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## Client Assistance Programs and Protection and Advocacy Services

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# Client Assistance Programs and Protection and Advocacy Services

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Client Assistance Programs and Protection and Advocacy Services comprise the nationwide network of congressionally mandated, legally based disability rights agencies. Both of these programs and services were mandated as a response to the need for protection of the rights of persons with disabilities. The authors will discuss both of these programs and the services they offer. Implications will also be addressed.

**Keywords:** Client Assistance Programs; Protection and Advocacy Systems

Client Assistance Programs (CAPs) in state vocational rehabilitation (VR) agencies were originally created to respond to the dissatisfaction of persons with disabilities (PWD) who faced problems in accessing state VR systems (Barnes, Williams, Hill, & Boston, 2015; Dowdy, 1996; Vandergoot & Bruineekool, 2013; Weber, 1994). PWDs were frustrated with the bureaucratic labyrinth that they were sometimes forced to endure when seeking services or answers from state VR systems. Pilot projects were established by Congress in an effort to find a satisfactory way to ameliorate the problems these individuals faced (Barnes et al., 2015; Dowdy, 1996; Weber, 1994). The requirements for these pilot projects were (a) the project staff be ensured the opportunity to communicate with top VR administrators, and (b) that project personnel face no conflict of interest with any of their other VR duties (U.S. Department of Education, 2017). These pilot projects were the forerunners of the CAPs that would become a requirement in each state and territory as a condition for receiving VR program funds under Title I of the Rehabilitation Act of 1973.

In this article, we will describe the relationship between CAPs and the larger Protection and Advocacy (P&A) Programs. Mandated services provided by CAPs will be identified and elucidated. In addition, we will review P&A programs and discuss mandated services offered under this program. Finally, implications for rehabilitation professionals will be discussed.

CAPs are regulated by the Rehabilitation Act of 1973, as amended (Rehabilitation Act), Title I, Part B, Section 112; 29 U.S.C. 732 (U.S. Department of Education, 2012). All 50 states and U.S. territories are mandated to provide services to facilitate individuals with disabilities obtaining gainful employment (U.S. Department of Education, 2017). In 1984, Section 112 required the implementation of assistance programs to inform and advise clients and client applicants of all available benefits under the Rehabilitation Act, and to help any who

**TABLE 1. CAP Appropriations Statuses From FY 2000 to 2011**

<b>Fiscal Year</b>	<b>Amount</b>
2011	\$12,263,424
2010	\$12,288,000
2009	\$11,576,000
2008	\$11,576,168
2007	\$11,781,990
2006	\$11,781,990
2005	\$11,901,024
2004	\$11,996,799
2003	\$12,068,044
2002	\$11,897,000
2001	\$11,647,000
2000	\$10,928,000

*Note.* CAP = Client Assistance Program.

*Source:* U.S. Department of Education. (2017). *Client assistance program*. Washington, DC. Retrieved from <http://www2.ed.gov/programs/rsacap/funding.html>

request assistance in their relationships with projects, programs, and community rehabilitation projects providing services under the Act. This includes assistance to clients or applicants in pursuing legal, administrative, or other appropriate remedies to ensure the protection of their rights under the Act. A CAP can also provide information about itself to the public and information on the available services under the Rehabilitation Act to any person with a disability in the state. The CAP must provide information on available services and benefits under Title I of the Americans with Disabilities Act (ADA) to individuals with disabilities in each state and territory, especially with regard to individuals who traditionally have been unserved or underserved by VR programs (U.S. Department of Education, 2017). The CAP may also provide the cost of travel for a client, client applicant, or attendant in connection with the provision of assistance under this program. In providing assistance and advocacy under this subsection with regard to services under this title, a CAP may provide assistance and advocacy services that are directly related to facilitating the employment of the individual (Professional Management Associates, Inc., 1986). Table 1 shows the appropriations statuses for CAPs from the fiscal years 2000 to 2011. The amount of the 52 grants awarded in the fiscal year 2011 ranged from \$56,105 to \$1,245,112 with an average of \$218,990 (U.S. Department of Education, 2012).

