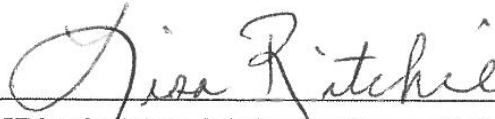


**Disabilities Advisory Council (DAC)  
Virginia Office for Protection and Advocacy**

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**ANNUAL REPORT**

**FISCAL YEAR:** 10/1/2009-9/30/2010  
**REPORT PREPARED BY:** Lisa Ritchie, Disabilities Advisory Council Chair  
**TELEPHONE NUMBER:** 804-225-2042  
**E- MAIL ADDRESS:** general.vopa@vopa.virginia.gov  
**DATE SUBMITTED:**



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[Disabilities Advisory Council Chair Signature]

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

**1. Self identification (select ONLY ONE (1) identity for each DAC member position)**

	<b>Total #</b>
<b>Number of Advisory Council Members Serving on 9/30</b>	4
<b>Recipients/Former Recipients (R/FR) of disability related services</b>	3
<b>Parents/Family Members of R/FR of disability related services</b>	3
<b>Disability related service providers</b>	
<b>Disability related professionals</b>	
<b>Attorneys</b>	
<b>Individuals from the public who are knowledgeable about disabilities</b>	
<b>Others (please identify).</b>	
<b>Vacancies (please identify). (DAC bylaws note that the membership must be between 10-20 total)</b>	
<b>a. **Total number of members on the Advisory Council</b>	10

\*\* 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>	
<b>Asian</b>	
<b>Black or African American</b>	2
<b>Hispanic or Latino</b>	
<b>Native Hawaiian or Other Pacific Islander</b>	
<b>White</b>	8
<b>Information Not Available</b>	
<b>TOTAL</b>	<b>10</b>

<b>Gender</b>	
<b>Male:</b>	1
<b>Female:</b>	9
<b>TOTAL:</b>	<b>10</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>	10
<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>	3 (September meeting postponed to October)
<b>% (Average) of Members Present at Meetings</b>	70%

<b>1. Do VOPA staff usually attend Council meetings?</b>
<p>Yes.</p> <p>The Executive Director, Deputy Director and the Council Liaison (Administrative Assistant) routinely attend the Disabilities Advisory Council meetings. Every meeting includes a training session that is provided either by VOPA Managing Attorneys, staff attorneys, or staff advocates.</p> <p>The Executive Director provides an update on VOPA activities and highlights items that are of particular interest to the Disabilities Advisory Council. The Executive Director also explains legal concepts and processes to clarify the Disabilities Advisory Council's understanding of authority and limitations of the Protection and Advocacy office.</p> <p>The Deputy Director develops the agenda and facilitates the Advisory Council's work in close consultation with the Disabilities Advisory Council 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 recording and posting of the minutes on VOPA's website. The Council Liaison is also responsible for all the logistics of the meeting. The Council Liaison routinely sends the Council members information about upcoming events and news articles concerning the disability community. The Council Liaison is available to Council members to address any member's concerns as well as advocating on the behalf of the Council members to appropriate VOPA staff, such as drafting goals, focus areas and objectives for the next fiscal year.</p>
<b>2. Do any governing board members usually attend?</b>
<p>Yes.</p> <p>Board members routinely attend and provide an update from the most recent Board meeting. Board members attend the entire meeting and are active participants during Council discussions. Usually one Board member attends each meeting and attendance rotates between current Governing Board members. This exchange between Disabilities Advisory Council members and Board members has been noted as being positive for both bodies.</p>

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

Yes.

Time on each agenda is dedicated to discuss and provide recommendations about the goals, focus areas and objectives. VOPA receives public comment and a summary is provided to the Council. The Disabilities Advisory Council Chair, as ex-officio member of the VOPA Governing Board, is involved in deliberations of the goals, focus areas and objectives. Budget and financial reports are also discussed and reviewed at every Board meeting.

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

Yes.

At every Governing Board meeting, the Disabilities Advisory Council Chair gives a verbal report of the Disabilities Advisory Council's activity since the last Board meeting. This report is usually a review of the Council meeting and what impact it may have had on the members and other advocacy efforts in the disability community.

