



## **VOPA's Strategic Plan of Action Objectives for October 1, 2009 – September 30, 2010**

The Virginia Office for Protection and Advocacy (VOPA) is dedicated to the mission of zealous and effective advocacy and legal representation for persons with disabilities. A major component of effective advocacy is education, training, and the promotion of self-advocacy skills for people with disabilities. VOPA's work will include special attention to education, training, and self-advocacy as means of seeking systemic change.

The Office operates under the authority of federal and state statutes. The authorizing statutes establish eligibility criteria for the clients we will serve and require the establishment of goals and focus areas, based on public input. The authorizing statutes require that our goals address the needs of vulnerable, complex, and underserved populations. All individuals who contact VOPA will receive some level of service. However, in many cases, people receive only information and referral services. Not all people will receive case-level representation.

Because VOPA does not operate with unlimited resources, we have selected specific areas in which to focus our work. The areas have been selected after reviewing unmet needs from previous years, and after reviewing extensive public input and guidance from our two advisory councils. The objectives have been approved by our Governing Board. The selection of these focus areas is not meant to suggest that other issues are not important.

Additionally, we use case selection criteria to evaluate the level of service that will be offered. These criteria include consideration of:

- Severity of harm.
- Imminence of risk.
- Potential of case to facilitate systems change or benefit other individuals.
- Availability of other resources to help the individual address the alleged violation.
- Self-advocacy ability of client or family.
- Availability of other appropriate, independent investigatory authorities.
- Availability of agency resources.
- Legal merit or available remedy.

If a case is being evaluated for litigation, additional factors may be considered.

The Goals, Focus Areas, and Objectives are VOPA's strategic plan of action. They are the guidelines by which the Virginia Office for Protection and Advocacy accepts or declines cases. Cases may be opened outside of the stated Goals, Focus Areas, and Objectives with the approval of the Executive Director.

## **Goal 1: People with Disabilities are Free from Abuse and Neglect**

### Focus Area 1: Adequate System for Protection from Harm in Institutions

1. Develop a publication to educate consumers regarding access to the Department of Behavioral Health and Developmental Services (DBHDS) Human Rights system and how to file a complaint of abuse or neglect; distribute copies to all state institutions.
2. Investigate ten (10) instances of death, serious injury, or allegation of abuse or neglect in institutional settings, including the response of each entity responsible for licensing, oversight, or investigation. All investigations will seek corrective action, to include systemic reform, as necessary.
3. Investigate twelve (12) reports of the use of seclusion and restraint at DBHDS-operated institutions that results in injury to a patient or resident. All investigations will seek corrective action, to include systemic reform, as necessary.
4. Investigate the system for protection from harm provided at DBHDS-operated institutions for individuals with mental illness and intellectual disabilities and determine whether it meets legal requirements. Obtain corrective action as appropriate.
5. Establish whether the Commissioner, DBHDS, has implemented a system for the standardized reporting of seclusion and restraint events and the compilation and analysis of seclusion and restraint data by DBHDS-operated institutions. Obtain corrective action as appropriate.
6. Establish whether the Commissioner, DBHDS, has developed and implemented a policy to require DBHDS-operated institutions to develop and adhere to a plan for the reduction and elimination of seclusion and restraint. Obtain corrective action as appropriate.
7. Investigate planning, training, and response with regard to health threats and other emergencies at one (1) DBHDS-operated Intermediate Care Facilities for the Mentally Retarded (ICFs/MR) and one DBHDS-operated mental health facility. Publish results of investigations.
8. Prepare quarterly summaries and semi-annual trend analyses of Critical Incident Reports (CIRs) and other analyses as needed, for use in institution monitoring.
9. Inform policymakers of the need to eliminate abuse and neglect in institutional settings in response to all significant proposed regulations, policies, or legislation.