When a state submits an application for a formula grant for CAP funds under the Rehabilitation Act, the governor typically designates a public or private agency in the state to conduct and manage the CAPs. The designated agency must be independent of any agency providing treatment, services, or rehabilitation to individuals under the Rehabilitation Act—unless, prior

to February 22, 1984, there was an existing agency in the state that directly carried out a CAP under Section 112 (Professional Management Associates, Inc., 1986).

As of FY 2011 there are 52 CAPs throughout the United States and U.S. territories. Approximately half of the existing CAPs (27) are housed in P&A programs. The remaining 25 programs are tasked to or managed by a host of various state and private entities, including the governor's office, legal aid departments, and a private law firm. Some programs are located internally in state VR agencies, where they were located prior to February 22, 1984. While the governor in these states designated state VR agencies to administer CAP, not all of these CAPs are actually run by the state. Some are managed on contract by an outside entity. For example, in the cases of some CAPs, the states have contracted out their P&A services. Huck, Fleming, Phillips, and Kaseroff (2014) suggest that the purport of the rationale for outsourcing services to external private providers revolves around the presumption that such a strategy would markedly improve the levels of VR consumers' satisfaction. This would be accomplished by expediting the delivery process and drastically containing escalating operating costs through elimination of unnecessary duplicity in the decision-making chain, in which the frontline rehabilitation professionals understand what works and what does not for their consumers with disabilities.

Essentially, CAPs are advocacy programs that focus on serving adult and young adult clients with disabilities. Moreover, CAPs help clients and applicants understand the rehabilitation services available under the Rehabilitation Act of 1973, providing information to PWD. For example, CAP staff members can explain the status system used in VR, or the order of selection used in some states. The program assists PWD, who qualify under the Rehabilitation Act, to receive the appropriate rehabilitation services from state VR, community rehabilitation providers, independent living organizations, and Projects With Industry (PWI).

The main goal of PWI was to create and expand job and career opportunities for PWD in the competitive labor market (U.S. Department of Education, 2012). Agencies of the competitive PWI grants worked in partnership with corporations and firms from private industrial sectors to help their clients with disabilities to identify and develop job placement, occupational training, and career readiness skills that are necessary to successful employment maintenance and career advancement. As of 2011, the funding pool for PWI grants decreased to \$0, effectively ending the projects (U.S. Department of Education, 2012).

Rehabilitation professionals working for CAPs offer arrays of services both at the individual advocate level and the system advocacy levels. Services offered include

- Explaining to current and prospective clients how the rehabilitation system works.
- Explaining what an individual with a disability must do to obtain VR and independent living.
- Answering questions about the rehabilitation system and independent living.
- Making PWD aware of their rights under the Rehabilitation Act of 1973 as amended, and under the 1990 ADA.
- Teaching individuals how to advocate for themselves.
- Advocating for clients who encounter problems in the rehabilitation system or independent living system.
- Initiating communication between clients and their counselors or case managers.
- Mediating or negotiating between clients and their counselors or case managers.
- Helping to prepare and, if appropriate, provide for adequate representation in the appeals process or hearing.
- Advocating on systemic issues within state VR community rehabilitation, and independent living.
- Disseminating information about CAP services.

- Providing information about Title I of the ADA of 1990 regarding employment.
- Providing the cost of travel for a client, client applicant, or attendant in connection with the provision of assistance under the CAP.

## **POLICY DIRECTIVE**

In accordance with legislative requirements outlined in the Rehabilitation Act of 1973, CAPs practice mediation as a means of conflict resolution. Mediation attempts to support the underlying relationship between clients and their counselors or case managers and avoid the development of a win-lose situation (U.S. Government Publishing Office, 2018). While CAPs usually works through mediation, they are authorized to pursue legal, administrative, and other appropriate remedies. Under no circumstances are CAPs allowed to initiate class action lawsuits.

The Office of Special Education and Rehabilitation Services Administration (OSERS) regulate CAPs. The Rehabilitation Services Administration (RSA) has developed program monitoring instruments for use in evaluating performance and activities of the CAP-designated agencies. The RSA appraises the degree of compliance of CAP agencies with the governor's assurances. In addition, RSA conducts case reviews to determine eligibility of persons receiving services and whether the services provided are authorized under the CAP. One-third of the CAPs are monitored each year.

