



The Impact of the 2018 Legislative Sessions on Individuals with Disabilities and their Families

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Since January, individuals with developmental disabilities and their families went through an emotional hell, not knowing if services they need to remain in their homes, or in many cases, literally survive, would be reduced or eliminated. They painstakingly pled with legislators through the regular and THREE special legislative sessions to "fix the fiscal cliff" and prioritize services for individuals with disabilities and their families. In the end, advocacy worked, and all services for people with developmental disabilities were not only spared from cuts, but gains were made. Funding for 650 additional waiver slots for those in the most urgent need and two waiver rate increases were included in the approved budget (more details below). While the results are great, disability advocates are finding it difficult to celebrate. They are emotionally and physically exhausted from having to beg the Legislature to protect their services from cuts year after year after year! With the revenue-raising measures passed this year, those treks to the Capitol to plead will hopefully be a thing of the past. But one thing is clear - LaCAN advocates (in recognizable yellow shirts!) have a collective voice with a powerful and effective message that resonates with legislators. Advocacy does work!

Fixing the Cliff: Compromise on Needed Revenue was Elusive

Faced with an astounding \$1 Billion looming deficit, Governor Edwards' proposed state budget for Fiscal Year 19 (FY19) cut the Louisiana Department of Health (LDH) over \$650 Million in state general funds (resulting in \$2.4 Billion of cuts when federal matching funds are included). The result would have been catastrophic reductions or elimination of numerous services for people with developmental disabilities. On March 5th, the first Special Session called to address the fiscal cliff ended after the Legislature failed to agree on a plan to address the state's budget shortfall.

The magnitude of Louisiana's budget crisis was slightly decreased during the Regular Session when additional revenue was recognized by the Revenue Estimating Conference, reducing the shortfall to \$648 Million. Despite this reduction, LDH still faced massive cuts and had an obligation to notify tens of thousands of Medicaid enrollees their eligibility would end July 1st if funding was not restored. Advocates sent a resounding message to the Legislature that cutting these services would result in homelessness, unemployment, loss of independence, and even death. The Legislature responded by passing a budget that fully funded LDH, sending a clear message that people with disabilities and healthcare were a priority. However, nearly all other state departments were cut by 24% leading to the Governor's veto of what he called a "catastrophic budget."

A second Special Session to once again try and fix the ongoing budget crisis was a

marginal success in that a budget was passed fully funding LDH again. However, legislators failed to pass major revenue-raising measures needed to fix the state's fiscal cliff beginning July 1st (only \$87 Million was raised). Fortunately, during the third Special Session, legislators were able to compromise on a plan to raise nearly \$500 Million in revenue. With this additional revenue, the state will be able to ensure funding for other priorities including higher education, TOPS, SNAP, and public safety.

Results in Home and Community Based Supports

In May, the Revenue Estimating Conference recognized revenue in excess of the Official Forecast resulting in a deposit of \$19.9 Million in the New Opportunities Waiver (NOW) Fund. [Act 665 \(SB347\)](#) by Senator Sharon Hewitt expanded the purpose of the NOW Fund allowing it to be used for all home and community based waiver slots for individuals with DD and to improve the capacity of the state to meet the varying and complex needs of people with developmental disabilities. Act 665 also requires LDH to consult with the DD Council to develop a plan on the use of monies in the fund. \$12.1 Million from the fund was appropriated in HB1 to fund the following in FY19:

- 650 additional mixed waiver slots for people in the most urgent need;
- Complex needs rate in the NOW for people with complex medical and/or behavioral needs;
- Increase Individual and Family Support (IFS) night rate to \$11 in the NOW.

Any unused dollars remain in the fund for appropriation in future years.

The 627 waiver slots funded last year were used to meet the needs of all individuals on the waiting list who have been screened and determined to have an emergent need, and some individuals with an urgent need. With these additional 650 slots, all those remaining in urgent need will receive a waiver offer, with enough remaining capacity to serve those whose needs change throughout the year.

The increase in the IFS night rate and the availability of a complex needs rate to serve people with complex needs will bring some relief to home and community based providers whose rates were cut years ago.

