

Minnesota Disability Law Center

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2010 STATEMENT OF PRIORITIES AND OBJECTIVES

PURPOSE

The Minnesota Disability Law Center (MDLC) provides representation for persons with disabilities who live throughout Minnesota. The mission of MDLC is to advance the dignity, self-determination, and equality of individuals with disabilities. MDLC works to promote, expand, and protect the human and legal rights of persons with disabilities through direct legal representation, advocacy, education, and legislative analysis. MDLC pursues administrative and other appropriate remedies to ensure the protection of the rights of persons with disabilities. MDLC seeks to ensure that there is consistency in the range and availability of services for people with disabilities throughout the state.

MDLC is designated, through executive order, as the state's Protection and Advocacy System. As the Protection and Advocacy Agency for Minnesota, MDLC has the authority to protect and advocate for the rights of persons with disabilities and to investigate incidents of abuse and neglect. Additionally, MDLC seeks to improve the availability of appropriate community resources and to reduce discrimination against persons with disabilities. MDLC recognizes the importance of taking action on the special concerns of persons of color, persons with multiple disabilities, and those with special language or communication concerns. MDLC's fundamental purpose is to assist clients to exercise their legal rights and to advocate for their self-determination in deciding their needs and the course of their futures. MDLC's focus is on those issues arising from or relating to a person's disability(ies) and the systems that serve individuals with disabilities.

PROGRAMS

MDLC includes all of the following federally-mandated protection and advocacy programs for people with disabilities.

- **CAP:** Advocacy for persons with any disability having problems with agencies funded under the Rehabilitation Act (e.g., Rehabilitation Services, State Services for the Blind); funded by the Rehabilitation Services Administration under the federal Rehabilitation Act.
- **PABSS:** Advocacy for persons with disabilities who are Social Security beneficiaries (SSI or SSDI) seeking to secure, maintain or regain employment; funded by the Social Security Administration.
- **PAAT:** Advocacy for persons with disabilities having problems with Assistive Technology devices or services; funded by the Rehabilitation Services Administration, under the Technology Related Assistance for Individuals with Disabilities Act.
- **PADD:** Advocacy for persons with developmental disabilities; funded by the Administration on Developmental Disabilities under the Developmental Disabilities Act.
- **PAIMI:** Advocacy for persons with mental illness, with service priority for persons residing in care or treatment facilities; funded by the Center for Mental Health Services.
- **PAIR:** Advocacy for persons with disabilities not covered by other P&A programs; funded by the Rehabilitation Services Administration under the federal Rehabilitation Act.
- **TBI:** Advocacy for persons with traumatic brain injury; funded by the Department of Health and Human Services.

- **PAVA:** Voting-related advocacy and outreach under the Help America Vote Act, funded by the Administration on Developmental Disabilities.

MDLC also receives funds from the United Way of Minneapolis, the Fund for the Legal Aid Society, the Legal Services Advisory Committee, the Lawyers Trust Account Board, several smaller grants and individual donations.

HOW PRIORITIES AFFECT MDLC ACTIVITIES

MDLC does not have enough staff or funding to provide a full range of services to everyone who requests assistance. Therefore, each year the agency identifies some of the most important issues affecting people with disabilities and makes them **priorities**. Nearly all of MDLC's services are then focused on these priority issues. MDLC's legal advocacy services include individual case work for persons with disabilities affected by those problems; efforts to improve the systems which may be causing the problems; outreach to those affected by these problems; and training and information on legal rights and self-advocacy.

Information and referral services are offered to everyone who contacts MDLC for help with a disability-related issue. People with a problem that is not included within MDLC's priorities may receive self-help advice and materials.

CRITERIA FOR CASE SELECTION WITHIN PRIORITY AREAS

The detailed statements which follow describe MDLC's priority issues and activities. MDLC will focus its activities in individual cases, in responding to requests for training, and in addressing broad policy questions in the areas indicated and to the ends proposed. With limited resources, not all of the potential issues or cases can be addressed in all of the priority areas. MDLC does not provide individual representation in certain areas, including criminal defense, guardianship, commitment, child protection, parental fee disputes and service provider claims.

