

**ANNUAL PROTECTION & ADVOCACY OF INDIVIDUAL RIGHTS (PAIR)
PROGRAM PERFORMANCE REPORT**

Fiscal Year 2008

DESIGNATED AGENCY IDENTIFICATION	
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Name of PAIR Director/Coordinator:	Colleen Miller, Esq.
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PART I. NON-CASE SERVICES:	
A. Individual Information and Referral Services (I&R): (Multiple responses are not permitted.)	
1. Individuals receiving I&R <u>within</u> PAIR's priority areas	753
2. Individuals receiving I&R <u>outside</u> of PAIR's priority areas	912
3. Total individuals receiving I&R (lines A1+A2)	1665
B. Training Activities:	
1. Number of trainings presented by PAIR staff	84
2. Number of individuals who attended these trainings (approximate)	3193
Describe the trainings presented by PAIR staff. Be sure to include information about the topics covered, the training methods used, and the purpose for the training. Use separate sheets if necessary.	

C. Information Disseminated to the Public:	
1. Radio and TV appearances by PAIR staff	1
2. Newspaper/magazine/journal articles	2
3. PSAs/videos aired	3
4. Hits on the PAIR/P&A website	25160
5. Publications/booklets/brochures disseminated	1515
6. Other (specify on separate sheet) training announcement flyers	4

PART II. INDIVIDUALS SERVED:	
A. Individuals Served: (An individual is counted only once per fiscal year. Multiple counts are not permitted for lines A1 through A3.)	
1. Individuals who were still being served as of October 1 (carryover from prior fiscal year)	22

2. Additional individuals who were served during the year	113
3. Total individuals served (lines A1+A2)	135
4. Individuals who had more than one case file opened/closed during the fiscal year. (This number is not added to the total on line A3 above.)	10
B. Individuals still served as of September 30 (carryover to next year) (May not exceed total on line II.A.3 above.)	43
C. Problem Areas/Complaints of Individuals Served:	
1. Architectural accessibility	27
2. Employment	20
3. Program access	5
4. Housing	11
5. Government benefits/services	18
6. Transportation	10
7. Education	32
8. Assistive technology	0
9. Voting	0
10. Health care	8
11. Insurance	0
12. Non-government services	3
13. Privacy rights	0
14. Access to records	0
15. Abuse	1
16. Neglect	2
17. Other	12
D. Reasons for Closing Individual's Case Files:	
1. Issues resolved partially or completely in the individual's favor	76
2. Other representation found	0
3. Individual withdrew complaint	12
4. Appeals were unsuccessful	3
5. PAIR services not needed due to individual's death, relocation, etc.	0
6. PAIR withdrew from case	1
7. PAIR unable to take case because of lack of resources	0
8. Individual's case lacks legal merit	3
9. Other (administrative closing)	6
E. Intervention Strategies Used in Serving Individuals: (List the <u>highest level</u> of intervention used by PAIR prior to closing each case file.)	
1. Technical assistance in self-advocacy	35
2. Short-term assistance	39
3. Investigation/monitoring	1
4. Negotiation	18
5. Mediation/alternative dispute resolution	1
6. Administrative hearings	2
7. Litigation (including class actions)	5
8. Systemic/policy activities	0

PART III. STATISTICAL INFORMATION ON INDIVIDUALS SERVED:	
A. Age of Individuals Served: (as of October 1) (Multiple responses not permitted.)	
1. 0 - 4	2
2. 5 - 22	35
3. 23 - 59	73
4. 60 - 64	6
5. 65 and over	19
B. Gender of Individuals Served: (Multiple responses not permitted) ¹	
1. Females	66
2. Males	69
C. Race/Ethnicity of Individuals Served: (Multiple responses permitted)	
1. White	102
2. Black or African American	28
3. American Indian or Alaska Native	0
4. Asian	2
5. Native Hawaiian or other Pacific Islander	0
6. Hispanic or Latino	0
7. Race/ethnicity unknown (individuals reported selves as multi-racial)	3
D. Living Arrangements of Individuals Served: (Multiple responses not permitted)	
1. Independent	82
2. Parental or other family home	44
3. Community residential home	1
4. Foster care	0
5. Nursing home	6
6. Public institutional living arrangement	0
7. Private institutional living arrangement	1
8. Jail/prison/detention center	0
9. Homeless	0
10. Other living arrangements (Board and Care)	1
11. Living arrangements not known	0
E. Primary Disability of Individuals Served: (Identify the individual's primary disability, namely the one directly related to the issues/complaints raised by the individual.)	
1. Blind/visual impairment	13
2. Deaf/hard of hearing	17
3. Deaf-blind	0
4. Orthopedic impairment	23
5. Mental illness	1
6. Substance abuse	0
7. Mental retardation	3
8. Learning disability	24
9. Neurological impairment	13

10. Respiratory impairment	0
11. Heart/other circulatory impairment	5
12. Muscular/skeletal impairment	32
13. Speech impairment	0
14. AIDS/HIV	1
15. Traumatic brain injury	0
16. Other disability (diabetes 2; hepatitis 1)	3

PART IV. SYSTEMIC ACTIVITIES AND LITIGATION:

A. Systemic Activities:

1. Number of policies/practices changed as a result of non-litigation systemic activities	2
2. Number of individuals potentially impacted by policy changes	169,838

Describe your systemic activities. Be sure to include information about the policies that were changed and how these changes benefit individuals with disabilities. Include case examples of how your systemic activities impacted individuals served. (Attach separate sheets if necessary.)

Using PAIR and other funding sources, VOPA provided comprehensive comments on the proposed special education administrative regulations promulgated by the Virginia Department of Education (VDOE). VOPA's comments included comments regarding transition services for students with disabilities who are preparing for life after school. VOPA participated in a coalition of advocacy entities on the development of comments from the coalition. In addition, VOPA submitted its own comments. These VOPA comments were posted on the VOPA website and shared with the coalition as well. It has been reported to VOPA that several of the speakers at the public hearings around the State used portions of the VOPA comments and that the comments were given to key legislators concerned with the regulations. Further, VOPA met with VDOE to discuss the proposed regulations and VOPA's concerns and strategized how to address common ground. This collaborative effort was productive for both parties. VOPA continues to collaborate with other advocacy entities as these regulations are addressed in both administrative and legislative forums.

