
AGENCY OVERVIEW

360 PROTECTION AND ADVOCACY

Date: 12/14/2006

Time: 13:56:11

STATUTORY AUTHORITY

AGENCY STATUTORY AUTHORITY

P&A is mandated by Federal and State law to provide protection and advocacy services to individuals with all types of disabilities of all ages. The following statutes provide federal authority for the agency's advocacy programs:

- . Developmental Disabilities Assistance and Bill of Rights Act, as amended (42 U.S.C. §§ 15041-15045)
- . Protection and Advocacy for Individuals with Mental Illness Act, as amended (42 U.S.C. §§ 10801-10851)
- . Section 509 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §§ 794e)
- . Technology-Related Assistance for Individuals with Disabilities Act, as amended (29 U.S.C. §§ 3012)
- . 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)
- . Section 1253 of the Public Health Service Act, added by the Children's Health Act, as amended (42 U.S.C. §§ 300d-53)
- . Title II, Subtitle D of the Help American Vote Act of 2002 (42 U.S.C. §§ 15461)

State authority for the agency is found under the *Committee on Protection and Advocacy* (NDCC 25-01.3).

AGENCY DESCRIPTION

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The Protection and Advocacy Project (P&A) is governed by a seven-member board with appointments being made by the Legislative Council (2), the Governor (2), the Mental Health Association in ND (1), People First of ND (1), and The Arc of ND (1). Advisory Councils also provide stakeholder input to the Mental Health Advocacy Program (MH), the Beneficiaries of Social Security Advocacy Program (PABSS), and the Traumatic Brain Injury Advocacy Program (TBI).

Current federal programs include the: 1) Developmental Disabilities Advocacy Program (DD); 2) Mental Health Advocacy Program (MH); 3) Protection and Advocacy for Individual Rights (PAIR - for individuals with disabilities who are not eligible for the DD or MH advocacy programs); 4) Assistive Technology Advocacy Program (AT); 5) Protection and Advocacy for Beneficiaries of Social Security (PABSS); 6) Traumatic Brain Injury Advocacy Program (TBI); and 7) the Help American Vote Act (HAVA) .

P&A investigates allegations of abuse, neglect and exploitation of individuals with disabilities. When an allegation is substantiated, P&A uses a variety of remedies to address the situation. The range includes providing recommendations (e.g. staff training) to court action (e.g. guardianship) and/or referral to law enforcement.

Advocacy services are directed to individuals with disabilities who experience rights violations or those who are not receiving services to which they are entitled. Following public input, priorities are established each year which direct the use of advocacy resources. Remedies start with the least intrusive methods (e.g. information, referral services, technical assistance to the individual with a disability or his/her parent or guardian). As appropriate, Disabilities Advocates will provide direct representation for eligible individuals. As a last resort, P&A attorneys represent eligible individuals in administrative processes and/or through court action.

P&A collaborates with numerous other State and local entities to promote systems change on behalf of individuals with disabilities. Activities include participation on various committees and task forces such as the Governor's Commission on Olmstead, the Developmental Center Transition to the Community Task Force, and the DHS Mental Health Planning Council.

Education and training activities are targeted to people with disabilities, parents, guardians, service providers, education personnel, related professionals, law enforcement, and the general public. P&A supports local and State self-advocacy initiatives through technical assistance from Disabilities Advocates.

In order to provide effective protection and advocacy services to individuals with disabilities throughout the State, P&A has nine offices. They are each staffed with Disabilities Advocates whose major role is to provide information & referral services, technical assistance, self advocacy support, advocacy representation, and education activities. Disabilities Advocates are located as follows: Williston (1), Minot (1), Belcourt (1), Devils Lake (1), Grand Forks (2), Fargo (2), Jamestown (2), Bismarck (3), and Dickinson (1). The Coordinator/Advocate for the Protection and Advocacy for Beneficiaries of Social Security (PABSS) is also located in Bismarck. Her duties are state-wide. As an accommodation for a disability, the Williston Advocate has a half-time support staff. She also has a driver (temporary/hourly) who works less than half-time.

