
Regional Office Reports on Disability Rights California's Current Advocacy: Cases and Projects

Issue 55—Work as of January 15, 2009

This report represents a summary of the work Disability Rights California staff has reported from October 1, 2008 to January 15, 2009. Many thanks to those who provided the material to make this report possible.

ABUSE & NEGLECT

Police Department Agrees to Promptly Investigate Criminal Assaults against People with Disabilities

On July 8, 2008, the mother of A.M., a 30 year old man with autism, contacted the Investigations Unit (IU) after A.M. had reported to her that his day program provider had sexually assaulted him. Uncertain of the validity of his allegation, the mother followed up with day program staff the following morning and became more suspicious when A.M. came home that evening with signs that he had been physically assaulted. She reported the incidents to the Police Department, but it delayed initiating an investigation for over a week. A.M.'s mother contacted Disability Rights California, claiming that the police did not adequately investigate the case, and that the District Attorney's office failed to prosecute the alleged perpetrator.

Asserting Disability Rights California's access authority, the IU obtained and reviewed the Police Department's records concerning the investigation, which confirmed that the Police Department had delayed initiating its investigation for eight days. Although the Police Department conducted an

otherwise thorough investigation, the time lapse in failing to start its work resulted in the inability to collect forensic evidence that could have corroborated A.M.'s claims.

The IU concluded that the delay in initiating the investigation was a likely contributing factor in the failure to substantiate the allegations of assault. In response to the IU's concerns, the Police Chief acknowledged the delay and assured Disability Rights California that corrective action was taken to ensure that future interviews and collection of forensic evidence would be handled expeditiously.

Abuse and Neglect Goal 2, Objective A

Disability Rights California Staff: Pamila Lew, Paul Duryea

Other Counsel: N/A

Grant/Funding Source(s): PADD

Investigations Unit Speaks about Crimes against Children with Developmental Disabilities

The IU gave a presentation to the Los Angeles County Commission on Disabilities about crimes against children with developmental disabilities. Many of the commissioners, as well as members of the audience, were people with disabilities.

As part of the training, the IU detailed the prevalence of crimes against children with developmental disabilities and problems in the abuse reporting system, which contributes to the underreporting of those crimes. The IU distributed copies of its public report, "Abuse and Neglect of Adults with Developmental Disabilities: A Public Health Priority for the State of California." The IU also discussed problems with law enforcement investigations and the failure to prosecute the crimes. After the IU urged the Commission to invite the Los Angeles County Sheriff's Department and the Los Angeles County District Attorney's Office to explain how they were addressing the problem of crimes against children with developmental disabilities, the Commission voted to do so. It also passed a motion to submit recommendations to the Los Angeles County Board of Supervisors after conducting additional research.

Abuse and Neglect Goal 4, Objective B

Disability Rights California Staff: Pamila Lew

Other Counsel: N/A
Grant/Funding Source(s): PADD

Disability Rights California Begins Investigation into Use of Restraint Techniques at Sierra Vista Rehabilitation Center

See Mental Health Section, supra.

BENEFITS

Disability Rights California Helps Client Get a Warrant Cancelled, Allowing him to continue receiving SSDI Benefits

J.N., a person with psychiatric disabilities, contacted Disability Rights California after SSA stopped his SSDI benefits due to an outstanding warrant in another state. SSDI payments can be suspended in any month where a person fled a state to avoid the prosecution for a felony, is avoiding confinement for conviction of a felony, or is violating a condition of probation or parole for a felony or misdemeanor.

Staff at Disability Rights California contacted the authorities in the state where the warrant was issued and ascertained that he had to pay a small fine for the warrant to be cancelled. The crimes connected to the warrant were all misdemeanors. J.N. paid the fine and received a cancellation of the warrant that he has presented to SSA. Disability Rights California will continue to investigate the legality of SSA's action to suspend his benefit. This case might represent an individual example of SSA's failure to follow federal law regarding "fleeing felons," as described in the memorandum to the Disability Rights California Board of Directors in December 2008 regarding *Martinez v. Astrue*.

Benefits Goal 1, Objective A
Disability Rights California Staff: Maria Iriarte
Other Counsel: N/A
Grant/Funding Source(s): PAIMI

Disability Rights California Assists Client Obtain a New Power Wheelchair

V.P., a student with a disability, lives very close to campus with hilly streets and needed a more powerful wheelchair to get to his doctor appointments, to and from class, and around the community. The wheelchair was old enough under Medi-Cal rules to qualify for replacement (normally five years) and Medi-Cal agreed to purchase a new wheelchair that was just like the old one, but not one with a more powerful motor. V.P.'s vendor appealed Medi-Cal's decision, but V.P. did not know that he had appeal rights too. However, he had written a detailed letter to Medi-Cal about his medical need for a new wheelchair and attached photos of the steep hills he had to travel.

V.P. also contacted Disability Rights California for help. Staff advised V.P. about his right to appeal and contacted Medi-Cal for further explanation. As a result, V.P.'s file was re-reviewed and Medi-Cal advised V.P. to submit another medical justification letter from his physical therapist which clarified why the more powerful chair was medically necessary. With Disability Rights California's help, V.P. submitted new supporting evidence. As a result, Medi-Cal approved a new power wheelchair with the needed stronger motor right before V.P.'s hearing.

Benefits Goal 2, Objective B

Disability Rights California Staff: Hillary Sklar

Other Counsel: N/A

Grant/Funding Source(s): PAAT

Staff Successful at Hearing Challenging Social Security Overpayment

The Social Security Administration (SSA) notified A.D., who had been working intermittently as a substitute teacher, that she was no longer eligible for Social Security Disability Insurance (SSDI) benefits due to her work activity, and had an overpayment. Although her work constituted substantial gainful activity (SGA), her work pattern was very irregular due to her disability. A.D. kept SSA abreast of her work activity by informing it when she accepted work.

A.D. contacted Disability Rights California for help. The advocate working with her determined that A.D.'s work activity constituted "Unsuccessful Work Attempts," (UWA) which enabled A.D. to challenge the overpayment. Disability Rights California represented A.D. at the administrative law judge hearing and demonstrated that A.D.'s work activity constituted UWA. A.D. received a favorable hearing decision and was not required to repay the overpayment.

Benefits Goal 1, Objective A

Disability Rights California Staff: Aleyda Toruno

Other Counsel: N/A

Grant/Funding Source(s): PABSS

Disability Rights California Staff Assist Client in Obtaining a Congressional Inquiry to Challenge her Overpayment

Due to work above the SGA threshold, P.Z. was no longer eligible for SSDI benefits, but SSA continued to pay them to her, which resulted in an overpayment. P.Z. requested waiver of the overpayment since she had reported her income to SSA and followed up by speaking to two SSA representatives regarding her work activity. Nonetheless, SSA continued to send SSDI checks to P.Z.

SSA denied the waiver, telling P.Z. that she had to make payment arrangements to return the overpayment. P.Z. agreed because she thought she had no choice. P.Z. then contacted Disability Rights California because to attempt to get her waiver approved. A Disability Rights California advocate contacted SSA several times to review P.Z.'s file, without success. The advocate then assisted P.Z. in filing an inquiry with her congressional representative, which resulted in SSA locating the file, ceasing payment deductions from her benefits, and eventually waiving the overpayment.

Benefits Goal 1, Objective A

Disability Rights California Staff: Aleyda Toruno

Other Counsel: N/A

Grant/Funding Source(s): PAIMI

Local Social Security Office Waives a \$133,487 SSDI Overpayment

D.G., a person with a psychiatric disability, contacted Disability Rights California after she received a notice from SSA denying a request for waiver of an overpayment of \$133,487.00 dating over a ten-year period. D.G. worked as a digital painter and contracted with Warner Brothers and Disney studios to work on animation movies, but was unable to take on long term projects due to her disability.