Disabilities Advisory Council members are given the opportunity to serve on the Governing Board committees. Each committee comprises of two to four Governing Board members, a representative from the DAC, a representative from the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Advisory Council, and one staff member. The Disabilities Advisory Council members have volunteered to serve on each of the Governing Board committees. On these committees, Council members have an equal vote with the Governing Board members. Council members bring the Disabilities Advisory Council's interests and concerns to each committee meeting.

The Disabilities Advisory Council members and VOPA staff routinely update the other Council members on the Governing Board committee work at Council meetings. The committees and their roles are as follows:

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

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

Finance – review VOPA financial reports and practices.

Resource Development – effective September 2009, this committee researches the viability of creating a non-profit organization for the purpose of fundraising.

Council Relations and Public Policy – improving communication between the VOPA Governing

Board and VOPA Advisory Councils (Disabilities Advisory Committee and PAIMI Advisory Council) and VOPA staff. This committee sunsetted January 2010 as the committee completed its objectives.

Public Policy – 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 trainings on a variety of topics at every DAC meeting.

December 2009: Overview of Virginia General Assembly and Advocacy Opportunities

March 2010: Update and Discussion about the 2010 Virginia General Assembly

July 2010: Critical Incident Reports

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

### **Goals, Focus Areas, and Objectives October 1, 2009 – September 30, 2010**

#### **GOAL 1: PEOPLE WITH DISABILITIES ARE 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

Council members are supportive of VOPA's case that is before the U.S. Supreme Court. Federal law entitles VOPA access to the Department of Behavioral Health and Developmental Services' (DBHDS) investigative records. This case comes from an investigation of several serious incidents from state operated Intermediate Care Facilities for the Mentally Retarded (ICF/MRs) that resulted death and maiming of persons with disabilities. The Supreme Court will decide if VOPA has the authority to sue another state agency for access to investigative records. VOPA was created as an independent state agency by the General Assembly in 2002. Under both state and federal law, VOPA is authorized to pursue all necessary legal remedies to carry out its mission.

Members were curious as to the number of death investigations VOPA undertakes every year. During the past fiscal year there were 16 death investigations which Council members thought was high. In addition, hearing that VOPA received about 800 Critical Incident Reports (CIR) a year also shocked many of the members. Members support VOPA's efforts analyze data and conduct trend analysis. Not every CIR is indicative of abuse or neglect as some may result from recreational activities for example. CIRs do not report incidents where there is no physical injury such as financial exploitation or verbal abuse. Council members learned that not every death in a state operated ICF/MR is investigated by VOPA or the state police. Council members are pleased that VOPA has a presence at every state operated ICF/MR as it is beneficial to both VOPA clients and ICF/MR staff. Council members specifically note facility monitoring and abuse and neglect investigations as VOPA's strengths.

Members thank VOPA for starting the conversation about seclusion and restraint practices in schools. Members acknowledge that people often feel ashamed or fear talking about seclusion and restraint practices with children. Members are grateful that VOPA is bringing up the issue in hopes to end these appalling practices with children with disabilities.

The DAC encourages VOPA to continue advocating for significant progress with facility downsizing and appropriate discharges.

#### **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

Members were excited to hear about VOPA's collaboration with the Virginia Department of Education (DOE) to create training materials to help identify children with traumatic brain injury (TBI). Teachers can use this training to tailor lesson plans to identify children's educational needs. Council members believed this collaboration will be beneficial to all parties involved: children, parents and educators. Council members would like to see more collaboration like this in the future.

Members noted that transition services offered for children with disabilities as they graduate from high school have improved in several areas throughout the state thanks to VOPA's outreach and informational sessions. Members declare that VOPA staff are very knowledgeable and the Council is very pleased with staff statewide advocacy efforts. Members are concerned that transition services might fall "between the cracks" due to budget constraints and therefore want VOPA to keep an eye on the situation. Members would also like to see transition services be more than a check box exercise and an integral part of the Individualized Education Plan (IEP).

The DAC asserts that VOPA's work advocating for the use of assistive technology in schools as a strength and for VOPA to continue its efforts in this arena.

