

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

**Fiscal Year 2011**

**DESIGNATED AGENCY IDENTIFICATION**

Name: Virginia Office for Protection and Advocacy  
Address: 1910 Byrd Avenue, Suite 5  
Richmond, VA 23230  
E-mail Address (if applicable): Sherry.Confer@vopa.virginia.gov  
Website Address (if applicable): www.vopa.state.va.us  
Phone: (804) 225-2042 TTY: (804) 225-2042  
Toll-free Phone: (800) 552-3962 Toll-free TTY: (800) 552-3962  
Fax: (804) 668-7431  
Name of P&A Executive Director: Colleen Miller, Esq.  
Name of PAIR Director/Coordinator: Colleen Miller, Esq.  
Person to contact regarding report: Sherry Confer  
Contact Person's phone: (804) 662-7375

**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     | 891  |
| 2. Individuals receiving I&R <u>outside</u> of PAIR's priority areas | 1303 |
| 3. Total individuals receiving I&R (lines A1+A2)                     | 2194 |

**B. Training Activities:**

- |   |      |
|---|------|
| 1. Number of trainings presented by PAIR staff                      | 69   |
| 2. Number of individuals who attended these trainings (approximate) | 1627 |

**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.**

Using PAIR and other funding sources, VOPA conducted dozens of trainings in varied settings in geographically diverse locations to educate Virginians with disabilities and their friends, families, teachers, and advocates of their rights, effective methods of self-advocacy, and remedies available if those rights are violated. Most of these trainings were small-group, interactive presentations with integrated question and answer sessions, intended to make people better educated and better self-advocates.

VOPA educated individuals residing in community residential settings about the agency which has regulatory control over their home. This training was provided to ensure that the individuals living in these settings are aware of what standards should be met, as well as how to report issues and problems.

VOPA trained students, parents, and advocates involved in special education and the Individualized Educational Plan (IEP) process in multiple IEP areas, in collaboration with advocacy groups and a community services board. The trainings included material on Standards of Learning exams and students' right to a full school day. VOPA conducted training relating to Functional Behavioral Assessments and Behavioral Intervention Plans to attempt to reduce or eliminate the practices of seclusion and restraint used on students. VOPA also performed additional outreach and training to a local parent organization and to Virginia Department of Social Services offices in order to provide maximum information to students, parents and advocates.

VOPA provided training regarding Special Education and Transition to foster parents and caseworkers. VOPA gave presentations on educational devices and funding for such devices, as well as transition to employment, at the Hanover Caregiver's Association Parent Group and the Children's Home Society in Richmond. VOPA provided training to five parent or child advocacy groups regarding educational devices and services. VOPA also targeted these trainings to include Spanish-speaking families.

VOPA trained county and city transit providers regarding disability awareness issues and to individuals with disabilities regarding the right to fixed-route public transportation to promote safer and more effective and appropriate practices for people with disabilities who rely on public transportation.

VOPA conducted training on employment rights for people with disabilities in a variety of settings and to varied audiences to advise people with disabilities of their rights to reasonable accommodations, whether or not to disclose a disability, how to request an accommodation, and what to do if discrimination occurs.

VOPA provided trainings to individuals with disabilities and their families relating to alternatives to guardianship, advance directives, and powers of attorney to increase the independence of people with disabilities who may need assistance but do not need to relinquish their independence to do so.

VOPA trained advocates and people with disabilities on their rights to accessibility requirements in medical settings, as well as alternate aids and services available for

**C. Information Disseminated to the Public:**

1. Radio and TV appearances by PAIR staff	0
2. Newspaper/magazine/journal articles	63
3. PSAs/videos aired	1
4. Hits on the PAIR/P&A website	
5. Publications/booklets/brochures disseminated	807
6. Other (specify on separate sheet) Annual Report to General Assembly, Director Blog	1

**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)	17
2. Additional individuals who were served during the year	64
3. Total individuals served (lines A1+A2)	81
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.)	14

**B. Individuals still served as of September 30** (carryover to next year) (May not exceed total on line II.A.3 above.) 14

**C. Problem Areas/Complaints of Individuals Served:**

1. Architectural accessibility	13
2. Employment	16
3. Program access	2
4. Housing	9
5. Government benefits/services	11
6. Transportation	9
7. Education	15
8. Assistive technology	
9. Voting	
10. Health care	24
11. Insurance	
12. Non-government services	
13. Privacy rights	
14. Access to records	
15. Abuse	
16. Neglect	
17. Other 2 access to recreation programs, 1 guardianship issue	3

**D. Reasons for Closing Individual's Case Files:**

1. Issues resolved partially or completely in the individual's favor	77
2. Other representation found	
3. Individual withdrew complaint	5
4. Appeals were unsuccessful	
5. PAIR services not needed due to individual's death, relocation, etc.	2
6. PAIR withdrew from case	1

- 7. PAIR unable to take case because of lack of resources
- 8. Individual's case lacks legal merit 2
- 9. Other

**E. Intervention Strategies Used in Serving Individuals:** (List the highest level of intervention used by PAIR prior to closing each case file.)

- 1. Technical assistance in self-advocacy 35
- 2. Short-term assistance 13
- 3. Investigation/monitoring 4
- 4. Negotiation 25
- 5. Mediation/alternative dispute resolution 1
- 6. Administrative hearings
- 7. Litigation (including class actions) 9
- 8. Systemic/policy activities

**PART III. STATISTICAL INFORMATION ON INDIVIDUALS SERVED:**

**A. Age of Individuals Served:** (as of October 1)

(Multiple responses not permitted.)

- 1. 0 - 4
- 2. 5 - 22 13
- 3. 23 - 59 49
- 4. 60 - 64 14
- 5. 65 and over 5

**B. Gender of Individuals Served:** (Multiple responses not permitted)<sup>1</sup>

- 1. Females 51
- 2. Males 30

**C. Race/Ethnicity of Individuals Served:** (Multiple responses permitted)

- 1. White 52
- 2. Black or African American 29
- 3. American Indian or Alaska Native
- 4. Asian
- 5. Native Hawaiian or other Pacific Islander
- 6. Hispanic or Latino
- 7. Race/ethnicity unknown

**D. Living Arrangements of Individuals Served:** (Multiple responses not permitted)

- 1. Independent 61
- 2. Parental or other family home 15
- 3. Community residential home 1
- 4. Foster care
- 5. Nursing home 3
- 6. Public institutional living arrangement
- 7. Private institutional living arrangement
- 8. Jail/prison/detention center
- 9. Homeless
- 10. Other living arrangements 1
- 11. Living arrangements not known

**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	6
2. Deaf/hard of hearing	18
3. Deaf-blind	
4. Orthopedic impairment	13
5. Mental illness	
6. Substance abuse	
7. Mental retardation	
8. Learning disability	3
9. Neurological impairment	17
10. Respiratory impairment	1
11. Heart/other circulatory impairment	3
12. Muscular/skeletal impairment	15
13. Speech impairment	
14. AIDS/HIV	1
15. Traumatic brain injury	2
16. Other disability (irritable bowel syndrome 1; diabetes 2)	2

**PART IV. SYSTEMIC ACTIVITIES AND LITIGATION:**

**A. Systemic Activities:**

1. Number of policies/practices changed as a result of non-litigation systemic activities	16
2. Number of individuals potentially impacted by policy changes (duplicative count as multiple policies could impact the same individual)	3,241,262

**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.)**

Among other efforts to increase access to movie theaters, VOPA negotiated the successful premier of the 7<sup>th</sup> Harry Potter film on opening weekend with open captioning, one of only four known theaters in the country to provide said captioning on opening weekend. These showings were attended by hundreds of people with disabilities with their friends and families. Television and newspaper articles regarding these events were broadcast in Virginia and throughout the country. VOPA continues to work with Regal Cinemas to coordinate the implementation of the new technology in Virginia in central locations geographically throughout the state to increase access to movies. VOPA also created, though the Harry Potter opening weekend shows, a data set that previously did not exist to allow for the comparison of ticket sales for captioned versus non-captioned shows on opening weekend, and demonstrated that the defense of substantial hardship caused by providing captions

on opening weekend would likely not survive judicial challenge. This data is now available to every Protection and Advocacy and disability advocacy group in the country involved in this type of litigation. VOPA gathered information from every theater in Virginia on captioning and descriptive audio, and has shared that information with our clients as well as community groups. VOPA also advocated to add descriptive audio to specially arranged open caption shows scheduled for weekends to increase access to films. VOPA is working with a major film distributor and director regarding the lack of films produced by this company that are distributed with captioning technology.