## Focus Area 2: Adequate System for Protection from Harm in Licensed Community Residential Settings

1. Develop a publication to educate consumers regarding the state or federal agency that has regulatory authority over each community residential setting and how to file a complaint of abuse or neglect.
2. Investigate ten (10) allegations of the abuse or neglect of individuals with a disability in licensed community residential settings including the response of each entity responsible for licensing, oversight, or investigation. All investigations will seek corrective action, to include systemic reform, as necessary.
3. Coordinate with local Departments of Social Services (DSS) in selected jurisdictions in Northern Virginia and Southwestern Virginia to conduct four (4) joint investigations of allegations of abuse or neglect of individuals with disabilities at licensed community residential settings. All investigations will seek corrective action, to include systemic reform, as necessary.
4. Investigate facility planning and staff training and response to communicable disease threats, including influenza, at one (1) mental health and one (1) developmental disability community setting. Inform the appropriate licensing and oversight entities of findings.
5. Survey five (5) Medicaid Waiver Group Homes in three geographic regions of the state to assess the effectiveness of licensure oversight for safety and quality of service. Obtain corrective action as appropriate.
6. Prepare quarterly summaries of all reports submitted by Adult Protective Services (APS) to identify possible patterns of abuse or neglect.
7. Coordinate with the Virginia Board for People with Disabilities and the Partnership for People with Disabilities to involve people with disabilities to review the development and implementation of emergency planning and response for persons with disabilities in community settings and make recommendations as appropriate.
8. Inform policy makers of the need to eliminate abuse and neglect in licensed community residential settings in response to all significant proposed regulations, policies, or legislation.

### Focus Area 3: Abuse or Neglect in Community or Institutional Settings Serving Children and Adolescents

1. Inform each Psychiatric Residential Treatment Facility (PRTFs) of the federal requirement to report serious occurrences to VOPA. Identify PRTFs that are underreporting or failing to report, advise the Department of Medical Assistance Services (DMAS) and obtain corrective action as appropriate.
2. Investigate six (6) reports of seclusion or restraint related injuries at three (3) private and three (3) public facilities serving children and adolescents. All investigations will seek corrective action, to include systemic reform, as necessary.
3. Investigate facility planning and staff training and response to communicable disease threats, including influenza, at two (2) licensed community residential settings for children and adolescents. Inform the appropriate licensing and oversight entities of findings.
4. Based on National Disability Rights Network (NDRN) and General Accountability Office (GAO) reports, develop policy recommendations to the State Department of Education (DOE) regarding the use of seclusion and restraint in public and private schools. Advocate for the creation of a report and incident data base for data collection of all cases of seclusion and restraint in public and private schools throughout the Commonwealth.
5. Investigate inappropriate or excessive use of seclusion and restraint in one (1) public or private school. Obtain corrective action as appropriate.
6. Prepare semi-annual summaries of all reports submitted by PRTFs for use in monitoring and to identify possible patterns of abuse or neglect.
7. Inform policymakers of the need to eliminate abuse and neglect in community or institutional settings serving children and adolescents in response to all significant proposed regulations, policies, or legislation.

### Focus Area 4: Timely and Appropriate Mental Health Services in Jails

1. Represent five (5) individuals in local or regional jails who allege denial of psychiatric medication.
2. Represent up to five (5) forensic patients who are in jail and under court order to the custody of the Commissioner, DBHDS, to ensure the receipt of timely and appropriate mental health treatment in an appropriate setting.

## **Goal 2: Children with Disabilities Receive an Appropriate Education**

### Focus Area 1: Appropriate Therapy and Services for Children with Disabilities

1. By November 1, 2009, identify a school district, based on public comment and experience, for targeted advocacy. Develop a training program on five (5) distinct stages of the Individualized Education Plan (IEP) development and implementation process. Present each training to at least fifteen (15) people in the targeted district.
2. Represent seven (7) children in the targeted district who have been denied needed and appropriate therapy or services.
3. Prepare trend analysis to determine if there are systemic problems in the targeted school district concerning the evaluation for and provision of therapy and services. Obtain corrective action as appropriate.
4. Develop training for foster parents and advocates, adapted from above, regarding special education rights and transition services and present to two (2) groups.
5. Increase outreach to Spanish-speaking communities by translating all VOPA special education publications into Spanish and disseminating these materials through VOPA's website and through press releases to targeted media outlets and organizations serving Spanish-speaking communities. All current VOPA special education materials will be translated and disseminated by April 1, 2010.
6. Provide a workshop for parents and staff at five (5) public or private alternative and community schools regarding Assistive Technology devices and services, and available funding resources.
7. Represent thirteen (13) children who have been denied needed and appropriate therapy or services.
8. Represent ten (10) children who have been denied appropriate assistive technology or services under their IEPs or 504 Plans.
9. Represent two (2) children in foster care who have been denied special education services due to inadequate evaluations or assessments.
10. Represent two (2) children from Spanish-speaking families who have been denied special education services due to inadequate evaluations or assessments.
11. Represent up to five children, from objectives above, in Due Process or DOE Complaints.

