

**Disabilities Advisory Council (DAC)  
Virginia Office for Protection and Advocacy**

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**ANNUAL REPORT**

**FISCAL YEAR:** 10/1/2008-9/30/2009

**REPORT PREPARED BY:** Shirley McInnis, Disabilities Advisory Council Chair

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**DATE SUBMITTED:**

Dec 28, 2009



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**[Disabilities Advisory Council Chair Signature]**

**Status: Total Number of Persons on Advisory Council.**

[In column 1 (Primary ID)/ please indicate the one primary identification of each advisory council member. In column 2 (Total Number), please include all individuals in each category, even those who are listed also in other categories.]

	<b>Total #</b>
<b>a. Number of Advisory Council Members Serving on 9/30</b>	12
<b>b. Recipients/Former Recipients (R/FR) of disability related services</b>	5
<b>c. Parents/Family Members of R/FR of disability related services</b>	4
<b>d. Disability related service providers</b>	2
<b>e. Disability related professionals</b>	0
<b>f. Attorneys</b>	0
<b>g. Individuals from the public who are knowledgeable about disabilities</b>	1
<b>h. Others (please identify).</b>	0
<b>i. Vacancies (please identify).</b> (DAC bylaws note that the membership must be between 10-20 total)	0-8
<b>j. **Total number of members on the Advisory Council</b>	12

\*\* This total represents all seats on the Advisory Council.

**2. Ethnicity, Race and Gender Composition:**

<b>Ethnicity/Race</b>	<b>Number of Members</b>
<b>American Indian or Alaskan Native</b>	0
<b>Asian</b>	0
<b>Black or African American</b>	2
<b>Hispanic or Latino</b>	0
<b>Native Hawaiian or Other Pacific Islander</b>	0
<b>White</b>	10
<b>Information Not Available</b>	0
<b>TOTAL</b>	<b>12</b>
<b>Gender</b>	
<b>Male: 2</b>	<b>Female: 10</b>
<b>TOTAL: 12</b>	

**B. ADVISORY COUNCIL MEETINGS: Provide the information requested in the table below.**

	<b>Advisory Council</b>
<b>Number of Advisory Council Members Serving on 9/30</b>	12
<b>Term of Appointment (Number of years)</b>	4
<b>Number of Terms a Member Can Serve</b>	1
<b>Frequency of Meetings</b>	Quarterly
<b>Number of Meetings Held in the Fiscal Year</b>	4
<b>% (Average) of Members Present at Meetings</b>	85%

<b>1. Do VOPA staff usually attend Council meetings?</b>
<p>Yes. The Executive Director, Deputy Director and the Council Liaison (Administrative Staff) routinely attend the DAC meetings. In addition, every meeting includes a training session that is provided by VOPA Managing Attorneys, staff attorneys, or advocates.</p> <p>The Executive Director provides an update on the activities of VOPA and highlights items that are of particular interests and concerns to the DAC. The Executive Director also explains legal concepts and processes to clarify the DAC's understanding of the authority and the limitations of the Protection and Advocacy System (P&amp;A).</p> <p>The Deputy Director develops the agenda and facilitates the Advisory Council's work session in close consultation with the DAC Chair. This includes providing comment on the work of VOPA as well as making recommendations for goals, focus areas and objectives.</p> <p>The Council Liaison is responsible for the recording and posting of the minutes on VOPA's website. The Council Liaison is also responsible for all the logistics of the meetings; that is room setup, refreshments, travel arrangements, and so on. The Council Liaison routinely sends the council members information about upcoming events (such as information fairs and educational sessions), and current events and news articles concerning the disability community. The Council Liaison is available to council members to address any concerns of the members as well as advocating on the behalf of the council to appropriate VOPA staff, including areas such as drafting the goals, focus areas and objectives for the next fiscal year.</p> <p>In addition, every meeting includes a training session that is provided either by Managing Attorneys, staff attorneys, or advocates.</p>
<b>2. Do any governing board members usually attend?</b>
<p>Yes. Board members routinely attend and provide an update from the most recent Board meeting. This exchange between DAC members and Board members has been noted as being positive from both parties.</p>

**3. Did the Council work jointly with the governing authority or board to develop the annual priorities?**

Yes. Time on meeting agendas was dedicated to discussing and providing recommendations about the goals, focus areas and objectives. In addition, the DAC was provided information that summarized the public comment input VOPA receives. The DAC chair, as an ex-officio member of the VOPA Governing Board, was involved in the Board's deliberations of the goals, focus areas and objectives.