VOPA surveyed private tourism attractions listed on the Virginia.org website for Americans with Disabilities Act (ADA) accessibility. Virginia.org is the website for the Virginia Board of Tourism, and features thousands of Virginia public and private attractions which are given extensive advertising and publicity by the state. The goal is to ensure that accessibility information provided by Virginia Tourism through their website, Virginia.org, is accurate. VOPA found that the "Monticello Wine Trail" featured locations that were not accessible. VOPA also found two attractions featured under "Downtown Staunton" lacked accessible curb cuts and path of travel: the Staunton Depot, which has an active Amtrak stop and businesses, and the Farmers Market, located in a parking area operated by the city. VOPA sought reforms at all locations. One winery has completed all of the suggested modifications to the restrooms, parking lot, ADA signage, ramp, and entrance. The City of Staunton has increased accessibility to the Staunton Farmers Market and the Staunton Shakin' Summer Concert series by adding curb cuts and accessible parking. Amtrak has added parking and a ramp, and has a plan in place which should bring the station into compliance by the end of 2012. VOPA also met with Virginia Tourism regarding our concerns about the accessibility information provided for establishments listed on the Virginia.org website. Virginia Tourism seems receptive to providing a mechanism for businesses to provide more accurate accessibility information. These efforts with Virginia Tourism will carry over into the next fiscal year. While specific settlements were reached with nine privately operated sites, dozens of other businesses and locations were surveyed and made aware of ADA issues. Ongoing efforts should lead to greater accuracy in accessibility information provided by Virginia Tourism that will affect tens of thousands of Virginians with disabilities.

VOPA surveyed other attractions in Staunton listed on the Virginia Tourism website and identified accessibility issues at the Frontier Culture Museum, RR Smith Center for History and Art, and the Staunton Wharf Historical District Parking Lot. A survey of the Woodrow Wilson Presidential Library and Museum indicated no accessibility issues. As a result of our work, the Frontier Culture Museum added accessible parking spaces; and the City of Staunton agreed to correct the accessibility issues identified at the Wharf Parking Lot and the RR Smith Center by adding new accessible parking spaces, adding appropriate curb cuts, and adding appropriate signage for the accessible entrance. VOPA found continuing accessibility issues with the Staunton Trolley and notified the City Public Works Manager. We referred these to Virginia Regional Transit for resolution. These changes to policies and physical

alterations will increase access to the businesses and attractions in Staunton, as well as those listed on the Virginia Tourism website.

VOPA surveyed over 40 private businesses operating under a contract with the state through the Department of Transportation and their Supplemental Guide Sign program. We wrote technical assistance letters to the private businesses. This project is being carried forward into 2012, to ensure that businesses who advertise through state-sponsored signs are accessible to people with disabilities.

VOPA seeks systemic relief in every individual case. For example, we filed a complaint seeking individual and systemic relief to ensure that our client and others in a particular school district receive appropriate transportation services. The Virginia Department of Education determined that the child's school had violated the child's rights by not providing him with a full school day and ordered the school to provide the child with appropriate transportation and compensatory education. VOPA subsequently resolved the case on behalf of other children in the district when the school agreed to provide appropriate and timely transportation to them and offer to compensatory education to any child who had been denied a full school day.

VOPA investigated whether there were systemic issues identified in a targeted area relating to Individualized Education Plan (IEP) development and implementation. VOPA found that there were systemic problems regarding mediation, and reached a systemic agreement with the Virginia Department of Education (VDOE) that will benefit children across Virginia. VOPA successfully advocated for the Department to change its policy and practice regarding mediation. Under the agreement, mediators must respect parents' choice to have an attorney speak for him or her and must allow the attorney to participate in mediation. VDOE must accept requests for mediation signed by attorneys. Also, VOPA will train VDOE mediators regarding the role of an attorney at mediation.

VOPA concluded our prior access work at Virginia Tech. Virginia Tech had made many improvements: signs at construction areas were present directing people to accessible routes, and accurate maps on the website and at the Visitors' Centers were available. VOPA sent a final technical assistance letter noting some remaining issues, particularly the lack of signage directing individuals to accessible entrances. These new policies and changes will result in increased access on campus for thousands of people with disabilities for many years to come.

VOPA has received numerous complaints over several years from people with disabilities who have complaints regarding transportation by the Department of Medical Assistance Services and its contractor, Logisticare. VOPA developed a new complaint system where it submits complaints regarding Logisticare directly to the Virginia Department of Medical Assistance Services and demands an investigation and corrective action. In such cases, VOPA gathers evidence to substantiate the client's position, drafts a complaint laying out the facts and demands specific relief. In three cases, the Virginia Department of Medical Assistance Services has found that

its contractor violated our client's rights and has ordered that it take corrective action. In cases where VOPA cannot substantiate the client's complaint with specific facts, VOPA provides technical assistance to the client on how to submit a complaint. VOPA has gathered information and evidence regarding the Virginia Department of Medical Assistance Services and Logisticare's provision of Medicaid Non-Emergency Transportation. VOPA incorporated data it recently received with data from prior years and is summarizing it in a report. Through these efforts VOPA has improved the transportation services available to people with disabilities throughout the state, and changed the complaint policy to one that is significantly more effective at resolving client disputes.

VOPA developed a curriculum on "Employee and Applicant Rights under the ADA" and has offered to provide this training for a fee to trade groups or other employers, and to parties as part of settlement agreements in ADA employment cases. VOPA partnered with the Virginia Employment Lawyer's Association, members of the private bar, and the Virginia State Bar Mandatory Continuing Legal Education Board to create and have approved presentation materials and find partners for presentations and training. The purpose of these trainings is to prevent discrimination against people with disabilities, and training employers how to respond to a complaint of discrimination. VOPA has additionally established and maintained relationships with Virginia's Rehabilitation Services Offices to allow training and education of their individual clients and consumers to make them aware of their rights during the interview process, upon hire, and for any wrongful action by an employer. By educating employers and employees VOPA expects to decrease incidents of discrimination throughout the state proactively.

**B. Litigation/Class Actions:**

- |  |         |
|--|---------|
| 1. Number of individuals potentially impacted by changes as a result of PAIR's litigation/class action efforts | 784,400 |
| 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.)**

Several individuals contacted VOPA in 2005 complaining that private businesses licensed to sell Lottery tickets are not accessible. After negotiations failed, litigation was filed in July 2005. The Circuit Court granted Summary Judgment to the Lottery however the Virginia Supreme Court reversed and held that the Lottery must ensure that its retailers are accessible. In late 2010, the parties entered into a settlement agreement ensuring that retailers will be accessible. The Lottery will survey all retailers at least once every three years. Retailers licensed after January 1, 2011 must correct accessibility violations or have their licenses suspended. Retailers licensed before that must make at least \$1,000 in modification and up to 20% of their Lottery commissions (average Lottery commission is \$16,000) or have their licenses suspended. The parties agreed on standards for accessibility and the costs. The Lottery agreed to pay VOPA \$10,000. Through this case, VOPA has ensured that thousands of lottery retailers must become accessible to people with disabilities, increasing access to necessities of daily life as well as lottery products.

