

Proposed Targets to the Board for FY 2018

Keep students with disabilities in school (PAIDD, PAIR, PAIMI, PAAT)

Rationale: Students with disabilities are susceptible to being excluded from school when they exhibit challenging behaviors at school, even when those behaviors are related to their disabilities. Students with disabilities are excluded from school more often than students without disabilities through suspensions, homebound placements, modified day schedules, and other exclusionary practices. During the 2015-16 school year, for example, over 22% of the long-term suspensions and over 24% of the short-term suspensions were given to students with disabilities, yet students with disabilities comprise less than 13% of the total student population.

These exclusions often result in months and sometimes years of lost instructional time for students with disabilities. In 2015-16, the average length of a long-term suspension was 76 school days – that’s over 40% of the school year. Students with IEPs are constructively suspended when the IEP team changes their placement from the school setting to “homebound” or to a modified day schedule.

With homebound placement, the student is not allowed to come to school and usually receives two to four hours of instruction per week. Currently, the NC Department of Public Instruction does not track homebound or modified day placements, but we are aware of this exclusionary practice as a result of the many calls we receive from parents whose children have been on homebound or modified day schedules for most or all of a given school year.

Target Populations:

- ❖ Students with disabilities who have received long-term suspensions or multiple short-term suspensions without the benefit of IDEA’s disciplinary safeguards.
- ❖ Students with disabilities who have received a lengthy homebound placement or modified school schedule.
- ❖ Students with disabilities who are constructively suspended from school because their parents have picked them up from school at the principal’s request for more than 10 days.

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Students with disabilities will attend school free from abuse, including abusive interventions.

(PAIDD, PAIR, PAIMI, PAAT)

Rationale: Based on calls we receive from parents, our own observations while at students' IEP meetings, and information from the disability community in general, we are aware that many students with disabilities at times are subject to abuse at school, both as a result of physical and emotional abuse by school staff and use of restrictive interventions, such as seclusion, restraint, and use of aversives. Students with disabilities are particularly vulnerable to mistreatment. One study concluded that one in three children with an identified disability receiving special education services are victims of neglect, physical abuse, or sexual abuse. This problem is compounded by reporting and exclusion issues: many children with disabilities are unable to report abuse because of communication issues related to their disability and attend school in segregated settings that allow the abuse to go undetected and unreported by adults, including separate schools and self-contained classroom settings.

Students with disabilities should be free to attend school in a safe environment, free from traumatic experiences from abuse and abusive interventions. The work of this target will focus on systemic changes in school system practices that prevent abuse and abusive interventions from occurring and remaining undetected.

Target Populations:

- ❖ Students with disabilities with communication challenges.
- ❖ Students with disabilities in self-contained classrooms and separate schools.
- ❖ Students with disabilities with significant behavior challenges .

Target Practices:

- ❖ Requiring school staff to document all instances of seclusion or restraint, rather than self-reporting only improper use of seclusion or restraint, as currently required.
- ❖ Increasing use of appropriate positive behavioral interventions and reducing use of seclusion and restraint.
- ❖ Statewide ban on prone restraint in schools.

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- ❖ Appropriate monitoring and oversight of segregated classrooms and schools for students with disabilities to prevent and address physical and emotional abuse by school staff.

Advocate for the employment of people with disabilities in competitive and integrated jobs (PAIDD, PAIR, PATBI, PABSS, PAAT, PAIMI)

Rationale: There is a continued reliance on sheltered work and the subminimum wage as a default for some workers with disabilities. Other people with disabilities face barriers to finding work and staying on the job. Some chose not to work more or earn higher wages for fear of losing benefits. Work is the foundation for economic stability. Our clients must have information about work incentives programs and access to competitive employment, free from discrimination.

Target Populations:

- ❖ People with disabilities who receive vocational training in segregated settings.
- ❖ People with disabilities facing employment discrimination or other barriers to employment, including lack of reasonable accommodations or lack of transition services.
- ❖ People with disabilities without adequate information about work incentives and other resources to help them find and maintain employment.

Enforce the right of people with disabilities to have equal access to their community (PAIDD, PAIR, PATBI, PAAT)

Rationale: People with disabilities are regularly denied the full and equal enjoyment of the services offered by businesses, local municipalities, and the State because of physical barriers or policies that do not take people with disabilities into account.

