

Disability Law Center 2017 Priorities

Each year, the Disability Law Center (DLC) adopts a plan to focus its work on the greatest threats to the independence of people with disabilities and the most prevalent violations of disability rights laws. The plan includes priorities that we determine based on input from the community.

What Is a Priority?

Our priorities are the goals we work on every day to achieve full equality and justice for people with disabilities. We have to establish priorities because we do not have the resources necessary to tackle all of the issues facing people with disabilities at one time.

Through public input and our work with clients, we identify problems that are widespread or pose the greatest threat to the independence of people with disabilities. Then we develop priorities to address those problems.

Why Do We Need Priorities?

DLC is the federally mandated protection and advocacy (P&A) system in Massachusetts. We receive most of our funding from the federal government. The majority of our funding must be devoted to the four core functions we are required to address. Priorities guide the work of our legal teams and provide the structure within which we can spend our remaining limited resources.

Disability Law Center is a federally mandated protection and advocacy system with funding from the US Department of Health and Human Services, the US Department of Education, and the Social Security Administration.

We are an independent 501(c) (3) nonprofit organization. Our team of attorneys, advocates, paralegals, and support staff provide advocacy and legal services at no charge for people with disabilities across Massachusetts.

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FOUR CORE FUNCTIONS OF THE DISABILITY LAW CENTER

1. Information, Referral and Training

Knowing your rights can empower people with disabilities to get the services or help they need. For this reason and because we do not have enough resources to represent everyone who contacts us, DLC provides information, advice and/or written materials to every eligible caller. As part of our established protocols, our goal is to provide all P&A-eligible callers some level of information and referral (I&R) when their issue falls outside our priorities. DLC provides training on disability rights including special education, resident/patient rights in facility settings, anti-discrimination laws in housing and employment, mental health laws, voting rights, and self-advocacy. We offer training to groups across the state that builds advocacy skills and knowledge of specific areas of law. DLC also provides extensive technical assistance to disability or legal professionals who call us daily requesting information and advice on a number of issues impacting people with disabilities.

- ➡ DLC will provide outreach and training to members of the community on the following topics: 5 Fundamental Rights, Mental Health law, Guardianship, Rep Payee Issues, Access to Voting, Housing, Employment and Benefits law.
- ➡ DLC staff will provide 5-10 trainings on issues such as an individual's right to a free and appropriate education (FAPE), and how to access transition services in a timely manner. DLC staff will provide 10-15 trainings about the new discipline and restraint and seclusion regulations.
- ➡ DLC will provide technical assistance to advocates, service providers and attorneys advocating for the rights of individuals with disabilities on issues described above.

Funding for this work will be PAIDD, PAIMI, PAIR, PAAT, PATBI, PAVA, PABSS, MLAC, United Way

2. Monitoring

DLC monitors facilities where people with disabilities live or receive services to prevent, detect, and address instances of abuse, neglect or exploitation. Our monitoring activities may include (1) face-to-face interviews with individuals with disabilities living in the facility, (2) face-to-face interviews with staff members working in the facility, (3) observation and evaluation of the physical conditions of the facility, and (4) a review of records, when appropriate, in accordance with applicable federal and state laws. Our primary goal is to ensure that the residents' rights are protected and that they are living in a safe environment with opportunities to participate in activities important to them, such as recreational activities and work. Also during our monitoring visits in institutional settings, we identify individuals who could and want to live in the community if they had the proper supports and services.

- ➡ In FY 2017, DLC will focus on monitoring at least 25 state licensed, funded and/or supported community residences funded by DDS. DLC will also monitor all public and at least 25 private psychiatric facilities as well as facilities such as Bridgewater State Hospital and other DOC controlled facilities that house individuals with mental illness.
- ➡ DLC staff will also monitor 2 public and 2 private schools that provide services for students with disabilities.

Funding for this work will be PAIDD, PAIMI, PAIR, PAAT, PATBI, PABSS, MLAC

3. Investigations

In situations where we believe serious abuse or neglect may have occurred, we conduct an investigation. The investigation is a thorough examination of information, records, evidence and circumstances surrounding the allegation of abuse and neglect. Investigations are distinct from advocacy and require a significant allocation of time and resources for activities such as interviewing witnesses, gathering evidence, and generating a written report which may or may not be released publicly. Because of our limited resources, we focus on investigations where the outcome may be systemic change resulting in a better quality of care for large groups of people with disabilities.