VOPA represented a client working as a clerk at the Department of Motor Vehicles who requires an accommodation of not performing road tests due to a neck injury. After months of negotiations, this matter was mediated through the Virginia Department of Human Resources. On a second day of mediation, an agreement was reached giving our client full accommodations. The client now has the ability to refuse road tests on days where she feels she cannot perform them, and she is not required to do certain road tests (including motorcycles or modified and large vehicles). She will perform road tests when able, so that she can remain certified to retain her current position.

VOPA represents an employee who had previously worked in food service for the defendant. Our client, who is deaf, worked successfully for years in her position until she was assigned new recipes, which she was not trained to prepare. After improperly preparing dishes, the employer discovered our client had limited reading skills of written English, and terminated her rather than providing the accommodation of training her on the new recipes with a sign language interpreter. After a failed settlement conference, VOPA filed an Equal Employment Opportunities Commission (EEOC) complaint on behalf of the client for unlawful termination and failure to provide reasonable accommodations. This matter remains before the EEOC and we await scheduled mediation or further proceedings.

VOPA represents a client who was successfully employed in the Lowes paint department for over ten years before requesting an accommodation involving staying off ladders when she began to have issues with her balance. She was told if she could not do her work the same as everyone else, Lowes had no place for her. She

was eventually terminated based on an alleged incident with a customer, for which she had twice requested manager assistance. VOPA filed an EEOC complaint on client's behalf. VOPA is waiting for the scheduling of a hearing or mediation in this matter.

VOPA represents a client who was successfully employed as a nurse and nursing instructor for several years in various positions at Sentara Hospitals. After she disclosed her Multiple Sclerosis to her students during a presentation of people who overcame adversity to succeed in their careers, she faced harassment and retaliation, then termination and black-listing, and remains unemployed. VOPA has filed an EEOC complaint on behalf of the client and is waiting for the scheduling of mediation or a hearing.

## **PART V. PAIR'S PRIORITIES AND OBJECTIVES:**

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

For each of your PAIR program priorities for the fiscal year covered by this report, please:

1. Identify and describe the priority
2. Identify the need, issue or barrier addressed by this priority
3. Identify and describe indicators PAIR used to determine successful outcome of activities pursued under this priority
4. Explain whether pursuing this priority involved collaborative efforts by other entities. If so, describe this collaboration.
5. Provide the number of cases handled under the priority. Indicate how many of these, if any, were class actions.
6. Provide at least one case summary that demonstrates the impact of the priority.

**Goal: Children with disabilities receive and appropriate education**

**Focus Area: Appropriate therapy and services for children with disabilities**

#### **Needs/Issues/Barriers Addressed:**

Based on public comment, VOPA experience, and the level of requests for services in this area, receiving appropriate therapies and services in order to participate in public education is still difficult for children with disabilities and their families.

#### **Indicators for Success Include the Completion of the Following Objectives:**

1. By December 1, 2010, identify a region of the Commonwealth, based on public input and experience, for targeted advocacy. Train at least fifteen (15) people in the targeted region on five (5) distinct stages of the Individualized Education Plan (IEP) development and implementation. In choosing the region, preference will be given to previously underserved areas.
2. Represent children in the targeted district who have been denied needed and appropriate therapy or services.
3. Review whether there are systemic issues identified in the targeted region and notify relevant policymakers.
4. Train two (2) groups of foster parents and advocates regarding special education rights and transition services.
5. Train two (2) groups of advocates and parents from Spanish-speaking families regarding special education rights and transition services.
6. Represent children who have been denied needed or appropriate therapy or services.
7. Provide Technical Assistance to individuals denied special education services due to inadequate evaluations or assessments, or denied appropriate accommodations or services under their IEP or 504 Plan.
8. Develop a fact sheet for parents on the rights of children in special education to receive

a full school day and distribute to all current and former clients who are eligible for special education services.

9. Develop training information on the rights of children in special education to receive a full school day and present in all IEP trainings.
10. Provide technical assistance to parents on filing VADOE complaints alleging that children have been denied a full school day by posting a model complaint on selected internet forums and websites, including VOPA's.
11. Represent children who have been denied a full school day. Preference will be given to children in previously underserved areas.
12. Train three (3) groups of teachers, school staff, or parent advocates regarding FBAs and BIPs, and addressing seclusion and restraint practices and methodologies in schools.

**Collaborative Efforts:**

Pursuing this priority involved extensive collaboration. VOPA collaborated with the Middle Peninsula Northern Neck Community Services Board, Department of Social Services offices, Middle Peninsula Community Service Board (CSB,) Essex Department of Social Services (DSS), Gloucester DSS and Parent-Teacher-Student Association (PTSA;) schools in the Northern Neck region, the Children's Home Society, the Hanover Caregiver's Association Parent Group, the Virginia Association of Parents of Children with Visual Impairments, the Autism Society of Central Virginia, a Chesterfield County public school Parent-Teacher Association, Hanover Caregivers Network, the Children's Home Society, a Richmond City High School (Huguenot), the Endependence Center in Norfolk, to a group parents at the Fredericksburg Center for Independent Living, and the Children's Home Society.

Additionally, VOPA collaborated with the Virginia Department of Education to resolve some issues. Finally, VOPA also provided "Office Hours" and met with clients at some of the local Centers for Independent Living or other organizations. Individuals with disabilities were informed of their rights and provided with other legal advice and services when appropriate.

**Number of Cases Handled: 74**

**Case Summary for each indicator that demonstrates the impact of the priority:**

1. VOPA trained twenty-three parents and advocates for children with disabilities in the Northern Neck region on special education eligibility, IEPs, transition, disciplinary procedures and procedural safeguards in a "boot camp" format.
2. A mother called on behalf of her daughter, whom she felt was not getting an adequate education and was being bullied by the boys in her class because of her disability. The student was also not being read her tests on request, which was required in her IEP. We advised the mother through the process of DOE dispute resolution.
3. VOPA reached a systemic agreement with the VDOE that will benefit children across the Commonwealth. VOPA successfully advocated for the Department to change its policy and practice regarding mediation. Under the agreement, mediators must respect parents' choice to have an attorney speak for them and, if an attorney has appeared on behalf of a parent, the mediator must speak directly with that attorney regarding mediation issues. VDOE must accept requests for mediation signed by attorneys. Also, VOPA will train VDOE mediators regarding the role of an attorney at mediation.