### **GOAL 3: 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

Council members were concerned about the building of a new segregated institution to replace Southeastern Virginia Training Center (SEVTC). Council members learned about an assessment of current SEVTC residents that showed that people with disabilities with similar levels of need currently are living in the community so there is no need to build a new facility for that level of care. Council members were shocked to hear that the Court dismissed VOPA's case by stating that there was no violation of the Americans with Disabilities Act (ADA) until the building is built and someone was placed to live in it. Members are appalled that the state will proceed with rebuilding SEVTC even though building a new segregated facility will go against the ADA. Members believe the money should be diverted to support community living efforts.

Council members were pleased to hear about VOPA surveying schools for accessibility that acted as voting sites in Mathews and Orange Counties. The counties were chosen because they were identified by VOPA staff as underserved areas. Council members appreciate VOPA's use of resources with this project as it tackled several issues: school accessibility, voting accessibility and underserved communities. Council members would like VOPA to expand this objective in future years to look at more voting sites.

Council members were impressed with VOPA's success working with the University of Virginia (UVA) to make accessible common areas. Members commented that often owners of historical buildings are resistant to make accessibility changes citing that it destroys the historical integrity of the site. Council members did suggest that VOPA write a press release praising UVA for

being progressive in hopes that this publicity will inspire other historical sites throughout Virginia to make accessibility changes to make Virginia more disability friendly.

Members were happy with VOPA's strategic use of resources with the Assisted Living Facility (ALF) project that was completed with two outcomes in mind: to provide voter rights presentations and to survey living conditions. VOPA staff visited 287 ALFs. VOPA presented to ALF residents about their voting rights in the weeks prior to the October 12, 2010 voter registration deadline. ALFs were selected if they receive Auxiliary Grants funding. An Auxiliary Grant is an income supplement to Social Security Income for certain individuals residing in ALFs. This limited use of Auxiliary Grants acts as a barrier for people to choose a living setting that is appropriate to them. The information obtained from the survey will be reviewed to see if follow-up with particular ALFs are necessary as well as educating policy makers about the limited use of Auxiliary Grants.

Members believe more advocacy is need for people with traumatic brain injuries (TBI). Members felt that TBI issues at a federal level are being neglected at a time when many service men are returning from conflict areas. Members are not happy that federal funding has not increased for the Protection and Advocacy for Traumatic Brain Injuries (PATBI) grant for some time. Members advocate that VOPA work with the Wounded Warrior programs to provide outreach to an under-represented population.

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

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

Council members asked at every meeting for an update on the Logisticare Project. VOPA asked the public for information about episodes where Logisticare failed to provide transportation or incidents of serious injuries. Members talked about personal incidents as well as noting third party accounts. Members know that it is still too early in the data collection phase to know what direction VOPA will go concerning Logisticare.

Members are very happy with legislation passed in the prior fiscal year that expanded advance directives. Advance directives allow anyone to make decisions about their health care today in the event they cannot advocate for themselves in the future. Members believe that this is very empowering for people with disabilities.

Council members were impressed with VOPA's success with improving restaurant accessibility in Southwest Virginia. This area of the state seems to have been particularly reluctant to make accessibility changes and Council members hope that this will inspire other businesses to make changes.

Council members are very supportive of VOPA's case against the Virginia Lottery. Members agree with VOPA that any business that operates using state monies be accessible to people with disabilities. Members would also like to see this objective expanded to all private businesses to become accessible for all people.

Members are happy with VOPA's accessibility survey of movie theaters in the Tidewater area. Members appreciate that VOPA is drawing public attention to accessibility issues facing the deaf and hard of hearing community. Members stated that when the public thinks about accessibility issues, they think about ramps and other environmental barriers. Council members know that more still needs to be done on behalf of the deaf and hard of hearing community.

## **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 are concerned with Virginia's heavy reliance on sheltered workshops for people with disabilities. Members agree with VOPA that sheltered workshops operate to segregate people with disabilities from their communities.