The remainder of the agency personnel include: Executive Director; Director of Institutional Advocacy & Protective Services; Director of Advocacy Services; Fiscal Manager; Director of Policy and Operations (responsible for the agency information technology plan and implementation, data base development, personnel functions, reports, quality assurance); Attorneys (3 FTE's, one of which is located in Fargo); Administrative Assistants (2).

P&A is requesting one additional FTE, which would bring the total from 25.5 to 26.5. This position will be for a Disabilities Advocate to help with the overload of work in the Bismarck region. For the '05 Federal fiscal year (10/04-9/05), the three Bismarck Advocates provided: 27 trainings to 682 individuals; advocacy &/or protective services to 157 people with disabilities; responses to 1,012 information & referral requests. They also distributed 2,452 written pieces of information. These three staff are overwhelmed in spite of some workload re-distribution to outlying regions.

AGENCY MISSION

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The mission of the agency is to protect and advocate for the rights of people with disabilities. As set by the Committee on Protection and Advocacy in November 2000, the mission reads: *Uniting to champion the equality and inclusion of people with disabilities where we live, learn, work and play.*

AGENCY PERFORMANCE MEASURES

Performance Measures:

P&A develops an annual plan with numerous goals and objectives. These relate to the seven federal programs within the agency. As an overall agency, P&A's activities can be classified into six main areas of effort. While the definitions, focus and depth of each activity can vary, these same services are provided, to some degree, by protective and advocacy systems in each State and territory.

1. Protective services – ensuring appropriate response, including risk management, investigation and provision of remedial effort, to all reports of alleged abuse, neglect and/or exploitation of individuals with disabilities.
2. Case advocacy – providing advocacy and/or legal representation, within identified priority areas, to eligible individuals with disabilities to ensure access to appropriate services and resolution of disability-related discrimination or other rights violations.
3. Systems advocacy – collaborating with appropriate stakeholders to identify and advocate for systemic change that will result in positive outcomes for people with disabilities.
4. Information and referral – providing verbal and written information as well as directing individuals to resources external to P&A.
5. Education and training – training provided to groups of individuals, including people with disabilities and service providers, on disability-related rights issues as well as the development and publication of rights-related documents.
6. Self-advocacy support – providing information, technical assistance and support to self-advocacy groups.

Benchmarks are established by P&A staff for protective services and case advocacy, with the goal of achieving resolution to the clients' identified problems at a rate > 90% for protective services and a rate of > 85% for case advocacy. For fiscal year 2005 (10/1/04 – 9/30/05), P&A received 469 reports of alleged abuse, neglect and/or exploitation. By the end of the fiscal year, 335 of the case problems were closed with 317 (95%) being resolved favorably.

For the same fiscal year the data shows that 208 case problems involving rights violations, where advocacy was provided by P&A, were closed with 188 (90%) being in favor of the client.

Through Federal fiscal year 2005, P&A had a contract with the Center for Persons with Disabilities at Minot State University to conduct a third-party satisfaction survey with clients (or their parents/guardians as appropriate) who have received advocacy representation from P&A. The benchmark established by P&A staff was a satisfaction rate of > 85%. In response to the question, "If you had a need, would you use P&A services again?", 91.3% responded "yes" in 2004 and approximately 95% responded "yes" in 2005.

A benchmark is also established, by P&A staff, for outcomes specific to training on abuse, neglect and exploitation. Goal one is for consumers to have the knowledge to identify and report allegations of abuse, neglect and exploitation. For FY 2005, 205 consumers were trained and 100% reported having such knowledge. Goal two is for service provider staff to have the knowledge to identify and report allegations of abuse, neglect and exploitation. For FY 2005, 1,628 staff were trained. 84% of the developmental disabilities staff reported meeting the goal. 88% of the mental health staff reported meeting the goal.