The general case or issue selection criteria which follow are applied in selecting which cases to take:

1. Is the individual we would represent eligible for service under federal and other funding source program requirements?
2. Does the issue with which we would be dealing arise because of the person's disability?
3. Are there other resources available to assist the person or to address the issue, including the person's ability to pay a private attorney for representation and the availability of private, publicly-funded, or pro bono attorneys knowledgeable in the area?
4. Is there an adequate basis in fact and law to proceed with the case?
5. Is there the potential for preventing or greatly decreasing a more restrictive result?
6. Would our involvement significantly increase the possibility that other persons with disabilities and their families would obtain comparable benefits?
7. Is the person with a disability also subject to discrimination and barriers as a member of another protected class and therefore a priority due to multiple issues and the likelihood that the person will not receive comprehensive services elsewhere?
8. Can the case be handled given the existing workload of staff and available resources?

I. ABUSE/NEGLECT

GOAL: People with disabilities will be free from abuse and neglect.

First Priority:

- **Abuse/Neglect:** A person with a disability needs legal advocacy because his/her health or safety is at risk due to abuse or neglect. PADD, PAIMI, PAIR, TBI.
- **Assault:** A person with a disability needs legal advocacy to be free from physical and sexual assault. PADD, PAIMI, PAIR, TBI.
- **Psychotropic Medications:** A person with a disability needs legal advocacy because his/her psychotropic medications are inappropriate in dosage/effect and/or are being used for the purpose of chemical restraint. PADD, PAIMI, TBI.
- **Seclusion and Restraint:** A person with a disability needs legal advocacy because he/she is subject to excessive or otherwise inappropriate aversive and deprivation practices, including seclusion or restraint. PADD, PAIMI, PAIR, TBI.
- **Deaths in Licensed Facilities:** Legal advocacy is needed to review death investigations and determine appropriate actions. PADD, PAIMI.
- **Monitoring of Facilities and Services:** MDLC staff will monitor facilities and services for persons with disabilities, including nursing homes, group homes and State Operated Services, in order to identify and prevent instances of abuse and neglect. PADD, PAIMI, PAIR, TBI

Second Priority:

- **Abuse/Neglect:** A person with a disability needs legal advocacy so that effective measures which minimize risk or neglect are in place and followed. PADD, PAIMI, PAIR, TBI.
- **Neglect:**
 - A person with a disability residing in a treatment center, facility or group home needs legal advocacy so that he/she is not neglected in critical areas of care. PADD, PAIMI, PAIR, TBI.
 - A person with a disability residing in a treatment facility/program or receiving special education services needs legal advocacy to challenge services/educational plans that result in the denial of access to critical services and supports. PADD, PAIMI, PAIR, TBI.
 - A person with a disability needs legal advocacy due to financial exploitation. (PADD, PAIMI, PAIR, TBI).

II. SELF-DETERMINATION

GOAL: Persons with disabilities obtain the maximum feasible control over decisions affecting their lives and over the exercise of their civil rights.

First Priority:

- **Voluntary Treatment and Services:** A person with a disability needs legal advocacy to protect her/his right to make decisions about living situations, treatment and services. Preference for voluntary treatment as a resolution, but least restrictive imposition on patient's rights where involuntary treatment or guardianship ordered.

- **Civil Rights:** A person with a disability needs legal advocacy to protect her/his civil rights, including individual privacy rights, and substantive/procedural due process rights.

Second Priority:

- **Voluntary Treatment and Services:** Promote health care directives, least restrictive guardianships, and other mechanisms that support the substitute judgment/individual preferences model of substitute decision-making.
- **Civil Rights:** Support individual claims under various rights-creating statutes that impact on significant quality of life issues.