D.G. always reported to SSA when she started work and provided pay stubs. The advocate assisted D.G. in reconstructing periods of employment, which showed that D.G.'s work constituted a UWA.

Disability Rights California staff provided D.G. with a letter arguing why she was not liable for the overpayment, which D.G. used to successfully advocate for herself. SSA issued a written decision that the overpayment was waived.

Benefits Goal 1, Objective A

Disability Rights California Staff: Jerri Ward

Other Counsel: N/A

Grant/Funding Source(s): PABSS

Disability Rights California Assists SSI Recipient Obtain an Overpayment Waiver

H.C. is a 70-year-old SSI recipient with orthopedic disabilities. SSA charged H.C. with an overpayment and sent a letter stating that beginning in January 2009, 10% of his monthly check would be deducted until the overpayment was repaid. She did not, however, receive a notice of action stating the amount or reason for the overpayment.

H.C. advocated on her own behalf to appeal the overpayment and the lack of proper and timely notice. She went to her local Social Security office where she waited all day to file a request for reconsideration and waiver of the overpayment. While waiting, H.C. experienced incontinence due to her disabilities and when her name was finally called, a worker refused to accept her request. H.C. contacted a supervisor at the local office to discuss the overpayment and the worker's refusal to accept her appeal.

When the supervisor did not call her back within a reasonable time, HC contacted that person's supervisor, the District Manager of the local office. She was told the matter would be looked into. H.C. never received a follow-up call. After leaving additional messages with the District Manager, H.C. contacted Disability Rights California.

Disability Rights California staff placed a three-way phone call with H.C. to the District Manager, who ultimately agreed to waive H.C.'s overpayment.

Benefits Goal 2, Objective A

Disability Rights California Staff: Hillary Sklar

Other Counsel: N/A

Grant/Funding Source(s): PAIR

Health Insurance Plan Agrees that Student is Entitled to Continued Health Care Coverage

See DISCRIMINATION Section, *supra*.

DISCRIMINATION

Court Upholds County's Discriminatory Childcare Policy

S.C. et al. v. Allenby, et al., San Diego Superior Court No. GIC 879152

See previous Regional Office Reports, Issues 49, 51, 52 & 53.

On October 31, 2008, Judge John S. Meyer denied the Petition for a Writ of Mandate concluding that San Diego County's childcare policy for people on welfare does not discriminate against people with disabilities. The policy defines use of subsidized childcare by Cal WORKS recipients during any absences from welfare-to-work activities as a possible crime and allows no exceptions where the absences are necessitated by the disability of a parent or child. Petitioners had argued that Cal WORKS recipients with disabilities should be provided reasonable modification of the policy to allow childcare on a case-by-case basis for such absences. The Judge stated that to rule otherwise would violate the separation of powers, and that he had no authority to impose a duty on respondents "to provide free child care whenever 'needed,' beyond that imposed by the Legislature."

Petitioners were successful in reaching a stipulation waiving costs in exchange for refraining from filing an appeal. In addition, petitioners were previously successful in obtaining an order vacating and remanding the individual administrative decision against S.C. that had found her to have committed childcare fraud and convincing the District Attorney to drop the criminal charges dropped against her.

Discrimination Goal 3, Objective A

Disability Rights California Staff: Ann Menasche

Other Counsel: N/A

Grant/Funding Source(s): PAIMI

Client with Multiple Disabilities Wins Reasonable Accommodation from Landlord and Ends Eight Years of Homelessness

See previous Regional Office Report, Issue 53

The client is a woman with multiple disabilities and a veteran who had been homeless for eight years until moving into an apartment in Irvine on January 14, 2009. She had obtained a section 8 voucher over two years ago but was denied a necessary extension as a reasonable accommodation in order for her to locate accessible housing in Berkeley. She contacted Disability Rights California and we were able to have her voucher reinstated. She then re-located to Orange County (where she was originally from) and attempted to find a rental.

However, despite having the voucher, the client still faced multiple obstacles to getting off the streets, including raising deposit money; credit problems (the client has bad credit due to multiple medical bills that should not have even been billed to her as she was receiving Medi-Cal at the time), and of course, finding an accessible unit that accepts section 8 and that charged a low enough rent that it fell within section 8 rent guidelines. Unfortunately, Orange County had virtually no resources to assist the client in overcoming these obstacles.

The client focused her search on Irvine, since it was near her doctors and vocational rehabilitation services. She viewed a couple of accessible units owned by Irvine Company (which owns most of Irvine), and made her application. However, she was denied rental due to bad credit. The only

options they gave her were a co-signer (which she did not have) or paying thousands of dollars in additional deposit. Disability Rights California contacted Irvine Company's attorney and demanded that it disregard her credit report as a reasonable accommodation as required under the Fair Housing Laws, which it eventually agreed to allow her to do for an additional \$200 deposit. The client then had to come up with a total of \$900 in deposits. By that time, the client's voucher was about to expire once again, and Disability Rights California obtained, as a reasonable accommodation, another extension from the Orange County Housing Authority.

Meanwhile, staff members at the San Diego office, on their own time, conducted a raffle and rose over \$500 to help the client with the deposit. The client also engaged in her own very effective self-advocacy and after testifying at City Council in the City of Costa Mesa, she made such an impression that the City Manager of Irvine arranged for a private donor to provide her with \$500 toward the deposit. The client also arranged to obtain \$200 from a private group.

The client has now moved into her own two bedroom apartment but is sleeping on the floor, since she has no furniture. The client and Disability Rights California are working together to obtain what she needs to set up her house and find a live-in aide.

Discrimination Goal 2, Objective A

Disability Rights California Staff: Ann Menasche

Other Counsel: N/A

Grant/Funding Source(s): PAIMI

City of Buena Park Approves New Reasonable Accommodation Ordinance

Miller et al. v. City of Buena Park, U.S. District Court for the Central District of California

See previous Regional Office Reports, Issues 51 and 53

On December 9, 2008, as part of a settlement in a case involving four individuals with developmental and psychiatric disabilities residing together in a group home, the City of Buena Park enacted an ordinance that

established a simple procedure for requesting reasonable accommodation in land use. The plaintiffs had sued under fair housing laws after the City refused to allow the use of their garage as a recreation room. City ordinances require a garage to be used for the parking of two cars.

Under the terms of the settlement, the City agreed to the requested use of the garage as a reasonable accommodation, to terminate code enforcement proceedings against the owner of the group home, and to pay the plaintiffs \$2000 to allow them to purchase a new pool table since the old one broke when the City forced them to remove it from the garage. The City also agreed to recommend to the city council that they approve a reasonable accommodation ordinance establishing a process for requesting accommodation in land use. The City further agreed to pay plaintiff's attorneys' fees.

Discrimination Goal 2, Objective A

Disability Rights California Staff: Ann Menasche

Other Counsel: Christopher Brancart of Brancart & Brancart

Grant/Funding Source(s): PAIMI/PADD

Health Insurance Plan Agrees that Student is Entitled to Continued Health Care Coverage

The client is a 19-year-old male with a diagnosis of Asperger's Syndrome, who is in his first year of college with the support of the Department of Rehabilitation. He is carrying 11 units, the maximum load he can carry in light of his disability. The client had been getting his health care coverage through his father's health plan, which denied continued coverage as a full-time student dependent because he was carrying 11 units, less than 12 units required under the plan.

The client, through his mother, appealed providing documentation of his disability and a letter from his Department of Rehabilitation counselor explaining that for the client, 11 units was the maximum he could carry. Disability Rights California drafted an opinion letter explaining that not treating the client as a full-time student discriminated against him based on a health factor in violation of federal law. The health plan agreed that the client should be treated as a full-time student for purposes of continued coverage as a dependent but said the plan would be reviewing his status each semester.