MAJOR ACCOMPLISHMENTS

AGENCY MAJOR ACCOMPLISHMENTS

Following are a few of P&A's recent accomplishments:

Monitoring of Licensed Developmental Disability Community Provider Organizations:

The DD Monitoring process involves training for licensed DD providers on: a) the licensing policy that addresses reporting & assessing incidents of possible abuse & neglect of people with a developmental disability, b) providing risk management in response to those incidents, & c) utilizing a protocol to ensure that incidents of possible abuse & neglect are screened & reported consistent with state law. The goal of this process is to ensure that all agencies/organizations (Developmental Disabilities Division/DHS, Protection and Advocacy Project, & licensed developmental disability providers) are working effectively together to ensure the highest quality of services in safe environments for people with developmental disabilities. The DD Division/DHS & P&A are committed to "monitoring" each licensed provider once every two years. Since the initial monitoring in May of 2005, 21 of 34 provider organizations have participated. Some comments from licensed developmental disability providers that participated are: 1) It was very helpful to have the opportunity to look at situations and use the practice of RDG's (reporting determination guidelines). I really appreciated the use of a no fault process to look at needed changes & the beginning of seeing that the consumer is the most important. 2) I really enjoyed the review process this afternoon & just being able to brainstorm & talk about situations in a group was very helpful in identifying positive responses & getting feedback from outside of the agency. 3) Having different scenarios & an outlined description of what we were being trained on. Knowing how to determine allegations that could be reportable & learning how to do reporting was all very helpful. 4) Seeing things from neutral party/objective person as to how we are handling our reports & risk management was very beneficial.

Help America Vote Act:

P&A uses grant dollars from the Help America Vote Act (HAVA) to improve the voting system for voters with a full range of disabilities. To accomplish this, P&A has established a successful partnership with the Secretary of State's Office and the North Dakota Association of Counties and works closely with them to ensure that people with disabilities have equal access to our voting system. We have collaborated and assisted the state to procure accessible voting machines, helped identify accessibility concerns at polling locations state-wide, provided disability sensitivity training to election officials, and provided hands-on training to voters on accessible voting machines.

PAIMI Program Monitoring:

P&A's Mental Health Advocacy Program (Protection & Advocacy for Individuals with Mental Illness or PAIMI) received a federal on-site monitoring in August of 2005. While the written report has yet to be released, the exit interview went very well with many positive comments about the program, its services, and staff.

Disabilities Justice Initiative:

P&A continues its collaboration with the N.D. Center for Persons with Disabilities & the State Developmental Disabilities Council as a major stakeholder in the Disability Justice Initiative (DJI) Project. The DJI is a five year project which was implemented in October 2002. The project is currently in its fourth fiscal year (10/1/05 – 9/30/06). The purpose of the DJI is to improve interactions between people with disabilities & the criminal justice system by providing training to law enforcement personnel, service providers, judicial

personnel & consumers. To date, law enforcement agencies in 10 North Dakota communities have received DJI training through a curriculum developed by the DJI State Team (including P&A). Other parties who have received training to date include rural hospital employees, self advocates, Vocational Rehabilitation personnel, N.D. Association for the Disabled employees, Community Action employees and human service center staff. In 2004 the N.D. Peace Officers Standards & Training Board approved the DJI curriculum, which means that N.D. law enforcement officers who complete the training can receive professional continuing education credits. It is anticipated that by the end of the five year DJI project, the initial goal of training law enforcement personnel in five ND communities/counties will have been far exceeded. The remainder of the project will focus on continuing to expand disability awareness across the State, to include development of a plan to provide training to judicial personnel.

Complaint Investigation Private Psychiatric Treatment Facility:

In December 2005 P&A received information concerning a major private psychiatric treatment facility in North Dakota. P&A initiated follow up & conducted extensive interviews of individuals who witnessed incidents of concern regarding the practices in this facility. P&A provided the gathered information to the ND Department of Health & the Regional Office of the Center for Medicare and Medicaid Services. This information led to a major complaint investigation resulting in identifying deficiencies in significant areas of patient treatment & services. As a result of this process, the identified facility has developed an extensive plan of correction & increased & improved the contract & consultation agreements necessary to provide effective patient care. The facility has also implemented a long term contract with a highly qualified consultant to ensure on-going compliance with standards and quality assurance practices.

