

NORTH DAKOTA PROTECTION & ADVOCACY PROJECT

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About P&A

There is a protection and advocacy system for people with disabilities in each state and territory. Legislation establishing this system was passed by Congress in 1975.

In North Dakota, the organization designated by the Governor to serve as the protection and advocacy system is the Protection & Advocacy Project (P&A). P&A is an independent state agency established in 1977 to advance the human and legal rights of people with disabilities. P&A strives to create an inclusive society that values each individual.

People served include infants, children and adults of all ages. The majority of funds for program operations are from federal grants. Additional support is provided by the State of North Dakota. There is no cost for services, however, P&A does implement general eligibility requirements, including that the individual must reside within the State of North Dakota. P&A has eight different advocacy programs that serve individuals with disabilities:

1. Developmental Disabilities Advocacy Program
2. Mental Health Advocacy Program
3. Protection & Advocacy Project for Individual Rights
4. Protection & Advocacy for Beneficiaries of Social Security
5. Assistive Technology Advocacy Program
6. Help America to Vote Program (HAVA)
7. Protection and Advocacy for Individuals with Traumatic Brain Injury
8. Client Assistance Program

P&A's staff comes from a wide variety of backgrounds. They are all trained to be knowledgeable about service delivery systems and the legal rights of people with disabilities.

P&A's Governing Board

P&A has a governing board called the Committee on Protection & Advocacy. It consists of seven members whose terms are specified in State statute. Appointments are made by the Governor (2 members), Legislative Council (2 members), The Arc of North Dakota, Mental Health America of North Dakota, and a non-profit advocacy group for people with disabilities selected by the Committee. Currently this seat is filled by an appointee of Family Voices of ND.

PAIMI Advisory Council

The PAIMI AC is made up of six to ten individuals knowledgeable about mental illness who have an interest in issues related to the quality of services and the rights of people with mental illness. The

PAIMI Advisory Council provides input and advises P&A on activities and priorities pertinent to the PAIMI program

About P&A: Our Philosophy

P&A is concerned with asserting the human, civil and legal rights of people with disabilities, especially those who cannot articulate and act to protect deprivations. P&A operates in a manner which is consistent with the belief that people with disabilities have the same legal and constitutional rights and guarantees as every other American citizen. P&A subscribes to a “self actualization” view which stresses that every person be given the greatest possible opportunity to shape his or her personal destiny. P&A subscribes to belief in the least restrictive conditions necessary to achieve the purposes of treatment, leaving the person as much personal freedom as possible.

In line with the above mentioned philosophies, P&A will act for the exclusive benefit of the person with a disability and will advance the interests of that person, and not those of the parent, guardian, or other third-party representative. P&A, thereby, accepts a bond of loyalty and trust with the person and assumes an obligation of representing, as if they were its own, the interests of another citizen.

P&A will provide services in a manner that offers information to the person with the disability about available options; allows the person with the disability to determine which option is preferred; and, then promotes that preferred option within the scope of, and compatible with, the person’s legal rights.

P&A makes the assumption that the person with the disability, when properly advised and assisted, is capable of making decisions. Furthermore, when a decision or meaningful choice cannot be or is not expressed by a client, or when consent is not available from or provided by a client or legally authorized substitute, the role of P&A is to act with care to safeguard and advance the interests and rights of the person with the disability.

P&A believes that people with disabilities should be empowered to advocate on their own behalf to the extent possible. Services provided by P&A shall promote consumer control in decision making and focus on the empowerment of people with disabilities in order to foster independence, productivity, and integration into the community.

Projects Services

Information and referral

P&A staff provides information and answers questions about disability-related issues. This is done in person, over the telephone, or through other types of communication that accommodate individual needs. When appropriate, an individual is given information about other resources, including other advocacy organizations that may be able to provide assistance. This service is available to anyone and does not require a determination of eligibility.

Various types of written materials are available and are provided in alternative formats upon request. P&A loans out its videos and publications from its resource library. For more information, please visit the [Priorities and Resources](#) area.

Assistance with self-advocacy

P&A provides advocacy skills development for groups of individuals seeking to advocate for themselves regarding disability issues.

Education and training

P&A staff conducts presentations to groups on disability-related issues. Topics include the role of P&A; abuse, neglect, and exploitation of individuals with disabilities; investigations process; the Americans with Disabilities Act; the Individuals with Disabilities Education Act; Section 504 of the Rehabilitation Act; employment rights of individuals with disabilities; workplace accommodations; legislative processes; and other disabilities rights issues.