Discrimination Goal 3, Objective A

Disability Rights California Staff: Marilyn Holle, Rose Ortega

Other Counsel: N/A

Grant/Funding Source(s): PADD

San Diego Housing Commission Agrees to Reinstate Client on Section 8 Waiting List

Our client had been on a Section 8 waiting list since 2000 and, despite his preferred status as a person with a disability, he had never been selected to receive a Section 8 housing voucher. The Housing Commission's files indicated that the client was originally placed on the waiting list in 2000, but the client's current status dated back to only two years ago because of his alleged failure to respond promptly to the Housing Commission's requests for information.

Beginning in November 2008, Disability Rights California began an informal inquiry into the client's status on the Section 8 waiting list. Disability Rights California obtained a copy of the Housing Commission's records that pertained to the client's waiting list status and discussed the adequacy of the records, which failed to show certain communications between the Housing Commission and the client. Unable to explain the lack of communication, the Housing Commission agreed to reinstate the client on the waiting list as of his original application date in 2000.

Discrimination Goal 2, Objective A

Disability Rights California Staff: Ann Menasche, Natalie Hernandez-Bell (volunteer attorney)

Other Counsel: N/A

Grant/Funding Source(s): PAIMI

Disability Rights California Obtains Wheelchair Transport for Jail Detainee

John Doe, a jail detainee, contacted Disability Rights California since jail staff prohibited him from using a wheelchair to be transported from the jail to his court hearings. Disability Rights California staff met with the medical director at the county jail and brought this concern to his attention. The medical director corrected the situation by ensuring that instructions were

placed in Mr. Doe's chart allowing him to use a wheelchair for transportation between the jail and his court hearings.

Discrimination Goal 3, Objective A

Disability Rights California Staff: Sean Rashkis

Other Counsel: N/A

Grant/Funding Source(s): PAIR

Disability Rights California Helps Monolingual Hmong Client with Mental Illness Achieve a Disability-Based Exemption from the English and U.S. History Requirements of the U.S. Citizenship Exam

The client is a 42-year-old woman with a diagnosis of Major Depressive Disorder and Post Traumatic Stress Disorder (PTSD), stemming from experiences she had at a young age during her family's ordeal of escaping from the war in Laos. These disabilities have affected her ability to concentrate and, despite her numerous attempts, they have prevented her from learning English.

The client and her son contacted Disability Rights California after she had applied for U.S. citizenship and requested to be exempt from the U.S. History and English requirements for citizenship. She submitted the appropriate documentation twice, but both of her requests were denied. After the second denial, the client appealed the decision and requested Disability Rights California's assistance in the appeals process. Disability Rights California wrote a position statement and prepared an evidence packet that illustrated the connection between the client's mental illness and her inability to learn English.

At the hearing, the adjudication officer accepted the position statement and evidence packet. After reviewing the documents presented, the officer concluded that the client had demonstrated a sufficient link between her disability and her inability to learn English. Therefore, the officer approved the application and granted the client U.S. citizenship.

Discrimination Goal 3, Objective A

Disability Rights California Staff: Stuart Seaborn, Pang Moua

Other Counsel: N/A

Grant/Funding Source(s): PAIMI

EDUCATION FOR CHILDREN & YOUTH

School District Pays for Customized Wheelchair

M.M., a 10 year-old girl with multiple disabilities, stopped attending school because she had outgrown her personal stroller and was unable to be safely transported to and from school. Her Mother had been unsuccessful in her efforts of asking the school district to provide a stroller or wheelchair so that M.M. could return to school. The district placed M.M. on home hospital for almost a year.

Disability Rights California represented M.M. at several IEP meetings where an assistive technology (AT) assessment was requested so that the school district could figure what type of AT she required. The school district agreed to fund a custom fitted and designed wheelchair that met safety standards so that M.M. could safely return back to school.

Education Goal 3, Objective A

Disability Rights California Staff: Carmen Varela

Other Counsel: N/A

Grant/Funding Source(s): PADD

Staff Secure a Change of Placement to a Less Restrictive Setting for Student with Multiple Disabilities

J.D., sixteen year-old African American male with mental retardation, orthopedic impairments, and other disabilities was attending a special education center within the Los Angeles Unified School District (LAUSD).

A Disability Rights California advocate represented J.D. at several IEPs and at an informal dispute resolution meeting, during which LAUSD agreed to place J.D. at a public high school with curb to curb transportation, a behavior plan that addressed his self-injurious behaviors and new goals and objectives that address his needs in the area of speech and language.

Education Goal 4, Objective A

Disability Rights California Staff: Carmen Varela

Other Counsel: N/A

Grant/Funding Source(s): PADD

Department of Education Finds School District Out of Compliance in Developing and Implementing IEPs for Students in a New Kindergarten-First Grade Special Day Class

In October of 2008, Disability Rights California filed a class compliance complaint with the California Department of Education (CDE) against a Northern California school district on behalf of four named students and the six other children in a newly created Kindergarten-First grade Special Day Class (SDC). The complaint alleged, among other things, that the district had failed to develop and implement appropriate IEPs for these children because although most or all of the children were non-verbal and used signs and engaged in aggressive or self-injurious behaviors, none of the children received a program that incorporated the use of sign or individual or group positive behavioral interventions. CDE conducted an on-site investigation of the classroom. In January of 2009, CDE found that the district was out of compliance in the above described areas and ordered the district to take corrective action as follows: review and revise, as needed, all of the ten students' IEPs to address their sign language and behavioral needs, start planning for the next year's placements, and to address the issue of compensatory education. Based on CDE's observations during the on-site investigation, CDE also ordered the district to review and revise IEPs to address the language needs of the children in the class who were bilingual and the needs of the child in the class with vision impairments.

Education Goal 2, Objective A

Disability Rights California Staff: Maggie Roberts

Other Counsel: N/A

Grant/Funding Source(s): PADD

Staff Secures Additional Occupational Therapy Services in the Home and at School

E.R., a 19 year-old Latino male with multiple disabilities, needed occupational therapy (OT) and was receiving only minimal services through California Children's Services (a state program of the Department of Health Services) while attending school within the Los Angeles Unified School District.

E.R.'s mother had attempted to advocate for her son despite language barriers so that he could receive additional CCS services while at school. Disability Rights California staff represented E.R. at several IEP meetings and successfully advocated for a second evaluation through CCS to determine E.R.'s need for OT, which showed that E.R. needed additional therapy while at home and at school. CCS then trained the parent and school staff to enable them to provide various types of therapies to E.R.

Education Goal 2, Objective A

Disability Rights California Staff: Carmen Varela

Other Counsel: N/A

Grant/Funding Source(s): PAAT

LANTERMAN

Settlement Discussions Complete; Litigation Stayed as Parties Agree to Seek Court Approval of Settlement Agreement

Capitol People First, et al. v. Department of Developmental Services et al.

Case No. 2002-038715, Alameda County Superior Court, Judge Robert B. Freedman, filed January 2002.

See previous Regional Office Report, Issue 52. See also Regional Office Reports, Issues 50 and 52.

Capitol People First was filed as a class action lawsuit, seeking community living arrangements for more than 7,000 Californians with developmental disabilities who are residents of the state developmental centers or other large private congregate facilities, as well as people at risk of placement in such facilities. See www.disabilityrightsca.org/advocacy/cpfvdds/index.htm for further information on the case.

In January 2009, all parties signed a settlement agreement which affirms the right of Californians with developmental disabilities residing in large institutions to have information and choice about community living options. Plaintiffs in this case are hopeful that the settlement will provide the class with increased opportunities to live as a part of rather than segregated from the community. As a result of the settlement efforts, the court has ordered

a stay of litigation-related activities and preliminarily approved the settlement agreement on January 30, 2009. Notice of the settlement will be sent to members of the class and other interested parties and class members will have a right to file their objections with the court. The final hearing to approve the settlement agreement will likely take place in April 2009.