## Focus Area 2: Equal Access to a Full School Day for Children in Special Education

1. Develop a fact sheet on the rights of children in special education to receive a full school day and distribute to thirty (30) special education administrators.
2. By January 15, 2010, identify a county or city school division and investigate whether it improperly denies a full school day to children in special education. Obtain corrective action as appropriate.

## Focus Area 3: Children who are Suspended or who are at Risk of Long-Term Suspension

1. Provide three (3) presentations to teachers, school staff and parent advocacy groups regarding Functional Behavior Assessments (FBAs) and Behavior Intervention Plans (BIPs), and addressing seclusion and restraint practices and methodologies in schools.
2. Represent three (3) children in special education who are at risk of a long term suspension due to a lack of an appropriate Functional Behavioral Assessment or Behavioral Intervention Plan. Priority will be given to children who have already requested and received a Functional Behavioral Assessment and disagree with the results.
3. Represent three (3) children in special education who have received a long term suspension to ensure that they return to school in an appropriate placement.
4. Represent up to three (3) children from objectives 1 and 2 in Due Process or DOE Complaints.

## Focus Area 4: Special Education for Children with Traumatic Brain Injuries

1. Develop training on the importance of identifying children with traumatic brain injury (TBI) and providing the necessary services to ensure an appropriate education, and provide to three (3) school districts.
2. Represent two (2) individuals with TBI who have been denied appropriate evaluations or services under their IEP or 504 Plan.
3. Represent the rights of children with traumatic brain injuries to receive appropriate evaluations, identification and services by participating on the Virginia Department of Education Task Force charged to revise guidelines for the education of children with TBI.

4. Through the current contract with Brain Injury Services of the Southwest, represent at least fifteen (15) children with traumatic brain injuries to receive appropriate special education services through December 31, 2010. Evaluate contract results and make recommendations for renewal.

#### Focus Area 5: Transition from School to Work

1. Develop a publication on the right to receive transition planning services and distribute to all former VOPA clients who may be eligible for transition planning.
2. Represent five (5) children in special education to ensure that they receive appropriate transition planning designed to help them move from school to work.

### **Goal 3: People with Disabilities Have Equal Access to Government Services**

#### Focus Area 1: Access to Vote for Persons with Disabilities

1. Develop a "Train the Trainer" curriculum on "Voting Rights and Accessibility" that addresses the history of voter disenfranchisement of individuals with disabilities, voting rights, voter registration, capacity, and polling site accessibility. Partner with at least two (2) community organizations or providers to provide training for staff and clients, and who agree to provide further trainings for consumers in their extended community.
2. Provide two (2) trainings for staff and clients at state institutions regarding voter rights and responsibilities with specific focus on an individual's capacity to vote.
3. Provide five (5) trainings to staff and clients at nursing homes regarding voter rights and responsibilities with specific focus on an individual's capacity to vote.
4. Develop a Disability Awareness training specifically addressing accommodations for individuals with disabilities who are exercising their right to vote. By July 30, 2010, provide training to five (5) registrars located across the Commonwealth.
5. Provide VOPA's Help America Vote Act (HAVA) public service announcement to at least five (5) media outlets or radio stations prior to the state general election in November 2009.
6. Provide a training on voting rights to eight (8) consumer or advocacy groups regarding voting accessibility and registration, and assist participants with voter registration as needed.
7. Develop fact sheet on retaining voting rights in guardianship proceedings and distribute to fifty (50) guardians ad litem for adults and to the Supreme Court for distribution to the bench.

8. Inform residents of Assisted Living Facilities (ALFs) of their voting rights through ten (10) visits to ALFs or community-based facilities providing services to ALF residents, and assist residents with voting registration as needed.
9. Represent five (5) individuals denied access to vote.
10. By March 1, 2010, identify up to three (3) county or city school districts where schools also serve as voting sites and conduct accessibility surveys of the voting sites. Obtain corrective action as appropriate.