**4. Does the Council generally work jointly with the governing authority or board in developing VOPA policies?**

Yes. The Governing Board of Directors has established a committee structure that includes representation from both of VOPA's Advisory Councils on each committee. The DAC has identified members to serve on the following Governing Board of Director's Committees:

Goals and Public Awareness – develop a plan to effectively communicate how VOPA works for people with disabilities and the funding limitations/opportunities financial and programmatically.

Internal Policies – review and when necessary revise current VOPA operating policies. When necessary, develop new operating policies;

Finance – identify sources for funding to build capacity in local communities to provide services to those that VOPA cannot serve, create a fundraising plan, review VOPA financial reports and practices.

Council Relations and Public Policy – improve communication between the VOPA staff, VOPA Governing Board and VOPA Advisory Councils. The Committee also reviews systemic challenges and opportunities to VOPA, address public policy position requests

**5. Did Council members attend any in-state training or educational presentations related to VOPA activities?**

Council members are very active in the disability communities and attend functions with their own networks. Also, VOPA staff provide a training on a variety of topics at every DAC meeting.

December 2008: Overview of State Operated Mental Retardation Institutions in Virginia

March 2009: Overview of Brain Injury Association of Virginia and VOPA's Work on Traumatic Brain Injury and the Military

June 2009: Foster Care and VOPA 2009 Objectives

September 2009: VOPA's Work at State-Operated ICF/MRs and Team Model Advocacy at SEVTC

## **DISABILITIES ADVISORY COUNCIL ASSESSMENT OF VOPA ADVOCACY**

### **Goals, Focus Areas, and Objectives October 1, 2008 – September 30, 2009**

#### **GOAL 1: PEOPLE WITH DISABILITIES FREE FROM ABUSE AND NEGLECT**

- Deaths where there is probably cause to believe abuse or neglect occurred
- Abuse or Neglect in Community Settings
- Abuse or Neglect in Institutional Settings
- Physical Abuse in Juvenile Facilities

During this federal fiscal year, the Council had several presentations about State Operated Immediate Care Facilities for persons with Mental Retardation (ICF/MR). Council members became more knowledgeable about the current physical state of some of the facilities. Council members also learned that required components of ICF/MRs are to provide active treatment and to provide a home-like environment. Council members were upset to hear VOPA's findings that services are not individualized and that the average length of stay is 25 years. Council members want VOPA to advocate to stop "warehousing" people with disabilities in unsafe buildings. Council members also learned about the dire staffing issues at the ICF/MRs and the lack of certified interpreters and assistive technology devices. Council wants VOPA to advocate for more money to be set aside for communication access both at the facilities and the community.

Council members are very concerned about the vulnerability of some people with disabilities to abuse and neglect. Council members know that VOPA received Critical Incident Report data from the state operated ICF/MRs whenever there is an incident that requires medical attention. Council members are concerned about community ICF/MR that does not report such data to VOPA. Council members wanted to know if people living in group homes are protected and if the homes are adequately staffed with quality personnel.

#### **GOAL 2: CHILDREN WITH DISABILITIES RECEIVE AN APPROPRIATE EDUCATION**

- Denial of eligibility due to lack of or inappropriate evaluations and assessments
- Children who have been (or are at risk of being) suspended to inadequate behavioral intervention plans or functional behavioral assessments
- Assistive Technology in Schools
- Children with TBI
- Transition from school to work

The Councils learned that there are a few school-aged children residing at CVTC and South Eastern Virginia Training Center (SEVTC) that do not attend school. Every child under the age of 22 is mandated in Virginia to go to school. However, this is often not enforced if the child has a severe disability.

The Council appreciates the work VOPA did on the Special Education regulations. The Council acknowledges the work VOPA did to protect the rights of children with disabilities at school.

The Council wants VOPA to continue to advocate for the removal of seclusion and restraint used in Virginia public schools.

The Council was concerned about schools providing and using assistive technology. Council members discussed anecdotal stories where children with disabilities have assistive technology (AT) in their Individualized Education Plans (IEPs) but teachers are not trained to use the AT and to effectively use it. The Council wants VOPA to educate and possibly train parents and teachers about IEPs and AT. Council members also want VOPA to continue to work with foster parents to advocate for the children in their care.

