



DISABILITY RIGHTS NEW YORK

Protection & Advocacy and Client Assistance Program Services New York State

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BACKGROUND

Disability Rights New York (DRNY) is the designated organization to provide the federal Protection & Advocacy System and the Client Assistance Program services to New Yorkers with disabilities. This Report provides an overview of the services, from June 1, 2013 to December 31, 2016, that DRNY has provided to individuals with disabilities residing in New York State. These services are provided pursuant to the following eight federal programs.

Protection & Advocacy for Individuals with Mental Illness

DRNY serves people with a diagnosis of significant mental illness or emotional impairment and prioritizes services to individuals in a facility receiving care and treatment and has the ability to investigate complaints of neglect and abuse.

Protection & Advocacy for Individuals with Intellectual and Developmental Disabilities

DRNY serves people with developmental disabilities, including, intellectual disabilities, autism, epilepsy, cerebral palsy and neurological impairments.

Protection & Advocacy of Individual Rights

DRNY serves individuals with disabilities who do not qualify for any other protection and advocacy services. It is not limited to people with a specific disability or facing a certain issue.

Protection & Advocacy for Traumatic Brain Injury

DRNY serves people with a traumatic brain injury (TBI). This includes working to ensure “due process” within the “New York State TBI Waiver” program, and appropriate services to all individuals, including those not participating in the waiver. DRNY provides services to ensure individuals with TBI have access to comprehensive, high quality health care services.

Protection & Advocacy for Voting Access

DRNY helps individuals with disabilities have full participation in the electoral process. DRNY educates, trains and assists individuals with participating in the electoral process. These efforts include ensuring physical accessibility of polling places and informing people about the rights of voters with disabilities.

Protection & Advocacy for Assistive Technology

DRNY helps people with disabilities with services related to assistive technology devices or services. This includes investigating and negotiating access to assistive technology devices, as well as outreach efforts.

Protection & Advocacy for Beneficiaries of Social Security

DRNY serves people with disabilities who receive Social Security Disability Insurance or Supplementary Security Income, and who are trying to return to work, gain employment, or receive certain employment-related training and services. DRNY educates beneficiaries about Social Security's work incentives and provides advice about vocational rehabilitation and employment services.

Client Assistance Program

DRNY assists people with disabilities who have questions or have encountered problems while receiving or applying for vocational rehabilitation (VR) services from state VR agencies. DRNY also advocates for those who receive services from Independent Living Centers, Commission for the Blind, and for those applying for or receiving services from Tribal VR offices.

CLIENTS

The most recent U.S. Census Bureau estimates show that there are 2,222,954 individuals with disabilities living in New York State. DRNY has handled 10,923 Service Requests for 8,553 distinct clients. Over this 43 month period, DRNY averaged 254 Service Requests per month.

Clients by Age

DRNY has assisted some of the most vulnerable individuals in New York State. 1,718 unique clients were residents of nursing homes, hospitals, correctional facilities, rehabilitation facilities, and youth-focused residential facilities. The following table shows that 23.84% of DRNY's clients are age 55 or older. Demographic information is not required to receive DRNY services, and so we lack age information on 146 individual.

Age Group	Number of Individuals	Percentage of Total
Under 5 Years Old	84	0.98%
5-9 Years	316	3.69%
10-14	488	5.71%
15-19	515	6.02%
20-24	550	6.43%
25-34	1,173	13.71%
35-44	1,326	15.50%
45-54	1,916	22.40%
55-59	879	10.28%
60-64	573	6.70%
65 or Older	587	6.86%

Clients from Under-Represented Groups

DRNY affirmatively seeks to provide services to historically under-represented groups. The following charts compare race and ethnicity demographics for the entire State of New York with that of DRNY's clients in New York State. DRNY does not require demographic information from our clients as a pre-requisite for services, so for 1087 clients, race information is incomplete or unavailable, and for 1020 clients ethnicity information is incomplete or unavailable.