4. VOPA represented two children in foster care denied special education services due to inadequate evaluations or assessments. VOPA successfully advocated for a child with autism to receive modified instruction and testing, autism consultation, and revised emotional and behavioral goals. In another case, VOPA negotiated for the client to receive increased physical therapy services.
5. VOPA completed presentations to provide information about Transition Planning and CAP to students with disabilities of Spanish speaking families and their parents to ensure that they understand their rights when receiving Transition Services. Fifteen (15) people attended a presentation at a Richmond City High School (Huguenot). VOPA translated 11 of its publications into Spanish, including eight Special Education fact sheets, and posted them on its website.
6. In all cases, VOPA requests evaluations as needed and advocates for the student to receive appropriate services. In one case, VOPA advocated for a kindergarten student to be found eligible for special education and provided with Applied Behavioral Analysis and speech therapy. In another case, VOPA advocated for a student to receive appropriate supports for his diabetes and the way it affected his behavior and ability to function in class. In another case, VOPA advocated for a student to receive increased occupational therapy to help her overcome the physical effects of her intellectual disability. VOPA has successfully advocated for a student to receive appropriate speech therapy services and to receive compensatory speech services that had not been provided in the past. VOPA also successfully advocated for a student to receive compensatory education his school had previously agreed were appropriate.
7. VOPA provided technical assistance (TA) in five cases where our clients requested an expansion of services. In each case, VOPA provided written TA and materials to help the client understand and protect his or her rights, including information on how to file Due Process or Complaints if they so choose.
8. VOPA collaborated with the Virginia Department of Education (VDOE) to develop a fact sheet outlining the importance of a full school day for students with disabilities. We sent this to all 131 Virginia School Division Superintendents, with instructions to share this information with their schools and to contact VOPA or VDOE with any questions. Also, VOPA distributed the publication to the public through its website.
9. These materials were included in Part II (IEP) of special education training concerning accommodations and services. The materials also cover transportation as a needed service as well as the right to full school day.
10. VOPA provided assistance to one child on his right to contest a long term suspension through the VDOE Complaint and Due Process systems. VOPA provided written information and assistance on the process of filing and prosecuting Complaints and Due Process requests and on alternatives to litigation including mediation.
11. VOPA assisted four children in VDOE complaints regarding a Due Process case relating to a full school day. In one case, a child's bus regularly dropped him off at school after classes had begun and took him out of class to transport him home before the school day is finished. VOPA filed a complaint seeking individual and systemic relief to ensure that the student and others in the district receive appropriate transportation services. VDOE determined that the school had violated the child's rights by not providing him with a full school day and ordered the school to provide the child with appropriate transportation and compensatory education. VOPA subsequently resolved the case on behalf of other children in the district when the school agreed to provide appropriate and timely transportation to them and offer compensatory education to any child who had been denied a full school day. A second complaint was successfully resolved, as well. In that case, VOPA requested that VDOE order the school to provide the child with

- appropriate transportation services lasting no more than one hour each way, as well. The Complaint was resolved when the school agreed to provide appropriate transportation services. These cases include clients served in the Northern Neck region of Virginia, a geographically isolated region of the state which is often underserved.
12. VOPA staff provided a training regarding Functional Behavior Assessments and Behavior Intervention Plans to a group of six (6) parents at the Fredericksburg Center for Independent Living; to the PIER parent advocacy group at the Endependence Center in Norfolk to nineteen (19) people; and ten (10) advocates were trained at the Children's Home Society in Richmond to understand and appropriately respond to the behavioral needs of students with disabilities.

**Goal: People with disabilities have equal access to government services**

**Focus Area: Access to state and federal government services**

**Needs/Issues/Barriers Addressed:**

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

**Indicators for Success Include the Completion of the Following Objectives:**

1. Provide trainings to county or city transportation providers on disability awareness and the right to accessible fixed-route transportation under the ADA.
2. Train three (3) community advocacy groups regarding the right to accessible fixed-route public transportation under the ADA.
3. Litigate against the Virginia Lottery to obtain compliance with state and federal law.
4. Represent three (3) individuals denied access to a government building or services due to architectural barriers, lack of accommodations for a hearing or visual impairment, or denial of the use of a service animal.
5. Survey five (5) publicly operated recreational facilities listed on the Virginia Tourism website ([www.virginia.org](http://www.virginia.org)) in a selected region for compliance with ADA accessibility requirements, and advocate for posting of accessibility information on their websites or other publications. Pursue corrective action as appropriate.
6. Complete investigation into compliance with the ADA's accessibility requirements at Virginia Tech, focusing on public areas. Obtain corrective action as appropriate.
7. Advocate or litigate to ensure that forty (40) private businesses that provide services and who are under a contract with a state agency are accessible to people with disabilities in compliance with state and federal law. Obtain "prevailing party" attorneys fees where appropriate.
8. For each private business addressed under the above objective, inform the state agency with which it contracts regarding the business' violation of state and federal law. Seek corrective action from the state agency.

**Collaborative Efforts:**

VOPA's work under this focus area involved collaboration with Williamsburg Transit, Greater

Lynchburg Transit, Visions Family Services in Petersburg, the Petersburg Area Rehabilitation Center (PARC), the Richmond Independent Living Center, George Mason University Prince William Campus, Virginia Polytechnic Institute, Norfolk State University, Virginia Tourism, the City of Staunton, the Frontier Culture Museum, RR Smith Center for History and Art, the Staunton Wharf Historical District, the Woodrow Wilson Presidential Library and Museum, and Virginia Tech.

**Number of Cases Handled: 22**

**Case Summary for each indicator that demonstrates the impact of the priority:**

1. VOPA provided a training for ten (10) staff and operators of the Williamsburg Transit Authority on Title II of the Americans with Disabilities Act and accessible transportation about the rights of individuals with disabilities when utilizing their services. A separate presentation was provided to fifteen (15) supervisors and personnel of the Greater Lynchburg Transit.
2. VOPA provided a training to approximately thirty-eight (38) staff and clients of the Petersburg Area Rehabilitation Center (PARC) on Title II of the Americans with Disabilities Act and accessible transportation, as well as to eight (8) people at the Richmond Independent Living Center, and ten (10) people at Visions Family Services in Petersburg.
3. In our litigation against the Virginia Lottery, after the Circuit Court granted Summary Judgment to the Lottery, The Virginia Supreme Court reversed and held that the Lottery must ensure that its retailers are accessible. The parties eventually entered into a settlement agreement ensuring that Lottery retailers will be accessible. Under the agreement, the Lottery will survey all retailers at least once every three years. Retailers licensed after 1/1/11 must correct accessibility violations found or have their licenses suspended. Retailers licensed before that must make access improvements of at least \$1,000 and up to 20% of their Lottery commissions or have their licenses suspended. Parties agreed on standards for accessibility and costs. The Lottery agreed to pay \$10,000 in to VOPA. Through this case VOPA has ensured that thousands of lottery retailers must become accessible to people with disabilities, increasing access to necessities of daily life as well as lottery products.
4. VOPA assisted a student at Norfolk State University who utilizes a wheelchair, regarding the path of travel and automatic door features throughout the campus. VOPA worked with the client and the campus ADA Coordinator to address all concerns. In another case, a client with mobility issues faced architectural barriers at a theatre on the George Mason University Prince William County Campus. Because of VOPA's survey and negotiation with the University, George Mason added another marked van accessible parking space and created multiple temporary accessible space placards for additional spaces for large events.
5. VOPA surveyed attractions in Staunton listed on the Virginia Tourism website and identified accessibility issues at the Frontier Culture Museum, RR Smith Center for History and Art, and the Staunton Wharf Historical District Parking Lot. A survey of the Woodrow Wilson Presidential Library and Museum indicated no accessibility issues. As a result of our work, the Frontier Culture Museum added accessible parking spaces; and the City of Staunton agreed to correct the accessibility issues identified at the Wharf Parking Lot and the RR Smith Center by adding new accessible parking spaces, adding appropriate curb cuts, and adding appropriate signage for the accessible entrance. VOPA found continuing accessibility issues with the Staunton Trolley and notified the City Public Works Manager. We referred these to Virginia Regional Transit for resolution.

6. VOPA completed our work at Virginia Tech. Signs at construction areas were present directing people to accessible routes, and accurate maps on the website and at the Visitors' Centers were available. VOPA sent final technical assistance, noting some remaining issues, particularly the lack of signage directing individuals to accessible entrances. As a result of our advocacy, Virginia Tech improved many areas of concern regarding access.
7. VOPA surveyed over 40 private businesses operating under a contract with the state through the Department of Transportation's Travel Service Sign Program, Tourist Oriented Directional Signs, and Supplemental Guide Sign programs. VOPA wrote letters to private businesses outlining issues of noncompliance with the ADA, and will revisit these sites to assess accessibility noncompliance for possible litigation in FY12.
8. VOPA advocated for VDOT to ensure that those businesses are accessible or to terminate their participation in the program. We provided VDOT with a list of non-compliant businesses and entities, along with the nature of the non-compliance. VOPA requested an action plan from VDOT to address these concerns, but has not received a response.