Advocacy services

P&A employs Disability Advocates across the State to represent eligible individuals with disabilities whose rights have been violated or who are being unlawfully denied access to services. The Advocate may use various methods in representing an individual including writing letters on behalf of the person, making telephone and personal contacts, participating in team meetings with school personnel or other service providers, filing a formal complaint or grievance, and assisting with communications between the individual and his/her attorney.

Legal representation

P&A provides representation by a staff attorney or contracted legal counsel for administrative hearings or court proceedings. While there is no charge for these services, additional eligibility criteria are applied.

Protective services

P&A receives reports of alleged abuse, neglect and exploitation of individuals with disabilities. If there is probable cause, P&A investigates (or has another entity investigate) the allegation. When appropriate, the P&A accesses protective services on behalf of the individual. Such services may include securing a guardian or conservator, assisting the individual with finding alternative living arrangements, or assisting the individual with identifying other service options. While P&A's authority to provide protective services focuses primarily on adults, protective services may also be provided to children with disabilities when Child Protective Services has determined that the situation or incident is not within their criteria.

Systems advocacy

A systems issue is a disability-related problem that affects a group of individuals similarly. Each year P&A prioritizes systems issues on which to focus its advocacy efforts.

Legislative advocacy

P&A is active in disability-related legislation on the state and national level and assists individuals or groups with addressing issues on a local level. For more information, please visit the [Legislation](#) area.

Services: P&A Programs

Protection & Advocacy for Developmental Disabilities (DD)

After becoming aware of the inhumane conditions at Willowbrook, a New York State institution for persons with developmental disabilities, Congress enacted the Developmental Disabilities Assistance and Bill of Rights Act of 1975 (the "DD Act"). In the DD Act, Congress recognized that a federally-directed system of legal advocacy was necessary to "ensure the humane care, treatment, habilitation and protection of mentally retarded and other persons with developmental disabilities." Developmental Disabilities Assistance and Bill of Rights Act, as amended ([42 U.S.C. §§ 15041-15045](#))

The DD Act created a system of protection and advocacy agencies in all states and territories. In 1977, the Protection & Advocacy Project (P&A) was established as the designated protection and advocacy agency for North Dakota.

Protection & Advocacy for Individuals with Mental Illness (PAIMI)

Following Congressional investigations substantiating reports of abuse and neglect in state psychiatric hospitals, the Protection & Advocacy for Individuals with Mental Illness Act of 1986 (the "PAIMI Act") was passed. The PAIMI Act's intent was to extend protections similar to those provided under the DD Act to individuals with mental illness residing in facilities. Protection and Advocacy for Individuals with Mental Illness Act, as amended ([42 U.S.C. §§ 10801 - 10807](#), [42 U.S.C. §§ 10821 - 10827](#)), [42 U.S.C. §§ 10841](#)), [42 U.S.C. §§ 10851](#))

An important provision for the protection and advocacy system was included in the Children's Health Act of 2000. It expanded the PAIMI Program to cover individuals with mental illness who reside in the community.

Protection & Advocacy for Individual Rights (PAIR)

The Protection & Advocacy for Individual Rights (PAIR) Program was established under the Rehabilitation Act in 1973, as amended in 1992. The program was not fully funded by Congress until 1994 which is when it was established in North Dakota. It is designed to serve individuals with disabilities who are not eligible for P&A services under the DD or PAIMI programs. Section 509 of the Rehabilitation Act of 1973, as amended ([29 U.S.C. §§ 794e](#))

Protection & Advocacy for Assistive Technology (AT)

The Protection & Advocacy for Assistive Technology (AT) Program was established in 1994 when the Technology-Related Assistance for Individuals with Disabilities Act (the "Tech Act") was expanded by Congress. As a result, the Tech Act includes funding to the protection and advocacy system to assist individuals with disabilities in accessing AT devices & services. Technology-Related Assistance for Individuals with Disabilities Act, as amended ([29 U.S.C. §§ 3004](#))

Protection & Advocacy for Beneficiaries of Social Security (PABSS)

The Protection & Advocacy for Beneficiaries of Social Security (PABSS) Program was established and authorized by the Ticket to Work and Work Incentive Improvement Act (TWWIIA) of 1999. The Act authorized the Social Security Administration (SSA) to fund protection and advocacy systems to provide work incentive assistance to SSDI and SSI beneficiaries who need vocational rehabilitation, employment services, and other supports to secure or regain employment. In North Dakota, the program was established in 2001. Section 1150 of the Social Security Act, added by the Ticket to Work and Work Incentives Improvement Act, as amended ([42 U.S.C. §§ 1320b-21](#))