Lanternman Goal 1, Objective 1

Disability Rights California Staff: Barbara Dickey, Sujatha Jagadeesh Branch, Jonathan Elson, Elissa Gershon, Ellen Goldblatt, William Leiner, Maggie Roberts, Dara Schur, Kim Swain

Other Counsel: William Bates, Chris O'Connor, Jeanne Sheahan, Bingham McCutchen; Michael Schwartz, Richard Mulloy, Nikki Wyll, Aaron Wainscott, DLA Piper

Grant/Funding Source(s): PADD, PATT, Equal Access, IOLTA Trust Fund

Person with Developmental Disability is Diverted from Patton State Hospital and County Jail to Group Home Placement

M.W., a 19 year-old African American female who is a regional center client with mild mental retardation and a psychiatric disability, was a client of both the regional center and Department of Children and Family Services. M.W. was placed at Patton state hospital while she was incarcerated in county jail for assaulting her foster family care provider who had locked her out of the house and would not allow her to re-enter. During her incarceration, M.W. was charged with a felony for throwing urine at the police.

Disability Rights California directly represented M.W. and advocated for the regional center to hold an IPP at Patton State Hospital to discuss an appropriate placement with supports and services outside of jail and the state hospital. Disability Rights California appeared at the Mental Health Court as well as in Children's Court on M.W.'s behalf informing the court of her inappropriate placement at Patton and in the county jail. Disability Rights California successfully advocated for the regional center to provide an appropriate placement in the community with services and supports, including sexuality training, behavioral services, counseling, a day work program, and socialization activities. M.W. was placed in a specialized group home where she is now part of the community and is able to have contact with her siblings and other family members.

Lanterman Act Goal 1, Objective A
Disability Rights California Staff: Carmen Varela
Other Counsel: N/A
Grant/Funding Source(s): PADD

MENTAL HEALTH

Disability Rights California's Representation Results in Continued Specialty Mental Health Services

Jane Doe, a long-time recipient of county mental health services, was referred to Disability Rights California from her County Patients' Rights Advocate. Ms. Doe met regularly with county psychiatrists to receive medication and, on occasion, therapy. However, in September of 2008, Ms. Doe's new county psychiatrist informed her that she would no longer receive services because she was stable. Instead, the psychiatrist told Ms. Doe that she could receive her mental health medication and care from her physical health care doctor. However, the physical health care doctor told Ms. Doe that he would not be able to provide this service to her and wrote a letter to that effect. Ms. Doe did not receive a notice and action for this termination of mental health services.

After being left with no access to mental health treatment and a dwindling supply of medication, Ms. Doe filed for an administrative hearing. Disability Rights California represented Ms. Doe in the hearing, arguing that Ms. She did not receive proper notice for discontinuation of her mental health treatment and that she still met the necessary criteria for specialty mental health services.

During the hearing, the County representatives admitted to not providing notice to Ms. Doe. The administrative law judge (ALJ) ordered aid paid pending until a decision was made. In his written decision, the ALJ held that Ms. Doe continued to meet the necessary criteria for specialty mental health services and directed the County to continue providing mental health services to her.

Mental Health, Goal 3, Objective A

Disability Rights California Staff: Stuart Seaborn, Dan Brzovic, Suzanna Gee, Sean Rashkis
Other Counsel: N/A
Grant/Funding Source: PAIMI

Disability Rights California Begins Investigation into Use of Restraint Techniques at Sierra Vista Rehabilitation Center

Through the Peer Self-Advocacy Unit (PSAU), Disability Rights California received complaints from individuals at Sierra Vista Rehabilitation Center—a locked facility serving people with psychiatric disabilities and people with developmental disabilities, many of whom are deaf or hard of hearing—that they were being inappropriately and excessively restrained. In particular, multiple residents reported being slammed up against the wall so hard that bruising resulted to legs, arms, and faces. The residents reported that facility staff referred to wall slamming as a legitimate “Pro-Act” restraint technique, while in fact it was violent and abusive.

Disability Rights California staff visited the facility to speak with residents and then reported the abuse to the Ombudsman. Staff later reviewed Pro-Act training materials and scheduled an informal meeting with the facility’s employees and its legal counsel to discuss how facility staff is trained to use restraint in a crisis situation. Following the meeting, Disability Rights California requested several sets of documents from the facility concerning use of restraint, including restraint reporting procedures. The primary goal of the investigation is to maintain a dialogue with the facility leading to an environment in which restraint is used as little as possible. A secondary goal is to educate the patients about their legal rights in restraint situations.

Mental Health Goal 1, Objective A; Goal 3, Objective A;
Abuse & Neglect Goal 3, Objective A.

Disability Rights California Staff: Maria Iriarte, Michael Stortz, Kevin Bayley, Rachel Scherer, Garnet Magnus

Other Counsel: N/A

Grant/Funding Source(s): PADD, PAIMI, PAIR, EA-RIF

Disability Rights California Begins Investigation into Evaluation and Placement of Individuals Determined Incompetent to Stand Trial at Los Angeles County Jail

Disability Rights California has received information that individuals with psychiatric disabilities who have been judicially determined to be incompetent to stand trial in criminal proceedings are being detained at Los Angeles County Jail for excessive periods of time. Disability Rights California has also learned that such individuals may not be receiving evaluations for outpatient treatment before placement in jail, potentially in violation of state law, which requires evaluations for possible outpatient placement for individuals charged with felonies and misdemeanors. Based on this information, Disability Rights California has begun an investigation into such policies and practices. In addition to researching potential legal claims, we are developing a more extensive factual background by working with the Los Angeles County Public Defender's Office as well as other community advocacy groups and agencies. As part of our fact-gathering process, we have also set up a meeting with County Jail staff and are planning an outreach to the Jail to meet with individuals determined incompetent to stand trial and currently detained at the Jail.

Mental Health Goal 1, Objective A, Goal 3, Objective A

Disability Rights California Staff: Michael Stortz, Matt Fishler, Kevin Bayley, Rachel Scherer, Suzanna Gee

Other Counsel: N/A

Grant/Funding Source(s): PAIMI, EA-RIF

VOTING

Disability Rights California Assists Voters with Disabilities through Election Day Hotline

On November 4, 2008, Disability Rights California held an Election Day Hotline. We assisted approximately 23 voters with disabilities to be able to cast their votes in the 2008 General Election. Examples of the issues we addressed were: someone under a conservatorship wanting to know if he had the right to vote; a blind person not being able to vote because the accessible machine was not working; and an elevator leading to a polling place was locked.

Disability Rights California staff provided various levels of service, from technical assistance, to helping people file complaints with counties and the

California Secretary of State to directly calling the Registrar of Voters to resolve problems.

Discrimination Goal 4, Objective A & B

Disability Rights California Staff: Fred Nisen, Hillary Sklar

Other Counsel: N/A

Grant/Funding Source(s): PAVA

Disability Rights California Helps Client Vote in Presidential Election

A Disability Rights California client has blindness and needs to use an accessible voting machine to be able to vote. The client went down to his local precinct to cast his vote in the presidential election, but when he tried to use the accessible voting machine the headphones would not work properly. Disability Rights California staff spoke to an inspector at the local precinct and went into the local Registrar of Voters office to see what could be done to resolve the issue as soon as possible. The accessible voting machine was then properly programmed, and our client was able to cast his vote without assistance.

Discrimination Goal 4, Objective A

Disability Rights California Staff: Crystal Padilla

Other Counsel: N/A

Grant/Funding Source(s): PAVA

Disability Rights California Joins the Los Angeles County Registrar Community Voter Outreach Committee

In December 2008, Disability Rights California became a community partner on the Los Angeles County Registrar's Community Voter Outreach Committee (CVOC). CVOC's mission includes creating an effective partnership between the County and community based organizations such as Disability Rights California, providing better services to voters with specific needs, and communicating important election issues.