### **GOAL3: PEOPLE WITH DISABILITIES HAVE EQUAL ACCESS TO GOVERNMENT SERVICES**

- Services and Supports to Enable Individuals to Move into the Community
- Appropriate TBI Supports in Government Services and Employment
- Services and Supports to Enable Individuals to Remain in the Community
- Access to State and Local Government Building
- Access to Vote for Persons with Disabilities

At the beginning of the federal fiscal year the DAC had many concerns about the Presidential election in November 2008. Concerns primarily focused on polling site accessibility. The Council was particularly pleased with VOPA's Public Service Announcement that encouraged people with disabilities to vote and provide information on who to contact should any problems arise with voting day accessibility issues.

The Council wants VOPA to continue with presenting voting information on absentee ballots and accessibility. The Council was particularly happy about VOPA continuing to access the Department of Veteran Affairs to help service men and women obtain voting information and out-of-state absentee ballots.

VOPA provided two trainings at the Hunter Holmes McGuire VA Medical Center in Richmond, Virginia regarding consumer rights and services for individuals with Traumatic Brain Injury (TBI). One presentation included an opportunity to meet the staff, with hopes of establishing a partnership for further veterans outreach at the facility. As a result of another presentation, VOPA was invited back to McGuire for Paralyzed Veterans Association's "kick off." The Council appreciates VOPA's efforts in this area.

The Council was concerned about the funding of the Traumatic Brain Injury (TBI) grant. The Council learned that the TBI grant is one of VOPA's smallest operating grants and that in the last eight years has been zeroed out in the President's budget. Most of the advocacy at the national level has been to ensure the continuation of the grant. The Council believes the money could be used better to research how to better treat people with TBI. The Council wants VOPA to advocate that the money not be cut in future Presidential budgets to free up time to help those who need the money most.

Council members learned about barriers of people with disabilities acquiring information about Medicaid 1619(b) and Medicaid Buy-In. The primary problem was that staff at the local Department of Social Services (DSS) were not knowledgeable about the programs and callers would end up feeling frustrated. Council members also spoke about anecdotal events where parents who contact DSS could not understand DSS terminology and language. This acted like a deterrent as parent would not approach DSS for assistance in the future. The Council wants VOPA to train DSS staff to be more

consumer focused and more knowledgeable about programs and services available to people with disabilities.

Council members were very concerned about all the proposed budget cuts announced over the year for the State government. The Council was concerned about Community Service Boards not being able to provide communication access to Deaf individuals. VOPA staff noted that Federal Law requires communication access.

#### **GOAL 4: PEOPLE WITH DISABILITIES LIVE IN THE MOST APPROPRIATE INTEGRATED ENVIRONMENT POSSIBLE**

- Appropriate and Timely Discharge Plans at State Mental Health and Mental Retardation Facilities
- Consumer Driven Alternatives to Guardianship
- Off-campus Activities for Training Center Residents
- Inaccessibility of Retail Settings

The Council learned about VOPA's work with the State-operated ICF/MR. Council members were very concerned about CVTC receiving monies from the 2008 General Assembly to replace, repair or rebuild the facility and SEVTC moving forward with the plan of building the 75-bed facility. Councils want VOPA to continue advocating against the construction of more State-Operated facilities in Virginia. Council members believe that people with disabilities can be served better in the community and wants VOPA to advocate for more community supports that will assist in discharge planning of current ICF/MR residents.

The DAC agrees that one of the largest barriers of discharge for people to move into the community after residing in residential facilities is transportation. Before a person is discharged, services should be set up to enable the person to successfully move back into the community. Transportation is instrumental to be successful in the community. The Council wants VOPA to advocate for the safe transportation of people with disabilities. People with disabilities sometimes feel reluctant to make reports of abuse by transportation providers for fear of reprisals. Council members therefore want VOPA to ensure that if people make valid complaints about the treatment received by transportation providers that there will be no retribution or retaliation by the transportation provider.

Council members learned that off-campus activities at ICF/MRs are very limited due to staffing issues. ICF/MR residents have to be escorted even if all they want to do is walk around the campus. The Councils wants VOPA to advocate more off-campus activities for ICF/MR residents.

VOPA staff discussed several accessibility surveys of retail settings in Roanoke and Lynchburg. The Council liked VOPA's approach by first of informing the proprietors of the Americans with Disabilities Act (ADA) violations and possible remedies. The Council acknowledges that litigation can be costly and should be a last resort to ensure compliance to ADA.