III. COMMUNITY-BASED SUPPORTS AND SERVICES and HEALTH CARE

GOAL 1: Ensure that the public sector develops and maintains an adequate network of community-based services and supports to enable all persons with disabilities to live in the community of their choice.

GOAL 2: Ensure that the public sector develops and maintains an adequate network of community-based services and supports to enable all persons with disabilities to receive treatment/habilitation that is culturally competent.

GOAL 3: Ensure that the public sector develops and maintains health care coverage and services that meets the needs of persons with disabilities statewide.

First Priority:

- **Service Access:** A person with a disability needs legal advocacy because he/she is being denied a service that is needed in order to stay in the community or to move to a less restrictive setting. PADD, PAIMI, PAIR, CAP.
- **Health Care:** A person with a disability needs legal advocacy to obtain necessary health care through public health care programs, including managed care programs. PAAT, PADD, PAIMI, PAIR.
- **Assistive Technology:**
 - A person with a disability needs legal advocacy to obtain medically necessary assistive devices through Medical Assistance or Medicare. PAAT.
 - A person with a disability needs legal advocacy to enforce consumer protections covering assistive technology devices. PAAT.

Second Priority:

- **Eligibility for Health Care:** A person with a disability needs legal advocacy to obtain access to health care coverage through public programs without being impoverished. PADD, PAIMI, PAIR, PABSS.
- **Appropriate Housing Choices:** A person with a disability needs legal advocacy to obtain appropriate community-based housing. PADD, PAIMI, PAIR.
- **Assistive Technology:** A person with a disability needs legal advocacy to obtain medically necessary assistive devices through private insurance. PAAT.

IV. ACCESSIBILITY and DISCRIMINATION

GOAL: Persons with disabilities are free from discrimination in public accommodations and public services as a result of the removal of physical and program access barriers.

First Priority: Persons with disabilities have full access to public services, and public accommodations.

- **Public Accommodations:** Persons with disabilities who need legal advocacy to have physical and program access to services, programs and activities provided by public accommodations (e.g., businesses, professional offices, entertainment facilities, day care centers, private schools and colleges, private transportation companies, private hospitals, and private correctional facilities.). PAIR, PAIMI, PAAT, PABSS.
- **Public Services:** Persons with disabilities who need legal advocacy to have physical and program access to programs and services provided or subsidized by municipal, county or state government, including communication access issues in the criminal justice system. In addition to specific programs administered by such agencies, public services also include appropriate paratransit and public transportation services, and physical and program access to post-secondary education in universities and state colleges and state technical colleges in Minnesota. PAIR, PAIMI, CAP, PAAT, PABSS.
- **Housing Issues:** Persons with disabilities that need legal advocacy in order to be free from physical and program barriers in housing. PAIR, PAIMI.
- **Voting:** Persons with disabilities that need legal advocacy in order to register to vote, access polling places and equipment, and/or utilize the Secretary of State's complaint process due to unfair and discriminatory election practices. PAVA, PAIR.

Second Priority:

- **Access to Housing in Group Homes:** Persons with disabilities who need legal advocacy to ensure they are not subjected to discriminatory zoning ordinances that prevent the formation of transition or group homes. PADD, PAIMI.
- **MFIP (Minnesota Family Investment Program):** Persons with disabilities who need policy advocacy to be free from discrimination when applying for or receiving MFIP. PAIR, PAIMI, PADD, TBI.
- **Voting-Related Outreach and Training:** Conduct outreach to promote the involvement of persons with disabilities in the electoral process and deliver trainings to consumers, care providers, and election officials on the registration, eligibility, access needs, and rights of voters with disabilities. PAVA.
- **Voting-Related Policy Advocacy:** Participate in legislative, rule-making, and state task force processes as necessary to obtain outcomes that ensure the full participation of people with disabilities in the electoral process, including the implementation of accessible voting equipment. PAVA.