Education Issues

Behavioral practices were once again the focus of education advocacy in the Legislature for parents of children with disabilities. Advocates expressed a desire for the Louisiana Department of Education (LDOE) to develop a plan for supporting schools and communities with implementing best practices in addressing student behavior. Senator Jack Donahue, who has previously taken leadership roles related to behavior issues in schools, filed [SB345](#) which would have required LDOE to develop such a plan in collaboration with the Advisory Council on Student Behavior and Discipline (ACSBD). Senator Donahue did not move this bill forward due to school leaders indicating LDOE already had a statewide plan for behavioral support; however, LDOE later acknowledged the plan presented was not a statewide plan, but expectations for each regional consortia of school systems. Continued advocacy is needed to ensure a statewide plan specifying LDOE's commitment and role in providing support to schools in best practices with addressing student behavior is developed and implemented.

Senator Wesley Bishop expanded the membership of ACSBD by adding five new members with the passage of [Act 600 \(SB465\)](#), and charged ACSBD with providing a written report of recommended changes to state laws, policies, and regulations directly to the Senate Committee on Education and House Committee on Education by February 15, 2019.

With the passage of [Act 696 \(HB766\)](#) by Representative Vincent Pierre, schools will be required to allow behavioral health providers to serve students at school during school hours if the student's parent requests such services from the behavioral health provider. The parent will be responsible for costs associated with such services, and outside behavioral service providers must comply with the terms of a student's Individualized Education Plan, Individualized Accommodation Plan, Section 504 Plan, Behavior Management Plan, or Individualized Health Plan.

Other legislative instruments related to behavior (i.e., [SB298](#), [SB301](#), and [SB303](#), all by Senator John Milkovich) threatened to allow any school personnel to remove students from a school campus, allow the use of force and physical restraint, and involve law enforcement and courts in everything from removing students from campus to determining placement and program decisions in response to student behavioral challenges. These instruments did not pass after legislators heard advocates' concerns regarding practices presented in these instruments being inconsistent with federal law related to rights and processes for determining programs and placement of children with disabilities.

Other Bills of Interest

[Act 455 \(HB199\)](#) by Representative Pat Smith creates the Language Equality and Acquisition for Deaf Kids (LEAD-K) Task Force to develop framework for assessing children who are deaf or hard of hearing to determine language skills and ensure kindergarten readiness.

[Act 492 \(HB14\)](#) by Representative Pat Smith seeks to address staff shortages in schools by allowing retired interpreters, educational transliterators, and certified educators of the hearing impaired to be rehired in positions covered by the Teachers' Retirement System of Louisiana.

[Act 660 \(SB310\)](#) by Senator Dan Claitor requires the state treasurer to withhold 25 percent of the state funds budgeted for state travel by the Department of Education in any year LDOE fails to collect and report data related to students with disabilities as required by law.

[Act 263 \(HB79\)](#) by Representative Sherman Mack makes it a crime to abuse persons with infirmities through electronic means.

[Act 424 \(HB198\)](#) by Representative Scott Simon makes distribution of funds from the Traumatic Head and Spinal Cord Injury Trust Fund a source of last resort after Medicare and Medicaid sources have been expended. Previously the use of this fund was a last resort after private and governmental sources were expended.

[Act 596 \(HB281\)](#) by Representative Kirk Talbot allows residents of nursing homes to install and use monitoring devices in the residents' rooms.

[Act 549 \(HB389\)](#) by Representative Gary Carter increases the punishment for the crime of sexual battery committed on victims who have disabilities.

[Act 164 \(HB395\)](#) by Representative Franklin Foil establishes the standard of good cause for a court of law to modify or terminate a decree of tutorship.

[Act 495 \(HB474\)](#) by Representative Pat Smith requires additional training for peace officers including techniques for face-to-face communications with individuals who are deaf or hard of hearing.

[Act 496 \(HB627\)](#) by Representative Rodney Lyons allows physicians to recommend

treatment with medical marijuana for multiple conditions associated with Autism Spectrum Disorder.

[Act 528 \(SB265\)](#) by Senator J.P. Morell requires multi-story courthouses have at least one-half of all elevators in working service and be accessible by ADA Standards at all times.

[Act 240 \(SB331\)](#) by Senator Yvonne Colomb extends the renewal period for an accessible hang tag for individuals with mobility needs from four to ten years.

[Act 246 \(SB472\)](#) by Senator Ronnie Johns creates an "Autism" special prestige license plate and requires annual royalties from the plate to be forwarded to the Autism Society - Louisiana State Chapter, Inc. (LSAC).

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