**Goal: People with disabilities live in the most appropriate integrated environment**  
**Focus Area: Equal Access to Public Accommodations under the ADA**

**Needs/Issues/Barriers Addressed:**

VOPA will seek local and systemic change to increase the quality of life for people with disabilities by removing barriers to the enjoyment of places of public accommodation, including recreational activities.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Represent two (2) clients who have been denied reasonable access to the film of their choice due to the lack of accommodations under the ADA.
2. Represent five (5) individuals who have been denied access to a place of public accommodation due to architectural barriers or inaccessible parking. Obtain attorneys fees where appropriate.
3. Investigate one (1) movie theater chain regarding accessibility under the ADA, to include the use of technology to make movies more accessible to people with auditory disabilities. Obtain corrective action where such accommodations are not available or are provided in a manner that significantly limits access for people with auditory disabilities.
4. Survey five (5) private attractions listed on the Virginia Tourism website ([www.virginia.org](http://www.virginia.org)) in a selected region for compliance with ADA Title III. Seek corrective action where necessary.
5. If the Commonwealth pursues the privatization of alcoholic beverages stores, ensure that the state requires all locations granted a license meet ADA accessibility standards. Take corrective action as necessary.

**Collaborative Efforts:**

VOPA collaborated with a number of organizations to achieve equal access to public accommodations. These included the Virginia Department for the Blind and Visually Impaired, the Virginia Department for the Deaf and Hard of Hearing, several Centers for Independent Living, Regal Cinemas, local news, the National Association of Theater Owners, as well as Lions' Gate Films, and multiple privately-owned theaters. We collaborated with the Science Museum of Virginia, the Mid-Atlantic office of the National Association of Theater Owners, the Virginia Department of Tourism, the City of Staunton, private business owners and property

owners, the Staunton/Augusta Farmer's Market, the Staunton Downtown Development Association, Amtrak, the Virginia Wine Board, five private vineyards, the Monticello Wine Trail, and the Staunton Visitor's Center.

**Number of Cases Handled: 9**

**Case Summary for each indicator that demonstrates the impact of the priority:**

1. VOPA represented two individuals who are deaf and one who is blind regarding accessibility of movie theatres. VOPA worked on behalf of these three clients to increase access to films, including the successful premier of the 7<sup>th</sup> Harry Potter film on opening weekend with open captioning, one of only four known theaters in the country to provide said captioning on opening weekend. These showings were attended by hundreds of people with disabilities with their friends and families. VOPA gathered information from every theater in Virginia on captioning and descriptive audio, and has shared that information with our clients as well as community groups. VOPA coordinated with members of the deaf community to add descriptive audio to specially arranged open caption shows to increase access to films. VOPA continues to work with Regal to coordinate the implementation of the new technology in Virginia in central locations geographically throughout the state to increase access. VOPA contacted a major film distributor and director regarding the lack of films produced by this company that are distributed with captioning technology.
2. VOPA assisted several clients in obtaining access to public accommodations under Title III. A Rite-Aid Store in Lovingston agreed to redo an entrance ramp, handrails, and signage. A charter bus company confirmed that an accessible vehicle with a hydraulic lift would be used on a tour. Pamplin Historical Park acknowledged that a client with a service animal had complete access to the Park. The property manager of a large multi-business building in Northern Virginia agreed to install pressurized door closures on the exterior front doors and interior restroom doors.
3. As described above, VOPA negotiated the successful premier of the 7<sup>th</sup> Harry Potter film on opening weekend with open captioning. VOPA also created, through the Harry Potter opening weekend shows, a data set that previously did not exist to allow for the comparison of ticket sales for captioned versus non-captioned shows on opening weekend, and reached the conclusion that the defense of substantial hardship caused by providing captions on opening weekend would likely not survive judicial challenge. This data is now available to every Protection and Advocacy office and disability advocacy group in the country involved in litigation wishing to rebut this defense by the theater owners.
4. VOPA surveyed private attractions listed on Virginia.org website for ADA accessibility. VOPA found that the "Monticello Wine Trail" featured locations that were not accessible. VOPA also found two attractions featured under "Downtown Staunton" lacked accessible curb cuts and path of travel: the Staunton Depot, which has an active Amtrak stop and businesses, and the Farmers Market, located in a parking area operated by the city. One winery has completed suggested modifications to the restrooms, parking lot, ADA signage, ramp, and entrance. The City of Staunton increased accessibility to the Staunton

Farmer's Market and the Staunton Shakin' Summer Concert series by adding curb cuts and accessible parking. Amtrak has added parking and a ramp, and has a plan in place which should bring the station into compliance by the end of 2012. VOPA also met with Virginia Tourism regarding our concerns about accessibility information provided for establishments listed on the Virginia.org website. Virginia Tourism seems receptive to providing a mechanism for businesses to provide more accurate accessibility information. These efforts with Virginia Tourism will carry over into the next fiscal year. While specific settlements were reached with nine privately operated sites, dozens of other businesses and locations were surveyed and made aware of ADA issues because of this objective, and ongoing efforts should lead to greater accuracy in accessibility information provided by Virginia Tourism that will affect tens of thousands of Virginians with disabilities.

5. The Commonwealth did not privatize the alcoholic beverage stores in FY2011.

**Goal: People with disabilities have equal access to government services**

**Focus Area: Reasonable accommodation for individuals in public housing or receiving public assistance in housing**

**Needs/Issues/Barriers Addressed:**

VOPA will seek systemic change striving for greater access to housing choices for people with disabilities living in the community.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Represent five (5) individuals who reside in public housing or receive public housing assistance regarding housing discrimination due to their disability or denial of a reasonable accommodation.
2. Inform seniors with disabilities of their housing rights through ten (10) visits to Senior Community Centers or services provided through Community Action Programs.

**Collaborative Efforts:**

VOPA worked with the following groups to organize presentations: Northampton County CAA, Senior Center – Chesterfield, Accomack County Senior Center, Carroll County Senior Center, Southwest Rural Community Action Program, Gillies Park Center in Richmond, Richmond Community Senior Center, Korean Culture Senior Center in Richmond, Community groups in Galax, and Hopewell Senior Citizen Center

**Number of Cases Handled: 10**

**Case Summary for each indicator that demonstrates the impact of the priority:**

1. VOPA opened ten cases regarding discrimination in public housing. In one case, management agreed to transfer an individual with mobility impairment to a first-floor apartment. In the other case, management agreed to modifications including a ramp to the back door and an automatic door opener for the front. VOPA assisted another client in getting a ceiling fan installed to aid her respiratory condition, assisted the client in filing a formal complaint with Virginia Fair Housing, and ultimately succeeded in getting the client moved to a handicap

- accessible apartment that she had been requesting since 2007. VOPA successfully closed a housing complaint when the landlord agreed to the requested accommodations and agreed to move the client to an accessible apartment. VOPA assisted another client regarding denial of access for his service animal at a private apartment complex by providing technical assistance on the ADA and service animals.
2. VOPA informed seniors with disabilities of their housing rights through ten visits to Senior Community Centers or Community Action Program service centers, addressing individuals' specific issues as needed. Presentations were conducted on the Eastern Shore, southwest Virginia, the central Blue Ridge area, and in central Virginia. In addition, we provided staff of the Centers information about VOPA and our services.