Individual Justice Plan Project:

During the past year, P&A has worked with a group of 40-50 stakeholders to develop an updated version of the Individual Justice Planning (IJP) process. The original manual was developed in the early 1980's and was written for people with developmental disabilities. Recent trends nationwide have shown that an increased number of people with disabilities are becoming involved in the criminal justice process. The IJP process can be used by support people/teams to identify potential at-risk behaviors and to assist support networks in identifying pro-active services to prevent/address involvement in the criminal justice system. With facilitation from the N.D. Consensus Council, the draft IJP manual has been completed & the next phase of piloting & training will be occurring.

Emergency Preparedness:

The Louisiana P&A system main office and staff were hard hit by the hurricanes of 2005. This left them unable to respond to the increased demand for services from people with disabilities. P&A's Director of Policy and Operations spent October 2005 in Louisiana working with their P&A system to address post-hurricane, disability-related concerns of people with disabilities residing in shelters. This federally-funded initiative allowed P&A unique insight into emergency planning and response issues related to special needs populations. As a consequence, P&A is collaborating with the DD Council and the ND Center for Persons with Disabilities to develop a 5-year project that will address planning and preparedness issues for people with disabilities and their providers. In addition, P&A is collaborating with the Department of Emergency Services, the Department of Human Services, and the Health Department to help ensure that ND's emergency planning and response adequately addresses the needs of people with disabilities and special needs.

Belcourt Office:

In July 2005, P&A hired a new Disabilities Advocate to work full-time on the Turtle Mountain Indian Reservation. The past year has been spent focusing on outreach & making contacts to ensure that people on the reservation are aware of the services that are available. In addition, P&A as a whole has focused on becoming more educated in ways to work successfully with Tribal law & with the service systems on the reservation. In addition to this advocacy office, P&A continues to have Disabilities Advocates that provide service & outreach to the other reservations in the State.

FUTURE CRITICAL ISSUES

P&A's proposed budget for the 2005-2007 biennium was developed with the assumption of level funding for four of its seven federal grants (DD, AT, PABSS, TBI). Based on the funding pattern of the last two years, a 1% annual cut was budgeted for two of the federal grants (MH, PR). Funding through the Help American Vote Act (HAVA) is predicted to continue through September 2007; new funding for HAVA was not included beyond that date. Future federal funding is uncertain. While predictions are based on historical information and sound reasoning, they may not come to fruition which will, of course, decrease P&A's resources. Other federal grant possibilities for protection and advocacy systems continue to be discussed on the national level however there is nothing concrete to pass on at this time.

The Committee on Protection & Advocacy, the agency's governing board, authorized a pool of \$18,000 to help with salary compression for long term P&A employees. This was distributed for the 12-month period beginning July 1, 2006. The pool provided salary increases for classified employees who have been with the agency for more than two years.

While this has certainly helped with the overall compression issue, deep inequities remain between new and long term employees. While the average length of employment with the agency is over ten years, the majority of classified staff are within the first quartile of their pay grades.

P&A is cognizant of the State's current position on "growing government". At the same time, the demand for P&A's services continues to increase. We are attempting to balance needs and address efficiencies where ever possible.

REQUEST SUMMARY

Date: 12/14/2006

360 PROTECTION AND ADVOCACY

Bill#: SB2014

Time: 13:56:11

Biennium: 2007-2009

Description	Expenditures 2003-2005 Biennium	Present Budget 2005-2007	Budget Request Change	Requested Budget 2007-2009 Biennium	Optional Budget Request
BY MAJOR PROGRAM					
PROTECTION AND ADVOCACY - B	4,280,733	3,720,979	22,901	3,743,880	100,286
TOTAL MAJOR PROGRAMS	4,280,733	3,720,979	22,901	3,743,880	100,286
BY LINE ITEM					
PROTECTION AND ADVOCACY SERVICES	4,280,733	3,720,979	22,901	3,743,880	100,286
TOTAL LINE ITEMS	4,280,733	3,720,979	22,901	3,743,880	100,286
BY FUNDING SOURCE					
GENERAL FUND	782,604	812,093	9,931	822,024	50,143
FEDERAL FUNDS	3,498,129	2,908,886	12,970	2,921,856	50,143
SPECIAL FUNDS	0	0	0	0	0
TOTAL FUNDING SOURCE	4,280,733	3,720,979	22,901	3,743,880	100,286
TOTAL FTE	24.50	25.50	1.00	26.50	1.00