VOPA identified a locality to investigate whether its public transportation discriminates against people with disabilities. VOPA investigated the Hampton Roads Transit which refused to allow a woman with a disability and her service animal access onto public bus line transportation. After investigating and determining validity of denial of service, VOPA contacted the administration at Hampton Roads Transit Service via phone and mail and inquired why the incidents had occurred. VOPA negotiated with the provider to provide system wide education for staff and drivers. As a result, Hampton Roads transit agreed and then provided ADA re-education classes for all staff and drivers. The Transit Service monitored the individual client for satisfaction with service and sent all of their drivers across the Hampton Roads area sitting in wheelchairs so that they could go through the experience of transfer from a first hand perspective. This case impacted approximately 300 riders in the area.

VOPA reached a settlement agreement with Fauquier County requiring it to ensure that people with disabilities can access public buildings. VOPA also secured an agreement with Caroline County requiring the county to allocate \$2,000,000 to renovate one school to ensure that it is compliant with ADA. In addition, VOPA met with representatives of Caroline County in July of 2008. At the meeting, Caroline County agreed to survey all of its public buildings to determine if they meet ADAAG standards and report their findings back to VOPA.

B. Litigation/Class Actions:

1. Number of individuals potentially impacted by changes as a result of PAIR's litigation/class action efforts	12,876
2. Number of individuals named in class actions	0

Describe your litigation/class action activities. Explain how individuals with disabilities benefited from your litigation activities. Be sure to include case examples that demonstrate the impact of your litigation. (Attach separate sheets if necessary.) VOPA has significant ongoing litigation utilizing PAIR funding (for example, see below regarding the Lottery and Logo programs). As those efforts have not yet been completed, VOPA cannot fully report on them this year.

PART V. PAIR'S PRIORITIES AND OBJECTIVES:

A. Priorities and Objectives for the Fiscal Year Covered by this Report:

It should be noted that the Virginia Office for Protection and Advocacy (VOPA) has made a deliberate decision to take cases that we believe will have a strong systemic impact on the lives of Virginians with disabilities. Although we are opening a targeted number of cases, we believe that by tying them directly to systemic reform, we are making significant impact on a much larger population group.

It should also be noted that VOPA plans its programs based on the needs within the state; not by funding stream or specific disabilities. Some of the identified estimated cases may be addressed in conjunction with other funding streams, but the result will still be a positive impact on PAIR eligible individuals.

Goal: People with Disabilities are Free from Abuse and Neglect

Focus Area: Abuse and Neglect in Community Settings

Needs/Issues/Barriers Addressed:

Individuals with disabilities living in the community are being subjected to abuse and neglect.

Indicators for Success Include the Completion of the Following Objectives:

By December 31, 2007, investigate whether the Department of Medical Assistance Services provides the oversight and supervision of the Medicaid Non-Emergency Transportation contractor, Logisticare, necessary to assure the provision of safe and timely services. If not, obtain corrective action.

Investigate fifteen (15) allegations of alleged or suspected abuse and neglect as identified through Adult Protective Services (APS) reports, licensure and other agency surveys, and complaints. Obtain corrective action. Selection will be based on strength of evidence, potential for systemic impact, geographic distribution and available resources.

Collaborative Efforts VOPA collaborates with residents, clients, family members, advocates, and providers alleging abuse or neglect complaints and when investigating complaints. In addition, VOPA collaborates with law enforcement, providers and experts.

Number of cases handled 2 with PAIR funding

Case summary that demonstrates the impact of the priority

Using PAIR and other funding sources, VOPA is conducting an investigation into the oversight and supervision by DMAS of the Medicaid Non-Emergency Transportation contractor, Logisticare. VOPA opened three cases in conjunction with this review. The cases are ongoing. VOPA is not providing individual advocacy in those cases as they are all part of the systemic investigation. In essence, VOPA is investigating to determine whether Logisticare provides appropriate transportation to people who need it. In the three cases, we have taken the information from the clients and combined it with other systemic information we have reviewed. We have reviewed Logisticare policies, practices and statistics. We have collected and analyzed data on a regional and state-wide basis (including complaint data). We have met with Logisticare representatives and questioned them on their practice and how they record and resolve complaints. This effort is on-going.

In FY 08, VOPA received 222 reports from APS. Using other funding sources, VOPA initiated nine investigations of community-based incidents based upon APS reports. In one, a nursing home may have improperly discharged a client with life-threatening conditions. Licensing and oversight agencies became involved in this case and have been addressing this incident through the licensing process.

One case was a referral from a local Adult Protective Services (APS) agency. VOPA's client was transferred from a nursing home to a local hospital with multiple pressure sores including one so deep that the bone could be seen. He was subsequently transferred to a University hospital for treatment. VOPA, with the individual's permission, worked with the hospital, APS, and the local Police Department. This case was ultimately referred to law enforcement for investigation and a hearing was held regarding the care provided by the nursing home. The individual was released from the hospital, where he was receiving medical care, to a rehabilitation center where he is receiving on-going care. The individual and his family reports that he likes it there and he is being taken care of with regard to medical care.

In another case our client called VOPA because the Assisted Living Facility (ALF) where he lived installed new carpet due to an issue with flooding. Both he and his wife use walkers. They have complained to the owners of the facility that it is difficult for them to maneuver their walkers over this carpet as the wheels get stuck. The wife had fallen and broke her hip while trying to walk over the carpet and our client was concerned for his own safety. He wanted VOPA to assist him in advocating for the carpet to be replaced. VOPA investigated whether the carpeting was ADA compliant. VOPA obtained the carpet specification sheets from the administrator of the ALF and compared them against ANSI ADA architectural regulations. VOPA determined that that the carpet was ADA compliant and educated the client on his findings.

Goal: Children with Disabilities Receive an Appropriate Education
Focus Area: Transition from School

Needs/Issues/Barriers Addressed: Transition from school to work

Indicators for Success Include the Completion of the Following Objective:
Develop a training to inform children in group homes, residential schools and other facilities, their parents and advocates of their right to services designed to help them transition from school to work (including work incentives). Provide trainings to three (3) groups, including parents and children in Richmond Public Schools.