**Goal: People with disabilities are employed to their maximum potential**  
**Focus Area: Employment rights under the ADA**

**Needs/Issues/Barriers Addressed:**

VOPA seeks to increase access to reasonable accommodations in the workplace, resulting in greater employment opportunities for people with disabilities.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Train five (5) groups of consumers and community based advocacy groups on employment rights.
2. Provide technical assistance to fifteen (15) individuals regarding employment rights or discrimination based on disability under Title I of the ADA or the Virginians with Disabilities Act.
3. Represent five (5) individuals who have been denied reasonable accommodations in employment under the ADA in mediation or administrative proceedings before the Equal Employment Opportunity Commission or Virginia Human Rights Council.
4. Inform individuals with disabilities about their employment rights through presentations at five (5) government and private non-profit employment center training programs.
5. Train ten (10) groups of DRS clients and staff at Woodrow Wilson Rehabilitation Center and regional DRS offices, and consumers at state and private rehabilitation centers on employment rights.
6. Develop a curriculum on "Employee and Applicant Rights under the ADA" and offer to provide this training for a fee to trade groups or other employers, and to parties as part of settlement agreements in ADA employment cases.

**Collaborative Efforts:**

To promote employment rights protected by the Americans with Disabilities Act, VOPA coordinated with the Hanover Caregivers Network, J. Sargeant Reynolds Community College, Partners in Policymaking, the Petersburg Center for Independent Living, Prince George High School, the Virginia Employment Commission (VEC), Fort Belvoir, the Woodrow Wilson Rehabilitation Center (WWRC) Job Club, the WWRC Field Rehabilitation Services Program, the

WWRC Post-Secondary Education Rehabilitation Transition program, and the WWRC Vocational Evaluation Program, as well as the Portsmouth and Norfolk Department of Rehabilitative Services offices' Job Club Programs, the Petersburg Area Rehabilitation Center, and the Virginia Employment Lawyer's Association. VOPA also provided "Office Hours" at some of the local Centers for Independent Living or other organizations which lead to referrals of clients to our services.

**Number of Cases Handled: 15**

**Case Summary for each indicator that demonstrates the impact of the priority:**

1. VOPA provided 5 trainings on employment rights at community organizations, including a Center for Independent Living, community college, and a public high school, reaching over 100 individuals with disabilities and their families.
2. VOPA provided technical assistance on employment rights to sixteen individuals with disabilities. VOPA assisted two individuals to file formal complaints when required to lift heavy objects or miss work. VOPA assisted a client who worked as a nurse who was denied accommodations relating to her low vision and need for reasonable accommodations. VOPA assisted a restaurant manager who was treated differently by her supervisors and had her shifts reduced due to her use of leg braces. VOPA assisted a teacher who had a classroom aide removed, despite it being an accommodation. After investigation, four of these individuals had cases opened for case level services.
3. VOPA has represented several clients before agencies this year, with one successful outcome, three pending EEOC complaints, and one case under investigation. VOPA successfully mediated an agreement on behalf of one client via the Virginia Department of Human Rights Management complaint process. VOPA arranged for the client to receive numerous accommodations in the workplace that allowed her to retain her job. In another case, VOPA engaged in extensive negotiation efforts and a settlement conference that failed to reach agreement. A formal EEOC complaint is ongoing. VOPA has written an employer on behalf of a terminated employee who was not provided accommodations for her hearing impairment.
4. VOPA completed presentations on employment rights for 50 individuals at Virginia Employment Commission (VEC) centers in Richmond, Alexandria and Woodbridge, and for 70 VEC staff at an annual conference. VOPA also gave a presentation at Fort Belvoir to approximately 70 veterans with disabilities, and screened several possible intakes, including one case opened for case-level services.
5. VOPA provided 12 trainings on employment rights for DRS clients at WWRC and DRS Regional offices, the Petersburg CIL, and at the Virginia Transition Forum. VOPA spoke to approximately 250 people with disabilities about their employment rights through this program, and fostered positive relationships with Woodrow Wilson Rehabilitation Center and several DRS offices.
6. VOPA completed three separate presentations that have been approved by the Virginia Mandatory Continuing Legal Education Office for presentation to trade groups, employers, and parties in settlements. VOPA prepared materials for both employers and employees, and partnered with the Virginia Employment Lawyer's Association, members of the private bar, and the Virginia State Bar Mandatory Continuing Legal Education Board to find partners for presentations and training. Although no presentations have been provided for a fee to date, the materials created in FY11 will be used in FY12 as well.

**Goal: People with disabilities have equal access to appropriate and necessary health**

care

**Focus Area: Accessibility of medical offices and clinics under the ADA and Rehabilitation Acts**

**Needs/Issues/Barriers Addressed:**

This allows VOPA to address the need for greater architectural access and effective communication for people with disabilities using medical facilities.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Distribute educational materials on ADA accessibility requirements in medical settings to health care professionals through at least three (3) professional organizations or publications.
2. Train five (5) community based advocacy or consumer groups on ADA accessibility requirements in medical settings, including physical barriers and effective communication issues.
3. Develop a new brochure on the rights of people who are deaf and hard of hearing to receive alternative aids and services from their health care providers to ensure effective communication.
4. By December 1, 2010, identify a region of the Commonwealth for outreach and training regarding the rights of deaf and hard of hearing patients to receive alternative aids and services from their health care providers to ensure effective communication. Provide three (3) trainings on these rights to three (3) groups of at least fifteen (15) people.
5. Represent five (5) people who are deaf or hard of hearing to ensure that they receive alternative aids and services from their health care providers to ensure effective communication. Obtain "prevailing party" attorneys fees where appropriate.
6. Represent five (5) individuals with disabilities regarding physical barriers in violation of the ADA, that impede access to health care facilities and services provided by medical offices and clinics.
7. Coordinate with consumer advocacy or support groups to identify three (3) medical clinics and doctor's offices that have issues of non-compliance. Obtain corrective action as appropriate.

**Collaborative Efforts:**

VOPA's collaborative efforts under this focus area include working with a number of medical organizations regarding the distribution of educational materials. VOPA also collaborated with the Southwest Virginia Club for the Deaf, Piedmont Virginia Community College, People Empowering People Club (Charlottesville,) Disability Rights Council in Lovingston, Carroll County Senior Association, Northampton County Senior Association, the Accomack County Senior Association, Richmond Behavioral Health Authority, a Galludet support group, the Virginia Department for the Deaf and Hard of Hearing, the Endependence Center, and the Virginia Association for the Deaf. VOPA additionally provided "Office Hours" at some of the local Centers for Independent Living or other organizations.

**Number of Cases Handled: 18**

**Case Summary for each indicator that demonstrates the impact of the priority:**

1. VOPA distributed an article on ADA accessibility requirements in medical settings to several healthcare organizations for publication, including the Medical Society of Virginia, Virginia Hospital and Healthcare Association, Virginia Nurses Association. VOPA's Director also wrote an article that was published in the Virginia Lawyer magazine.
2. VOPA presented training on ADA Accessibility Requirements in Medical Settings to the Southwest Virginia Club of the Deaf and approximately 51 individuals with disabilities and their families, friends, and supporters; 9 people at Piedmont Virginia Community College, with members of the Disability Rights Council in Lovingson attending as well as individuals from People Empowering People Club (Charlottesville); to 47 people at the Carroll County Senior Association; to 31 people at the Northampton Senior Association, and to 34 people that the Accomack Senior Association.
3. VOPA is partnering with several entities, including the Department for the Deaf and Hard of Hearing (VDDHH) to develop a new brochure and to provide trainings.
4. VOPA provided three trainings on the rights of people who are deaf and hard of hearing to receive appropriate and effective communication. VOPA identified the Tidewater area for outreach and training. VOPA's trainings were focused on informing people of their rights and, more importantly, the steps they can take to protect those rights. VOPA was invited to and did provide training on this issue at the state-wide conference. VOPA also provided an additional training on this issue to people in southwest Virginia.
5. VOPA represented a husband and wife, both of whom are deaf and use sign language to communicate, to receive effective communication from three doctors in Danville. In another case, a hospital agreed to provide either working technology or a sign language interpreter for all future appointments. VOPA also provided technical assistance to several people who wanted information on their rights to receive sign language interpreters.
6. VOPA educated a client about a medical office and its obligation to provide a qualified interpreter. In another case, VOPA negotiated for modifications to the parking lot of a medical provider by making various curb cuts and by properly designating parking spaces for persons with disabilities.
7. An individual who is deaf was referred to VOPA because the Richmond Behavioral Health Authority (RBHA) refused to provide an interpreter. After investigation and negotiation, RBHA: 1) confirmed its policy to provide interpreters as necessary without cost, 2) conducted an internal review to determine why the interpreter was denied and to educate staff about the policy, and 3) provided an interpreter for our individual client. We monitored the situation for a few months and RBHA continued to comply without issue. No additional consumer groups and non-compliant facilities were identified under this objective, although medical offices with accessibility issues were addressed under other objectives.