Race	NYS	As Percentage	DRNY Clients	As Percentage
Total population	19,745,289		7,466	
One race	19,271,399	97.60%	7,099	95.08%
White	13,841,447	70.10%	5,006	67.05%
Black or African American	3,475,170	17.60%	1,940	25.98%
American Indian and Alaska Native	197,452	1.00%	40	0.54%
Asian	1,737,585	8.80%	97	1.30%
Native Hawaiian and Other Pacific Islander	19,745	0.10%	16	0.21%
Some other race	0	0.00%	0	0.00%
Two or more races	473,886	2.40%	367	4.92%

Hispanic or Latino Origin	NYS	% of Total	DRNY Clients	% of Total
Total population	19,745,289		7,533	
Hispanic or Latino (of any race)	3,712,114.00	18.80%	878	11.66%
Not Hispanic or Latino	16,033,175.00	81.20%	6,655	88.34%

SERVICE REQUESTS

DRNY provided full case services in 5,439 of the requests for services, 49.79% of the total 10,923 Service Requests. DRNY provided Information and Referral (I&R) services to the remaining 5,483 requests.

DRNY makes appropriate referrals to other agencies in those matters where the issues are outside DRNY's priorities, or because DRNY lacks the resources to undertake the matter. DRNY will also provide information regarding the clients' rights and available options. These matters vary from consumer financial issues, evictions, or other legal issues that are unrelated to the client's disability.

Service Requests by Program

All 8 of DRNY's programs provided case services to at least one constituent in every county in New York State.

SR Type	CAP	PAAT	PABSS	PADD	PAIMI	PAIR	PATBI	PAVA	Grand Total
Case Services	975	233	352	1,194	916	1,587	176	7	5,439
I & R	350	24	151	772	2,318	1,782	80	1	5,483
Grand Total	1,325	257	503	1,966	3,234	3,369	256	8	10,923

Service Request Response Time

2,967 of these Service Requests were resolved in less than 7 days.

4,441 of these were resolved in less than 14 days.

Areas Covered by Service Requests

- 1,072 involved education issues
- 917 involved employment, including discrimination in hiring, unlawful termination, wage and hour issues, and assisting clients with SSI due to employment efforts
- 985 involved housing issues, including housing discrimination
- 955 involved issues of abuse and neglect, including the failure to provide appropriate treatment for mental health or other serious medical problems, inappropriate medication, or physical restraint
- 1,047 involved clients seeking assistance with obtaining or maintaining benefits including VR services, SSI, SSDI, Medicaid, or other forms of health insurance
- 1,203 involved healthcare issues including admission, transportation and discharge issues involving residential care or treatment facilities

Representative Issues

- Assisted a client to obtain access to a vocational training program as a pathway to employment
- Assisted two clients to obtain accessible housing in a first floor apartment which was a barrier preventing both children from getting to school
- Investigated the death of a person with a disability in a skilled nursing facility
- Obtain a refund of a client's tuition from a Dental School Program that the client could not return to do to trauma from peer bullying
- Advocated for services for 2 clients with Traumatic Brain Injury who were denied services needed to remain in the community
- Assisted a client to file complaint with the U.S. Equal Employment Opportunity Commission
- Ensured that a client with a developmental disability at risk of being dismissed from a day treatment program received the proper support to remain in the program
- Assisted a client to obtain job placement services with VR support
- Obtained a vehicle modification for client so that the client could go back to work
- Ensured that a client with a developmental disability at risk of being dismissed from a day treatment program received the proper support to remain in the program
- Advocated for the removal of discriminatory language in a summer camp application so that children with disabilities can access summer camp services
- Advocated for a client who was denied access to public buildings so she could access these buildings with her service animal

PROJECTS

In addition to serving clients individually through Service Requests, DRNY operates a number of Projects ranging from ongoing outreach efforts, presentations on specific topics, investigation and monitoring of service providers, and systemic litigation to advance the rights of people with disabilities.

Access to Equal Employment

One of DRNY's core projects is to ensure people with disabilities have an equal opportunity to employment. DRNY conducted the first of its kind study of hiring practices in retail fashion employment. DRNY sent pairs of job applicants to 91 large clothing, jewelry, and fashion accessories retailers in the New York City area. Each applicant pair had a resume showing successful retail work experience, education, and skills. The applicants were also matched in gender, age, race, appearance, dressed similarly, and had been trained to provide equivalent answers to common interview questions. The only significant difference was that one applicant in the pair used a wheelchair or a cane, while the other had no visible disability. DRNY found an alarming 41% of retailers discriminated against people with disabilities. DRNY continues to work with these retailers to change practices and pursue equal treatment for our clients.