Council members learned that people with TBI are being discharged from acute level hospitals to nursing homes where they can receive long-term care. These placements are often inappropriate as nursing homes do not have the capability to provide

appropriate rehabilitation services for people with TBI. The Council was concerned to hear the allegations of CSBs refusing to serve people with a known brain injury. CSBs are legally mandated in Virginia to provide crisis services to any Virginian in crisis regardless of disability. Denying treatment based on disability is discriminatory under the ADA.

Council members were pleased to hear about positive outcomes for VOPA's case against the Virginia State Lottery. The Council members want VOPA to pursue more cases that will result in system-wide benefits for all people with disabilities in Virginia. VOPA had pursued this case at several levels of the judicial process and the Council applauds VOPA for continuing with the case after the initial setback in Court in April 2008.

Council members had a presentation about Alternatives to Guardianship during Fiscal Year 2008 and discussed related topics through out FY09. Council members were very curious about Adult Foster Care and thought it was a very novel idea that could help a lot of people currently residing in State Operated ICF/MRs. However, there are many people residing in State Operated ICF/MRs that have an ICF/MR appointed "Authorized Representative" (AR) that may have full decision making control over the person's care. Council members were alarmed to hear that under the Human Rights regulations in Virginia the current practices using ARs is not legal. Council members want VOPA to challenge the use of ARs by State Operated ICF/MRs as DAC members see this as the one of the largest barriers to discharge.

## **GOAL 5: PEOPLE WITH DISABILITIES ARE EMPLOYED TO THEIR MAXIMUM POTENTIAL**

- Vocational Training for Training Center Residents
- Barriers to Work for Social Security Beneficiaries
- Maximized Employment for Vocational Rehabilitation Clients
- Employment Self-Advocacy Clinic

Council members were disappointed that at the beginning of the fiscal year when the Department of Rehabilitative Services (DRS) closed the order of selection and therefore was not accepting new clients. The order of selection has since reopened but DRS only serves people with the most severe disabilities. Council members voiced their concerns about rumors that DRS will not begin transition services for children until the child is in the senior year of high school. DRS policy states that schools are to have the Individual Plan for Employment (IPEs) completed by end of senior year but this plan has to be initiated before senior year, preferably when the child is fourteen years old. The Council talked about how IEPs are often not implemented at vocational schools. The Council wants VOPA to ensure that parents and students know how to advocate for themselves to enforce compliance in post-secondary educational settings. One Council member has noticed an improvement in transition services in the Southwest region of the state and attributes this in part to the advocacy work by VOPA staff.

Council members also discussed mindsets that exist that people with disabilities can only do certain jobs and therefore should only be trained to what that person can currently do and not given the opportunity to try other occupations. The Council discussed anecdotal experiences where they suspected that DRS staff shared these mindsets. The Council believes that not providing individualized job training ultimately

dissuades the person with the disability from pursuing a career they want. The Council appreciates VOPA's work to help people with disabilities acquire gainful employment but recognizes that a lot still needs to be done.

**GOAL 6: PEOPLE WITH DISABILITIES HAVE EQUAL ACCESS TO APPROPRIATE AND NECESSARY HEALTH CARE**

- Assistive Technology Through Insurance
- Retention of Benefits Through 1619(b) and Medicaid Buy-In
- Medical Care of Residents of ICF/MRs and Waiver Homes
- Medicaid Appeals for EPSDT issues
- Medicaid Waiver

DAC members discussed physical accessibility issues with doctor offices and hospitals and options on solving those issues. Other issues include communication access and service animals. Council members talked about how informational and educational videos should be closed captioned as it can be beneficial to more than Deaf populations including people with cognitive disabilities and the aging population. The DAC wants VOPA to teach medical professionals how to be respectful to people with disabilities and how to present medical diagnosis in a consumer focused way.

The DAC was pleased to hear about how Northern Virginia Training Center (NVTC) received a grant for community dentists that specialize in treating patients with disabilities train other dentists. This training leads to network building and encouraging dentists to continue practicing at NVTC. The DAC wants VOPA to advocate for NVTC to share this model with other dental schools and training centers across Virginia as a means for sustainability to provide dental services to people with disabilities.

***Other DAC Comments***

Disabilities Advisory Council understands that VOPA cannot control the State Budget cuts and recognizes that both the service delivery system in Virginia and VOPA have limited resources.

Council members value the training sessions offered at every DAC meeting. Council members complement the great work VOPA accomplished during this fiscal year and applauds VOPA's knowledgeable and supportive staff.