

Overview of Protection & Advocacy



Our Sponsor at the Indian Nations Conference

- Administration for Children and Families
- Administration on Developmental Disabilities
- U.S. Department of Health
- Upon invitation from departing Commissioner Patricia Morrissey

- P&A Systems value being culturally sensitive and responsive to diverse needs.

People First Language

- People are not their diagnoses!
- Start with the person!
- A person who has...
- Not: “The mentally ill, or a schizophrenic.”
- Not: “Who suffers from...”
- Emphasize abilities, not limitations!
- Put people first, not their disabilities!



Protection & Advocacy System, Inc. (P&A)

- **Mission: Establish, expand, protect and enforce the human and civil rights of persons with disabilities through administrative, legal, and other appropriate remedies.**
- **Protects the rights of people with disabilities through legally based advocacy.**
- **In Wyoming since 1977, one of 58 civil rights law firms funded by Congress.**
- **Was born after Geraldo Rivera's *Christmas in Purgatory* revealing the terrible conditions at Willowbrook State Hospital in the early 1970's.**
- **Is member of the nation's largest law firm that works on disability rights, the National Disability Rights Network. All states and territories plus Native American Disability Rights in Four Corners.**

Protection & Advocacy System, Inc. (P&A)

- Offices in Cheyenne and Lander.
- Attorneys and advocates to serve people who qualify for services.
- Services free to Wyoming residents
 - Who have disabilities.
 - Whose rights have been violated by service provider agencies, institutions, or schools.



WYOMING
PROTECTION & ADVOCACY SYSTEM, INC.

Protecting the Rights of Persons with Disabilities

Protection & Advocacy System, Inc. (P&A)

Has eight programs for persons :

- With developmental disabilities (**PADD**)
- With mental illnesses (**PAIMI**)
- With other disabilities including orthopedic or learning disabilities (**PAIR**)
- With traumatic brain injuries (**PATBI**)
- Who are trying to get back to work with help from the Division of Vocational Rehabilitation (DVR) or Social Security (**CAP** and **PABSS**)
- Who need assistive technologies (**PAAT**)
- Who need assistance voting (**PAVA**)

Protection & Advocacy System, (P&A) Inc.

- Receives requests for service from persons who have disabilities or from their guardians.
- Reviews incident reports from the Wyoming State Hospital, the Wyoming Life Resource Center (State Training School), and from community service providers.
- Represents students who have disabilities and are in special education.



Who We Help

- Persons who have qualifying disabilities
 - Including cognitive, mental, sensory, and physical
 - Who receive services from agencies (Medicaid Waiver Services, Residents in and recipients of State care, Students who are or could be on IEPs)
 - Persons trying to get back to work with help from Vocational Rehabilitation, or either SSDI or SSI.
 - Who need assistive technologies, service animals, or who have difficulty accessing the polls
- For issues arising directly from their disability

Persons with Disabilities or Mental Illnesses Have Rights

**In their inherent right to life, liberty, and
the pursuit of happiness, all members of
the human race are equal.**

(Wyoming State Constitution)

Freedom from Abuse

- Abuse or Exploitation can be
 - Physical, verbal, financial, emotional, or sexual
- Tell when someone
 - Hits
 - Hurts
 - Threatens
 - Exploits
 - Makes uncomfortable touches
- Tell someone who must tell police
 - Doctors, nurses, staff members, case workers, or teachers
- Or tell the police directly



Freedom from Neglect

- **Caregivers have a duty to assist persons they serve to:**
 - Be safe, and live in a safe place
 - Be warm
 - Remain healthy
 - Have food and water
 - Receive services specified in an Individual Plan of Care
- **Ask for assistance from a local mental health center or Adult Protective Services (DFS)**



Remember government or other public agencies may not discriminate based on race, color, national origin, religion, sex, family status, or disability.

Discrimination is illegal!

Examples of Rights Violations

- Cases of abuse or neglect by providers (such as injuries, falls, lack of medical care, shelter, nutrition, too few staff, unsafe environments, overcrowding, too little support/supervision).
- Failure to follow a treatment or service plan.
- Failure to provide services in the least restrictive environment.
- Denial of special education, assessment, or implementation of Individual Education Plans.

Definitions of Abuse or Neglect

- P&A relies on a standard that does not require an actual injury to find either abuse or neglect.
- P&A relies on a standard that does not require intent to find abuse.