- ➡ DLC will accept allegations of abuse and neglect in educational settings, such as inappropriate use of restraint and seclusion.

Funding for this work will be PAIDD, PAIMI, PAIR, PAAT, PATBI, PAVA, PABSS, MLAC

4. Legally-based Advocacy Including Individual and Systems Advocacy

DLC represents the interests of individuals both individually and systemically in the courts and other legal forums. This is the work that is tied to our priorities and includes the cases we take to represent one person as well as class action lawsuits we file to address widespread legal violations. The priorities for the types of cases we will take under this core function are as follows:

Community Integration

There are more than 25,000 individuals with disabilities living in what DLC would consider an institutional setting despite the numerous waivers and other programs available in Massachusetts. Many of these individuals could live in the community successfully with the appropriate supports and services. These individuals have the right under the ADA Least Restrictive Environment standard and the Olmstead decision to live in an integrated setting in the community.

What We Will Accomplish in 2017

- ➔ DLC will collaborate with DD Network Partners to develop a plan that addresses advocacy for individuals with developmental disabilities to obtain supports and services necessary to remain living at home or in his/her community.
- ➔ DLC will take a limited number of cases involving issues that violate community integration under the Olmstead decision and the Least Restrictive Environment standard.
- ➔ DLC will obtain discharge ready lists from all DMH facilities and advocate for release from unnecessary confinement to these facilities

Who Will Benefit

DLC's work in this area will benefit individuals with significant mental illness. Traumatic brain injury and developmental disabilities who are currently living in institutions but could be living successfully in their community.

Why It Is Important

Massachusetts has been progressive in obtaining 10 Medicaid Waivers and funding for other programs such as Money Follows the Person and the Demonstration grant for Dual eligible individuals called One Care Project, all designed to allow people to live in the community with the long term services and supports they need. At the same time, Massachusetts has become increasingly risk averse and the decision to allow someone to leave an institutional setting and live in the community is very conservative and restrictive. DLC, through its ongoing monitoring role and in partnership with the Aging Disability Resource Centers (ADRC) Options counselors will identify individual living situations that we believe violate the ADA and Olmstead decision.

Funding: PAIDD, PAIMI, PAIR, PATBI, PABSS, MLAC GS

Education

There are approximately 964,000 students with disabilities age 3-22 years old in Massachusetts. Consistent with DLC's mission, DLC wants to keep these students in school receiving a free and appropriate education with the supports and services they need in the least restrictive environment that is suitable for them.

What We Will Accomplish in 2017

- ➡ DLC will provide representation in cases where a student receiving special education services is being excluded from school due to excessive or inappropriate discipline.
- ➡ DLC will provide representation in cases where a student has been denied special education eligibility and services that result in excessive or inappropriate discipline.
- ➡ DLC will accept cases to obtain appropriate programs and services for students who are Deaf and Hard of Hearing.
- ➡ DLC will accept up to 5 cases representing students who are currently in a hospital and/or have spent a substantial amount of time in a hospital recently and are seeking a less restrictive educational program
- ➡ In support of our ongoing work related to competitive, integrated employment, DLC will accept 3-5 transition cases focusing on access to employment opportunities consistent with the Workforce Investment Opportunities Act, Home and Community Based Services Rules and DDS' Blueprint to Success.
- ➡ DLC will represent students who are seeking a less restrictive school placement
- ➡ DLC will accept cases where a student has been abused or neglected at school

Who Will Benefit

Our efforts will benefit all students with disabilities who are excluded from school because of their disability, especially those who are minorities, are from low income families or live in rural areas. DLC's work in this area will also benefit students who are Deaf and Hard of Hearing, students stuck in hospital settings without educational services, students who want a less restrictive placement and those needing transition services to obtain competitive, integrated employment.