REQUEST DETAIL

Date: 12/14/2006

360 PROTECTION AND ADVOCACY

Bill#: SB2014

Time: 13:56:11

Biennium: 2007-2009

Description	Expenditures 2003-2005 Biennium	Present Budget 2005-2007	Budget Request Change	Requested Budget 2007-2009 Biennium	Optional Budget Request
SPECIAL LINES					
PROTECTION AND ADVOCACY SERVICES	4,280,733	3,720,979	22,901	3,743,880	100,286
TOTAL	4,280,733	3,720,979	62,168	3,743,880	100,286
SPECIAL LINES					
GENERAL FUND	782,604	812,093	9,931	822,024	50,143
FEDERAL FUNDS	3,498,129	2,908,886	12,970	2,921,856	50,143
SPECIAL FUNDS	0	0	0	0	0
TOTAL	4,280,733	3,720,979	22,901	3,743,880	100,286
FUNDING SOURCES					
GENERAL FUND	782,604	812,093	9,931	822,024	50,143
FEDERAL FUNDS	3,498,129	2,908,886	12,970	2,921,856	50,143
SPECIAL FUNDS	0	0	0	0	0
TOTAL FUNDING SOURCES	4,280,733	3,720,979	22,901	3,743,880	100,286

CHANGE PACKAGE SUMMARY
360 PROTECTION AND ADVOCACY
Biennium: 2007-2009

Bill#: SB2014

Date: 12/14/2006

Time: 13:56:11

Description	FTE	General Fund	Federal Funds	Special Funds	Total Funds
AGENCY BUDGET CHANGES					
Cost To Continue	.00	-81,550	70,370	0	-11,180
1 Wages	1.00	0	93,348	0	93,348
2 Operating expenses	.00	91,481	-150,748	0	-59,267
Agency Total	1.00	9,931	12,970	0	22,901
OPTIONAL REQUEST					
1 Administrative position	1.00	50,143	50,143	0	100,286
Optional Total	1.00	50,143	50,143	0	100,286

BUDGET CHANGES NARRATIVE
360 PROTECTION AND ADVOCACY

Date: 12/14/2006

Time: 13:56:11

Change Group: A	Change Type: A	Change No: 1	Priority: 1
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Wages -

Wages - The proposed increase in wages is for:

a) An additional Disabilities Advocate (1 FTE) to be housed in the Bismarck office. The existing Disabilities Advocates who cover the Bismarck region are overwhelmed with referrals; casework; reports of alleged abuse, neglect & exploitation; and community education/training. Salaries for this position total \$68,088 (\$98,348 with benefits) for the biennium.

b) Carry over of equity increases given 7/1/06 to long term employees of the agency. The Committee on P&A, the agency's governing board, approved the pool of \$18,000 for equity increases for classified employees to help address the problem with compression. HRMS applied the pool to a formula, taking into consideration each employee's pay grade, existing pay, and years of service with P&A. Staff employed with the agency for more than two years received the well-deserved increases.

Change Group: A	Change Type: A	Change No: 2	Priority: 2
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Operating expenses -

Travel-proposed decrease: \$5,772 - While the cost of travel has obviously increased, P&A has and will continue to rely more heavily on car pooling and conference calling. We also plan to cut out-of-state travel as necessary to stay within our budget.

IT/Software & Supplies - Proposed increase: \$779 - Existing computers due for replacement in '07-'09 contain OEM software. The budge amount allows for replacing of software for each of the computers to be replaced per our replacement schedule.