Target Populations:

- ❖ People with disabilities who have been denied equal access to public places, programs, or services.

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Monitor the implementation of the Settlement Agreement on behalf of children and adolescents between the ages of birth to 21 with complex mental health needs and co-occurring intellectual and or developmental disorders so that they receive medically necessary, community based mental health services and supports needed to live in their homes, family setting or the most homelike setting appropriate to their needs.

(PAIMI)

Rationale: On October 14, 2016, Disability Rights NC filed a legal action in federal court.

Disability Rights North Carolina v. Brajer, No. 5:16-cv-854 (E.D.N.C.). Simultaneously, the parties filed a Settlement Agreement, agreeing that the court would retain jurisdiction to enforce the terms of the settlement agreement for the duration of the agreement. The court granted the Joint Motion on November 9, 2016.

The agreement covers “children with complex needs,” defined as Medicaid eligible children ages 5 to 21 with a developmental disability and a mental health disorder who are at risk of not being able to enter or remain in a community setting because they exhibit acts or behaviors that present a substantial risk of harm to the child or to others. Nearly all of the children are subject to some form of institutionalization because of their complex behavioral health needs.

The agreement requires the Department to:

1. Develop and implement a statewide standard and process to identify children with complex needs;
2. Establish and implement a standardized process to conduct clinical assessments by properly licensed/credentialed professionals and clinicians who have experience in identifying and treating children with complex needs;
3. Secure adequate funding for statewide implementation of NC START services to help manage the behavioral health needs;
4. Provide EPSDT training to case managers, provider organizations, and Local Management Entity/Managed Care Organization (LME/MCO) staff who are involved in the authorization or delivery of services for children with complex needs;
5. Publish a communication bulletin outlining the LME/MCOs’ responsibilities and duties to implement the provisions of the agreement;
6. Seek approval and funding to create an administrator to oversee implementation of the settlement agreement;
7. Offer training to providers dedicated to serving children with complex needs; and
8. Begin operating an outpatient clinic dedicated to serving children with complex needs.

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To ensure that children and adolescents receive the promises under the agreement, Disability Rights NC will continue to meet quarterly with the Department and the LME/MCOs to monitor implementation of the terms of the agreement, identify barriers to implementation, and ensure continued progress on implementation. Disability Rights NC will continue to consult with hired experts throughout this implementation and monitoring phase until the Department meets all of the intended goals of the agreement. Under the terms of the agreement, the court will maintain jurisdiction through June 30, 2018, unless either party petitions for a change in duration of the agreement or Disability Rights NC disputes that the Department is making substantial progress toward implementation of the agreement.

Target Population

- ❖ Children under 21 who have mental illness and intellectual and other developmental disabilities who are not receiving appropriate services and supports.

Reduce unnecessary institutionalization of individuals with disabilities and advance home and community based healthcare services and supports. (PAIDD, PAIMI, PATBI, PAIR, PAAT)

Rationale: The current health and human services system is biased towards institutionalization over home and community-based services. Often, people with disabilities who could successfully live in the community with sufficient services and supports are stuck in institutional settings. Others, currently living in the community are put at risk of unnecessary institutionalization and segregation due to cost-cutting measures and a flawed implementation of the service delivery system. This system violates the rights of individuals with disabilities to receive services in the least restrictive environment under the Americans with Disabilities Act and the *Olmstead* decision.

Children in North Carolina are also being denied medically necessary services in their home and communities. These children and adolescents need adequate, effective, and appropriate services to correct or ameliorate their conditions. Currently, the State fails to comply with federal Medicaid law regarding the EPSDT provisions of Title XIX of the Social Security Act (Medicaid Act)

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This target will take a holistic approach to address these issues to reduce institutionalization, promote community integration, and promote access to medically necessary services so that individuals with disabilities live where they want and have the services needed to live a fulfilled and integrated life.

Target Populations:

- ❖ People with disabilities in institutions who could be more appropriately served in home and community-based settings.
- ❖ People with disabilities in integrated settings whose rights to community-based services are being violated.
- ❖ People with disabilities whose community placements are in jeopardy and face an increased risk of institutionalization.
- ❖ Children and adolescents whose rights to receive medically necessary services in their homes and communities to correct or ameliorate their conditions are being violated.
- ❖ People without adequate information to enforce their rights to transition out into the community and receive needed health care services that they are entitled to receive.