Disability Rights California has also become a member of a CVOC subcommittee solely dedicated to improving disability and language voting access. Every other month, Disability Rights California voting rights staff meets with elections division representatives, including the Assistant Registrar, as well as members from community based organizations such

as the Braille Institute, the California Council for the Blind, the League of Women Voters, and Independent Living Centers.

The subcommittee discusses topics such as the legal rights of voters with disabilities, improving poll worker training, improving poll site access, barriers to casting a ballot on InkaVote (the voting system used in Los Angeles County), as well as expanding the County's outreach to voters with different types of disabilities in order to increase the numbers of people with disabilities who vote. Last year, subcommittee members in conjunction with Election Division staff produced a video about voters with disabilities that is used during County poll worker trainings.

Discrimination Goal 4, Objective B

Disability Rights California Staff: Hillary Sklar

Other Counsel: N/A

Grant/Funding Source(s): PAVA

Disability Rights California Provides Comments to the City of Los Angeles Election Division for the March 3, 2009, Election Poll Worker Training

The City of Los Angeles Elections Division invited Disability Rights California to review its Poll Worker Training PowerPoint presentation which will be used to train poll workers for the City's March 3, 2009, election. Using examples learned from our various Election Day Hotlines as well as our November 4, 2008 Poll Monitoring project, voting rights staff provided comments on topics such as setting up a poll site in an accessible manner including making sure doors and elevators are unlocked and entrances and exits are barrier free and providing signage for accessible parking and route entrances. Legal rights information including California's Signature Stamp Law and Assistance of Choice was also provided.

Discrimination Goal 4, Objective B

Disability Rights California Staff: Hillary Sklar and Kevin Bayley

Other Counsel: N/A

Grant/Funding Source(s): PAVA

Disability Rights California Joins City of Los Angeles Election Division “LA Votes Committee”

The LA Votes Committee is a partnership of community based organizations, the Los Angeles City Clerk, the City of Los Angeles Elections Division Chief, and Elections Division outreach staff that meets every other month to troubleshoot problems experienced by voters during past elections as well as ways to improve disability and language access and the number of voters in future elections. Additional topics include increased outreach to the widely diverse population of voters in the City of Los Angeles, voter registration tables, poll worker training and recruitment, development of public service announcements, and disability voting access rights. As a result of Disability Rights California’s involvement on the committee, voting rights staff was invited to review and provide comment on the City’s Poll Worker training materials.

Discrimination Goal 4, Objective B

Disability Rights California Staff: Hillary Sklar and Kevin Bayley

Other Counsel: N/A

Grant/Funding Source(s): PAVA

GLOSSARY OF SELECTED TERMS

“A&D FPL PROGRAM” or AGED & DISABLED FEDERAL POVERTY LEVEL PROGRAM (Also referred to as the Medi-Cal 133% Program)

Individuals or married couples whose income is more than SSI levels, but who are still considered low income, may be eligible to receive Medi-Cal with no share of cost under this program. Under this program an individual who needs assistance with personal care and/or housekeeping tasks so they can remain safely in their homes can also receive these services with no share of cost.

AB 2726/3632

Assembly Bills 2726 and 3632 provides referrals to County Mental Health Services for children with special education needs beyond what schools can offer. These services are considered special education services.

“ADHD” or ATTENTION DEFICIT-HYPERACTIVITY DISORDER

Attention deficit-hyperactivity disorder (ADHD) is a neurobehavioral disorder that affects 3-5 percent of all American children. It interferes with a person's ability to stay on a task and to exercise age-appropriate inhibition (cognitive alone or both cognitive and behavioral). Some of the warning signs of ADHD include failure to listen to instructions, inability to organize oneself and school work, fidgeting with hands and feet, talking too much, leaving projects, chores and homework unfinished, and having trouble paying attention to and responding to details. There are several types of ADHD: a predominantly inattentive subtype, a predominantly hyperactive-impulsive subtype, and a combined subtype. ADHD is usually diagnosed in childhood, although the condition can continue into the adult years.

ALTERNATIVE DISPUTE RESOLUTION (ADR)

Methods of resolving disputes without official court proceedings. These methods include MEDIATION and ARBITRATION.

AMICUS CURIAE

Disability Rights California is often asked to appear as an organizational “*amicus curiae*,” or “*friend of the court*” in court cases raising important issues for people with disabilities. Appearing as an “*amicus*” means that DISABILITY RIGHTS CALIFORNIA submits a brief to the court raising

issues as an organization, rather than on behalf of individual clients, because the issues are important to us as an advocacy organization or important to people with disabilities. When DISABILITY RIGHTS CALIFORNIA appears as *amicus curiae*, DRC Staff usually assists with drafting and revising the brief, and co-signs the brief with other interested parties.

ARBITRATION

When a person that isn't involved in the case looks at the evidence, hears the arguments, and makes a decision.

BEHAVIOR INTERVENTION PLAN

Plans made by a local educational agency (LEA) as part of an individualized education program (IEP), to change the behavior of students who harm themselves, assault others, or are destructive.

“BPAO” or BENEFITS, PLANNING, ASSISTANCE, AND OUTREACH

The Social Security Administration (SSA), as authorized by the Ticket to Work and Work Incentives Improvement Act of 1999, awarded cooperative agreements to a variety of community organizations called Benefits Planning, Assistance, and Outreach (BPAO) projects. These BPAO projects provide all SSA beneficiaries with disabilities (including transition-to-work aged youth) access to benefits planning and assistance services. The goal of the Benefits Planning, Assistance, and Outreach (BPAO) Program is to better enable SSA's beneficiaries with disabilities to make informed choices about work. Each BPAO Project has Benefits Specialists who will:

- Provide work incentives planning and assistance to SSA's beneficiaries with disabilities
- Conduct outreach efforts to those beneficiaries (and their families), who are potentially eligible to participate in Federal or State work incentives programs; and
- Work in cooperation with Federal, State, and private agencies and nonprofit organizations that serve beneficiaries with disabilities.

“BWE” or BLIND WORK EXPENSES

If the Social Security Administration (SSA) considers you statutorily blind, you can have your actual benefit amount increased by up to 100% of all your work expenses, whether or not those expenses are related to your disability. You can claim transportation expenses, the cost of lunch at work,

and even the taxes you pay because of earnings. If your SSA Claims Representative agrees that your claimed work expenses can be included in a BWE, you may be able to recover up to 100% of those expenses by increasing your SSI check up to its maximum. Exactly how much your SSI benefit may increase depends on your living situation, your earned and unearned income, and the amount of your BWE.

CALWORKs

CalWORKs is California's welfare program for people who have children under 19 years old. CalWORKs provides money for children and the relatives caring for them. Work and training is required of most parents. Adults can only get CalWORKs cash aid for five years in a lifetime. If you qualify under the rules, you are entitled to cash aid from the county.

“CDR” or CONTINUING DISABILITY REVIEW

Social Security Administration (SSA) reviews disability cases periodically to see if the person with a disability still meets SSA disability rules. SSA performs two types of reviews, a medical Continuing Disability Review and a work Continuing Disability Review. Under a work review, SSA looks at earnings to determine if an individual is eligible for monthly benefits. A medical review determines if an individual is meeting the medical requirements to collect disability. If the person does not meet the medical requirements, SSA may stop the disability benefits.

“CI” or COUNTABLE INCOME

Countable Income is the amount of your income that is included in calculations to determine your eligibility for Supplemental Security Income (SSI) benefits.

CLASS ACTION

A lawsuit brought by one or more persons on behalf of a larger group where certain individuals (called “class representatives” or “named plaintiffs”) act on behalf of a larger group of people who have similar issues. The court has to determine whether a case can proceed as a class action. If so, certain specific procedures apply relating to how the members of the larger group can get notice of the lawsuit and participate in it.