**Goal: People with disabilities have equal access to appropriate and necessary health care**

**Focus Area: Denial of needed and appropriate Medicaid services**

**Needs/Issues/Barriers Addressed:**

An essential element of the rehabilitation process, life sustenance, and quality of life is to be able to access appropriate and necessary healthcare. In particular, people who receive Medicaid Waiver services need those services to avoid institutionalization. VOPA's efforts, therefore, will help people live in the most integrated setting appropriate to their needs. VOPA's experience with service requests in this area demonstrates that this need continues to grow

throughout the state.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Train three (3) groups of at least fifteen (15) people on the right to receive Medicaid services under a Waiver Program or Early Periodic Screening, Diagnosis, and Treatment (EPSDT).
2. Inform all waiver case managers about the rights of children in waiver programs to receive services under EPSDT.
3. Represent five (5) individuals denied needed and appropriate Medicaid services under a waiver program. Priority will be given to people denied assistive technology or environmental modifications.
4. Represent five (5) children denied needed and appropriate Medicaid services under the EPSDT program.
5. Represent up to five (5) people with disabilities who have complaints regarding transportation by the Department of Medical Assistance Services and its contractor, Logisticare. Submit complaints to DMAS and advocate for appropriate corrective action.
6. Inform the Department of Medical Assistance Services (DMAS) of VOPA's findings from its investigation of complaints concerning the DMAS contractor, Logisticare, regarding transportation to recipients with disabilities through a public report.

**Collaborative Efforts:**

VOPA collaborated with the Disability Resource Center, Fredericksburg Area Local Human Rights Committee, the Middle Peninsula Northern Neck Community Services Board, the Department of Medical Assistance Services, and Logisticare. VOPA also worked with over 100 providers of case management services. VOPA additionally provided "Office Hours" at some of the local Centers for Independent Living or other organizations.

**Number of Cases Handled: 39**

**Case Summary for each indicator that demonstrates the impact of the priority:**

1. At the Petersburg Disability Resource Center, VOPA trained twenty (20) parents, advocates, and service providers on how to receive Medicaid services through EPSDT, Waivers, or both. We trained eighteen (18) people at the Middle Peninsula Northern Neck Community Services Board and fifteen (15) Department of Social Services employees in the Northern Neck as well.
2. We sent letters to more than 150 providers identified by DMAS as "Case Manager-Waiver" urging them to also request services under EPSDT when they submit requests for service.
3. VOPA represented a person who was appealing DMAS' determination that he is not eligible for the Individual and Family Developmental Disabilities Support (IFDDS) Waiver. DMAS determined that the client did not meet its "Level of Functioning" criteria. However, VOPA discovered evidence that DMAS did not apply its criteria appropriately, according to its own policy and training. VOPA successfully represented the client at an appeal hearing. VOPA also successfully advocated for a child to receive necessary and appropriate attendant care services under the EDCD Waiver. Initially, the services were denied because DMAS incorrectly thought the client was seeking to "double bill" for attendant and respite care. VOPA submitted evidence contradicting this position. The

- services were then approved.
4. VOPA successfully advocated for a child to receive extensive ABA therapy and services. DMAS had denied those services on the grounds that the child had reached his maximum improvement. VOPA gathered new evidence and Letters of Medical Necessity from the child's doctors to contradict this position. DMAS reversed its position and granted the services. VOPA successfully advocated for a child with visual impairments to receive assistive technology, including a Braille printer and software, to help her become more independent. DMAS typically denies such technology on the grounds that it is not directly needed to correct, ameliorate, or maintain the child's disability. VOPA argued that the technology would help the child be more independent, a major goal of her service plans, and help her overcome the barriers to independence caused by her disability.
  5. VOPA developed a new complaint system where it submits complaints regarding Logisticare directly to DMAS and demands an investigation and corrective action. In such cases, VOPA gathers evidence to substantiate the client's position, drafts a complaint laying out the facts and demands specific relief. In three cases, DMAS found that its contractor violated our client's rights and ordered that it take corrective action. In cases where VOPA cannot substantiate the client's complaint with specific facts, VOPA provides technical assistance to the client on how to submit a complaint.
  6. VOPA gathered information and evidence regarding DMAS and Logisticare's provision of Medicaid Non-Emergency Transportation. VOPA incorporated data it recently received with data from prior years into a report which will be submitted to DMAS for further corrective action in FY 12.

### **3. Priorities and Objectives for the Current Fiscal Year: FY12**

**Goal: Children with disabilities receive an appropriate education**

**Focus Area: Appropriate therapy and services for children with disabilities including equal access to a full school day**

**Needs/Issues/Barriers Addressed:**

Based on public comment, VOPA experience, and the level of requests for services in this area, receiving appropriate therapies and services in order to participate in public education is still difficult for children with disabilities and their families.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Train two (2) groups of advocates and parents from Hispanic or Latino families regarding special education rights and assistive technology.
2. Protect the rights of children in special education in the mediation process by training Department of Education Mediators.
3. Develop a fact sheet on the use of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) funding for medically necessary therapy and services in school settings. Distribute to all school districts.
4. Develop a fact sheet for parents and children in special education on their rights in the mediation process.
5. Increase the number of special education advocates by training law students at the University of Richmond Disability Law Clinic.
6. Increase self-advocacy by providing technical assistance or short term assistance to all callers who complain that they or their children were denied appropriate special education therapy and services.

7. Represent a child in foster care or an adoptive placement who has been denied special education services due to inadequate evaluations or assessments.
8. Represent a child from a Hispanic or Latino family who has been denied special education services due to inadequate evaluations or assessments.
9. Represent children who have improperly been denied needed and appropriate special education therapy or services.
10. Represent a child from the above objectives in Due Process Hearings or complaints with the VDOE. Obtain "prevailing party" attorneys fees where appropriate.
11. Inform the DOE of any failures by its mediators to respect parents' or children's rights in the mediation process. Obtain corrective action where appropriate.
12. Increase self advocacy by distributing VOPA's model DOE Complaint regarding the denial of a full school day to advocacy groups serving children with disabilities.
13. Increase self advocacy by providing technical assistance or short term assistance to all callers who complain that they or their children were denied a full school day.
14. Represent a child from the above objective in a Due Process Hearing or a VDOE complaint. Obtain "prevailing party" attorneys' fees where appropriate.

**Goal: People with disabilities have equal access to government services**

**Focus Area: Access to state and federal government services**

**Needs/Issues/Barriers Addressed:**

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

**Indicators for Success Include the Completion of the Following Objectives:**

1. Represent individuals denied access to a government building or services due to architectural barriers, lack of accommodations for a hearing or visual impairment, or denial of the use of a service animal.
2. Survey publicly-operated attractions listed on the Virginia Tourism website in a selected region for compliance with ADA accessibility requirements, and advocate for posting accessibility information on their websites or other publications. Pursue corrective action as appropriate.
3. Inform the Virginia Department of Tourism of the need to provide accurate accessibility information regarding attractions listed on the Virginia Tourism website. Pursue corrective action as appropriate.
4. Investigate compliance with the ADA's accessibility requirements at a public college or university, focusing on public areas. Obtain corrective action as appropriate.
5. Monitor implementation of the settlement agreement in *Winborne v Virginia Lottery*. Obtain corrective action as appropriate.
6. Advocate or litigate, in collaboration with other advocacy organizations for a paratransit provider to continue or expand its services.