## **PROTECTION AND ADVOCACY SERVICES**

The second system of programs that comprise the nationwide network of congressionally mandated, legally based disability rights agencies is the P&A system. As aforementioned, approximately half of the CAPs are located in P&As. When located in a P&A, a CAP is considered to be one of the legislated programs the P&A offers. P&A programs administer congressionally legislated, distinctly specific programs to address the needs of different segments of the population of PWD.

P&A services are federally mandated systems in each state and territory that protects the rights of PWD through legally based advocacy. According to National Disability Rights Network (2013), P&As were initially established to address outrage at the abuse, neglect, and lack of appropriate and quality programming in institutions for PWD. Similar to CAPs, P&A services are designated by the governor of each state and territory. Pursuant to the Rehabilitation Act, each state must provide assurance that the system is and will remain independent of any service provider.

P&A services work for the benefit of PWD on a national level by effecting legislative and policy changes. These systems are the principal providers of legally based advocacy services to PWD in the United States. Together, P&A services across the country devote substantial resources to ensuring full access to inclusive educational programs, financial entitlement programs, healthcare, accessible housing, and productive employment opportunities (Gross, 2001). The activities of P&A services fall into four major areas: (a) investigations and mediating, (b) information dissemination and technical assistance, (c) legal and litigation services, and (d) education and training (National Disability Rights Network, 2013). More specifically, these areas include the following activities:

1. Investigating and mediating: Investigating, negotiating, or mediating resolutions to problems reported by service-eligible individuals.
2. Information dissemination and technical assistance: Disseminating information and providing technical assistance to individuals, attorneys, governmental agencies, service providers, and other advocacy organizations.
3. Legal and litigation services: Providing legal and litigation services to eligible individuals and groups.
4. Education and training: Providing education and training for interested individuals or groups.

The National Disability Rights Network (formerly the National Association of Protection and Advocacy Systems, Inc.) is the nonprofit membership organization for the federally mandated P&A systems and CAPs (AbleData, 2013). The National Disability Rights Network (2013) identifies the following main beliefs as guiding principles for legally based advocacy for PWD:

- *Equality, equity, and fairness.* PWD are full and equal citizens under the law. They are entitled to equal access to the same opportunities afforded all members of society. PWD are entitled to be free from abuse, neglect, exploitation, discrimination, and isolation, and to be treated with respect and dignity.
- *Meaningful choice and empowerment.* People, regardless of age, type, and level of disability, have the right to make choices with respect to both daily routines and major life events.
- *Support and participation.* Services and supports are shaped by the unique needs and preferences of each individual, and assure and enhance opportunities for integration in all aspects of life. Services must be age-appropriate and premised on the fact that PWD continue to learn, change, and develop throughout their lives. For children such growth is best accomplished within families, and for adults, within integrated communities rather than institutions.
- *Independence.* Advocacy services are based on a philosophy of equal access, peer support, and self-determination, to be achieved through individual, professional, and system advocacy. Services are delivered in a manner that maximizes leadership, independence, productivity, and integration of individuals with disabilities.
- *Cultural competency.* Advocacy services reflect, and are responsive to, the diverse cultural, ethnic, and racial composition of society.

P&A services are comprised of six (in some cases, seven) programs that form a comprehensive system of advocacy and protection for PWD. The following are descriptions of programs housed in the P&A system. Each of these programs is funded by different agencies of the federal government, and is designed to provide services to different segments of PWD as part of a comprehensive system of services.

The Protection and Advocacy for Persons with Developmental Disabilities (PADD) Program was created by the Developmental Disabilities Assistance and Bill of Rights (DD) Act of 1975 (Administration for Community Living, 2017). Under the DD Act, P&A programs are required to set up a system to pursue legal, administrative, and other appropriate measures to protect and advocate for the rights and interests of individuals with developmental disabilities. The 1994 amendments to the DD Act expanded the system to include a program serving Native Americans. Oversight of the Persons with Developmental Disabilities Programs is provided by the Administration for Children, Youth, and Families, and the Administration on Developmental Disabilities (ADD).