#### Focus Area 2: Access to State and Federal Government Services

1. Provide five (5) trainings to the personnel of county or city transportation providers on disability awareness and the right to accessible transportation under the Americans with Disabilities Act (ADA).
2. Provide training to the staff of four (4) Assisted Living Facilities or Nursing Homes regarding TBI services and disability rights.
3. Litigate against the Virginia Lottery to obtain compliance with state and federal law.
4. Obtain corrective action from the Virginia Department of Transportation so that the LOGO program complies with state and federal law, as well as the decision in *Winborne v. The Virginia Lottery*.
5. Obtain corrective actions at the University of Virginia regarding public buildings identified in FY2009 that do not meet the accessibility requirements of the ADA.
6. Investigate compliance with the ADA's accessibility requirements at a different public college or university, focusing on public areas. Obtain corrective action as appropriate.
7. Survey five (5) public museums or places of public interest for compliance with the ADA's accessibility requirements, and advocate for posting of accessibility information on their websites or other publications. Pursue corrective action as appropriate.
8. Develop in conjunction with the US Census Bureau strategies and opportunities for people with disabilities to actively participate in FY2010 census efforts.

#### Focus Area 3: Appropriate TBI supports for Veterans

1. Provide education and outreach for Veterans with TBI through five (5) trainings at Veterans Administration (VA) facilities and community-based Veterans Groups.

2. Prepare and submit three (3) articles to the VA or Veteran's groups for publication in bulletins or newsletters regarding identification of service-connected disabilities and access to appropriate services.
3. Represent two (2) veterans with TBI denied appropriate services or supports.

Focus Area 4: Reasonable Accommodations for individuals in public housing or receiving public assistance in housing

1. Distribute VOPA's Housing Rights video to forty (40) community based organizations or advocacy groups that provide training or services to consumers regarding housing.
2. Represent five (5) individuals who reside in public housing or receive public housing assistance regarding housing discrimination due to their disability or denial of a reasonable accommodation.
3. Inform assisted living facility (ALF) residents about their housing rights through ten (10) annual visits to ALFs or other community facilities ALF residents regularly attend.

#### **Goal 4: People with Disabilities Live in the Most Appropriate Integrated Environment**

Focus Area 1: Maximize Individual Choice and Self Direction

1. Develop and implement a training curriculum on self-advocacy for residents of DBHDS-operated ICFs/MR.
2. Office Hours staff will provide trainings on VOPA's Goals and Objectives, self advocacy and legal rights at the designated Office Hours host locations.
3. In collaboration with the REACH (Recovery Education and Creative Healing) program's training for WRAP (Wellness Recovery Action Plan) facilitators, provide information on the legal aspects of advance directives and how to facilitate their use with mental health consumers.
4. Inform consumers, family members, and service providers about alternatives to guardianship by providing ten (10) trainings at conferences and programs, schools, clubhouses, and state facilities.
5. Develop a training program and guide for mental health consumers on assisting peers in drafting advance directives and present to three (3) peer-run programs or conferences.

6. Represent twenty-five (25) individuals in preparing a health care directive or power of attorney as an alternative to guardianship.
7. Represent five (5) individuals whose advance directives have been denied recognition by a health care or other service provider.
8. Represent five (5) residents of PRTFs to receive timely and appropriate transition planning.
9. Represent three (3) individuals at each DBHDS-operated ICFs/MR to receive, as part of their Individual Program Plan, opportunities for choice and control over themselves and their environment.
10. Represent three (3) individuals at each DBHDS-operated ICFs/MR to receive opportunities to participate in social, religious, and community group activities and to communicate, associate and meet privately with individuals of their choice.
11. Represent three (3) individuals at each DBHDS-operated ICFs/MR to be able to exercise their rights as clients of the facility, and as citizens of the United States, including the right to file complaints, and the right to due process.
12. From objectives 9, 10, and 11, evaluate patterns of failing to provide active treatment.
13. Increase off-campus activities for at least two (2) residents of each DBHDS-operated ICFs/MR.
14. Evaluate whether the appointment of substitute decision makers at DBHDS-operated institutions violates due process. Publish the results.
15. Inform policymakers about the right to self-determination in response to all significant regulations, policies, or legislation concerning substitute decision-making.
16. Inform policymakers about the need for increased personal choice and self-direction for individuals with disabilities through participation on the Virginia Public Guardianship and Conservatorship Advisory Board and in response to all significant regulations, policies, or legislation.