Why It Is Important

All of this work on behalf of students with disabilities is important because most of these students are being denied an appropriate education because of their disability. An increasing number of students with disabilities, especially those with behavior challenges, are being removed from the classroom resulting in a denial of an appropriate education. Students who are Deaf or Hard of Hearing who are not getting the communication accommodations they need to learn and socialize with their peers and those students in hospital settings are also getting limited educational services in a segregated setting. For students seeking meaningful transition planning, DLC will focus on those seeking competitive, integrated employment opportunities consistent with federal and state efforts to end access to subminimum wage jobs

Funding: PAIDD, PAIR, PATBI, PAAT, PABSS

Employment

There are approximately 750,000 non institutionalized people with a disability in Massachusetts which is 11.7% of the total population. 70% are not in the labor force at all. Of those working, 40% earn less than \$15,000 annually and that percentage increases to more than 50% in rural communities.

What We Will Accomplish in 2017

Reasonable Accommodation and Termination Cases that focus on the systemic nature of the case and the possible widespread impact a favorable outcome might have.

- Reasonable Accommodation
 - Client is currently working and needs an accommodation to remain employed.
 - Client has been terminated due to denial of a requested accommodation.
 - Denial of employment based on disability.
 - Client has been denied employment due to a need for a reasonable accommodation during the application process or to do the job, or denied solely due to disability discrimination.
- Termination Cases
 - Individual has been terminated due solely to disability discrimination.
- Sub-Minimum Wage Initiative
 - DLC will continue to assess the sub minimum wage waivers in light of wage and hour law and represent individuals who have a wage and hour claim or who want competitive employment opportunities.
 - DLC will hold a screening of Bottom Dollars, a film that exposes the exploitation of people with disabilities in sub min wage jobs.
- Employment Legislative Initiative
 - DLC will continue to work on legislative issues that will result in an increase of employment opportunities for people with disabilities.
- Work Incentives Planning and Assistance Initiative. DLC staff will provide support for WIPA staff, provide short term assistance to Individuals with work incentive questions and community training on work incentives for benefit recipients and agency personnel.
- Benefits Planning

Who Will Benefit

DLC's efforts will benefit those individuals working who are seeking an accommodation to remain employed, those terminated because of their disability, those in rural communities and individuals with intellectual disabilities who are working in sub minimum wage and segregated settings.

Why It Is Important

Although the ADA was passed more than 26 years ago, the unrealized promise of employment has not been fully realized. People with disabilities are more likely to live in poverty due to unemployment or underemployment because of their disabilities. Many that are working end up in sub minimum wage jobs because they did not receive the transition planning they needed earlier in life to ensure they were appropriately trained to obtain skills and experience that would lead to competitive integrated employment. Furthermore, those who are employed are denied necessary accommodations they need to remain employed or are terminated from employment because of their disability.

Funding: PAIDD, PAIMI, PABSS, PAIR, PATBI, GS

Government Services

Government services have the ability to impact the lives of most people in the disability community throughout the Commonwealth. Many people with disabilities rely on state government and government agencies to obtain the services they need to live safely and independently in the community. Based on the calls we receive and the input we have received at various public forums, people with disabilities want the state agencies they rely on to provide them with their choice of services once they are found eligible. Children with complex medical needs continue to face challenges in obtaining services because of the rate paid by the state to the nurses and other professionals they need to remain living at home. PCA services are necessary for many people with disabilities and elders to live independently. The new overtime rules have caused the state Medicaid office to propose a cut in overtime allowed. This could have, if implemented, serious impact on people's lives by limiting the access to PCAs.

What We Will Accomplish in 2017

- ➡ DLC systemically will address issues related to eligibility (and Prior Approval) or denial of services or benefits from various agencies to monitor appropriate implementation of recent changes in policies and regulations.
- ➡ DLC will accept up to 5 cases involving violations of Title II of the ADA, including ensuring an accessible path of travel in the city of Boston.
- ➡ DLC, in collaboration with other disability advocacy organizations, will provide legal support and advocacy to ensure individuals are not harmed or institutionalized due to the Personal Care Attendant (PCA) overtime cap.

Who Will Benefit

Potentially all people with disabilities in the State will benefit from our efforts in this area since so many people are impacted by a variety of state agencies in the Commonwealth.