In 1986, Congress established the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Program (Overcamp-Martini, 2007). The state agencies designated by the governor of each state and territory to administer the PADD Program were also made the

designated agencies for the administration of the PAIMI Program. PAIMI does for individuals with mental illness what PADD does for individuals with developmental disabilities, in that it protects and advocates for the rights of people with mental illness and investigates reports of abuse and neglect in facilities that treat individuals with mental illness. Centers for Mental Health Services are the administrators of the PAIMI Program.

The Protection and Advocacy for Individual Rights (PAIR) Program was established by Congress as a national program under the Rehabilitation Act in 1993, as amended, Title V, Section 509; 29 U.S.C. 794(e). Programs were established to protect and advocate for the legal and human rights of PWD (Michigan Protection & Advocacy Service, 2017). The PAIR Program was established to serve PWD that were not eligible to be served by other advocacy programs. With its establishment, an all-inclusive system was put in place to advocate for the rights of all PWD. The P&A system designated to serve as the PADD Program in each state and territory receives funding to operate the PAIR Program. The government entity overseeing the PAIR Program is RSA. For a person with a disability to receive services from the PAIR program, he or she must meet three criteria: (a) the person's concern must be beyond the scope of a CAP, (b) the person must be ineligible for services from the U.S. Department of Health and Human Services' (HHS) Protection and Advocacy of Developmental Disabilities (PADD), and (c) the person must also be ineligible for HHS' PAIMI program (U.S. Department of Education, 2012). A typical PAIR program aims to promote full community integration by eliminating barriers to education, employment, transportation, and housing. Table 2 shows the appropriations statuses for PAIRs from the fiscal years 2000 to 2011. The amount of the 57 grants awarded in the fiscal year 2011 ranged from \$75,330 to \$1,800,980, with an average of \$316,926 (U.S. Department of Education, 2012).

The Protection and Advocacy for Assistive Technology (PAAT) Program was created in 1994, when Congress expanded the Technology-Related Assistance for Individuals with Disabilities Act (Tech Act) to include funding for P&As, enabling them to assist to individuals inside and outside their support system in accessing technology devices and services. More specifically, PAAT is enforced by Assistive Technology Act of 1998 (ATA), as amended, Section 5; P.L. 108-364; 29 U.S.C. 3004 (U.S. Department of Education, 2012). The main function of PAAT is to assist PWD regardless of their ages in the acquisition, utilization, or maintenance of assistive technology services or devices (U.S. Department of Education, 2012). The National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR) administers the PAAT Program. Table 3 shows the appropriations statuses for PAATs from the fiscal years 2000 to 2011. The amount of the 57 grants awarded in the fiscal year 2011 ranged from \$30,000 to \$401,850, with an average of \$75,288 (U.S. Department of Education, 2012).

The Protection and Advocacy for Beneficiaries of Social Security (PABSS) Program was established in 1999, for PWD who receive Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) and want to work or return to work (Kregel, 2011). The PABSS Program was a response to the Ticket to Work and Work Incentive Improvement Act (TW-WIIA). The intent of TW-WIIA was to remove barriers to employment, thereby reducing the individual's dependency on cash benefit programs. The Social Security Administration funds the P&A system in each state and territory, for the purpose of providing information and advocacy services to beneficiaries with disabilities who want to work. The PABSS Program provides advocacy or other services that beneficiaries with disability may require while gaining employment (Kregel, 2011).

**TABLE 2. PAIR Appropriations Statuses From FY 2000 to 2011**

<b>Fiscal Year</b>	<b>Amount</b>
2011	\$18,064,798
2010	\$18,101,000
2009	\$17,101,000
2008	\$16,200,937
2007	\$16,489,440
2006	\$16,489,440
2005	\$16,655,680
2004	\$16,790,349
2003	\$16,889,500
2002	\$15,200,000
2001	\$14,000,000
2000	\$11,894,000

*Note.* PAIR = Protection and Advocacy for Individual Rights.

*Source:* U.S. Department of Education. (2017). *Client assistance program*. Washington, DC. Retrieved from <http://www2.ed.gov/programs/rsacap/funding.html>

In 1996, Congress authorized the establishment of state grants to improve access to health-care and other services for individuals with traumatic brain injuries (Lionbarger, Jones, Geller, Khoury, & Xu, 2012). In 2002, competitive grants were awarded to P&A systems in 28 states, four U.S. territories, and one tribal agency. The grant program is administered by the Health Resources and Services Administration through its Maternal and Child Health Bureau.