Collaborative Efforts

Related to transition service, using PAIR and other funding sources, VOPA provided comprehensive comments on the proposed special education administrative regulations promulgated by the Virginia Department of Education (VDOE). VOPA's comments included comments regarding transition services for students with disabilities who are preparing for life after school. VOPA participated in a coalition of advocacy entities on the development of comments from the coalition. In addition, VOPA submitted its own comments. These VOPA comments were posted on the VOPA website and shared with the coalition as well. It has been reported to VOPA that several of the speakers at the public hearings around the State used portions of the VOPA comments and that the comments were given to key legislators concerned with the regulations. Further, VOPA met with VDOE to discuss the proposed regulations and VOPA's concerns and strategized how to address common ground. This collaborative effort was productive for both parties. VOPA continues to collaborate with other advocacy entities as these regulations are addressed in both administrative and legislative forums.

Number of cases handled: 21 using PAIR funding

Case summary that demonstrates the impact of the priority

VOPA developed a training for children in group homes, residential schools and other facilities designed to help them transition from school to work. VOPA provided the training for a psychiatric residential treatment facility offering to provide representation

for children to help them transition to work. Using other funding sources, VOPA presented training for parents and children in Richmond Public Schools regarding special education and transition services.

In one case, VOPA worked with a child who is deaf. The mother requested that her daughter be provided with sign language training and an interpreter to assist her with communication in school. The mother felt that not having an interpreter negatively impacts her child's educational environment and her ability to interact with her peers and could negatively impact her grades. The school had told the mother at their last meeting that her daughter should be moved to a 504 plan. The family said that they did not agree with this. The mother did not sign the last IEP. She did however have notes of conversations with the school to get the appropriate accommodations put into place for her daughter. The mother had requested that the school re-schedule another IEP meeting and they refused. The school was to provide her child with additional homework assistance which they were not doing. The teacher indicated that she did not know that the child had an IEP. The mother requested two independent educational evaluations (IEE). School refused to provide, claiming that the time to request IEE had run. VOPA provided technical assistance in self-advocacy and negotiation. Ultimately, VOPA had to resort to legal remedies. VOPA filed a request for due process hearing on behalf of the child. We attended a resolution session with the parents and child. The school finally agreed to provide the two IEEs and the case was settled before the due process hearing.

VOPA represented an 8 year old female who is deaf in one ear and has Attention Deficit Disorder. As a result of her disabilities, the child's mother claims she "gets stuck" frequently on class work and tests and needs prompting to move on to the next task. In addition, the child needs extra time on virtually all of her work. The parents have documentation from the child's physician noting these needed accommodations and have brought them in writing to the school and the school board administration. The mother claimed their concerns were ignored. The school refused to give the child a 504 plan to address these concerns. The child needed certain accommodations in the classroom that were being provided voluntarily by some teachers, but not at all by others. The parent wanted a 504 plan in order to have a consistent set of accommodations throughout the child's school day. VOPA successfully negotiated with the school and a 504 plan was implemented for the child.

Goal: People with Disabilities have Equal Access to Government Services
Focus Area: Services and Supports to Enable Individuals to Move into the Community

Needs/Issues/Barriers Addressed:

This allows VOPA to advocate for adherence to the true intent of the Olmstead decision.

Indicators for Success Include the Completion of the Following Objective:

Inform policy-makers of the requirements of the Americans with Disabilities Act's (ADA)

Integration Mandate, in response to all relevant legislative proposals, proposed administrative regulations, and organizational policies.

Collaborative Efforts

VOPA collaborates with individuals, clients, family members, advocates, providers, and government representatives when advocating for access to government services. At times, VOPA may collaborate with experts.

Number of cases handled: Not individual case level services

Case summary that demonstrates the impact of the priority

VOPA's effort to change Virginia's policy of limiting auxiliary grants to assisted living facilities was in collaboration with other state agencies. At the time of this report, the Governor has issued his proposed budget that includes a pilot program to test using the grants in alternative settings. Other policy efforts related to Olmstead were conducted other funding streams.

Goal: People with Disabilities have Equal Access to Government Services
Focus Area: Services and Supports to Enable Individuals to Remain in the Community

Needs/Issues/Barriers Addressed: This allows VOPA to advocate for adherence to the true intent of the Olmstead decision

Indicators for Success Include the Completion of the Following Objective:

Inform policy-makers of the requirements of the Americans with Disabilities Act's (ADA) Integration Mandate, in response to all relevant legislative proposals, proposed administrative regulations, and organizational policies.

Inform residents about their housing and employment rights by visiting ten (10) assisted living facilities serving persons with disabilities.

Identify a city or county and investigate whether its public transportation discriminates against people with disabilities. If so, seek corrective action.

Coordinate work with inter-agency groups, particularly Virginia Department of Emergency Management special population workgroup and Virginia Department of Health medical sheltering group, to ensure that people with disabilities are included in emergency planning and response and that evacuation and sheltering are accessible.

Represent three (3) individuals who have faced discrimination in public housing due to their use of a service animal or due to denial of an accommodation.

Develop a fact sheet on Fair Housing Act relating to tenant rights in public housing and

distribute to twenty-five (25) apartment complexes.

Coordinate with other state agencies to identify gaps in transitional services for elderly people with disabilities.

Collaborative Efforts

There have been no formal meetings of the Virginia Department of Emergency Management (VDEM) or the Virginia Department of Health (VDOH) during this fiscal year. VOPA continues to maintain contact with both agencies, as well as with the Office of Commonwealth Preparedness, and receives distribution lists for updates and issues. The medical sheltering group has resolved some of the initial issues and the focus has gone to the completion of the site surveys and preparation for any large state operated shelters. VDOH also continues to plan for epidemic and pandemic response and has sent trainers to local congregate care facilities to talk about planning for such events. These shelters are planned to be fully accessible. VOPA also worked on review of ALF and nursing home emergency plans to determine where to focus efforts in the months to come.

Number of cases handled 13 using PAIR funding

Case summary that demonstrates the impact of the priority

VOPA's effort to change Virginia's policy of limiting auxiliary grants to assisted living facilities was in collaboration with other agencies. At the time of this report, the Governor has issued his proposed budget that includes a pilot program to test using the grants in alternative settings. Other policy efforts related to Olmstead were conducted other funding streams.

