

Advocacy Center
Quarterly Report to the DD Council
(December 20, 2016)

Update/progress on agency initiatives

1. Accessible Absentee Ballots Available on January 1

Beginning on January 1, individuals with disabilities will be able to vote privately and independently via absentee ballot for the first time. Voters who have submitted or who submit proof of their disability will be able to request their absentee ballot be sent via a secure email link instead of by mail. These voters will complete their ballots using specialized software on their computer, which will allow them to vote without the assistance of another person. Then, they can print their ballot and return it via mail, fax or in person.

This program will be especially beneficial to voters who are blind and those with significant physical disabilities. Previously, voters who are blind could not complete their paper absentee ballot without help and had no way to verify that the person helping actually voted as the directed. Voters with significant physical disabilities cannot hold a pencil to fill out the paper ballot and need help to complete the paper ballot. Accessing their ballots electronically will allow these voters cast their vote in secret, without help.

To sign up for the program or for more information, visit www.geauxvote.com or contact the Advocacy Center.

2. Update: Arrests in School

Arrests of students with disabilities for disability-related issues continue to be an area of concern for the Advocacy Center (AC). Last year, AC assisted several individuals with disabilities who were arrested in school. In a number of the cases, the student decided to leave school and obtain a GED to prevent re-arrest or further interactions with a hostile police presence at the school. However, in the one complaint, AC achieved a settlement, which requires training for all SROs, staff, faculty, and paraprofessionals at the student's high school. AC is presently monitoring implementation of the settlement agreement by the school district.

Advocacy Center staff will continue to advocate on behalf of students who are arrested in school in 2017 and welcomes calls from parents and advocates on this issue.

Also, we will continue to reach out to community organizations on this issue. Please let us know if you are interested in a presentation on this issue.

3. Special School District Investigation

The Advocacy Center is very concerned about the quality of special education services in Special School District schools. Recently, staff successfully advocated for a child at Eastern Louisiana Mental Health Systems because the school on the grounds did not appropriately identify or provide educational services for a student with disabilities for almost two years.

Staff are beginning to investigate Special School District schools at other facilities across the state.

4. Education for Students in Psychiatric Residential Treatment Facilities

The Advocacy Center is also concerned about provision of special education services for children in psychiatric residential treatment facilities (PRTF) across the state. Psychiatric residential treatment facilities provide inpatient treatment to children with mental illness. Most, if not all the children receive school services at the PRTF.

Staff are concerned that the IEP and behavior support plans for these children are not being followed and they are not receiving the services for which they are entitled.

There are five psychiatric residential treatment facilities in the state.

- Louisiana Methodist Children's Home, Ruston
- Methodist Children's Home of Southwest Louisiana, Sulphur
- Methodist Home for Children in Greater New Orleans, Mandeville
- New Way of Southwest Louisiana, Ville Platte
- Northlake Youth Academy, Mandeville

5. Determinations of DD Eligibility

Recently, the Advocacy Center has encountered a number of issues with the process used by some Human Services Districts to determine whether individuals are eligible for developmental disability (DD) services, particularly for individuals with a co-occurring mental illnesses. A diagnosis of mental illness does not exclude someone from eligibility for DD services. If you or someone you know has been determined ineligible for DD services, contact the Advocacy Center.

6. Supported Independent Living Advocacy Program Update

From July 1, 2015 - June 30, 2016, SILAP served 93 individuals. These individuals were from the following parishes:

CAHSD:

Ascension - 2

East Baton Rouge - 30

Iberville - 4

JPHSA:

Jefferson - 25

MHSD:

Orleans - 31

St. Bernard - 1

Lack of effective support coordination is an issue that is frequently reported to AC. In almost half (43%) of all of the SILAP cases, support coordination was identified as problematic.

SILAP also provided education and training to 588 individuals through 11 presentations. One of the biggest successes was a joint training with MHSD waiver staff and Quality Support Coordination staff on legal status.

Since July 1, 2016, SILAP has served 72 individuals.

SILAP success stories:

T.D. is a 36-year old woman with an intellectual disability who was referred to AC as a SILAP client in November 2014. At the time, she lived with her elderly mother and brother, but had the goal of moving into her own apartment and living independently with supports provided by the New Opportunities Waiver. The SILAP advocate participated in a meeting with T.D., her family, and her provider agency at which the family vehemently opposed T.D.'s move.

Upon learning that T.D. acted as an in-home caregiver for her mother and was routinely subject to verbal and physical abuse, the SILAP staff member and her support team acted quickly to secure a new apartment for her, set up 24/7 supports, and help her to move. The team encountered sharp resistance from the family, who were upset that, per T.D.'s wishes, they had not been notified in advance of the move. Subsequently, the family filed a petition to interdict T.D., and an Advocacy Center attorney enrolled in the case to defend her. The attorney a slate of defense witnesses from the local governing agency, her Support Coordination agency, and her provider agency. The witnesses were prepared to testify as to T.D.'s abilities and to the wide variety of supports she received under the NOW; services offered specifically for the purpose of enabling people with developmental disabilities to live full, integrated lives out in the community.