Protection & Advocacy for Traumatic Brain Injury (TBI)

This program was authorized by the Traumatic Brain Injury Act of 1996 and reauthorized as part of the Children's Health Act of 2000. Through the funding provided, protection and advocacy systems are better able to serve individuals with traumatic brain injury and their families. This program was initiated in North Dakota in 2002. Section 1253 of the Public Health Service Act, added by the Children's Health Act, as amended ([42 U.S.C. §§ 300d-53](#))

Protection & Advocacy for Voting Access (PAVA)

This program was enacted to help ensure that every qualified person with a disability has the opportunity to vote. The Help American Vote Act, which was signed into law on October 29, 2002, overhauled federal elections in the United States by establishing minimum voting standards that each state and territory must follow. The Act also authorizes the provision of funds to the protection and advocacy system to ensure full participation in the electoral process for individuals with disabilities. Title II, Subtitle D of the Help America Vote Act of 2002 ([42 U.S.C. §§ 15461](#))

Client Assistance Program (CAP)

The Client Assistance Program (CAP) was initiated as a pilot project in North Dakota in 1974. In 1984, the Governor designated the Vocational Rehabilitation Division of the Department of Human Services (DHS) to formally administer the federal program. In July 2011, DHS began contracting the CAP to P&A for implementation in North Dakota. The goals of the CAP are: (1) to provide assistance in informing and advising clients and client applicants of available benefits under the Rehabilitation Act; (2) to assist and advocate for clients and client applicants in their relationships with projects, programs and services provided under this Act, including assistance and advocacy in pursuing legal, administrative and other appropriate remedies; (3) to provide information on available services under the Act and Title I of the Americans with Disabilities Act to any individual with disabilities in the State. The CAP is established under the Rehabilitation Act, as amended ([29 U.S.C. § 732](#))

Current Priorities & Resources

Current Priorities

As encouraged by federal funding sources, and following input activities by people with disabilities, family members and the public, each year P&A chooses some of the most important issues affecting people with disabilities and makes them priorities. Nearly all P&A services (including information & referral, client assistance & representation, education & training, and systems advocacy) are then focused on these priority issues. P&A may accept non-priority cases for advocacy assistance, advocacy representation, or legal representation when the presenting issue is considered to be egregious and all other criteria have been met. Very limited resources will be available for non-priority cases. P&A's grievance procedure is available to individuals whose request for advocacy services has been turned down because the issue is not within existing priorities or for other reasons.

P&A's current priorities include the following:

- **Abuse, Neglect & Exploitation:** Advocating for people with disabilities to be free from harm and mistreatment and to receive quality services, individualized to each person's needs - providing protective services when necessary and appropriate.

- **Community Inclusion:** Advocating for the rights of people with disabilities to live and receive services in the least restrictive environment. This includes receiving necessary supports to stay in one's own home. Areas of focus include:
 1. Transition of individuals with disabilities to the community from the Life Skills & Transition Center, the State Hospital, and other institutional settings.
 2. Advocacy for individuals with disabilities currently living in the community who are at risk for institutionalization because they do not have adequate community-based services.
 3. Advocacy for children with autism for supports to maintain them in the least restrictive community environment.
 4. Advocacy for adequate services on behalf of individuals with intellectual disabilities who have challenging behaviors so they can remain in the least restrictive setting.
 5. Advocacy for 18-21 year-old individuals with developmental disabilities to receive adequate services after graduation from high school.
 6. Advocacy for individuals with developmental disabilities who are changing placements to receive well developed, written transition plans.
 7. Advocacy for parents with developmental disabilities to have adequate parenting supports and services.
 8. Self-advocacy support, training, and technical assistance for groups and individuals with developmental disabilities.

- **Supported Decision Making and Guardianship:** Providing training and technical assistance on supported decision-making and advocacy in support of adequate corporate and public guardianship services for individuals with developmental disabilities.

- **Behavioral Health Care Continuum:** Providing advocacy to expand and support the rights of individuals with mental illness to a system of behavioral health care that meets their needs and maximizes their ability to live in the community. This includes training to reduce stigma and enhance an appropriate recognition and response to the needs of individuals with mental illness. Efforts also include self-advocacy support, training, and information.