Using PAIR funding, VOPA informed fifty-five residents at three assisted living facilities about their housing and employment rights. Using other funding sources, VOPA provided more than seven additional trainings to residents at assisted living facilities regarding individual's housing and employment rights.

VOPA identified a locality to investigate whether its public transportation discriminates against people with disabilities. VOPA investigated Hampton Roads Transit which refused to allow a woman with a disability and her service animal access onto public bus line transportation. After investigating and determining validity of denial of service, VOPA contacted administration at Hampton Roads Transit Service via phone and mail and inquired why the incidents had occurred. Through the communication, VOPA negotiated with the provider to provide system wide education for staff and drivers. As a result, Hampton Roads transit agreed and then provided ADA re-education classes for all staff and drivers. The Transit Service monitored the individual client for satisfaction with service and sent all of the drivers for the service across the Hampton Roads area sitting in wheelchairs so that they could go through the experience of transfer from a first hand perspective. This case impacted approximately 300 riders in the area.

VOPA represented four individuals regarding discrimination and lack of accommodations in public housing. One was resolved following a formal investigation and mediation by HUD and the Virginia Fair Housing Office, and resulted in the client being moved to the top of the Housing Choice Voucher waiting list. In another case, the client and his guardian received information about their rights under the Fair Housing Act, specifically, the right to reasonable modifications in a private multifamily dwelling.

In another case, VOPA was notified about the lack of accessible features in our client's apartment. VOPA ascertained that client lived in private housing. VOPA explained that any modifications done to the unit would be at client's expense. The client and her husband are not in a financial position to cover such an expense. We discussed several options including a request to be first in line for the one accessible unit in the complex; requesting to rent that accessible unit at their current rent as a reasonable accommodation even though the unit is larger and more expensive; seeking assistance in the community for paying for the modifications; calling their local CIL for recommendations; looking at other accessible units in their area; and if a move to an accessible apartment is possible, asking for a reasonable accommodation that would allow them to be released from their lease without penalty.

VOPA staff completed the fact sheet on the Fair Housing Act and it is in the internal review process.

Due to a lack of resources, VOPA was not able to complete the objective of coordinating with other state agencies to identify gaps in transitional services for elderly people with disabilities.

Goal: People with Disabilities have Equal Access to Government Services
Focus Area: Access to State and Local Government Buildings

Needs/Issues/Barriers Addressed:

This allows VOPA to enforce Title II of the Americans with Disabilities Act on a systemic basis.

Indicators for Success Include the Completion of the Following Objective:

Represent three (3) individuals to be able to bring service animals into government buildings, including schools.

Investigate compliance with ADA access requirements at fifteen (15) courthouses, by April 1, 2008.

Obtain corrective action at courthouses, to include litigation at no more than two (2).

By April 1, 2008, identify three (3) geographically diverse cities or counties and survey their government buildings to determine if they are accessible to people with disabilities. Inform all that are not accessible of the requirements of the law and provide technical

assistance. Obtain corrective action, to include litigation.

Investigate whether dorms at the Rehab Center of the Department for the Blind and Vision Impaired (DBVI) are accessible to people with disabilities. If not, obtain corrective action.

Collaborative Efforts Not applicable

Number of cases handled 7 using PAIR funding

Case summary that demonstrates the impact of the priority

VOPA opened cases for three individuals with service animals who were denied access at government buildings. In one case, VOPA's client was 66-year-old female with a visual impairment, diabetes and cardiac issues. She had a certified service animal. She entered the DMV and was on her way to the front desk when a security guard stopped her. Our client claimed the security guard harassed her and demanded certification for her animal before proceeding. The client presented full documentation to the guard. The guard then very loudly told her in front of the multiple customers and staff at DMV that the ID for the animal was "required to be on a tag around the animal's neck. That is what I have been told." The client felt embarrassed and then felt that she had to request permission to complete her business. The guard walked away at that point according to the client and she was allowed to complete her business. The client requested that VOPA advise the DMV about service animals and disability rights. VOPA sent a letter of concern detailing ADA law as it pertains to service animals and accessibility under Title II to Commissioner of the DMV. The Commissioner communicated back noting that the employee in question as well as other employees of the DMV were being re-trained on ADA law and the use of service animals.

VOPA represented a substitute teacher in a Public School System and who uses a service dog for mobility. Our client received a substitute teaching request from a Middle School and arrived to teach for the day. Our client was told he could not bring his service animal into the classroom because the students would be disrupted by the dog. A representative from the Personnel Office of the school system told the client that he could not bring his service animal to the school while teaching. Our client had taught in other schools in the school system and had not had any complaints or issues in the past. VOPA wrote to the Principal of the Middle School notifying him of the ADA and the Virginians with Disabilities Act as they pertain to service animals. The letter was forwarded to the locality's City Attorney's Office where they responded that the issue was an isolated incident and they guaranteed the issue would not occur in the future.

Using a standard ADA accessibility survey form, VOPA staff completed fifteen courthouse surveys. We slightly modified the survey by requesting information on restrooms. (Restrooms were not surveyed last time.) Surveys were performed in conjunction with other required travel by staff. With the exception of Chesterfield's Juvenile and Domestic Relations courthouse, all the surveys were conducted at General

District and Circuit Court sites. The individual courthouses surveyed were Albemarle, Amelia, Buchanan, Charlottesville, Chesterfield, Colonial Heights, Culpepper, Greene, Mecklenburg, Nottoway, Petersburg City, Pulaski, Virginia Beach, and Winchester. Barriers to accessibility were identified at five of the fifteen courthouses surveyed. Follow-up letters were written to the chief justice for five courthouses regarding identified problems. All problems were relatively minor. All have responded very favorably.

VOPA identified Fauquier County, in Northern Virginia, Caroline County, in Central Virginia, and Northampton County, in Eastern Virginia, for surveys of public buildings to determine if they are accessible to people with disabilities. Surveys have been completed in all three counties. VOPA reached a settlement agreement with Fauquier County requiring it to ensure that people with disabilities can access public buildings. VOPA also secured an agreement with Caroline County requiring the county to allocate \$2,000,000 to renovate one school to ensure that it is compliant with ADA. In addition, VOPA met with representatives of Caroline County in July of 2008. At the meeting, Caroline County agreed to survey all of its public buildings to determine if they meet ADAAG standards and report their findings back to VOPA within 60 days. VOPA surveyed public buildings in Northampton County and did not identify any accessibility problems at that time. VOPA determined there was no need to follow-up with the County at that time.