CONSERVATOR, CONSERVATEE and CONSERVATORSHIP

Conservatorship is a legal proceeding in which an individual or agency (to be known as the “conservator”) is appointed by a court to be responsible

for a person who needs assistance in activities of daily living (the “conservatee”). A Conservator of the person must ensure that the conservatee is properly fed, clothed, and housed. A Conservator of the estate is responsible for managing the conservatee’s money and other property. One individual may serve as either conservator of the person or conservator of the estate or both. Conservatorship applies to an adult, i.e., a person eighteen (18) years of age or older.

COURT APPOINTED SPECIAL ADVOCATES (CASA)

These are specially trained volunteers who are appointed by a juvenile court to provide advocacy to children in the foster care system. CASA responsibilities include gathering information regarding the child; advocating for the child in IEP meetings and other forums; and making recommendations to the juvenile court about the child’s best interests.

“CYA” or CALIFORNIA YOUTH AUTHORITY

The California Youth Authority (CYA), a California State agency of facilities for youths who have committed serious offenses.

DAMAGES

Money that the losing side must pay to the winning side to make up for losses or injuries. There are three kinds of damages: (1) "compensatory," meaning money to pay for the actual cost of an injury or loss; (2) "punitive" or "exemplary," meaning an amount of money that's more than the actual damages. Acts as punishment or deterrence for willful or malicious acts; and (3) statutory damages, which are specific amounts in the law awarded for specific legal violations.

DECLARATION

A statement that a person writes and files with the court. It tells the judge why the person should win the case. Sometimes, a person signs this under penalty of perjury.

DECLARATORY JUDGMENT

A judgment of the court that explains what the existing law is or expresses the opinion of the court without the need for enforcement.

DEMURRER

A “demurrer” is a specific kind of request filed with the Court in response to a lawsuit. A demurrer alleges that even if the facts are true, there is no legal

violation. The court decides on the demurrer at a hearing after both parties present memos and argument to the court.

DEPOSITION

Written or oral testimony given under oath in front of an authorized third person like a court reporter. Depositions take place outside of the court. They allow the parties to get a record of a person's testimony, or to get testimony from a witness that lives far away. They can help the lawyers prepare their court papers called "pleadings." (See also DISCOVERY.)

“DDS” or CA DEPARTMENT OF DEVELOPMENTAL SERVICES

The California Department of Developmental Services (DDS), which funds and oversees services to people with developmental disabilities in California.

“DFEH” or DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

The California Department of Fair Employment and Housing is the state agency that investigates employment and housing discrimination claims and is responsible for enforcing state fair housing and fair employment laws, including disability rights laws in the housing and employment context.

“DHS” or CA DEPARTMENT OF HEALTH SERVICES

The California Department of Health Services (DHS), which funds and oversees health services in California, including nursing home care and home care.

DISCOVERY

The gathering of information (facts, documents, or testimony) before a case goes to trial. Discovery is done in many ways, such as through depositions, interrogatories, or requests for admissions. It can also be done through independent investigation or by talking with the other side's lawyer.

DISMISSAL WITH PREJUDICE

When a court dismisses a case and will not allow any other suit to be filed on the same claim in the future.

DISMISSAL WITHOUT PREJUDICE

When a court dismisses a case, but will allow other suits to be filed on the same claim.

“DMH” or CA DEPARTMENT OF MENTAL HEALTH

The California Department of Mental Health (DMH), which funds and oversees mental health services in California.

“DOE” or DEPARTMENT OF EDUCATION

“DSS” or CA DEPARTMENT OF SOCIAL SERVICES

The California Department of Social Services (DSS) funds and oversees public assistance programs in California, including CalWORKS (family assistance) and case management for personal care services.

DYSAUTONOMIA

(Familial) Dysautonomia affects the autonomic nervous system, which controls involuntary actions such as digestion, breathing, tearing, and the regulation of blood pressure and body temperature. This condition also affects the sensory nervous system, which controls activities related to the senses, such as taste and the perception of pain, heat, and cold.

“EA” or EQUAL ACCESS

Disability Rights California receives grants from the state Equal Access to Justice Program to serve indigent people with disabilities on specified projects.

ELLIS ACT

The Ellis Act (California Government Code §§ 7600 et seq.) is a California law that bars local governments from enacting regulations, such as condominium conversion ordinances, that would prevent some landlords from leaving the rental housing market.

EN BANC

Court sessions where all the judges of a court participate, instead of the usual number. For example, the U.S. circuit courts of appeals usually use panels of three judges, but all the judges in the court may decide certain matters together. When that happens, they are sitting *"en banc"* (sometimes spelled "in banc"). It comes from the French language and means "on the bench."

“EPSDT” or EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT

The Early and Periodic Screening, Diagnosis, and Treatment Program (EPSDT) provides health care diagnostic and treatment services to individuals under age 21. Under federal law, California must give people under age 21

specified diagnostic services. They also must provide treatment services to correct or ameliorate defects and physical and mental illnesses and conditions discovered as a result of the diagnostic services.

EXCEPTION PAYMENT

“Exception Payment” is a subsidy above the amount usually allowed.

“EXR” or EXPEDITED REINSTATEMENT

This term is used under The Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs to allow benefits for a person with a disability to be reinstated quickly if they are no longer working. It provides for temporary benefits during a period of evaluation, rather than requiring a new application for benefits.

“EPE” or EXTENDED PERIOD OF ELIGIBILITY

This term is used under the Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs to provide additional protections to people whose disabilities may only allow periodic employment. Under these programs, if you stop working you may automatically have your benefits restored without having to reapply.

FAIR HEARING

A hearing in front of an agency or administrative law judge to review an agency decision. People have certain rights in fair hearings such as the right to present evidence, to cross examine and to have findings supported by evidence.

FAIR MARKET RENT (FMR)

The Fair Market Rent (FMR) is the amount that the Housing and Urban Development (HUD) sets for rent. Tenants have to pay extra if rents exceed the FMR, as they usually do because the FMR’s are unrealistically low.

“FIFTH CATEGORY” REGIONAL CENTER ELIGIBILITY

A person is eligible for the "fifth category" if he or she has a condition that is similar to mental retardation and/or has treatment needs that are similar to a person with mental retardation.

FORENSIC

A term used by both DDS and DMH and intended to indicate individuals who have had some involvement with the criminal justice system, though

sometimes used too broadly for people with aggressive behavioral challenges. The intersection between the mental health system and the criminal justice system is often called “forensic mental health.” In California, there are 6 different commitment categories for people who are involved with the mental health system because of their contact with the criminal justice system.

“G-TUBE” or GASTROSTOMY TUBE

A Gastrostomy Tube (G-Tube) is a tube that is placed on the stomach to vent for air or drainage, and/or is an alternate way for feeding.

GUARDIAN AD LITEM

An adult appointed by a court who represents a minor child an individual who has difficulties in acting on his or her own behalf. Comes from Latin meaning for the "purposes of the lawsuit."

GUARDIANSHIP

A guardianship applies only to minors, i.e., person under the age of eighteen (18) years. The principal purpose of guardianship is to provide protection for a child who has no parent.

HABEAS CORPUS

A “writ of *habeas corpus*” is a judicial mandate to someone who has custody of a person ordering that the person be brought to the court so it can be determined whether or not that person is lawfully confined and whether or not the person should be released from custody. A habeas corpus petition is a petition filed with a court by a person who objects to the person’s own or another’s confinement, or to the conditions of confinement. The term comes from Latin.

“HHS” or HEALTH & HUMAN SERVICES

HHS is the federal agency overseeing health and human services.

“HIPAA” or HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

The new federal Health Insurance Portability and Accountability Act (HIPAA) protects the privacy of medical records and other confidential health information, and restricts access to records except under specified circumstances.

“HOUSING CHOICE VOICHER” OR “SECTION 8”

Housing Choice Vouchers, often referred to as Section 8 Vouchers, help subsidize rents for lower income tenants, including tenants with disabilities. The local Public Housing Authority (PHA) pays part of the tenant's rent when the tenant rents from a private landlord.