V. SPECIAL EDUCATION

GOAL: Infants, children and youth with disabilities receive educational services, including special education and related services, based on individual needs and are served in the least restrictive environment.

First Priority:

• **Abuse and Neglect**

- An infant, child or youth with a disability needs legal advocacy to be free from physical and sexual assault, is not subjected to inappropriate aversive or deprivation procedures in his/her home, educational setting, treatment setting, or juvenile facility. PADD, PAIMI, PAIR, TBI.
- An infant, child or youth with a disability needs legal advocacy because she/he is being excluded from day care; pre-school or K-12 school for conduct related her/his disability, subjected to inappropriate discipline procedures, or is not receiving appropriate positive behavior interventions and accommodations. PADD, PAIMI, PAIR, TBI

- **Policy Advocacy:** Participate in legislative, rule-making and state task force processes when necessary to ensure that students with disabilities are free from abuse and neglect, are not subjected to inappropriate discipline, are not denied meaningful educational opportunities, are educated in the least restrictive environment, and receive due process protections. Develop and implement systemic approaches to address recurring and/or common issues consistent with these priorities in county and school systems. Collaborate with other organizations where appropriate. PADD, PAIMI, PAIR, TBI.

Second Priority:

• **Full Array of Services**

- An infant, child or youth with a disability needs legal advocacy to obtain and coordinate services, including transition services, between schools, counties and other service providers in order to live, work and play as independently as possible in her/his community. PADD, PAIMI, PAIR, TBI, CAP, PAAT

- **Free and Appropriate Public Education:** A student with a disability needs legal advocacy because she/he is not receiving the special education and related services in the least restrictive environment as required to make progress in the general curriculum. PADD, PAIMI, PAIR, TBI.

VI. EMPLOYMENT

GOAL: Adults with disabilities have opportunities to obtain, maintain, and re-gain employment consistent with their interests, abilities and needs.

First Priority:

- **Full Array of Services:** Persons with disabilities who are recipients of Rehabilitation Services, State Services for the Blind and/or clients of Independent Living Centers and who need legal advocacy to receive the full array of available services to achieve their vocational or independent living goals. CAP, PADD, PAIMI, PAIR, PABSS.
- **Social Security Disability Benefits:** Social Security disability beneficiaries who need legal advocacy in order to receive information and all available benefits from work incentives options and the Ticket to Work and Work Incentives Improvement Act. PABSS, CAP.

Second Priority:

- **Integrated Training and Employment:** Adults served within state service systems for persons with disabilities that need legal advocacy in order to participate in independent or supported employment to the maximum extent feasible. CAP, PABSS, PADD, PAIMI, PAIR.
- **Employment Accommodations:** Persons with disabilities who need short-term legal advocacy to maintain employment through provision of reasonable accommodations and providing information and referral regarding employment discrimination due to disability. PABSS MDLC generally does not litigate employment discrimination claims.

Third Priority:

- **Welfare Reform:** Persons with disabilities, or parents of children with disabilities participating in Minnesota's welfare to work program who need legal advocacy in order to be free of discrimination. PADD, PAIMI, PAIR.
- **Social Security Overpayments:** Social Security disability beneficiaries are free from barriers to employment caused by substantial benefits overpayments or work-related terminations. PABSS.

VII. MDLC OPERATIONS

The Minnesota Disability Law Center maintains and improves its ability to protect and promote the rights of persons with disabilities throughout the state.

Accessibility: MDLC services are equally accessible without regard to the disability of potential client or caller.

Diversity: Recipients of MDLC services reflect the demographic distribution of the populations of Minnesota with respect to ethnic/racial background and urban/rural locations.

Information, Referral, and Case Acceptance: All interested parties receive prompt and accurate information and/or referral with respect to questions or concerns about rights and services for persons with disabilities.

Visibility: The disability community, state policy makers, and the legal services community are aware of the overall accomplishments and major activities of MDLC and receive information on current activities of MDLC.