HAWAII DISABILITY RIGHTS CENTER

Hawaii’s Protection and Advocacy System for People with Disabilities
Hawaii’s Client Assistance Program

OUR CENTER
OUR SERVICES

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I. INTRODUCTION

A. HISTORY AND MISSION

The Hawaii Disability Rights Center (HDRC) is Hawaii's designated Protection and Advocacy (P&A) system for people with disabilities and designated Client Assistance Program (CAP). HDRC was established as a non-profit corporation, dba Protection and Advocacy Agency of Hawaii in 1977 to protect and advocate for the human, civil and legal rights of people with disabilities:

- **Human Rights** are those natural rights that are accorded to all human beings. They are clearly stated in the U.S. Constitution as the right to life, liberty and the pursuit of happiness.

- **Civil Rights** are an expansion of basic human rights and are specified in the U.S. Constitution, the Bill of Rights and the Hawaii State Constitution. They include the rights to: freedom of religion, speech, press, assembly, equal protection under the law, privacy and confidentiality.

- **Legal Rights** are an expansion of our human and civil rights as established by specific laws, such as those laws which authorize protection and advocacy for people with disabilities.

B. FEDERAL MANDATES

THE PROTECTION AND ADVOCACY (P&A) SYSTEM for people with disabilities is mandated in seven separate federal laws:

- **Protection and Advocacy for Individuals with Developmental Disabilities (PADD)** is authorized in the Developmental Disabilities Assistance and Bill of Rights Act, 42 USC 15001.

- **Protection and Advocacy for Individuals with Mental Illness (PAIMI)** is authorized in the Protection and Advocacy for Mentally Ill Individuals Act, 42 USC 10801.

- **Protection and Advocacy for Individual Rights (PAIR)** is authorized in the Rehabilitation Act, 29 USC 794e.

- **Protection and Advocacy for [Individuals in Need of] Assistive Technology (PAAT)** is authorized in the Assistive Technology Act, 29 USC 3011, 3012.
• **Protection and Advocacy for Beneficiaries with Representative Payees (PABRP)** is authorized by the Strengthening Protections for Social Security Beneficiaries Act of 2018 (SPSSB), 42 U.S.C. 405(j)(6).

• **Protection and Advocacy for Beneficiaries of Social Security (PABSS)** is authorized in the Ticket to Work and Work Incentives Improvement Act, 42 USC 1320b-20.

• **Protection and Advocacy for Individuals with Traumatic Brain Injury (PATBI)** in the Children's Health Act of 2000, 42 USC 300d-53.


**THE CLIENT ASSISTANCE PROGRAM (CAP)** is nationwide system authorized in the Rehabilitation Act, 29 USC 732 to:

• Inform and advise all applicants and recipients of all available services under the Rehabilitation Act and to help them obtain services;

• Investigate complaints, resolve problems, appeal decisions; or to represent applicants and clients of vocational rehabilitation in legal or other proceedings; and

• Provide information about Title I of the ADA.

**C. STATE MANDATE**

Protection and Advocacy is also authorized in Hawaii Revised Statutes 333F-8.5, and HDRC is designated by Executive Orders 77-3, 82-4, 89-2 and 94-06 to provide its important protections for people with disabilities in the State of Hawaii.

**D. COORDINATION AND PARTNERSHIPS**

The Hawaii Disability Rights Center assures that its programs are coordinated through centralized intake, case assignment and supervision, creation of priorities and objectives, public comments, client grievance procedures and a consolidated information system.

HDRC meets regularly with the State Planning Council on Developmental Disabilities (SPCDD) and the University Center for Excellence (UCE) to assure coordination of mandates and activities established in the federal DD Act. HDRC serves on the SPCDD Council and on the UCE Advisory Council. HDRC meets with the Office of the Long Term Care Ombudsman (LTCO) to assure coordination of services.
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E. CONSTITUENTS • PEOPLE WITH DISABILITIES

HDRC serves people with disabilities. Disability is usually defined in terms of functional limitation in the following areas: Capacity for self-care, Mobility, Independent living, Economic self-sufficiency, Learning, Self-direction, or Receptive and expressive language.

The Americans with Disabilities Act (ADA) definition of disability consists of three parts:

- A physical or mental impairment that substantially limits one or more major life activity;
- A record of such impairment(s); or
- The perception of having such impairment.

According to U.S. Census Bureau data the State of Hawaii has about 1,419,000 residents. Federal health and census data conservatively estimates that 15% of the population has a disability; therefore, it is estimated that 210,000 of Hawaii’s citizens have a disability and are potential beneficiaries of HDRC.

F. RESOURCES

HDRC has resources to serve one to two percent (2,100 to 4,200) of the State’s citizens with disabilities a year. HDRC maintains a staff of approximately 20 employees to serve the entire State of Hawaii.
II. SCOPE OF SERVICES

A. RIGHTS ISSUES

HDRC has identified and organized the “universe” of issues in which the Center may protect and advocate for the human, civil and legal rights of people with disabilities, as follows:

1. **Care and Treatment** - the right to receive care and treatment in the most integrated setting appropriate; which is free from abuse and neglect; and which is provided with access to due process, informed consent, confidentiality and privacy.