VOPA also continues to monitor its settlement with the City of Lynchburg. To date, Lynchburg has made renovations to its City Hall and surveyed other buildings, in collaboration with the Lynchburg Center for Independent Living, to ensure that they comply with ADA and ADAAG. This is a continuation of advocacy work initiated in 2007 and is still continuing.

The new dormitories at the Virginia Rehabilitation Center for the Blind have been completed. VOPA scheduled the survey of the buildings to determine if they comply with the ADA and ADAAG. VOPA staff surveyed the buildings the following fiscal year and found the dormitories to be almost completely accessible and wrote a technical assistance letter to the Department of the Blind and Vision Impaired outlining minor areas of non-compliance.

Goal: People with Disabilities Live in the Most Appropriate Integrated Environment

Focus Area: Consumer Driven Alternatives to Guardianship

Needs/Issues/Barriers Addressed: There is an increase in Guardianship over people with disabilities in Virginia.

Indicators for Success Include the Completion of the Following Objective:

Represent the interests of persons with disabilities on the Guardianship Advisory Board of the Department for the Aging in an effort to promote alternatives to guardianship, capacity reviews, consumer self-direction, and improved protections for persons with

disabilities in substitute decision-making proceedings.

Develop training on Advance Directives and powers of attorneys and present at three (3) state psychiatric hospitals, four (4) Centers for Independent Living (CIL), and three (3) clubhouses.

Represent twenty (20) individuals in executing an Advance Directive or power of attorney.

Investigate the use of limited guardianships in the public guardianship programs and promote their use through education and advocacy.

Collaborative Efforts

Using PAIR and other funding sources, VOPA worked with the Virginia DSS Adult Services Program Consultant on adapting advance directive materials for their Adult Abuse Prevention Month. VOPA continues to participate on the Virginia Public Guardianship and Conservatorship Advisory Board. We reviewed the outline of training to be provided to new judges by the Department of Aging on the topic of public guardianship.

Number of cases handled 10 using PAIR funding

Case summary that demonstrates the impact of the priority

Using PAIR and other funding sources, VOPA developed a presentation on Advance Directives and Alternatives to Guardianship, including a PowerPoint presentation and two handouts. We also developed an Advance Directive Planning Form for consumers to use as they prepare to discuss and draft their advance directives. We have given this presentation at three State Hospitals (WSH, ESH, SWVMHI); eight Centers for Independent Living (Richmond, Hanover, Chesterfield, Abingdon, Grundy, Norton, Lynchburg and Petersburg); four Clubhouses (Mill House, Lassen House, On Our Own, and People Place); three Community Services Boards (Hampton-Newport News, Mt. Rogers, and Colonial); and other forums (Crater Health District HIV/AIDS Consortium; Friendship Café; VOCAL Conference; Area Planning and Services Committee on Aging with Lifelong Disabilities Conference; Mental Health Planning Council).

Under PAIR and other funding sources, VOPA prepared written healthcare advance directives for nineteen consumers. VOPA also assisted an individual in drafting an “educational directive” to allow the parents of a client who had reached age 18 to participate in his educational decisions as an alternative to petitioning for guardianship.

Under PAIR and other funding sources, VOPA investigated the use of limited guardianships. VOPA discovered that there are no limited guardianships in the public system and raised this concern with the Virginia Public Guardian and Conservator Advisory Board (VPGCAB). The Board was also concerned about this fact and is

working with the programs to foster limited guardianships where appropriate. As a member of the VPGCAB, VOPA staff reviewed the outline of proposed training to be provided to judges by the Virginia Dept of Aging on the topic of public guardianship and made a recommendation to include information on limited guardianships and that recommendation was accepted. VOPA staff attended the annual statewide Guardianship and Elder Law Conference and was pleased to see a stronger emphasis on limited guardianships and alternatives to guardianship.

Goal: People with Disabilities Live in the Most Appropriate Integrated Environment

Focus Area: Inaccessibility to Retail Settings

Needs/Issues/Barriers Addressed:

This allows VOPA to enforce Title III of the Americans with Disabilities Act on a systemic basis.

Indicators for Success Include the Completion of the Following Objective:

Develop a fact sheet on physical access requirements and distribute to fifty (50) retail settings throughout the Commonwealth.

Coordinate with Centers for Independent Living to survey twenty (20) businesses who received the fact sheet.

Inform businesses, identified above, of areas of non-compliance and take action to correct, to include litigation at no more than five (5) retail settings.

Litigate against the Lottery to obtain compliance with the state and federal law.

Obtain compliance by the Department of Transportation with the requirement that the State not contract with private businesses that discriminate against persons with disabilities in its Logo Program.

Litigate against no more than ten (10) businesses in the downtown Roanoke area who have refused to become accessible after receiving surveys and technical assistance letters.

Collaborative Efforts VOPA coordinated with several CILs to survey twenty businesses who received our fact sheet on physical access requirements.

Number of cases handled VOPA's systemic work in this area includes 9 individuals who are being served using PAIR funding

Case summary that demonstrates the impact of the priority

VOPA developed a fact sheet concerning Title III of the ADA which was mailed to fifty (50) retail settings throughout the Commonwealth. We provided trainings on the ADA at

the DisAbility Resource Center in Fredericksburg to their adult advocacy rights consumer group and their youth group, the Resources for Independent Living in Richmond, and the Independence Empowerment Center in Manassas. Each CIL identified retail settings that do not comply with the ADA and four consumers have made complaints on specific retail settings. VOPA opened cases with three (3) clients in Wise County who have filed complaints about the accessibility of a new mall in Wise.

VOPA staff conducted follow-up surveys at (6) retail settings in Fredericksburg, four (4) retail settings in Manassas, nine (9) retail settings in Richmond, and one (1) retail setting in Norton. We sent eighteen (18) technical assistance letters advising of the ADA violations found and suggested corrective actions.

Eighteen of these settings entered into voluntary compliance and implemented the suggested corrective actions and two retailers signed formal settlement agreements.