- **Criminal Justice:** Advocating for people with brain injury and mental illness who are, or may become, involved in the criminal justice system to obtain supports and services that meet their disability-related needs. A focus in this area is education on the concept, formulation, and implementation of Individual Justice Plans. There is also a major focus on the provision of appropriate mental health treatment and services in prison and jails.

- **Education:** Advocating for students with disabilities to receive disability-related services consistent with state and federal laws. Areas of focus differ based on program, but include:
 1. Ensuring students receive multi-disciplinary evaluations, assessments, and identification of their disability; services identified in their Individual Education Plans; reasonable

accommodations for disability-related needs; appropriate behavioral supports; appropriate transition from school to work and independent living; the use of seclusion and restraint; placement in the least restrictive setting; involvement in the juvenile justice system as a school response to disability-related behavior; and, appropriate assistive technology services or tools.

2. Supporting students, parents, and educators in becoming more effective advocates for students' rights.
 3. Systems advocacy that seeks improvement and positive changes for students with disabilities.
- **Employment:** Advocating for persons with disabilities to have access to meaningful employment at a fair wage. Areas of focus include:
 1. Employment discrimination based on disability and reasonable accommodation in the workplace.
 2. Advocacy for services and supports needed in order for people with disabilities to obtain and maintain employment.
 3. Provision of information and/or training regarding advocacy, vocational and support services and employment rights (including those under the Rehabilitation Act and Title I of the Americans with Disabilities Act), and the Client Assistance Program.
 4. Advocating for the rights of people with disabilities who are seeking or receiving treatment, services, or rehabilitation under the Rehabilitation Act.
 5. Systems advocacy that seeks an increase in vocational services and employment options for people with disabilities.
 - **Healthcare:** Advocating for disability-related, medically necessary health care through Medicaid, Medicare, or private insurance.
 - **Voting:** Advocating for a voting system that is accessible and provides equal opportunity for participation. Areas of focus include:
 1. Educating voters with disabilities about accessible ways to vote, the voting process, and their voting rights.
 2. Ensuring polling places are fully accessible.
 3. Assisting and educating voters with disabilities regarding their rights to due process under the State-based administrative procedure required by the Help America Vote Act.

General Resources

The General Resources page will provide you with access to lots of disability-related information as well as links to other organizations in North Dakota and out-of-state.

About P&A: Our Personnel

P&A Office Locations	Office Personnel
Williston	
309 Washington Avenue #403 Williston, ND 58802-2472	Janelle Olson, Advocate Paula Rustad, Office Assistant
Minot	
1408 20th Ave. S.W. Suite 8 Minot, ND 58701	Angie Dubovoy, Advocate
Turtle Mountain	
916 Chief Little Shell St #2, PO Box 1300 Belcourt, ND 58316	Ella Davis, Advocate
Devils Lake	
1401 College Drive Devils Lake, ND 58301-1596	Robin Rosendahl, Advocate
Grafton	
Developmental Center Sunset, Rm 327 Grafton, ND 58237	Dawn Rorvig, Advocate
Grand Forks	
311 South 4 th Street Suite 112 Grand Forks, ND 58201-4792	Carol Weiler, Advocate
Fargo	
1351 Page Drive Suite 303 Fargo, ND 58103-3551	Brenda Ruehl, Advocate Craig Sinclair, Attorney Martha Tollefson, Advocate
Jamestown	
2509 Circle Drive LRC Building, Room 418	Cindy Lund, Advocate Miriam Saylor-Nyland, Advocate

P.O. Box 911 Jamestown, ND 58402-0911	
Bismarck	
Wells Fargo Bank Building 400 East Broadway Suite 409 Bismarck, ND 58501-4071	David Boeck, Director of Legal Services Judy DeWitz, Advocate Vickay Gross, Advocate Denise Harvey, Director of Program Services Corinne Hofmann, Director of Policy and Operations Christine Hogan, Staff Attorney Carlan Kirmis, Administrative Assistant Teresa Larsen, Executive Director Pam Mack, Director of Program Services Shantell Meidinger, Advocate Loretta Movchan, Advocate Becky Rosenkranz, Administrative Assistant Robyn Schmalenberger, Advocate Dotty Simes, Fiscal Manager Cody Wagner, Advocate
Dickinson	
135 Sims Suite 213 Dickinson, ND 58601-5141	Peggy Kelly, Advocate

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Turtle Mountain	

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