2. **Citizenship** – the rights to accessible public facilities; to move about freely; to vote; serve on juries; to enter into contracts; to own and dispose of property; and to become naturalized citizens.

3. **Education** – the rights to individualized educational programs and related services; integration into regular classrooms; freedom from discriminatory arrest, suspension, expulsion from school.

4. **Employment** – the rights to freedom from discrimination in hiring, provision of reasonable accommodation, advancement, or termination in competitive, supported, or sheltered employment; the right to assistance resolving problems with VR services.

5. **Freedom of Association** – the rights to form and maintain relationships; to reproduce; to raise children.

6. **Housing** – the rights to freedom from discrimination in obtaining and maintaining housing and to keep companion/service animals in one's home.

7. **Justice** - the right to be considered competent and to conduct one's own affairs, unless determined by a court of law to lack such capacity. Protection of civil rights in commitment and release proceedings, and the right to humane treatment during confinement.

8. **Programs and Services** - the right to accessible programs and services; and to freedom from discrimination in obtaining and maintaining services for which one is legally qualified, such as Assistive Technology, Medicaid, SSI/SSDI, transportation, services for specific disabilities, etc.
B. ADVOCACY OUTCOMES

In all its work, HDRC strives to achieve one of the following broad outcomes to advance the human, civil and legal rights of all people with disabilities:

1. **Freedom from Abuse and Neglect** - People with disabilities are free from acts, or failures to act, which result in their physical, psychological or financial harm or death.

2. **Accessible Communities** - People with disabilities gain access to employment, public facilities, programs and services and transportation as established in the Americans with Disabilities Act.

3. **Freedom from Prejudice, Discrimination and Stigma** – People with disabilities have the right to enjoy the human, civil and legal rights bestowed upon all residents and citizens of the United States without prejudice (negative opinions solely because of their disability); discrimination (negative and unfair treatment solely because of their disability); and stigma (being solely identified on the basis of their disability).

4. **Self Determination** - People with disabilities advocate and make choices for themselves; select, control and evaluate the services they receive; and demonstrate their own competence.

5. **Provision of Information** - People who do not qualify for HDRC services are provided with information about and referral(s) to other sources of assistance so they may continue to pursue resolution of their problem(s).

It is the policy of the HAWAII DISABILITY RIGHTS CENTER to advocate for as many people with disabilities in the State of Hawaii on as wide a range of disability issues as our resources allow;

and to:
Resolve rights violations with the lowest feasible level of intervention;

but, if necessary, to also:
Provide full legal representation to protect the rights of people with disabilities, consistent with authorizing statutes and Center priorities.
### HDRC ADVOCACY GOALS

HDRC Services are Provided to Protect these RIGHTS (1-8), Advocate for these OUTCOMES (A-E) and Achieve these GOALS (1.A – 8.E)

|---------------------|---------------|-------------|--------------|--------------------------|-----------|---------|------------------------|

#### A. FREEDOM FROM ABUSE AND NEGLECT

- People with disabilities who live in 24-hour care and treatment facilities are free from abuse and neglect.
- People with disabilities are not abused or neglected while performing their duties as citizens.
- Children with disabilities are not unlawfully disciplined, suspended or expelled from school.
- People with disabilities are not subject to involuntary sterilization.
- People with disabilities are not abused or neglected in their homes.
- People with disabilities are not abused or neglected by their service providers.

#### B. ACCESSIBLE COMMUNITIES

- Care & treatment facilities are accessible to people with disabilities.
- Public facilities are accessible to people with disabilities.
- Schools are accessible to children with disabilities.
- Freedom of Association is not limited by inaccessible facilities.
- People with disabilities have accessible homes.
- Programs and services are accessible to people with disabilities.

#### C. FREEDOM FROM PREJUDICE, DISCRIMINATION AND STIGMA

- People with disabilities make their own decisions about their care and treatment.
- People with disabilities can vote, serve on juries, and become naturalized citizens.
- Children with disabilities are identified, evaluated, and receive a free and appropriate public education and related services.
- People with disabilities enjoy freedom of movement and choice of activities.
- People with disabilities have the finances, services, technology and transportation they need to live independently.

#### D. SELF DETERMINATION

- People with disabilities have information about and appropriate referrals for care and treatment issues not addressed by HDRC.
- People with disabilities have information about and appropriate referrals for citizenship issues not addressed by HDRC.
- People with disabilities make decisions about their vocational training goals and employment.
- People with disabilities own homes, make decisions about their housing.
- People with disabilities have decisions about their own programs and services.