Why It Is Important

This is important because government services impact the lives of people with disabilities from birth to death. People with disabilities rely on state agencies to provide the basic services they need to live independently and to ensure emergency evacuation communication is accessible

Funding: PAIDD, PAIMI, PAIR, PAAT, PABSS, MLAC GS

Health Care

Although Massachusetts has a version of health care for all residents that predates the federal program, accessible health care and access to effective communication is still elusive for many individuals with disabilities. There are approximately 350,000 Massachusetts residents with mobility impairments making accessible exam and diagnostic equipment in health care settings a necessity to receive appropriate health care from their provider. There are also approximately 200,000 individuals who are Deaf or Hard of Hearing in Massachusetts, many of whom need effective communication to obtain the health care they need.

What We Will Accomplish in 2017

- ➡ DLC, in collaboration with BCIL, other independent living centers and GBLS, will advocate on behalf of our clients for access to medical exam and diagnostic equipment in all health care settings, especially ones that accept Medicaid dollars.
- ➡ DLC, in collaboration with BCIL, other independent living centers and GBLS, will negotiate with MassHealth to ensure all health care providers accepting Medicaid dollars will be required to provide accessible exam and diagnostic equipment in all of their health care settings.
- ➡ DLC will accept cases on behalf of individuals who are deaf or hard of hearing and denied effective communication in health care facilities.

Who Will Benefit

More than 500,000 individuals who need access and effective communication to obtain the health care they need will benefit from DLC's work in this area. Others who need access to assistive technology, usually supported by a health care provider or prior approval by Medicaid/Medicare to keep them from being hospitalized unnecessarily will also benefit from DLC's advocacy and representation.

Why It Is Important

Despite state and federal law requiring that all health care providers ensure full access by obtaining accessible exam and diagnostic equipment, providing effective communication such as ASL interpreters and approval of assistive technology and timely repairs of equipment, many people with disabilities report not being able to obtain health care. Many report serious problems such as being dropped during a transfer to inaccessible equipment or being told they have cancer without an interpreter present.

Funding: MLAC GS, PAAT and PAIR

Housing

According to a 2015 study and article written by the National Housing Conference, housing is an important social determinant of physical and mental health and well-being. Affordable housing can also serve as a platform for providing supportive services to improve the health of vulnerable populations, including the elderly, people with disabilities, and homeless individuals and families. Despite the benefits, people with disabilities are regularly denied equal access to housing or the accommodations they need to live independently in the community. In addition, after enduring long wait times to obtain a subsidy, people with disabilities face subsidy terminations when they are hospitalized or not responsive to notices they never received. People with disabilities whose only income is SSI/SSDI are totally priced out of the rental market in Massachusetts.

What We Will Accomplish in 2017

DLC will accept up to 75 housing cases for Short Term Assistance and Representation in the following areas:

- Requests and denials of Reasonable Accommodations
- Evictions for reasons which are wholly or primarily disability-related
- Subsidy terminations for reasons that are wholly or primarily disability-related.
- Stay of execution of eviction for individuals with disabilities when appropriate.

DLC will conduct Outreach and Training in the following areas:

- Outreach to Veterans Groups to ensure Veterans with disabilities understand their housing rights and availability of DLC services.
- Provide 2 trainings for the community on basic rights as a tenant with emphasis on self advocacy.
- Provide 1 training for Veterans with disabilities in collaboration with another Veteran Organization
- Provide 1 training for Public Housing Managers

Who Will Benefit

While there are a lot of people with disabilities who can't obtain the housing they need, it is more important than ever for DLC to help those that have housing keep it. The people that will benefit will be individuals with disabilities and their families who are currently housed or have subsidies and they are in danger of losing housing or their subsidy for some reason related to their disability.

Why It Is Important

Housing is the stabilizing factor in most people's lives. People with disabilities are usually low income and live in constant fear of losing the housing they have. However, some of these individuals and families need accommodations or are facing eviction for a disability related issue such as they requested an accommodation. DLC and all legal services providers in Massachusetts are inundated with calls for assistance with housing issues, such as denial of reasonable accommodations, evictions based on disability as well as terminations of subsidies without which an individual with a disability will be either homeless or institutionalized.