Council member are grateful for VOPA's advocacy efforts to increase Department of Rehabilitative Services' (DRS) compliance with state and federal laws and regulations. VOPA discovered that some DRS staff were unfamiliar with the requirement to provide trial work experience. VOPA is working with DRS to create trainings that will address deficiencies in staff and management knowledge. Members acknowledge that more work is required as there are many issues that people with disabilities face when requesting services from DRS. Members spoke about experiences of being denied services and long wait times to obtain services. Members also are upset that some DRS counselors do not consider the work aspirations of people with disabilities. The DAC encourages VOPA to continue its advocacy efforts with DRS. DAC believes that providers are hearing that VOPA is an "entity to be reckoned with."

Council members appreciate the advocacy and legal services VOPA provides to individuals with disabilities as they face discrimination on the job. Members learned of a case involving the Virginia Department of Motor Vehicles (DMV) who refused to make accommodations and then requested more from that discriminated employee than what was required from other employees in similar positions.

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

- Assistive Technology Through Insurance
- Denial of Needed and Appropriate Medical Services
- Accessibility of Medical Offices and Clinics Under the ADA and Rehabilitation Act
- Access to Dental Care for Individuals with Developmental Disabilities

Council member spoke about several examples of interpreters being denied or were inappropriate in health care settings. Members want the confidentiality of persons with disabilities respected and noted several examples they personally experienced or witnessed a person with a disability being disrespected in a health care setting. Members are happy with VOPA's work to date but note that more needs to be done. The DAC suggests that healthcare professionals be trained about issues facing people with disabilities, especially concerning respectful etiquette. Members also want healthcare professionals trained to know that not all

people with disabilities are the same, for example, sign language interpreters may not be appropriate for someone who became deaf or hard of hearing later in life who might not know American Sign Language.

Council members are concerned about dental care for adults with disabilities. Members are aware of only one location in the state of Virginia that offers dental care services to adults with developmental disabilities. Council members learned that Medicaid covers dental care for adults with disabilities in other states and were upset to find out that Virginia does not. Members therefore want VOPA to investigate why this is and educate policy makers about the need for dental services for people with disabilities. The DAC encourages VOPA to continue its advocacy efforts with DRS.

Members are very appreciative of VOPA's help to people with disabilities to obtain assistive technology (AT). Council members are aware of the difficulties to obtain replacement AT devices such as wheelchairs. Members are very happy with VOPA's record to advocate for AT devices from Medicaid and private insurance companies. However, members know that a lot of people including consumers and providers do not know about AT availability and capabilities. Members want VOPA to educate consumers and providers about AT such as communication devices.

#### ***Other DAC Comments***

The DAC recognizes that there is still a lot of work to do within the community that is not covered by the annual Goals, Focus Areas and Objectives, but knows that both the State and VOPA have limited resources. Council members acknowledge that VOPA selects cases that will have a systemic impact with the disability communities and cannot provide case level services for everyone who requests assistance. Members believe that this case selection is a good use of limited resources and are appreciative of VOPA's broad spectrum of advocacy efforts that covers a wide range of issues facing all Virginians with disabilities.

Members appreciate VOPA's statewide education, training and outreach as the presentations reach a large number of constituents. Presentation attendees can then use information learned to help themselves and others.

Members appreciate the trainings and presentations at every meeting. Members are able to bring the information they learn from the DAC meetings back to their communities and help others with their disability-related concerns. Members also thank VOPA for being prepared for DAC meetings as members receive the packets well in advance to read prior to meetings. Meeting packets are full of valuable information and are well organized. However, the packets do not include a lot of background information. Members were unclear with the litigation report that items reported are not all full-blown court cases and that there is a lot of work involved before the litigation stage.

DAC members are very happy with the VOPA Governing Board Committee structure. Committees allow DAC representatives another opportunity to advise the Governing Board on specific business. Council members believe the new Resource Development Committee is good move for VOPA to look for alternative sources of revenue to further VOPA's mission.

VOPA piloted a joint meeting between the DAC, Protection and Advocacy for Individuals with Mental Illness (PAIMI) Advisory Council and the VOPA Governing Board in July 2010. Many

aspects of each meeting overlapped such as the Executive Director's Report and Trainings. DAC members are pleased that VOPA was innovative to try the joint meeting format to save money. It was a good opportunity to meet the VOPA Governing Board members and the PAIMI Advisory Council members. However, there were a few disadvantages of the joint meeting such as the DAC portion was very short and the large number of attendees made discussions difficult.