Increase access to accessible, affordable housing for people with disabilities in the communities of their choice (PAAT, PAIMI, PAIDD, PATBI, PAIR)

Rationale: Disability Rights NC receives numerous calls from individuals who are being discriminated against in housing due to disability. They are living in homes that are not accessible for their needs, or simply cannot find accessible, affordable housing that would allow them to transition to living independently in the community of their choice. Disability Rights NC is committed to increasing access to housing in order for people with disabilities to live independently in the community and ensuring that individuals with disabilities have full use and enjoyment of their homes. Disability Rights NC will utilize Protection and Advocacy tools including targeted individual representation, education and training, and systemic advocacy to increase access to and funding for safe, affordable, accessible housing.

Target Populations:

- People with disabilities who have been denied equal access to fair housing.
- People with disabilities who want to live in safe and accessible housing in communities of their choice.

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Investigate and Report on the Safety of People with Mental Illness Admitted to Our Jails Including Recommendations of Best Practices in Jails (PAIMI)

Rationale: Jails are neither designed nor funded to provide mental health treatment, yet with the erosion of public mental health services they have increasingly become de facto mental health facilities. The North Carolina Jail Regulations are dated and have minimal requirements regarding the care and treatment of inmates with mental health needs. Many North Carolina Jails are not equipped to provide the support and services that this population needs. Without appropriate treatment, inmates with mental illness decompensate, are vulnerable to abuse, and are disproportionately segregated in solitary confinement. Our preliminary research indicates suicide is the leading cause of death in N.C. jail inmates and the percentage of deaths due to suicide in N.C. Jails exceeds the national average (48% of the deaths in N.C. Jails between 2013 and 2016 were suicides; the national average is 33%).

National experts advise that every Jail should screen inmates for mental health needs upon admission and operate a robust Suicide Prevention Program. Disability Rights NC plans to issue a Report of the findings regarding suicides in N.C. Jails and recommend implementation of the practices above.

Target Population

- ❖ People with mental illness confined in N.C. Jails.

Ensure appropriate treatment for people with mental health disabilities in North Carolina prisons and enforce the rights of prisoners with disabilities to accommodations required by the ADA (PAIMI, PAIDD, PATBI, PAIR, PAAT)

Rationale: There are more North Carolinians with severe mental illness in our prisons and jails than in our psychiatric hospitals. For those with mental illness in prison, the outcome can be harmful; sometimes, sadly, it is tragic. Prisoners with Intellectual/Developmental Disabilities are often not identified or accommodated, placing them in situations where they are vulnerable. Currently there is no routine screening for TBI. Through Protection and Advocacy system

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monitoring and investigation of abuse and neglect, and by collaborating with other advocacy groups, Disability Rights NC can impact how people with mental health disabilities are identified and treated in our correctional facilities and increase the chances that people can be successful upon release.

Prisoners with disabilities also face discrimination in access to programs and services and suffer hardships additional to the loss of freedom. Through Disability Rights NC's on-going advocacy in the prison system, we have learned that the prison-ADA system fails to identify and accommodate prisoners with disabilities. Our goal is to remedy the ADA system in N.C. prisons so that inmates with disabilities are no longer discriminated against and are able to access programs and services while in prison and as part of their preparation for successful reentry upon release.

Target Populations:

- ❖ People with mental health disabilities in prison who are not identified and who are not receiving appropriate treatment.
- ❖ People with disabilities in prison who are not receiving accommodations and who are denied equal access to prison programs and services.

Promote the right of self-determination **(PAIDD, PAIMI, PAIR, PATBI, PABSS)**

Rationale: Self-determination, the ability to make decisions and take actions to shape one's own life, is fundamental to our purpose as the P&A. The concept is a thread through much of our work, from the ability to choose what provider will come into your home, to participating in the development of an IEP, to seeking vocational education or employment. Guardianship, which allows for the substitution of one person's decision-making for another, can be the most egregious denial of self-determination.

Target Populations

- ❖ People with disabilities who would like to restore their competency.
- ❖ People with disabilities who have public or institutional guardians.