DRNY also issued a 60-page, 5 year assessment of the New York State's employment programs and initiatives. The report analyzed existing employment programs available through New York State agencies, including the State Education Department, both vocational rehabilitation agencies, the State DD Agency (OPWDD), and the Department of Labor. The report details the new Employment First and other initiatives available through each agency, provides available data on participation and success rates of each program over the last 5 years, and made specific recommendations for improving both employment practices and data collection. DRNY's report will continue to be used to motivate State stakeholders to release current and comprehensive data on the outcomes of their programs, and to change existing practices to improve outcomes for people with disabilities.

Self-Determination and Decision Making

Another one of DRNY's core projects is to ensure that people with disabilities are not deprived of their right to self-determine and exercise decision making. DRNY, in partnership with the Developmental Disabilities Planning Council (DDPC) and the City University of New York Hunter College, has embarked on a five-year pilot to explore Surrogate Decision Making (SDM) as a lesser restrictive alternative to guardianship. SDM is a model that provides people with intellectual and developmental disabilities with the individualized supports and services necessary to make informed decisions about all aspects of everyday living. SDM emphasizes that the majority of individuals with disabilities, even those with the most significant disabilities, have the right and ability to make important decisions impacting their lives.

DRNY also filed a landmark lawsuit challenging the most restrictive guardianship statute for individuals with intellectual and developmental disabilities in the country. The guardianship statute

permits courts to appoint only plenary guardianship resulting in the termination of all decision making rights. This process does not require an assessment of lesser restrictive measures or even the functional abilities of the alleged incapacitated person. Moreover, the statutory scheme provides negligent substantive and procedural due process protections. To put an end to the systemic violation of the most fundamental rights of individuals with ID or DD, in September 2016, DRNY filed suit in the United States District Court for the Southern District of New York against the State of New York, the State's court system and its representatives seeking to enjoin the State from appointing guardians under the archaic and unconstitutional statute. Through this historic litigation, DRNY will ensure individuals with ID and DD are free to exercise their own expressed or known wishes to the greatest extent possible and retain or get back their decision-making authority.

Community Integration and Access to Services

DRNY also filed a lawsuit in the Eastern District of New York on behalf of a resident of New York City and a resident of Suffolk County who were deprived access to text 911. Individuals who have disabilities that impair their hearing or communication cannot immediately access 911 services because this District lacks text-to-911 services.

DRNY also filed the litigation *O'Toole v. Cuomo*. In New York City, about 4,000 adults with mental illness currently reside adult homes in the State. Many of these facilities opened upon the closing of state psychiatric hospitals in the aftermath of the Willowbrook consent decree. Under the terms of a settlement, 4,000 class members will be offered the chance to move from the adult homes where the residents live two to a dormitory room and with little privacy and mobility, into supported housing – consisting of scatter-site apartments. One resident has expressed the importance of this settlement: “I had a rent stabilized apartment, and I lost it in the fire. And that led me to being where I am. And I feel stuck...I miss hot chocolate in my microwave. I miss the spoonful of ice cream every now and then from my big fridge that I bought for myself. I miss so many things. I miss cut flowers that I could afford to buy every now and then. There’s so many things that I miss. And it’s something that I want again. With support, I think I can do that.”

DRNY has advocated for the rights of nursing home residents who have mental illness and can live in more independent, less restrictive settings in the community. After investigating improper discharges to nursing home settings, DRNY and co-counsel filed a lawsuit *Joseph S. v. Hogan, et al.* against the New York State Department of Health and Office of Mental Health on behalf of New Yorkers with mental illness who were inappropriately discharged from New York psychiatric hospitals to nursing homes. Many of these New Yorkers, including the named plaintiff Joseph S., were discharged to large nursing homes where they were held on locked wards, and also to out-of-state nursing homes far from their communities. In May 2015, under the terms of a settlement, Joseph S. moved to a studio apartment, in Far Rockaway, Queens and is very satisfied with his new home. Also as a result of this case, an additional 196 individuals have moved from nursing homes to the community. All are benefitting from community-based supports and services, including mental health, case management, and personal care services.