“HUD” or U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The U.S. Department of Housing and Urban Development (HUD) funds and regulates many housing and community development programs for lower income people and people with disabilities, including Section 8.

“ICF-DD-N” or INTERMEDIATE CARE FACILITY DEVELOPMENTALLY DISABLED-NURSING

Intermediate Care Facility-Developmentally Disabled-Nursing (ICF-DD-N) are a category of community facilities licensed by the California Department of Health Services (DHS), which generally house 6 residents.

“IDEA” or INDIVIDUALS WITH DISABILITIES EDUCATION ACT

The Individuals with Disabilities Education Act (IDEA) is the federal statute that requires school districts receiving federal funds to provide all students who have a categorically defined disability with a free appropriate public education (FAPE) in the least restrictive environment. FAPE includes specialized instruction and related services that meet the state educational standards and are implemented as called for in a student's individualized education program (IEP).

“IEP” or INDIVIDUALIZED EDUCATION PROGRAM

An Individualized Education Program (IEP) describes the educational program that has been designed to meet the unique needs of a child with disabilities. Each child who receives special education and related services must have an IEP, which is an individualized document developed in consultation with the parents, school, advocates, students (as appropriate), and health professionals.

“IHSS” or IN-HOME SUPPORTIVE SERVICES PROGRAM

The In-Home Supportive Services Program (IHSS) helps pay for services to eligible people to enable them to stay in their own homes. To be eligible you must be blind or have a disability or be over 65 and need these services so you can remain safely in your home. IHSS is an alternative to out-of-home care such as nursing homes or board and care facilities.

“IMD” or INSTITUTION FOR MENTAL DISEASE

An IMD is defined in the Code of Federal Regulations at 42 CFR 435.1009 as a facility of more than 16 beds that is primarily engaged in providing treatment services for individuals diagnosed with mental illness.

IMPLIED WARRANTY OF HABITABILITY

The right to get an apartment in good condition.

IN-HOME OPERATIONS HOME AND COMMUNITY-BASED SERVICES (IHO-HCBS WAIVER)

The new IHO HCBS waiver combines several existing waivers, including the NF/AB waiver, to expand the number of slots and services that waiver recipients who would otherwise be institutionalized in a nursing facility, sub acute facility or acute hospital can receive in the community.

INDIAN CHILD WELFARE ACT (ICWA)

This is a federal law to protect the integrity of American Indian families. It acknowledges and implements the tribe’s right to intervene in state child custody proceedings.

INJUNCTION

An injunction or permanent restraining order is a court order requiring someone to take specific actions or ordering them to stop certain behaviors, based on legal obligations. It is issued after both sides have been heard by the court in a hearing or trial. The court order specifies the specific actions, people and time for compliance.

IN FORMA PAUPERIS (IFP)

A court says a person does not have to pay a filing fee because the person can't afford it. In Latin, it means "in the manner of a pauper."

IN PROPIA PERSONA (IN PRO PER)

In Propia is when a person represents himself or herself without a lawyer. This comes from the Latin for "in one's own proper person." (See also PRO PER AND PRO SE.)

INTERROGATORIES

Written questions asked by one party in a lawsuit, which the opposing party must answer in writing.

INTERVENOR

A person who voluntarily participates in a lawsuit or other proceeding brought by other people. The court must approve the participation of the intervener.

“IOLTA” or INTEREST ON LAWYERS TRUST ACCOUNTS

This is a method of funding for legal services to low income people and people with disabilities. It is also referred to as “Trust Fund”. It is administered by the State Bar Association. Disability Rights California receives IOLTA funding.

“IPP” or INDIVIDUAL PROGRAM PLAN

California’s Lanterman Act provides that persons with developmental disabilities are entitled to “IPPs,” or Individual Program Plans that identifies the person’s goals and the services and supports they will get to help them meet their goals. This action plan helps provide community supports to prevent institutionalization of people with developmental disabilities.

“IRWE” or IMPAIRMENT RELATED WORK EXPENSES

This term is used under The Social Security Disability Insurance (SSDI) AND Supplemental Security Income (SSI) programs to refer to out-of-pocket expenses that are needed in order to be able to work. These expenses are deducted from earnings before certain benefit calculations are made.

JUDGMENT (JUDGEMENT)

The judge's final decision in a case.

LANTERMAN ACT

The California law which grants people with developmental disabilities an entitlement to services and supports.

LEVEL 14 GROUP HOME PLACEMENTS

Level 14 refers to a rate classification that reflects the staffing needs of an individual in Community Care Licensing Facilities. 14 is the highest rate available.

“LPS” or LANTERMAN-PETRIS-SHORT ACT

The Lanterman-Petris-Short Act is one of the main California laws governing services to and treatment of people with mental illness. It covers certain conservatorship proceedings as well as establishes that persons are statutorily entitled to individualized treatment that is least restrictive of their personal liberties.

MANIFESTATION DETERMINATION

The manifestation determination meeting is a meeting of the relevant members of the IEP team to determine whether a child with a disability may be expelled or have his placement changed for more than 10 consecutive school days. At the meeting, the IEP team reviews the relevant information from the student's file, including the IEP and any information from teachers and the parents and then decides two things: 1) was the behavior caused by, or did it have a direct and substantial relationship to, the child's disability, and 2) was the behavior the direct result of the school's failure to implement the IEP? If the team answers yes to either question, the child cannot be expelled and a placement change would require the consent of the parent or a hearing officer's order. If the IEP team members representing the school district believe the answer to both questions is "no" and the parent disagrees, the parent can appeal to a special education hearing.

MEDI-CAL (See Medicare)

Medi-Cal is California's program to pay for medical care for many low income people, especially families, children, people with disabilities, and the elderly. Medi-Cal is funded by the state and federal government. There are many Medi-Cal programs with different rules. Depending on which program you qualify for and how much money you make, Medi-Cal may pay for all your medical expenses or only part of them.

MEDICARE (See Medi-Cal)

Medicare is a federal health insurance program which provides benefits for eligible people. There are two parts to the program: "Part A" is hospital insurance and "Part B" is medical insurance. Medicare does not cover everything, and is not free for most people.

MOTION

An oral or written request made by a party to an lawsuit before, during, or after a trial asking the judge to issue a ruling or order in that party's favor.

"MSSP" or MULTIPURPOSE SENIOR SERVICES PROGRAM

The Multipurpose Senior Services Program (MSSP), operated by the California Department of Aging, provides case management and a range of services to assist seniors with disabilities to live independently.

NURSING FACILITY WAIVER

The Nursing Facility Waiver allows someone who is otherwise eligible for nursing facility services to instead receive services in the community. It is called a "Waiver" because it waives certain federal Medicaid rules in order to provide different or more services than the State offers to other Medicaid (Medi-Cal) eligible people.

“OCRA” or OFFICE OF CLIENT’S RIGHTS

“ODD” or OPPOSITIONAL DEFIANT DISORDER

Oppositional Defiant Disorder (ODD) is a type of disruptive behavior disorder characterized by a recurrent pattern of defiant, hostile, disobedient, and negativistic behavior directed toward those in authority, including such actions as defying the requests or rules of adults, deliberately annoying others, arguing, spitefulness, and vindictiveness that occur much more frequently than would be expected on the basis of age and developmental stage.

OPINION

A judge's written explanation of a decision of the court or of a majority of judges. A dissenting opinion disagrees with the majority opinion because of the reasoning and/or the principles of law on which the decision is based. A concurring opinion agrees with the decision of the court but offers further comment. A *PER CURIAM* OPINION is an unsigned opinion “of the court.”

“OPR” or OFFICE OF PATIENT’S RIGHTS

ORDER TO SHOW CAUSE

A court order that makes someone go to court to explain to the judge why he or she did not follow the rules.