P&A Definition of Abuse

- **Abuse:** any act or failure to act by an employee of a facility rendering care or treatment which was performed, or which was failed to be performed, knowingly, recklessly or intentionally and which caused, or may have caused, injury to a person with disabilities

P&A Definition of Neglect

- **Neglect:** a negligent act or omission by an individual responsible for providing services in a facility rendering care or treatment which caused, or may have caused, injury to an individual served or which placed an individual at risk of injury, and includes an act or omission such as the failure to carry out an appropriate individual program plan or treatment plan, failure to provide adequate nutrition, clothing or health care or the failure to provide a safe environment

P&A campaigns to reduce and eliminate seclusion and restraint

- People are still injured and killed every year from unneeded and improperly applied restraints.
- People with histories of trauma are re-traumatized.
- Staff members are injured and traumatized.
- Restraint and seclusion may be abuse.

Freedom from Seclusion and Restraint

- Right not to be isolated or secluded, unless it is an emergency
 - If the person is dangerous to himself/herself or someone else **at that moment**
 - After all other interventions have been tried to prevent the person from hurting himself/herself and/or others
 - Should be removed from seclusion as soon as the person is calm
- Can't be punished for complaining or reporting isolation or seclusion



Freedom from Seclusion and Restraint

Right not to be restrained except by law enforcement, unless it is an emergency

- Held down
- Tied down
- Put in a restraint vest or “Ferguson Suit” (straight-jacket)
- Handcuffed or other kinds of restraints

Or any action that prevents the person from moving on his/her own accord

Freedom from Seclusion and Restraint

A person can only be held against his/her will if that person is...

dangerous to himself/herself or someone else at that time and place.

and alternative interventions have failed to prevent that person from hurting himself/herself or others.

Freedom from Seclusion and Restraint

* Alternative interventions (verbal de-escalation, or redirection techniques) should be attempted before physical force is applied.

- Restraints must be applied in a safe and correct manner and for no longer than is necessary.

* Everyone has the right to be free from improperly applied restraints.

- Restraint methods must be tested, approved, certified, and followed.

Freedom from Seclusion and Restraint

Seclusion and restraint are not to be used as substitutes for treatment.

Right to Complain and Be Heard When Rights Are Being Violated

- **Complaint procedures should be available upon request.**
- **Expect an answer.**
- **Get help making a complaint from a case manager, client rights advocate/officer, or client representative.**
- **Clients always have a right to meet privately and make a complaint with an attorney or agencies like P&A, Uplift, or the Mental Health Ombudsman.**
- **Exercise rights without reprisal including denial of any appropriate or available treatment.**

Best Way To Get Advice About Rights

- Contact Protection & Advocacy
- Contact an attorney
- Contact your state bar association

What P&A Does

- Investigate complaints and allegations of abuse or neglect, or denial of free and appropriate public education
 - Issue findings
- Representation at meetings, negotiations, hearings, judicial proceedings, or litigation
- Tell people about their civil rights and ways to enforce them

What P&A Does

- Referral to other sources of help
- Systemic advocacy for the rights of individuals who have disabilities
 - Planning Councils (Developmental Disabilities, Mental Health, Vocational Rehabilitation, Independent Living, among others)
 - Advocate for least restrictive environments, guardianships, or detentions

Other outcomes

- Public reports describing findings and recommending corrective action;
- Develop cooperative protocols with facilities for monitoring and making improvements;
- Provide technical assistance to facilities and self advocacy training for individuals with disabilities.

Some Things P&A Doesn't Do

- Criminal representation, or seek monetary damages for individuals
- Wills, Property disputes, or Domestic relations (divorce, custody, support)
- Guardianship appointment/removal unless a ward is abused or neglected by a guardian
- Duplicate services that can be received from other agencies
- Assist or appeal denial of Social Security

When to Contact P&A

- When a person with a disability has been, or is suspected to have been abused, neglected, had their rights violated or been exploited.
- When a student with a disability has been or is suspected to have been denied a Free and Appropriate Public Education (FAPE).

Contact P&A in Wyoming

Protection & Advocacy System, Inc. (“P&A”)

www.wypanda.com

Cheyenne

(307) 632-3496 - Voice or TDD

1-800-624-7648 (Assistance Requests Only)

wypanda@wypanda.com

Lander

(307) 332-8268 – Voice or TDD

1-877-670-8366 (Assistance Requests Only)

wypandl@wypanda.com

How to find your P&A

- National Disability Rights Network (NDRN, used to be National Association of Protection and Advocacy Systems, NAPAS)
- <http://www.napas.org/index.htm>
- Select: “About Us.” Then select: “When to Contact Your State P&A/CAP.”
- Native American Disability Law Center (Four Corners Region)
<http://www.nativedisabilitylaw.org/home>