## Focus Area 2: Right to Timely Discharge from State Facilities

1. Inform patients and residents of their rights by conducting quarterly clinics on discharge rights and the human rights complaint system at each DBHDS-operated institution.

2. Represent two (2) individuals who are clinically ready for discharge from the Pathways Program at Southwestern Virginia Training Center to ensure that length of stay does not exceed 90 days.
3. Represent three (3) individuals to be able to use an auxiliary grant on discharge to a residence other than an Assisted Living Facility.
4. Represent five (5) residents of DBHDS-operated ICFs/MR to receive active treatment and any assistive technology necessary to support community integration and discharge.
5. Represent two (2) individuals at each DBHDS-operated institution who have been identified as ready for discharge to ensure timely and appropriate transition planning and discharge.
6. From patterns identified in 4, 5, and 7 above, evaluate whether DBHDS-operated institutions and Community Services Boards adhere to the Discharge Protocols. Obtain corrective action as appropriate.
7. Represent all residents of Southeastern Virginia Training Center who are ready for and do not object to discharge.
8. Inform policymakers about the Americans with Disabilities Act's (ADA) Integration Mandate in all significant proposed regulations, policies, or legislation.
9. Inform policymakers about legal rights to choice, independence, and integration in all significant proposed regulations, policies, or legislation that we learn of through the Systems Transformation Grant, the Partnership for People with Disabilities, the Mental Health Planning Council, the Coalition for Virginians with Mental Disabilities, the Commission on Mental Health Law Reform and the Virginia Board for People with Disabilities.

### Focus Area 3: Due Process Protections Relative to Conditional Release for Individuals found NGRI

1. Represent five (5) Not Guilty by Reason of Insanity (NGRI) acquittees committed to the custody of the Commissioner, DBHDS, whose circumstances present potential due process violations.
2. From cases above, evaluate whether DBHDS policies and practices serve to limit due process protections afforded to NGRI acquittees.

#### Focus Area 4: Equal Access to Public Accommodations under the ADA

1. Develop a presentation and provide to three (3) consumer groups regarding accessibility to movie theatres under the ADA.
2. Represent two (2) clients who have been denied equal access to the film of their choice due to lack of accommodations under the ADA.
3. Investigate one (1) movie theatre chain regarding accessibility under the ADA, to include the use of technology to make movies more accessible to people with auditory disabilities. Obtain corrective action where such accommodations are not available or are provided in a manner that significantly limits access for people with auditory disabilities.
4. Obtain corrective actions against not more than three (3) restaurants identified in FY2009 objectives who do not meet the accessibility requirements of the ADA.

#### **Goal 5: People with Disabilities are Employed to their Maximum Potential**

##### Focus Area 1: Barriers to Work for Social Security Beneficiaries

1. Provide training to at least five (5) groups of fifty (50) Department of Social Services employees, foster care providers, and foster care advocates on the rights of children in their custody to live independent adult lives and to gain access to state and federal programs to enter the workforce.
2. Decrease the amount of social security beneficiaries with disabilities who are assessed overpayments by developing a training on how to avoid overpayments. Present training to three (3) groups of at least twenty (20) people, including job coaches and community services boards employees.
3. Represent five (5) people, through technical assistance or short term assistance, who have had, or are at risk of having, their social security benefits reduced or discontinued due to alleged overpayment or because the Social Security Administration did not approve their Impairment Related Work Expenses.
4. Represent up to five (5) people through the administrative process who had their social security benefits reduced or discontinued due to the alleged overpayment or because the Social Security Administration did not approve their Impairment Related Work Expenses.

5. Review all work-related complaints of improper or inadequate services provided to a beneficiary of social security with a disability, about a service provider, employer or other entity. Provide information and referral, technical assistance or legal representation as appropriate.
6. Contingent on funding, investigate organizational Representative Payees as directed by the Social Security Administration to determine if Social Security payments are properly received and expended for the benefit of the intended beneficiaries.