Funding: MLAC and United Way, PAIR, PATBI

Human Rights

The Disabled Persons Protection Commission, the state agency responsible for accepting reports of abuse/neglect and death of adults with disabilities age 18-59 by caregivers, reports that they get more than 9,000 complaints annually. DPPC is chronically understaffed and underfunded so they refer almost all of these complaints back to the state agencies who have a duty to prevent most of these actions from happening in the first place, making their investigations suspect. DLC, as the P&A, has the authority and expertise to conduct our own investigations of abuse and neglect in individual cases, although in most cases we may choose to conduct a more comprehensive investigation of a reported provider of services or of a state agency and the employees involved in the complaint. Massachusetts does not have a registry that lists individuals who have abused individuals with disabilities and since most are not prosecuted they do not appear on any of the national criminal background check. That means, people who have been known to abuse a person with a disability could be fired by one provider and hired by another the following week. This has to stop and a registry that state vendors have to examine before hiring is necessary to eliminate the ability of abusers to keep working with this vulnerable population.

What We Will Accomplish in 2017

- ➡ DLC will accept individual cases involving abuse and neglect or other types of violations of human rights. These cases will serve to inform our ongoing monitoring work in community residences and facilities.
- ➡ DLC will work with disability organizations and legislative staff to develop a registry of individuals who have abused people with disabilities while working for a state funded vendor.

Who Will Benefit

DLC's efforts will impact thousands of individuals living in any type of facility where providers are staffing the living situation, such as those in group homes and other living situations where they rely on caregivers to take care of their daily activities of living. This will also impact individuals living in state and private psychiatric facilities receiving services and those in group homes funded by the Department of Developmental Services or Department of Mental Health.

Why It Is Important

This is important because the state is not adequately funding the very agency charged with the responsibility to do these investigations. Therefore, in addition to the systemic investigations DLC does, there are times when we need to take an individual case to investigate what occurred and ensure it is not repeated. The registry will help prevent the opportunity of repeat offenders to work with this population in the future.

Funding: PAIDD, PAIMI, PAIR, PATBI, MLAC GS

Public Accommodations

People with disabilities are regularly denied access to goods and services offered in their communities despite the fact that the Americans with Disabilities Act prohibit discrimination based on disability by public accommodations. DLC receives many calls about discrimination by restaurants, retail stores and theaters to name a few despite the existence of good state and federal laws prohibiting such discrimination.

What We Will Accomplish in 2017

- ➡ DLC will accept up to 10 cases involving violations of Title III of the ADA and/or the Massachusetts Public Accommodations law.

Who Will Benefit

There are more than 750,000 people with disabilities in the Commonwealth. Our efforts will benefit the individual clients we serve but also the many others who will benefit from the systemic changes we achieve through this priority.

Why It Is Important

While discrimination against people with disabilities in public accommodations is widespread, there are few private attorneys who will accept these cases.

Funding: PAIR, PAAT, MLAC GS

Transportation

Transportation is changing rapidly and some people with disabilities are being left behind. The rapid increase in the existence of transportation network companies (TNC) is revolutionizing transportation for everyone but has not been fully accessible for people with disabilities who use mobility devices or have service animals. In addition, Massachusetts, like other states, is looking at TNC providers to alleviate costly transportation the state currently provides for people with disabilities through the paratransit system.

What We Will Accomplish in 2017

- ➡ DLC will work in collaboration with other organizations to ensure that all modes of transportation provide accessible options for all users. This includes work related to the paratransit system as well as emerging on-demand alternatives.
- ➡ DLC in collaboration with BCIL and DPC will hold 3 public forums with UBER to determine where and how UBER can provide services for all people with disabilities but especially those who use mobility devices such as manual and power wheelchairs.
- ➡ DLC in collaboration with BCIL and DPC will develop a report for UBER based on input from the community.
- ➡ DLC will be appointed to the TNC Task Force by the Governor to represent the views of people with disabilities and ensure all TNC applicants are providing accessible services for all.