During the time period leading up to the trial, T.D. thrived in supported independent living. She has an apartment with a roommate, a part-time job, and an active social life. She is now taking medication to alleviate her anxiety, and is in excellent health. She has developed a great sense of personal style, including an interest in makeup, hair, and clothing. She visits a counselor bi-monthly, which, along with daily skills training by her provider team, has helped T.D. build her self-esteem and empowered her to speak up for herself.

These skills paid off at trial, where T.D. eloquently testified to the judge regarding her daily life, decision-making, and strong desire to continue living independently. Without even having to hear T.D.'s defense, the judge agreed that the Plaintiff had not met his burden of proving by clear and convincing evidence that T.D. could not "consistently make reasoned decisions." He dismissed the interdiction case, at Plaintiff's cost.

In stating the reasons for his decision, the judge said that "it is one of the founding principles of our country that all people have the right to life, liberty and the pursuit of happiness." He continued, describing T.D.: "What I see before me is a happy, healthy young woman who can make her own decisions."

SILAP has worked with W.T. for almost two years. During that time, W.T moved from a dangerous, unsafe apartment to a temporary placement in a nursing home to supported

independent living in an apartment of his choice. His medical condition has improved - from having a feeding tube and being certified for hospice care - to having the feeding tube removed, leaving hospice care, and being able to eat his favorite food (fried chicken).

The last piece of this complex case involved getting a new power scooter for W.T. When he left the unsafe apartment to seek hospital care, W.T. asked a neighbor to keep his scooter for him until he was released from the hospital. When W.T. was ready to get his scooter back, much to his dismay, his support coordinator told him that the neighbor moved and there was no sign of his scooter. SILAP worked with the support coordination agency, the provider, and the durable medical equipment (DME) vendor. After many roadblocks and disappointments (including physician's prescriptions being "lost", DME vendor losing the order, etc.) W.T.'s power scooter was delivered. W.T. is again enjoying visits with neighbors via his own transportation.

L.W. is a person with a cognitive impairment and partial deafness whose Social Security benefits were terminated after an erroneous finding that he was no longer disabled. At a hearing, his Advocacy Center attorney presented evidence regarding his ongoing disability, need for assistance with activities of daily living, and supported work environment. The ALJ ruled in our client's favor, but the Social Security payment center took over a year to process his payment. After repeated calls, the payment center finally processed L.W.'s reinstatement.

However, there were some concerns that a former overpayment of \$20,000.00 might still be looming, so follow-up was necessary to determine whether we needed to help the client apply for waiver of the overpayment amount.

The SILAP staff member reached the provider agency this week and learned that, not only had L.W.'s benefits been fully restored, but he does not have an overpayment. In even better news, L.W. received \$37,000 (!!!) in back benefits, some of which he used to purchase a new car.

8. Success stories

Accessing Critical Transition Services

The grandmother and legal guardian of a 17 -year old contacted AC. The student has diagnoses of cerebral palsy, scoliosis and intellectual disability. The grandmother was seeking assistance in getting a school district to develop and implement a Transition Plan and to reconvene an IEP meeting to discuss and consider the student for a high school diploma. The grandmother had made several unsuccessful attempts to resolve these matters on her own.

AC staff attended several meetings and educated the school district about the importance of transition services for high school students with disabilities. AC also assured that Louisiana Rehabilitation Services (LRS) was involved in the transition process. As a result of AC's assistance, an appropriate Transition Plan was developed and implemented. The student was successfully linked to LRS and qualified for services. AC's representation also helped

the student to utilize the self-advocacy skills that the advocate taught her, in order to successfully gain admission into the CELT (Continuing Education for Life Transition) Program at a state university after she graduated from high school. Subsequently, she also obtained employment by utilizing the services of LRS.

On His Own Terms

The Advocacy Center assisted a young man with developmental disabilities who resides in an ICF/DD facility. When he was younger, he was involved in a number of burglaries. As a result of his arrest and court appearances, the client believed himself to be committed indefinitely to the custody of the group home. He had been told that if he ever left, he would be arrested and brought to court to face numerous criminal charges that he had previously incurred.

The client felt trapped. He has a girlfriend and would like to get married someday; he has hopes of working and living outside of the group home, but felt that he had no hope of achieving those goals.

With the cooperation of his criminal defense attorney, the Advocacy Center attorney successfully advocated for seven of the eight felony charges pending against the client to be dismissed. The eighth felony charge was reduced to a misdemeanor, to which the client agreed to plead guilty in exchange for a sentence of probation, fines, and fees. The group home agreed to pay the fines on the client's behalf and assist him in meeting his probation obligations. With the district attorney's agreement, the judge made the client's participation in the group home voluntary, rather than mandatory.

The client no longer faces felony charges and is no longer required to remain in the group home indefinitely. He is currently on a waiting list for home and community based waiver services and housing, and once those services become available, he will be able to move into the community and live independently on his own terms.