VOPA represents four (4) people with disabilities who were denied access to Lottery retailers. We sued the Lottery under the ADA and VDA seeking an injunction to require the Lottery to ensure that its retailers are accessible to people with disabilities. After the exchange of many motions and memoranda, on April 4, without hearing argument, the Court granted Summary Judgment to the Lottery. The Court held that, based on the 2007 case of Bacon v. City of Richmond, the Lottery could not be held responsible for inaccessible lottery retailers. The Court held that, under the ADA and VDA, the Lottery is not a "program" and, therefore, cannot be held liable if their retailers are inaccessible. VOPA filed a Petition for Appeal to the Virginia Supreme Court and filed a Memorandum in Support of its Petition on July 31. The Petition for Appeal was granted. This is continued into FY09.

VOPA surveyed over one hundred (100) businesses licensed by the Department of Transportation (DOT) under its LOGO Program and six (6) rest stops operated by the Department. All of the businesses and rest stops were found to be inaccessible to people with disabilities. VOPA wrote two (2) letters to DOT summarizing its findings and demanding that the Department ensure that facilities under its control be accessible to people with disabilities. DOT responded saying that they had assigned someone to review our allegations regarding the rest stops and that they would take steps to make sure they are accessible. VOPA is following up on this entire effort in FY09.

VOPA conducted accessibility surveys of twenty (20) businesses in downtown Roanoke. VOPA sent letters to businesses that did not comply with the ADA's requirement that entrances be accessible to people with disabilities. Several businesses settled, including businesses housed in buildings owned by the City. VOPA filed a lawsuit on behalf of four individuals against two (2) businesses in August of 2008. We sent the lawsuits, with a settlement offer to the defendants. One business settled with us and stated that it had purchased a temporary ramp and is making it available for people with disabilities. The other did not agree to provide the ramp, so that litigation is ongoing.

Goal: People with Disabilities are Employed to their Maximum Potential
Focus Area: Employment Self-Advocacy Clinics

Needs/Issues/Barriers Addressed:

Individuals with disabilities need information regarding the laws that apply to employment, as well as self-advocacy tactics to assist them in obtaining necessary accommodations to enter or remain in the workforce.

Indicators for Success Include the Completion of the Following Objective:

Represent five (5) individuals with disabilities who were victims of employment discrimination by advocating for them to receive appropriate job accommodations through mediation or the use of administrative remedies.

Inform individuals with disabilities of the employment protections of the ADA and state law through twenty (20) trainings at state and private rehab centers, including Woodrow Wilson Rehabilitation Center, CILs, and community job clubs.

Develop curriculum in self-advocacy in employment and present to ten (10) organizations or conferences.

Collaborative Efforts VOPA collaborated with the Department of Rehabilitative Services, Independent Living Centers, and others to arrange for training.

Number of cases handled 12 using PAIR funding

Case summary that demonstrates the impact of the priority

VOPA represented five clients regarding employment discrimination. One client was denied the opportunity to apply for a job due to visual impairment. We met with the Lynchburg City Attorney who admitted that the city's online application process was flawed, and they accepted our input on new software and its requirements and settled the case with terms favorable to our client. Another client who uses a wheelchair was denied a position as a teacher with Richmond City Schools in spite of his excellent class ranking and PRAXIS scores, as well as his experience. The matter is ongoing. We still have one case currently awaiting disposition by the EEOC regarding unlawful testing and discrimination by a Lynchburg hospital against our client and a second case we are preparing to file, pending information from the client's physician, against Longwood College for failure to accommodate a professor who needs a modified schedule. We have a case against a Harrisonburg Hospital regarding a nursing student denied an externship after she failed a vision test but was not offered accommodations. We have provided technical assistance to at least two dozen other individual regarding their rights under Title I of the ADA, and the EEOC complaint process.

VOPA completed twenty-four (24) presentations at Woodrow Wilson Rehabilitation Center (WWRC) regarding the employment protections of the ADA and state law. VOPA also presented on this issue at the "Ask the Experts" Conference in Roanoke, the

DRS Staunton Job Club, and three Assisted Living Facilities. VOPA reached over 300 people.

VOPA developed a curriculum in self-advocacy and employment and presented it 18 times to WWRC, the DRS Staunton Job Club, and at the Virginia Transition Forum Conference. VOPA reached over 150 people.

Goal: People with Disabilities have Equal Access to Appropriate and Necessary Health Care

Focus Area: Medicaid Waivers

Needs/Issues/Barriers Addressed: Accessing Medicaid Waiver services from and using the Appeals Process with the Department of Medical Assistance Service is difficult for Medicaid recipients to navigate and benefit from. This allows VOPA to address this on a systemic basis.

Indicators for Success Include the Completion of the Following Objective:

Represent consumer choice, independence, and community integration at meetings related to Medicaid Waivers development and implementation, and other public comment opportunities.

Represent five (5) people who have been denied needed and appropriate Medicaid Waiver services.

Represent the interests of children and their families on Waiver Advisory Groups by advocating for consumer directed service assessment, planning and implementation.

Coordinate with other state agencies to determine whether eligible persons with disabilities receive assistance to meet "legal presence" requirements.

Collaborative Efforts

Using other funding sources, VOPA represented consumer choice, independence, and community integration by participating in Transformation Leadership Team meetings that monitored the Systems Transformation Grant, Money Follows the Person Demonstration Project, and the State Profile Tool Grant.

Number of cases handled 0 using PAIR funding

Case summary that demonstrates the impact of the priority

Using other funding sources, we represented eleven (11) people who were denied needed and appropriate Medicaid Waiver services. In one case, VOPA successfully advocated for an adult to receive appropriate employment and independent living skills training. In another case, VOPA advocated for a child to receive appropriate behavioral

therapy. In another case, VOPA ensured that a waiver recipient received appropriate transportation services.

Under the Money Follows the Person Demonstration Grant, DMAS included additional services to the home and community based waivers. VOPA attended a meeting regarding the addition of consumer direction for supported employment services for the MR/DD Waiver. VOPA also participated in a conference call about the Notice of Intended Regulatory Action for the Omnibus Waiver Regulation.

VOPA did not address the indicator related to legal presence due to a lack of resources.