**Goal: People with disabilities live in the most appropriate integrated environment**

**Focus Area: Equal Access to Public Accommodations under the ADA**

**Needs/Issues/Barriers Addressed:**

VOPA will seek local and systemic change to increase the quality of life for people with disabilities by removing barriers to the enjoyment of places of public accommodation, including recreational activities.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Develop outreach tools concerning the ADA Title III regulations, including a Continuing Legal Education course.
2. Survey private attractions listed on the Virginia Tourism website ([www.virginia.org](http://www.virginia.org)) in a selected region for compliance with the ADA Title III. Seek corrective action where necessary.
3. Represent individuals who have been denied access to a place of public accommodation due to architectural barriers or inaccessible parking, or denial of a service animal. Obtain attorneys fees where appropriate.
4. Advocate or litigate with private businesses who are under a contract with a state agency and were surveyed in the prior fiscal year to become accessible to people with disabilities. Obtain "prevailing party" attorneys fees where appropriate.
5. Survey additional private businesses who are under contract with a state agency to determine if they are accessible to people with disabilities. Provide technical assistance letters to inaccessible businesses outlining what they must do to become accessible.
6. For each private business surveyed and assisted in the above objective, inform the state agency with which it contracts regarding the business' violation of state and federal law. Seek corrective action from the state agency.

**Goal: People with disabilities have equal access to government services**

**Focus Area: Reasonable accommodation for individuals in public housing or receiving public assistance in housing**

**Needs/Issues/Barriers Addressed:**

VOPA will seek systemic change striving for greater access to housing choices for people with disabilities living in the community.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Provide technical assistance to individuals regarding housing discrimination due to their disability or denial of a reasonable accommodation in housing under the Fair Housing Act.
2. Represent individuals who reside in public housing or receive public housing assistance regarding housing discrimination due to their disability or denial of a reasonable accommodation.

**Goal: People with disabilities are employed to their maximum potential**

**Focus Area: Employment rights under the ADA**

**Needs/Issues/Barriers Addressed:**

VOPA seeks to increase access to reasonable accommodations in the workplace, resulting in greater employment opportunities for people with disabilities.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Train clients and staff at Woodrow Wilson Rehabilitation Center and regional DRS offices and consumers at state and private rehabilitation centers on employment rights.
2. Train consumer or advocacy groups in a selected geographic region regarding employment rights under the ADA or Virginians with Disabilities Act.
3. Promote training on "Employee and Applicant Rights under the ADA" for a fee to trade groups, employers and others, and to parties as part of settlement agreements in ADA employment cases.
4. Provide technical assistance to individuals regarding employment rights or discrimination based on disability under Title I of the ADA or the VDA.
5. Represent individuals who have been denied reasonable accommodations in

employment under the ADA in mediation or administrative proceedings before the Equal Employment Opportunity Commission or Virginia Human Rights Council.

**Goal: People with disabilities have equal access to appropriate and necessary health care**

**Focus Area: Accessibility of medical offices and clinics under the ADA and Rehabilitation Acts**

**Needs/Issues/Barriers Addressed:**

This allows VOPA to address the need for greater architectural access and effective communication for people with disabilities using medical facilities.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Train community based advocacy or consumer groups on ADA accessibility requirements in medical settings, including physical barriers and effective communication issues.
2. Represent individuals with disabilities regarding physical barriers in violation of the ADA that impede access to health care facilities and services.
3. Represent people who are deaf or hard of hearing to ensure that they receive alternate aids and services from their health care providers to ensure effective communication. Obtain "prevailing party" attorneys' fees where appropriate.

**Goal: People with disabilities have equal access to appropriate and necessary health care**

**Focus Area: Denial of needed and appropriate Medicaid services**

**Needs/Issues/Barriers Addressed:**

An essential element of the rehabilitation process, life sustenance, and quality of life is to be able to access appropriate and necessary healthcare. In particular, people who receive Medicaid Waiver services need those services to avoid institutionalization. VOPA's efforts, therefore, will help people live in the most integrated setting appropriate to their needs. VOPA's experience with service requests in this area demonstrates that this need continues to grow throughout the state.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Increase self advocacy by providing technical assistance or short term assistance to all callers complaining that they were denied appropriate transportation services by the Department of Medical Assistance Services (DMAS) or its contractor Logisticare.
2. Increase self advocacy by providing 20 advocacy organizations serving people who use Medicaid non-emergency transportation through DMAS or its contractor Logisticare with information including VOPA's model complaint.
3. Represent individuals denied needed and appropriate Medicaid services under a Waiver program. Priority will be given to individuals denied assistive technology or environmental modifications.
4. Represent children denied needed and appropriate Medicaid services under the EPSDT program.
5. Represent people with disabilities who have complaints that they were denied appropriate transportation by DMAS or its contractor Logisticare. Submit complaints to DMAS and advocate for appropriate corrective action.
6. Advocate or litigate to ensure that DMAS complies with state and federal regulations and its own policy regarding the provision of evidence it intends to present at Medicaid

- Appeal hearings.
7. Advocate or litigate to ensure that DMAS Hearing Officers apply an appropriate and uniform burden of proof in Medicaid Appeal Hearings.

**PART VI. NARRATIVE:**

**A. Sources of funds received and expended**

Source of Funding	Amount Received	Amount Spent
Federal (section 509)	384,084	184,100
State	-	-
Program income	3,728	3,728
Private	-	-
All other funds	49,541	49,541
Total (from all sources)	437,353	237,369

**B. Budget for the fiscal year covered by this report**

Category	Prior Fiscal Year- FY11	Current Fiscal Year FY12
Wages/salaries	287,345	198,208
Fringe benefits (FICA, unemployment, etc.)	91,559	59,762
Materials/supplies	1,637	1,232
Postage	425	492
Telephone	-	-
Rent	-	-
Travel	7,944	7,554
Copying	425	369
Equipment (rental/purchase)	3,582	190
Temporary Personnel Services	1,345	756
Indirect Costs	26,248	26,248
Miscellaneous	11,959	11,710
Total	432,469	306,521
Indirect costs	25,256	42,130
Miscellaneous	9,310	34,632
Total Budget	243,603	374,094

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

Type of Position	FTE	% of year filled	Person-years
Professional			

Full-time	20	80%	19.5
Part-time	1	25%	.5
Vacant			
Clerical			
Full-time	5.8	90%	5
Part-time	1	50%	1
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) 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. Both Councils have consumer representation. The Council Chairs are non-voting members of the VOPA Governing Board. Council members participate on the Governing Board Committees. On those Committees, the Council members do have an equal vote.

VOPA participates on the Virginia Rehabilitation Council for the Department for the Blind & Vision Impaired (DBVI) and the Department of Rehabilitative Services (DRS). The Rehabilitation Act of 1973, as amended, requires the establishment of the Rehabilitation Councils to be appointed by the Governor. The amendments identify specific organizations to be represented on the Councils. The Rehabilitation Councils advise the VR programs in development of the State plan and completion of the federally required needs assessment. The Councils also assist with customer satisfaction surveys, training or employment opportunities, and completion of the required Annual Report on the status of VR services in the State. VOPA serves on both Councils to represent the interest of people with disabilities.

**E. Grievances filed under the grievance procedure- -**

None

**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 Ombudsman Program (through the Virginia Department of Aging) is particularly important during the legislative session.

The Department of Medical Assistance Services (DMAS) is the primary source of funding for the long-term care system in Virginia. 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

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Date