Who Will Benefit

All people with disabilities who don't drive or have access to privately owned vehicles as well as potentially all eligible paratransit customers.

Why It Is Important

DLC and other disability organizations must be involved in all legislative and regulatory activities to ensure people with disabilities are provided with access to these options as well as to work with the TNC providers to develop solutions that will work for the disability community.

Funding: MLAC GS

Voting Access

People with disabilities want to exercise their right to vote yet barriers continue to exist that make registering and voting at polling places difficult or impossible.

What We Will Accomplish in 2017

- ➡ DLC will collaborate with Independent Living Centers and other advocacy organizations including Mass Advocates Standing Strong to work towards eliminating all barriers to voting.
- ➡ DLC's Disability Voting Task Force which is made up of cross disability members will collaborate to ensure that people with disabilities have an equal opportunity to register to vote and exercise their right to vote.
- ➡ DLC will continue the REV UP campaign and website to ensure that access to voting continues to be a priority among disability and other advocacy groups.
- ➡ DLC will contract with independent living centers to survey polling places on November 8, 2016 as well as other elections throughout the year.
- ➡ DLC will address issues and barriers discovered by ILC staff who survey polling places.
- ➡ DLC will forge new relationships with other voting advocacy groups to ensure that they are aware of REV UP and are inclusive of people with disabilities in their right to vote efforts.
- ➡ DLC will hold a voting hotline on November 8, 2016 to provide technical assistance to voters with disabilities who experience barriers to voting.

Who Will Benefit

Potentially all people with disabilities over the age of 18 in the State will benefit from our efforts in this area since so many people are impacted by a variety of different types of barriers to voting.

Why It Is Important

This is important because access to voting impacts the lives of people with disabilities from birth to death. People with disabilities rely on elected officials to represent them and their needs which can only happen when they are able to exercise their right to vote.

Funding: PAVA

Assistive Technology

Assistive technology (AT) is any item, piece of equipment, software program, or product that is used to increase, maintain, or improve the functional capabilities of persons with disabilities to live safely and independently in the community. There are more than 300,000 individuals in Massachusetts with a variety of disabilities who identify as having difficulty with self-care and independent living. Access to the right AT will allow them the opportunity to live independently and safely in the community. AT is also critical for individuals who need effective communication options in school, employment and all other social activities. While fire emergencies have decreased nationally, deaths from fires had increases. Fire emergency alarms and notification systems have changed over the years without consideration of how those changes impact individuals with disabilities. DLC will work in collaboration with advocacy groups as well as fire and emergency evacuation professionals to understand how these changes impact the community's ability to evacuate buildings in a safe and timely manner.

What We Will Accomplish in 2017

- ➡ DLC, in collaboration with other disability organizations, will convene a task force to focus on wheelchair repair and replacement issues specific to MassHealth funded equipment.
- ➡ DLC, in collaboration with other disability organizations, will hold a daylong conference on the rules and regulations of Medicaid, Medicare and other insurers for obtaining wheelchair repairs.
- ➡ DLC will determine what barriers exist that prevent or delay wheelchair repairs and how to eliminate those barriers.
- ➡ DLC will accept cases where Assistive Technology has been denied and is necessary to access appropriate health care, education or employment.
- ➡ DLC will hold a day long training to discuss the evolution of fire safety equipment in buildings and how it impacts individuals with disabilities.
- ➡ DLC will convene a fire emergency notification equipment task force to examine the state of alarms and notification of fires for people with disabilities and determine

- ➡ DLC will work in collaboration with disability advocacy organizations, people with disabilities, and emergency preparedness professionals to ensure that building codes include effective communication and notification when there is a fire and/or disaster of any kind

Who Will Benefit

DLC's efforts will benefit potentially thousands of people needing assistive technology to live safe and independent lives.

Why It Is Important

The key to living safely and independently in the community for some people with disabilities is having mobility equipment that works well and transports an individual to school, work or wherever they want to go. Other types of assistive technology will be necessary to communicate, to work or to get an education. And while access to public accommodations and buildings has increased significantly, building code for fire alarm and notification systems has decreased over time making fire emergency evacuation problematic for individuals with disabilities.

Funding: PAAT