### **Policy Directive**

U.S. Government Publishing Office (2018) defines advocacy as an act, in the form of speaking or writing, to plead and support a cause on behalf of an individual or a group of people who tend to have little or no power, and who are often marginalized by society. Advocacy may be formal or informal in nature. The representation of an individual by a lawyer or other person in court of law or judicial administrative proceeding is an example of formal advocacy (U.S. Government Publishing Office, 2018). In contrast, informal advocacy entails the representation of an individual by a lawyer or other person in negotiations and mediation before government agencies or before private entities or organizations (U.S. Government Publishing Office, 2018).

The state governor has the authority to designate and redesignate an agency, with approval from the state secretary, as the proposed recipient of funds appropriated by the federal government to support state-level CAP and P&A related activities and services (U.S. Government Publishing Office, 2018). Prior to designation of the receiving agency, the state governor must consult with the state rehabilitation council and the state independent living council to obtain



**TABLE 3. PAAT Appropriations Statuses From FY 2000 to 2011**

<b>Fiscal Year</b>	<b>Amount</b>
2011	\$4,291,400
2010	\$4,300,000
2009	\$4,300,000
2008	\$4,265,163
2007	\$4,341,150
2006	\$4,341,150
2005	\$4,385,394
2004	\$4,420,760
2003	\$4,572,966
2002	\$2,680,000
2001	\$2,680,000
2000	\$2,680,000

*Note.* PAAT = Protection and Advocacy for Assistive Technology.

*Source:* U.S. Department of Education. (2017). *Client assistance program*. Washington, DC. Retrieved from <http://www2.ed.gov/programs/rsacap/funding.html>

their feedback and recommendations. Furthermore, a nonpartisan committee will review the strengths and weaknesses of all proposals submitted by agencies seeking the governor's designation. The state governor is also required to provide a written decision, including corresponding rationale and justification, accepting or rejecting applicants wishing to be the state representative to the CAP and P&A organization (U.S. Government Publishing Office, 2018). Applicants have 15 days to file a formal appeal with the state secretary with respect to the selection decision.

## SUMMARY

CAPs and P&A systems comprise the nationwide network of congressionally mandated, legally based, comprehensive disability rights agencies. They provide programs targeting people with chronic health issues and permanent medical conditions that are not covered elsewhere, ensuring a far-reaching nationwide system is in place that guarantees that individuals with disabilities are served by an advocacy agency.

Advocacy does not mean adversarial, however. CAPs and P&As use mediation as a means of resolving conflicts without destroying the underlying relationships between clients and counselors or case managers. CAPs throughout the country and territories work to resolve issues and problems that occur between clients and VR systems, or independent living systems. In all cases, every attempt is made to resolve issues without legal action.

P&A services are legal services. The CAP in a state in which the P&A is located may be housed in the P&A. Services in the P&A fall into areas of investigations and mediation, information dissemination and technical assistance, legal and litigation services, and education and training. We conclude this article by delineating the imperative implications of CAPs and P&A for rehabilitation practitioners and educators. First, rehabilitation educators are encouraged to incorporate these concepts into their curriculum across both foundational and advanced courses. Rehabilitation educators can play a critical role in helping preservice students build a solid professional knowledge base so that they can gain a thorough understanding of the evolution of CAPs and P&A as well as of the functions of these services. Practicums and internships at CAPs and P&A sites offer hands-on opportunities for future VR counselors to apply the knowledge of legislation and service delivery that they gain in class to the practices of guiding actual clients with disabilities as to how to meet their rehabilitation needs. Rehabilitation practitioners can empower their clients with disabilities by teaching them how to advocate for themselves in order to acquire services to which they are entitled, as stipulated by federal and state legislation. In order to be a knowledgeable resource for their clients with disabilities, rehabilitation practitioners are encouraged to regularly attend conferences and workshops on CAPs and P&A so that they can keep abreast of the most current development in the profession.

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