Monitoring and Investigations

One of DRNY's core projects is to investigate allegations of abuse and neglect against people with disabilities, which included investigating the death of a young man with intellectual and developmental disabilities who was neglected in the months leading up to his death. DRNY began investigating his death after receiving a complaint that he was neglected by his primary physician and the facility administrators and that the investigation of into his death by the New York State Center for the Protection of People with Special Needs ("Justice Center") was insufficient. After conducting an investigation into this complaint, DRNY concluded that this young man was seriously neglected in the months before his death, causing him great suffering and likely contributed to his death. Furthermore, DRNY found that the Justice Center's investigation was seriously deficient. DRNY's report made recommendations to both the agency that operated this young man's residence and to the Justice Center. The Agency agreed to adopt the corrective action and measures recommended by DRNY and has improved medical services to other individuals with disabilities that it serves.

DRNY monitors facilities, including skilled nursing facilities, which provide care to people with disabilities. DRNY has conducted monitoring visits at nursing homes across New York State and educating residents about their rights. DRNY reviews the practices and policies of the nursing homes to ensure that residents are not unnecessarily diapered, over-medicated, or subject to unnecessary physical or chemical restraints.

DRNY ensures that youth and young adults (16-21 years old), in adult correctional facilities have access to appropriate educational services. DRNY conducted an investigation into the general and special education services at Department of Corrections and Community Services (DOCCS) facilities. DRNY found that DOCCS' fails to identify, evaluate, provide special education supports and services, and comply with the Individuals with Disabilities Education Act's most fundamental safeguards. DRNY continues to pursue access to education for youth and young adults in adult correctional facilities.

DRNY, in conjunction with Mental Hygiene Legal Service for the First Judicial Department, conducted an investigation which uncovered unusually high usage of mechanical and chemical restraints on patients at Bellevue Hospital Center, as compared to other public hospitals in New York City. The report, titled, "Investigation Report: Use of Restraints on Psychiatric Patients at Bellevue Hospital Center," revealed that Bellevue's high incidence of mechanical restraint usage on psychiatric patients is a significant area of concern. As Bellevue's own policy states, restraint use "has the potential to produce serious consequences, such as physical and psychological harm, loss of dignity, violation of an individual's rights, feelings of isolation and even death." DRNY continues to seek changes to ensure the safety of New Yorker's at Bellevue.

Coalition Building

One of DRNY's core projects is our collaboration with other educational advocates and schools to improve educational outcomes for students with disabilities, called the New York State Special Education Task Force. DRNY spearheaded the formation of 8 regional affiliates across New York State to provide a local forum for parents, advocates, attorneys, school personnel, service providers

and individuals with disabilities to discuss issues, policies, and proposed changes to special education law and regulation. The Capital District Task Force, Lower Hudson Task Force, Upper Hudson Task Force, Northern Tier Task Force, Southern Tier Task Force, Western New York Task Force, Greater Rochester Task Force and Central New York Task Force are committed to improving educational access and outcomes for students with disabilities through a collaborative regional and statewide network of stakeholders representing a variety of perspectives in addressing the special education needs of students

DRNY is also involved in forging coalitions between agencies on statewide issues like:

- Ensuring that voter's with disabilities have access to a private accessible vote
- Expanding cultural competency and language access

Veteran's Issues

As a demonstration of DRNY's ongoing support of veterans, we have several projects designed to engage, support and advocate for service members throughout New York by:

- Offering a free Continuing Legal Education regarding Veterans Benefits, with a focus on training both lawyers and non-lawyer advocates on how to obtain benefits, prepare claims, and appeal unfavorable decisions
- Attending Veterans Resource Fairs at various venues such as libraries and VA hospitals.
- Conducting outreach at law schools
- Working to revitalize the Veterans Coalition in Northeastern New York while also identifying issues that JAG cannot assist

Systemic Issues

DRNY also identifies and addresses systemic issues such as:

- Sidewalk and street accessibility
- Difficulties faced by individuals transitioning from various state-run facilities back to the community
- Barriers to integrated employment opportunities

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