—These involve matters in which to obtain the resolution or relief either more time is necessary than typically allotted to brief service cases (i.e. 5 hours) or formal means of resolution must be pursued (e.g. extensive negotiation, litigation). Typically, the client and DRC sign a formal retainer agreement at this level of representation. These cases may be either individual cases which may or may not impact beyond the individual client, or class action or other types of systemic change cases.

III. CRITERIA FOR ACCEPTANCE FOR DIRECT ADVOCACY

1. Disability Criteria

The individual case must involve a person with a disability for which the DRC is funded. As indicated, the DRC may provide legal representation to a person with a disability through the individual's guardian or family member. The legal issue must be related to the disability. Client eligibility may be further defined and/or limited by authorizing legislation, funding source or contractual arrangement or by annual priorities established by the Board of Directors, as described further under the next criteria.

2. DRC Priorities

In order for a case to be considered for **full representation**, it has to be the type of matter specifically identified for full representation in Part B of this document--DRC's Statement of Priorities. Exceptions can be made by the Legal Director in consultation with the Executive Director when there would be serious consequences to the health and welfare of the person with a disability, there is a significant chance the case will have a major positive impact on the rights of persons with disabilities, and that it is unlikely that there are other meaningful opportunities

for the client to obtain legal representation. To be considered for **Brief Service**, it has to be the type of matter specifically identified for direct advocacy or at least within a goal/priority in DRC's Statement of Priorities. Exceptions can be made by either the Legal Director or Supervising Intake attorney when there would be serious consequences to the health and welfare of the person with a disability and that it is unlikely that there are other meaningful opportunities for the client to obtain legal representation.

Note: For those cases that do not fall under Direct Advocacy (Brief Service or Full Representation), DRC will make best efforts to provide **information and/or a referral**.

3. Satisfactory Resolution of the Issue

The full representation case must present a meritorious claim which has a reasonably good possibility of satisfactory resolution by the DRC. The decision of whether a case is meritorious will be made in the first instance by the assigned attorney, subject to review by the Legal Director.

4. Impact Beyond the Client Represented

A full representation case, whenever appropriate, should present the opportunity of favorably impacting, as well, upon the legal rights of other persons with disabilities. The greater the possibility of impacting upon the legal rights of a large number of persons with disabilities, the higher the priority is to be given to accepting the individual case.

Discussion: The DRC is committed to individual representation. However, the DRC has a limited ability to accept all individual cases, particularly given the fact that federal funds are inadequate and the DRC's mandate is state-wide. Furthermore, the DRC recognizes that there is an essential need for systemic-change advocacy. Therefore, individual cases will often be chosen where they appear to have a significant chance of favorably impacting upon the legal rights of a large number of persons with disabilities in the priority areas approved by the Board of Directors. Following this strategy, individual full representation and systemic-change advocacy may in effect be considered merged.

5. Fee Generating Cases

Whenever possible, and consistent with the above policies, the DRC will accept cases which have the possibility of earning attorneys' fees. The Legal Director and the Executive Director shall have in effect policies regarding the generation of attorneys' fees, including those charged to clients.

6. Resources and Capacity of DRC

DRC must have the resources and capacity to handle the matter. DRC has an ethical responsibility to provide adequate representation and advice to existing clients and to otherwise carry out all of its responsibilities under the law. DRC therefore retains the prerogative of restricting intake or case acceptance when it has in effect reached full capacity and is no longer able to handle additional matters. Any such restriction will be for only as long as necessary. DRC during these times will make efforts to refer individuals to other sources of assistance. With regard to situations in which there could be serious consequences to the person's health and welfare such as instances of ongoing abuse and neglect, if no alternative can be found, DRC will accept the matter for direct advocacy.

7. Legal Director's Responsibilities

The Legal Director will oversee and supervise case acceptance. All other staff involved in case acceptance and casework will follow the above criteria unless extraordinary circumstances warrant a waiver of one or more of the criteria.

PART D: GLOSSARY

BIA (or BIANH)	Brain Injury Association of New Hampshire
CMHC	Community Mental Health Center
DOE	Department of Education
HHS (or DHHS)	New Hampshire Department of Health and Human Services
NAMI-NH (or NAMI)	National Alliance for the Mentally Ill
NHH	New Hampshire Hospital
NHLA	New Hampshire Legal Assistance

NHPD

New Hampshire Public Defenders