“PAAT” or PROTECTION & ADVOCACY FOR ASSISTIVE TECHNOLOGY

Beginning in 1998, DISABILITY RIGHTS CALIFORNIA received limited funds under the Protection and Advocacy for Assistive Technology (PAAT) Act to increase access to assistive devices and equipment.

“PABBS” or PROTECTION & ADVOCACY FOR BENEFICIARIES OF SOCIAL SECURITY

Under the Protection and Advocacy for Beneficiaries of Social Security (PABSS) Act, DISABILITY RIGHTS CALIFORNIA provides advocacy assistance to Beneficiaries of Social Security Disability or Supplemental Security Income (SSI), and to people who are working and are beneficiaries of Medicare, Medi-Cal or In-Home Supportive Services (IHSS) about securing or requiring employment.

“PADD” or PROTECTION & ADVOCACY FOR DEVELOPMENTAL DISABILITIES

In 1978, DISABILITY RIGHTS CALIFORNIA became the agency in California responsible for protecting and advocating for the rights of people with developmental disabilities under the federal Developmentally Disabled Assistance and Bill of Rights Act of 1978.

“PAIMI” or PROTECTION & ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS

The Protection and Advocacy for Individuals with Mental Illness Act of 1986 (PAIMI) extended Disability Rights California’s mandate to people with psychiatric disabilities.

“PAIR” or PROTECTION & ADVOCACY FOR INDIVIDUAL RIGHTS

The Protection and Advocacy of Individual Rights Act of 1992 (PAIR) extended Disability Rights California’s mandate to people with physical, learning and sensory disabilities.

“PASRR” or PREADMISSIONS SCREENING AND RESIDENT REVIEW

This is a federally mandated psychosocial, psychiatric and physical evaluation of persons admitted to nursing facilities or at risk of being placed in nursing facilities, funded by the Department of Mental Health and administered by independent contractors. It helps identify the need for specialized services and helps identify appropriate community placements rather than institutionalization.

“PATBI” or PROTECTION & ADVOCACY FOR TRAUMATIC BRAIN INJURY

Protection & Advocacy for Individuals with Traumatic Brain Injury (PATBI) assures that people with traumatic brain injury receive appropriate services

and supports within their own communities. Disability Rights California promotes the rights of people with Traumatic Brain Injury (TBI) through advocacy assistance, education, and outreach to build TBI community awareness and support for inclusion. This program was established by federal grants from the Department of Health and Human Services.

“PAVA” or PROTECTION & ADVOCACY FOR VOTING ACCESS

Part of the Help America Vote Act of 2002 (HAVA) was the Protection and Advocacy for Voting Access (PAVA) program. PAVA expanded Disability Rights California’s ability to work for full participation in the electoral process for people with disabilities, including registering to vote, casting a vote and accessing polling places.

PRO BONO

Legal work done for free. From the Latin meaning "for the public good." Private firms often work with DISABILITY RIGHTS CALIFORNIA “*pro bono*” – without charge to clients.

PRO PER

People who present their own cases in court without lawyers (See also *IN PROPIA PERSONA* and *PRO SE*.)

PRO SE

People who present their own cases in court without lawyers (See also *PRO PER* and *PRO SE*.)

PROTECTIVE SUPERVISION

Protective supervision is supervision for individuals who, because of cognitive or mental impairments, need continuous supervision in order to prevent self-inflicted harm while living at home.

PURCHASE OF SERVICES (POS)

Purchase of Services (POS) dollars is money used by people served under the Lanterman Act. It allows the person with a developmental disability to directly pay service providers.

RIESE HEARING

A hearing to determine an individual’s capacity to refuse administration of psychotropic medication.

REGIONAL CENTERS

Non-profit corporations which, under the provisions of the Lanterman Act, contract with the Department of Developmental Services to provide service coordination to individuals with developmental disabilities and assist people to obtain the supports they need. There are 21 Regional Centers in California, each serving a different geographical area.

SECTION 8

Section 8 is a federally funded housing assistance program that provides to low income families. The vouchers allow the family to rent any apartment or house where the landlord will accept them, and pay a limited amount of money, generally 30% of the family's income. Section 8 is operated by local housing authorities and usually has a long waiting list.

SELF-DIRECTED SERVICES

"Self-Directed Services" is a new model for providing services to people with developmental disabilities that allows them to manage their own budgets and gives them more control over providers.

"SELPA" OR SPECIAL EDUCATION LOCAL PLAN AREA

The Special Education Local Plan Area (SELPA) is an administrative unit under California law that joins together one or more local school districts in a geographic area. This allows districts to share in the coordination, funding, personnel or other administration of services for special education students. School districts with large populations usually stand alone as a single-district SELPA.

"SGA" or SUBSTANTIAL GAINFUL ACTIVITY

Substantial Gainful Activity is the term used by Social Security when evaluating earned income and "work activity" of individuals applying for or receiving disability benefits.

There are two criteria that determine SGA: (1) Substantial activity: work that involves doing significant physical or mental work, or a combination of both, that is productive and for profit. (2) Gainful work activity: work performed for pay or profit; work of a nature generally performed for pay or profit; or work intended for profit, whether or not a profit is realized.

This is a monthly amount that is specified by Social Security for individuals who are employed or self-employed. SGA may be determined by work done or hours worked in a month. Monthly SGA earnings limits are

adjusted annually based on fluctuations in the national average wage index.

“SRO” OR SINGLE ROOM OCCUPANCY

Single room occupancy hotels, or residency hotels, provide single room apartments with shared bathrooms for low income individuals. This is an important source of housing for people with disabilities who live on fixed incomes.

“SSI” OR SUPPLEMENTAL SECURITY INCOME

Supplemental Security Income (SSI) is a cash benefit program for low-income people 65 and over and for people of any age, including infants and children, who are blind or have disabilities. CAPI is a similar program for immigrants who do not qualify for SSI.

STATUTE

A law passed by the United States Congress or a state legislature.

STATUTE OF LIMITATIONS

A law that says how much time you have to file a lawsuit after something happens.

STAY

An order by a court that stops any further action in the case for a certain period of time.

SUMMARY JUDGMENT

When the judge decides a case without going to trial. The decision is based on the papers filed by both sides.

TEMPORARY RESTRAINING ORDER (TRO)

A Temporary Restraining Order (TRO) is a court order requiring immediate action. It is an emergency remedy of brief duration issued by a court only in exceptional circumstances, usually when immediate or irreparable damages or loss might result before the opposition could take action.

“TBS” or THERAPEUTIC BEHAVIORAL SERVICES

Therapeutic Behavioral Services (TBS) is a Medi-Cal mental health service. It provides short-term one-to-one assistance to children or youth under age 21 who have behaviors that are too hard for their families or foster placement to

handle, such as tantrums, assaultive behavior or destruction of property. TBS can be provided to children at home, in a group home, in the community, during evening and weekends, and at other times and places as needed. The county mental health plan develops a behavior intervention plan and assigns a trained behavior aide to a child/youth for as many hours per day as needed. The county may also authorize another mental health organization to develop the plan and assign the behavior aide.

TRANSCRIPT

A record of everything that is said in a deposition, hearing or trial. Transcripts may be prepared from tape recordings or may be done by certified court reporters that use special equipment to make a word-for-word record of the proceeding.

“TWP” or TRIAL WORK PERIOD

A “Trial Work Period” under Social Security Disability law allows people with disabilities to test their ability to work for at least 9 months without reducing their Social Security Disability Income. During the TWP, an individual will receive full SSDI benefits regardless of how high their earnings might be, so long as they have a disability.

UNRUH CIVIL RIGHTS ACT

This law provides protection from discrimination by all business establishments in California, including housing and public accommodations, because of age, ancestry, color, disability, national origin, race, religion, sex, or sexual orientation.

WRIT

A court order that says certain action must be taken.

WRIT OF MANDATE

A court order to a government agency, including another court, or to a private entity requiring it to follow the law by correcting its prior actions, ceasing illegal acts, or taking certain actions.

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