#### E. PROVISION OF INFORMATION

- People with disabilities have information about and appropriate referrals for care and treatment issues not addressed by HDRC.
- People with disabilities have information about and appropriate referrals for employment issues not addressed by HDRC.
- People with disabilities have information about and appropriate referrals for family issues not addressed by HDRC.
- People with disabilities have information about and appropriate referrals for housing issues not addressed by HDRC.
- People with disabilities have information about and appropriate referrals for justice issues not addressed by HDRC.
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**DISABILITY RIGHTS VIOLATIONS**

HDRC Works to Protect these RIGHTS (1-8), Advocate for these OUTCOMES (A-E) and Resolve these RIGHTS VIOLATIONS (1.A - 8.E)
C. SERVICE PRIORITIES

Priorities are those issues that are given preference in the case screening and selection process. Once each year HDRC holds a public comment period to solicit comments and recommendations from its constituency and the community on those issues which should be priorities for the Center. HDRC client services priorities should be:

- Compatible with our mission and values
- Compatible with our areas of expertise (i.e. problems have legal implications)
- Compatible with our eligibility requirements
- Unmet by other organizations
- Of probable significant impact (Individual and systemic)
- Feasible - cost is within HDRC resources; and
- Consistent with funding requirements

III. ELEMENTS OF ADVOCACY

A. ADVOCACY ACTIVITIES

HDRC engages in the following activities to accomplish its objectives:

1. **Outreach** - Identification of and outreach to un-served and under-served (racial, ethnic, geographic) groups. Service on councils, groups, task forces concerned with disability issues.

2. **Provision of Information** - Provision of information, and referral to other sources of assistance when HDRC is not able to help an applicant.

3. **Education and Training** - Education and training activities for people with disabilities, families, communities, legal professionals and service providers.

4. **Individual Casework** - Provision of advocacy to resolve issues or problems for individuals with disabilities. Individual advocacy includes: Technical Assistance for Self-Advocacy, Short-Term Assistance and Comprehensive Advocacy.

5. **Systemic Casework** - Activities undertaken to implement changes in policies and practices of systems that impact people with disabilities. Systemic advocacy may include planned collaborative activities with other organizations to effect change; advocacy to change legislation and regulations that affect people with disabilities; and legal remedies, such as class action litigation, which effects changes for many people with disabilities.
B. ADVOCACY INTERVENTIONS

HDRC always tries to resolve problems with the lowest feasible level of intervention, such as counseling/professional assistance, investigation, monitoring, mediation, negotiation, arbitration, administrative reviews; and administrative appeals.

However, Congress has directed that protection and advocacy systems should have the capacity to provide full legal representation for its clients, including litigation, if necessary.

C. ADVOCACY PRINCIPLES

HDRC strives to provide services that are:

- Sensitive to the personal dignity, choice and cultural/ethnic diversity of each client;
- Offered with appropriate accommodations;
- Distributed based on the needs of people with disabilities; and
- Consumer driven and consumer responsive.

IV. ADVOCACY ELIGIBILITY AND ASSISTANCE

A. BASIC ELIGIBILITY REQUIREMENTS

1. The individual has a disability, as defined in our CAP or one of our P&A programs; and

2. The individual meets the eligibility criteria as defined in our CAP or P&A programs; and

3. The individual has a problem that has resulted from or is related to the disability; and

4. The individual's problem is within HDRC's current Client Services priorities.
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B. HDRC DOES NOT PROVIDE ASSISTANCE WHEN:

1. The individual does not have a disability, or does not have a disability-related problem.
2. The individual is represented by another attorney or agency.
3. The individual's problem is one commonly accepted by the private bar or by local legal services programs, or the legal expertise is available elsewhere.
4. The individual's problem involves a statutory right to appointed counsel.
5. The problem concerns the interests of service providers or families, guardians, or conservators of persons with disabilities, unless that interest is consistent with the interest of the person with a disability.

C. HDRC ONLY ASSISTS WITH THESE ISSUES IN COMPELLING AND UNIQUE CIRCUMSTANCES:

1. Bankruptcy
2. Consumer protection or products liability
3. Conservatorship or guardianship of the person or property
4. Criminal proceedings
5. Estate planning and wills
6. Family law - adoption, child support, custody, divorce
7. Malpractice
8. Private insurance issues
9. Property disputes
10. Tax issues
11. Tort-Personal Injury – Money Damages
12. Workers compensation or ERISA

D. THESE QUESTIONS HELP HDRC EVALUATE REQUESTS FOR ASSISTANCE:

1. Is the individual able to advocate for the resolution of his/her own problem?
2. Are there other advocacy resources available to this individual?
3. How immediate, severe and long-lasting are the effects of the problem on the individual?
4. How complex is the individual's problem or the bureaucracy or service delivery system causing the problem?
5. Does the individual have a claim backed up with strong legal grounds or other evidence?
6. Does this claim have the potential to impact the legal rights of other people with disabilities?
7. Does this claim have a good possibility of satisfactory resolution through HDRC intervention?
8. Does HDRC staff have the expertise necessary to resolve this problem?
9. Does HDRC have adequate staff and resources to accept this case without negatively affecting existing clients?
HDRC SERVICES:

- No Income Requirements
- No Forms to Complete
- Always Free

TO REQUEST ASSISTANCE:

Visit Our Office ▪ Call Us ▪ Visit Our Website

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