B. Priorities and Objectives for the Current Fiscal Year: FY09

Goal: People with Disabilities are Free from Abuse and Neglect
Focus Area: Abuse and Neglect in Community Settings

Needs/Issues/Barriers Addressed:

Individuals with disabilities living in the community are being subjected to abuse and neglect.

Indicators for Success Include the Completion of the Following Objectives:

Inform all volunteer ombudsman and local staff for the Long Term Care Ombudsman about VOPA's objectives and efforts to reduce abuse and neglect by training staff at the November conference and by developing an information sheet and providing it to all staff and volunteers semi-annually.

Submit a Petition for Rulemaking to the Virginia Department of Health and Department of Social Services recommending that their regulations provide specific and measurable standards for disaster response plans for all community-based facilities.

Goal: People with Disabilities are Free from Abuse and Neglect
Focus Area: Abuse and Neglect in Community Settings

Needs/Issues/Barriers Addressed:

Individuals with disabilities living in institutions are being subjected to abuse and neglect.

Indicators for Success Include the Completion of the Following Objectives:

Investigate whether the Virginia Department of Corrections and policies and practices comply with the requirements of the ADA regarding the provision of services to individuals who are blind or vision impaired or deaf or hearing impaired.

Goal: Children with Disabilities Receive an Appropriate Education
Focus Area: Denial of eligibility due to lack of or inappropriate evaluations and assessments

Needs/Issues/Barriers Addressed: Children with disabilities who need special education services may be denied eligibility due to a lack of or inadequate assessments and evaluations.

Indicators for Success Include the Completion of the Following Objective:
Develop a publication on Virginia's new special education regulations, when they are adopted, and disseminate it to at least ten (10) advocacy groups.

Develop training for foster parents and advocates regarding special education rights and transition services and present to two groups.

Develop outreach and training for the Spanish-speaking community to inform them of their right to special education services.

By March 1, 2009, develop training programs on at least three (3) distinct stages of the IEP development and implementation process. Present trainings.

Represent 5 children, including children in foster care or from Spanish-speaking families, who have improperly been found ineligible for special education or appropriate special education services due to lack of or inappropriate evaluations or assessments. Cases will be selected where there is the potential for systemic impact. Represent the child in Due process Hearing if necessary.

Respond to the final state special education administrative regulations.

Goal: People with Disabilities have Equal Access to Government Services
Focus Area: Services and Supports to Enable Individuals to Move into the Community

Needs/Issues/Barriers Addressed:
This allows VOPA to advocate for adherence to the true intent of the Olmstead decision.

Indicators for Success Include the Completion of the Following Objective:
Respond to all legislative proposals that appear to violate the Americans with Disabilities Act's (ADA) Integration Mandate.

Change the state's policy of limiting auxiliary grants to assisted living facilities and adult foster care.

Goal: People with Disabilities have Equal Access to Government Services
Focus Area: Services and Supports to Enable Individuals to Remain in the

Community

Needs/Issues/Barriers Addressed: This allows VOPA to advocate for adherence to the true intent of the Olmstead decision

Indicators for Success Include the Completion of the Following Objective:

Develop training on the rights of individuals with disabilities under the ADA to accessible public transportation, and provide training to the personnel of a county or city transportation provider.

Inform residents about their housing and employment rights by visiting assisted living facilities serving persons with disabilities.

Inform Guardian Ad Litem candidates about identifying children with disabilities and the services available to children with disabilities including special education, EPSDT, and Social Security benefits planning.

Develop and distribute information and educational material on the rights of persons who are deaf or hard of hearing to have effective communications in government activities to government entities.

Respond to any proposal from the Virginia Department of Emergency Management Special Population workgroup and Virginia Department of Health Medical Sheltering Group that appears to violate federal law.

Represent individuals who either reside in public housing or receive public assistance in housing who have been discriminated against due to their use of a service animal or due to denial of an accommodation.

Goal: People with Disabilities have Equal Access to Government Services
Focus Area: Access to State and Local Government Buildings

Needs/Issues/Barriers Addressed:

This allows VOPA to enforce Title II of the Americans with Disabilities Act on a systemic basis.

Indicators for Success Include the Completion of the Following Objective:

Improve accessibility for clients of the Department of the Blind and Vision Impaired by surveying the new dormitories at the Rehabilitation Center for the Blind to ensure that they are compliant with the ADA and ADAAG. Obtain corrective action for any violations.

By February 1, 2009, identify a school district and investigate whether its school buildings are accessible to people with disabilities and compliant with the ADA and ADAAG. Obtain corrective action for any violations.

Represent three (3) individuals to be able to bring service animals into government buildings, including schools.

Investigate compliance with the ADA's access requirements at one public university, focusing on public areas, by April 1, 2009.

Goal: People with Disabilities Live in the Most Appropriate Integrated Environment

Focus Area: Consumer Driven Alternatives to Guardianship

Needs/Issues/Barriers Addressed: There is an increase in Guardianship over people with disabilities in Virginia.

Indicators for Success Include the Completion of the Following Objective: Respond to all proposals on the Guardianship Advisory Board of the Department for the Aging that do not promote alternatives to guardianship, capacity reviews, consumer self-direction, and improved protections for persons with disabilities.

Present training on Advance Directives and powers of attorneys and present at parent and consumer-based disability organizations.

Represent individuals in executing an Advance Directive or power of attorney.

Represent individuals who currently have substitute decision makers to assist them in increasing their degree of self determination.

Respond to all legislative and regulatory proposals that appear to violate legal rights in substitute decision-making proceedings.

Goal: People with Disabilities Live in the Most Appropriate Integrated Environment

Focus Area: Inaccessibility to Retail Settings

Needs/Issues/Barriers Addressed:

This allows VOPA to enforce Title III of the Americans with Disabilities Act on a systemic basis.

Indicators for Success Include the Completion of the Following Objective: Develop training on ADA accessibility requirements for restaurants and provide to three advocacy or support groups in the Commonwealth.

Develop a fact sheet on ADA accessibility requirements and distribute to sixty restaurants throughout the Commonwealth.

Coordinate with consumer advocacy or support groups to identify and survey 20

restaurants who received the fact sheet.

Inform restaurants, identified above, of areas of non-compliance and take action to correct, to include litigation at no more than five (5) locations.