#### Focus Area 2: Maximized Employment for Vocational Rehabilitation Clients

1. By November 1, 2009, identify a Department of Rehabilitative Services (DRS) Region, based upon public comment and experience, develop a training program on a person's right to receive appropriate Vocational Rehabilitation services and present to three (3) groups of at least fifteen (15) people in that region.
2. Represent ten (10) people with disabilities in the region to receive appropriate Vocational Rehabilitation services.
3. Prepare trend analysis to determine if there are systemic problems in the Region concerning the evaluation for and provision of Vocational Rehabilitation services. Obtain corrective action as appropriate.
4. Represent thirty-five (35) people, including at least five (5) with serious mental illness, who have disputes with the Department of Rehabilitation Services over eligibility for services or maximized employment.
5. Represent up to five (5) people from objectives 2 and 4 above in Fair Hearings.
6. Increase DRS' compliance with state and federal laws and their own policy by reporting all violations to the Commissioner and preparing trend analysis to determine whether DRS systemically violates any laws or policy. Obtain corrective action as appropriate.
7. By June 1, 2010, investigate whether DRS provides appropriate Trial Work Experience, as required by state and federal law, before determining that an applicant for services cannot benefit from Vocational Rehabilitation services. Obtain corrective action as appropriate.

#### Focus Area 3: Employment Rights under the ADA

1. Provide ten (10) trainings on employment rights to consumers and community based advocacy groups, to include consumers at state and private rehabilitation centers.

2. Represent five (5) individuals who have been denied reasonable accommodations in employment under the ADA through mediation or the use of administrative remedies.
3. Inform Assisted Living Facility (ALF) residents about their employment rights through ten (10) annual visits to ALFs or other community facilities ALF residents regularly attend.

## **Goal 6: People with Disabilities have Equal Access to Appropriate and Necessary Healthcare**

### Focus Area 1: Assistive Technology through Insurance

1. Develop a series of fact sheets on assistive technology covering waiver programs, Workers Compensation claims, Private Disability Insurance, group health insurance coverage, Medicaid and Medicare. Post fact sheets, with relevant links, on the VOPA website.
2. Represent five (5) clients denied assistive technology authorized through Medicaid or other insurance, or for whom authorization was denied.
3. Identify whether there are sufficient numbers of providers of AT and environmental modification services. Obtain corrective action from DMAS as appropriate.

### Focus Area 2: Denial of Needed and Appropriate Medicaid Services

1. Develop a training program on the right to receive Medicaid services under a Waiver Program or Early Periodic Screening, Diagnosis, and Treatment (EPSDT). Present to three (3) groups of at least fifteen (15) people.
2. Develop a publication for Medicaid Waiver case managers about the right of children in Waiver Programs to receive services under EPSDT when they are denied services under a Waiver. Send to all Case Managers in Virginia.
3. Represent five (5) individuals denied needed and appropriate Medicaid services under a Waiver program. Priority will be given to people denied assistive technology or environmental modifications.
4. Represent five (5) children denied needed and appropriate Medicaid services under the EPSDT program.
5. By October 1, 2010, evaluate whether the Department of Medical Assistance Services and its contractor Logisticare provide appropriate Medicaid transportation to recipients with disabilities.

### Focus Area 3: Accessibility of medical offices and clinics under the ADA and Rehabilitation Acts

1. Provide training at five (5) medical offices, clinics, or healthcare organizations on ADA accessibility requirements in medical settings, including physical barriers and effective communication issues.
2. Provide training to three (3) community based advocacy or consumer groups on ADA accessibility requirements in medical settings, including physical barriers and effective communication issues.
3. Develop educational materials on ADA accessibility requirements in medical settings and distribute to health care professionals through at least three (3) private or public professional organizations or publications.
4. Represent five (5) individuals with disabilities regarding physical barriers or denial of effective communication, in violation of the ADA, that impede access to health care facilities and services provided by medical offices and clinics.
5. Coordinate with consumer advocacy or support groups to identify three (3) medical clinics and doctor's offices that have issues of non-compliance. Obtain corrective action as appropriate.

### Focus Area 4: Dental Care for Individuals with Developmental Disabilities

Represent two (2) individuals at each of the five (5) DBHDS-operated ICFs/MR to receive dental care.

Based on cases above, evaluate whether dental care is provided for residents of DBHDS-operated ICFs/MR in accordance with federal regulations. Obtain corrective action as appropriate.

Evaluate implementation of the "Integrated Dental Service Initiative" at Northern Virginia Training Center (NVTC) to determine whether it improves access to dental care for individuals with developmental disabilities. Publish the results of the investigation.