



# COMMONWEALTH of VIRGINIA

Office of the Governor

Mark R. Warner  
Governor

July 1, 2002

Ms. Heidi L. Lawyer  
Acting Director  
Department for Rights of Virginians  
with Disabilities  
202 N. Ninth Street, 9<sup>th</sup> Floor  
Ninth Street Office Building  
Richmond, Virginia 23219

RE: NOTICE OF FINAL DECISION TO REDESIGNATE P&A  
AND CAP SYSTEMS

Dear Ms. Lawyer:

This letter is to inform you of my final decision to redesignate Virginia's Protection and Advocacy (P&A) system and Client Assistance Program (CAP). Having complied with the requirements under 45 CFR §1386.20 and 34 CFR § 370.11 et seq. for notice and consideration of public comment regarding the designation of the P&A and CAP systems, effective July 16, 2002, the administration of the P&A and CAP systems will be redesignated to the newly created independent state agency, the Virginia Office for Protection and Advocacy (VOPA). The purpose of the redesignation is to remove the P&A and CAP systems from the executive branch of government and to ensure that these systems are able to function with the required independence and autonomy.

Pursuant to federal regulations governing designation of CAP, 34 CFR 370.11(b)(2) and federal regulations governing the designation of the P&A system, 45 CFR 1386.20, a Notice of Intent to Redesignate the P&A and CAP systems and a Notice of Public Hearing were sent to you via correspondence dated April 25, 2002. This Notice was published in newspapers across the state the week of April 28. The notice was available in accessible format to anyone requesting such. It was sent to approximately 1,800 individuals and organizations on the current P&A's mailing list. Pursuant to federal regulation, the Notice was sent to the State Rehabilitation Councils, the Statewide Independent Living Council and the Centers for Independent Living and was posted in all of the state-operated mental health and mental retardation facilities. It was also sent to advocacy groups, community services boards, and was posted on the current P&A's web site. The Notice of Public Hearing was simultaneously advertised and was also posted on the Commonwealth Event Calendar. A public hearing was held on June 18, 2002 in Richmond, Virginia. Written, faxed and e-mailed comments were accepted by our Policy Office. A summary of the public comments received in regard to the notice of intent to redesignate and the results of the public hearing and its responses to those comments are attached.

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Pursuant to 34 CFR 370.11(b)(2) relating to CAP, DRVD had the right to respond in writing to me within 30 days of receiving the April 25, 2002, Notice of Intent to Redesignate. Under your signature, DRVD sent a response to me dated April 29, 2002, notifying me that the agency did not intend to appeal the redesignation of the CAP program. This, therefore constitutes my written decision to you of the redesignation of the CAP program and there is no further right of appeal of this designation.

Your April 29 correspondence to me also indicated that the Department for Rights of Virginians with Disabilities (DRVD) would not appeal the redesignation of the P&A system. However, in accordance with 45 CFR 1386.20, I must advise you that DRVD has the right to appeal the redesignation of the federal P&A system established under the Developmental Disabilities Act, 42 U.S.C. § 15001, *et seq* following this official notice of my final decision to redesignate after expiration of the public comment period. If you wish to appeal the redesignation of the P&A system, you may submit an appeal to:

Dr. Wade F. Horn, Assistant Secretary for Children and Families  
Administration on Developmental Disabilities  
901 E. Street, SW, Suite 600  
Washington, D.C. 20447

This appeal must be in writing within 20 days of receiving this official notification. A separate copy of the appeal must be sent to me, as the designating official, by registered or certified mail.

The redesignation of the P&A system and CAP is effective July 16, 2002.

Sincerely,



Mark R. Warner

MRW/cmg