Litigate against the Lottery to obtain compliance with the state and federal law.

Obtain compliance by the Department of Transportation with the requirement that the State not contract with private businesses that discriminate against persons with disabilities in its Logo Program.

Litigate against businesses in downtown Roanoke who have refused to become accessible after receiving technical assistance.

Goal: People with Disabilities are Employed to their Maximum Potential
Focus Area: Employment Self-Advocacy Clinics

Needs/Issues/Barriers Addressed: Individuals with disabilities are provided with information regarding the laws that apply to employment, as well as self-advocacy tactics to assist them in obtaining necessary accommodations to enter or remain in the workforce.

Indicators for Success Include the Completion of the Following Objective:

Inform individuals with disabilities of the employment protections of the ADA and state law through trainings at state and private rehab centers, including Woodrow Wilson Rehabilitation Center, CILs, and community job clubs.

Develop curriculum in self-advocacy in employment and present to ten (10) organizations or conferences or to consumer groups at post-secondary educational institutions.

Represent individuals with disabilities who were victims of employment discrimination by advocating for them to receive appropriate job accommodations through mediation or the use of administrative remedies.

Coordinate with private counsel to represent 1 individual with a disability who was a victim of employment discriminate by advocating for them to receive appropriate job accommodation through litigation.

Goal: People with Disabilities have Equal Access to Appropriate and Necessary Health Care
Focus Area: Medicaid Waivers

Needs/Issues/Barriers Addressed: Accessing Medicaid Waiver services from

and using the Appeals Process with the Department of Medical Assistance Service is difficult for Medicaid recipients to navigate and benefit from. This allows VOPA to address this on a systemic basis.

Indicators for Success Include the Completion of the Following Objective:
 Create a fact sheet on how to obtain services under Virginia Medicaid Waivers so that individuals can remain in the community.

PART VI. NARRATIVE:

A. Sources of funds received and expended

Source of Funding	Amount Received	Amount Spent
Federal (section 509)	342,418	79,525
State		
Program income	2,000	2,000
Private		
All other funds	348,503	348,503
Total (from all sources)	692,921	430,028

B. Budget for the fiscal year covered by this report

Category	Prior Fiscal Year	Current Fiscal Year
Wages/salaries	299,929	296,472
Fringe benefits (FICA, unemployment, etc.)	105,655	103,263
Materials/supplies	1,530	1,947
Postage	1,526	1,071
Telephone	5,619	5,310
Rent	0	0
Travel	5,115	10,070
Copying	1,629	406

Equipment (rental/purchase)	2,875	904
Temporary Personnel Services	2,095	436
Indirect Costs	60,780	27,954
Miscellaneous	5,857	9,365
Total	492,610	457,208

C. Description of PAIR staff (duties and person-years)

Type of Position	FTE	% of year filled	Person-years
Professional			
Full-time	26	84	24.42
Part-time	3	50	1.5
Vacant			
Clerical			
Full-time	6	94	5.67
Part-time			
Vacant			

D. Involvement with advisory boards (if any)

VOPA has two Advisory Councils known as the Disabilities Advisory Council (“DAC”) and The Protection and Advocacy for Individuals with Mental Illnesses (“PAIMI”) Advisory Council. The Councils’ primary responsibility is to advise the protection and advocacy system on policies and priorities to be carried out in protecting individuals with disabilities. This function helps VOPA to identify underserved and unserved Virginians.

VOPA continues to recruit applicants for the Advisory Councils that reflect the cultural and geographic diversity of Virginia. VOPA is strategizing with the current members, staff and Board for more creative recruitment strategies. One Advisory Council has been moving the location of their meeting around the State with the intention of being closer to potential applicants. This way, new potential members may attend a meeting more easily to determine their level of interest as well as move the application process along in a speedier manner.

VOPA participates in the Virginia Rehabilitation Council for the Department for the Blind

& Vision Impaired (“VRCBVI”). The Rehabilitation Act of 1973, as amended, requires the establishment of a Statewide Rehabilitation Council to be appointed by the Governor. The amendments identify specific organizations to be represented on the Council, and also specify that a minimum of four individuals represent business, industry and labor on the Council as well as current or former applicants for or recipients of vocational rehabilitation (“VR”) services. The Rehabilitation Council advises the VR program in development of the State plan and completion of the federally required needs assessment. The Council also assists with customer satisfaction surveys, training or employment opportunities, and completion of the required Annual Report on the status of VR services in the State. Issues of particular interest to VOPA before the Council in the past fiscal year included Transportation and Transition Services.

VOPA’s representative’s term on the DRS Rehabilitation Advisory Council expired. VOPA’s application to the Governor’s Office for another representative was approved early in Federal FY09.

Through other funding sources, VOPA continues to serve on the Brain Injury Council (“BIC”). The issues often discussed were more employment supports for individuals with a Traumatic Brain Injury (“TBI”) and training options for individuals with a TBI. VOPA also participated in a monthly “Person and Family Directed work group” for individuals with TBI.

E. Grievances filed under the grievance procedure

VOPA has received no grievances from clients or prospective clients under PAIR funding.

F. Coordination with the Client Assistance Program (CAP) and the State long-term care program, if these programs are not part of the P&A agency

CAP is part of VOPA.

Coordination with the State Long-Term Care Program (Virginia Department of Aging) is particularly important during the legislative session. VOPA worked closely with the LTCO regarding a State legislative proposal that would have dramatically limited the rights of persons in nursing homes. VOPA serves with the LTCO on a “quality improvement” council for nursing homes in Virginia. VOPA provided training to LTCO staff. VOPA received referrals and reports of incidents from the Long Term Care Ombudsman staff and made referrals to the Ombudsman when appropriate. In addition, VOPA does attend and participate in their Virginia Public Guardian and Conservator Advisory Board.

The Department of Medical Assistance Services (DMAS) is the primary source of funding for the long-term care system in Virginia. Again, VOPA coordinates with them on an as needed basis.

Reports are to be submitted to RSA within 90 days after the end of the fiscal year covered by this report. Please be reminded that you can enter data directly into RSA's Management Information System (MIS) via the Internet. Information on transmittal of the form, including electronic transmission, is found on pages 18 and 19 of the reporting instructions.

Colleen Miller
Signature of agency official

Date