Professional Supplies & Materials - Proposed decrease: \$10,470 - Planned expenditures are for necessities for the P&A offices including law reporters and other resources such as medical dictionaries. No funds are included for the purchase of education and training materials for the agency's resource library.

Misc Supplies - Proposed decrease \$250. This money is generally used to replace misc. supplies that suffer wear and tear. Based on spending history, less is being budgeted.

Office Supplies - Projected increase: \$1,550. The increase includes the addition of a Disabilities Advocate position as well as general increased costs for supplies.

Postage - Proposed decrease \$1,050. Based on spending history, less was budgeted for postage.

Printing - Projected decrease \$10,450. A good amount of the '05-'07 budget was for the Help America Vote Act (HAVA) Program. The future of this program is uncertain and it was not included in the budget beyond the '07 federal fiscal year (10/06-9/07).

IT Equipment Under \$5000 - Proposed increase \$9,272. Allows for the replacement of computers and other IT equipment as identified in our agency's IT replacement schedule (see P&A's IT Plan).

Other Equipment Under \$5,000 - Proposed decrease \$9,712. No purchases are planned in this category.

Office Equipment & Furniture Under \$5,000 - Proposed decrease: \$1,475. There are no major equipment purchases scheduled for the '07-'09 biennium (e.g. replacement of copy machines). The proposed budget does allow for the purchase of basic office furniture for the new Bismarck Disabilities Advocate position, additional filing cabinets, replacement of some desk chairs, and funds for replacement of other minor equipment or furniture due to wear and tear.

Insurance - Projected increase:\$258. The total is the cost for risk management and property insurance premiums which will increase slightly.

Lease/Rent of Equipment - Proposed decrease: \$50. Decrease based on spending history while allowing some funds for rental of equipment for workshops/conferences as might be needed.

Lease/Rent of Building Space - Proposed increase \$15,199. Allows for office rent increases as projected by current landlords.

Repairs - Projected increase: \$1,975. increases are projected for copy machine service contracts.

IT Data Processing - Proposed increase: \$17,752. This is the result of increased rates for data processing services through ITD, including access to the State network and desktop support.

IT Telephone - Proposed decrease: \$2,981. This decrease is due to the implementation of voice over IP for state office to state office calls. While the rate for long distance has increased, this change results in an overall reduction in costs to P&A.

IT Contract Services & Repairs - decrease: \$3,350. ITD has established state contracts with various vendors for desktop support services and all of these services are now billed through ITD.

Dues & Professional Development - Proposed increase \$1,814. Increased amount is included for the new Bismarck Disabilities Advocate position and for what seems to be a trend in increased regristration fees for workshops and conferences.

Operating Fees & Services - Proposed decrease: \$32,806. Funds that are being used during the '05-'07 biennium to contract with the Centers for Independent Living are not projected for the '07-'09 biennium. Spending history also allows for a decreased budgeted amount.

Professional Services - Projected decrease: \$9,500. A big chunk of money (\$50,000) remains for implementation of P&A's responsibilities under the Help America Vote Act (HAVA) Program. A decrease was made for interpreter services based on spending history but we need to include this as we don't know when it might be needed.

Grants - Proposed decrease: \$20,000. No funds are included for grants in the '07-'09 biennium.

Change Group: A	Change Type: A	Change No: 100	Priority:
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OMB HAVA FTE -

FTE and operating funds for administrative support for HAVA program.

Change Group: O	Change Type: A	Change No: 1	Priority: 1
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Administrative position -

While the agency has gone from three federal programs in 1994 to seven today, the majority of the funds have gone to direct service. The Executive Director, Fiscal Manager and Director of Policy & Operations are the only professional administrative positions. There are increasing requirements by federal grantors for application information and reporting. Combined with increasing State government initiatives (e.g. COG/COOP, IT planning, Peoplesoft, asset management), existing administrators are overwhelmed.

This position would provide half-time administrative and half-time programmatic services to the agency. The Help America Vote Act (HAVA) grant would fund the programmatic work.