



RIGHTS REPORTER

protecting and promoting the rights of kentuckians with disabilities

Spring 2016

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874K Rally

On February 2, 2016, over 800 individuals gathered for the annual 874K Coalition Rally at the Frankfort Capitol Annex and Rotunda. The purpose of the event is to provide an opportunity for individuals with disabilities and their families to educate policy-makers about the investments in Kentuckians with disabilities, the return on investments, and the unmet needs. Kentucky P&A PADD and PAC Advisory bodies met with legislators prior to the rally. Governor Bevin and many state Representatives and Senators attended the event.



Governor Bevin taking a selfie with the 874k crowd.



Representative Mike Denham with PADD Advisory member Mike Smith.



PAC Advisory members with Representative Diane St. Onge.

Top right, Governor Bevin with PADD members Kelly Knoop and Karen Ricci; Right middle, Senator Julie Raque Adams with PAC Advisory members; Bottom right, Will Bently, P&A special advisor on children's issues.





March 5th: Republican Caucus by Beth Metzger

On Saturday, March 5 Kentucky will have its first ever Republican Presidential Caucus. This is a time in which Republicans statewide will be able to choose who they believe is the best candidate from their party to hold our nation's highest office.

A caucus is different from the regular Primary Election held in May. What makes the Kentucky caucus different than a primary election?

1. It is completely organized and paid for by the political party having it. No state or federal funds may be used.
2. Only registered Republicans are allowed to cast ballots.
3. It is held on a Saturday from 10:00 a.m. to 4:00 p.m. local time as opposed to a Tuesday from 6 a.m. to 6 p.m.
4. The Secretary of State's office, State Board of Elections, and county clerks do not have anything to do with it.
5. Voters will only be casting ballots for one office as opposed to several offices at once in an election.
6. Each county will not have its own caucus site. Some counties have been combined.
7. Where the caucuses take place may be regular polling places but they don't have to be.
8. Outside of the actual voting area there will be representatives for each candidate on hand to talk with voters about the candidates' stances and answer questions.

Although the caucus is different from other elections, it still has to be accessible to everyone. This means voters should be able to:

1. Have an unobstructed path of travel from the parking area to the caucus area
2. Get inside of the caucus area with no or little assistance
3. Be able to move about the caucus area with ease
4. Have information communicated to them in a way they can understand
5. Have assistance with casting ballots, if requested



Legislative Update

The 2016 Regular Legislative Sessions began on January 5th and is expected to end April 12th. We are following some of the bills that may impact the lives of individuals with disabilities. You can follow these bills by checking out the link below:

http://www.kypa.net/Current_Events.html



We've Moved, Again

- Protection & Advocacy moved into it's new home on January 4, 2016.
- The new 43,000 square foot Department of Public Advocacy building includes the Office of the Public Advocate, Trial Services Division, Post Trial Services Division Law Operations Division, and the Protection & Advocacy Division.
- The offices are all on the ground level - No elevators. Yippee!

The new address is:

**5 Mill Creek Park
Frankfort, KY 40601**

Our phone numbers are the same:

502-564-2967

1-800-372-2988

Our Fax number is new:

502-695-6764

Our web site is still:

www.kypa.net





Staff Spotlight: Darnell Del Sonto by Rebekah Cotton

This year P&A congratulates Darnell Del Santo as she passes the baton to those of us who have been blessed to walk alongside her. What I learned in interviewing this veteran of Disability Rights Advocacy is that each of us has a story which is one part of a bigger story. Darnell first worked closely with individuals with intellectual disabilities in 1979 at Therapeutic Recreation and later for a Sheltered Workshop and then as a supervisor of case managers. Before coming to P&A in 1994, she was a state guardianship agent for 500+ persons with intellectual disabilities for two years. As a state guardian, Darnell helped one individual with a serious intellectual disability who had been placed into 200 + different foster care settings to receive appropriate services. Understanding what services were necessary, resulted in this person being able to remain in the same home for over 20 years with stability.



At P&A Darnell was an eye witness and hands on participant in the transformation of the system of care in Kentucky for hundreds of persons with intellectual disabilities who were warehoused at the state psychiatric hospitals. During this time, P&A staff were on the ground floor advocating for individuals during transition planning and implementation. Darnell participated personally in numerous transitions of individuals with an intellectual disability to community based residential services. Today, community residential services are the norm and institutional care the rarity for individuals with an intellectual disability. Darnell's story provides encouragement to advocates who have not witnessed systemic change of this nature and who long for improvement in the provision of community based services.

Darnell witnessed systemic change but she also witnessed individual lives transformed through her direct client advocacy for over two decades. Darnell never lost sight of individuals and the importance of meeting with clients face to face wherever they found themselves. She tells about the four year old African American girl who had a serious intellectual disability who she discovered living in a nursing home in Covington, KY. The grandmother was wholly unaware of the services and supports which might be available and was uncertain of who to trust. Darnell earned her trust and helped her to navigate the system, assisting this child with transition to a residential service provider and eventually to a foster home where she became a part of a family in the community. Even today, there are families who remain unaware of services which are available while their loved ones remain in institutional settings.

While touring a nursing facility, Darnell witnessed a person with a serious intellectual disability who was placed in a bed that was a cage. Darnell advocated for her first by reaching through the cage and touching her hand, then by advocating for services for her. Eventually, with safe planning the woman was let out of the cage and she also even had opportunities to go outside.



Recently, a man for whom Darnell had advocated for over ten years was finally transitioned out of a nursing home and into an independent residence with services and supports. It is never too late to advocate.

Darnell was able to participate in two major deinstitutionalization efforts in her career, the first the transitioning of folks with intellectual disability from psychiatric hospitals to the community and in the last five years the deinstitutionalization of folks with serious mental illness who were warehoused in personal care homes across the state to apartments in the community. Darnell served as the Western State Hospital regional liaison travelling more than anyone in the office to the far reaches of the state to enforce the provisions of the settlement agreement between the Department of Behavioral Health and Kentucky P&A and to personally advocate for clients with serious mental illness she had met in personal care homes. Two men she had met in a personal care home in Western Kentucky were some of the first to transition, Darnell advocated for their transition over many barriers. They have been in the community now for several years and doing well!

Darnell you are a witness to what one person can do to contribute to systemic change. Thank you for your dedication to and belief in persons with disabilities. You leave Kentucky a better place for persons with disabilities and their communities! All the best in your retirement!

Welcome Deb Davidson

by Amy Marlatt

On January 4, P&A welcomed Deb Davidson as the newest advocate for the Adult Team. Deb has a Bachelor of Arts degree in English and a Masters in Social Work from the University of Kentucky. She previously worked with Money Follows the Person program at Medicaid which is under the Department of Community Alternatives.

When asked why she wanted to work for P&A, she said, "I have worked in the field of persons with developmental disabilities for over 20 years and I like the idea of continuing my work of advocacy. I look forward to making an impact on the care system for people with disabilities."

Deb and her husband reside in his childhood home in Frankfort with their cat named Ianto.





CHFS, Protection & Advocacy Extend Agreement Related to Personal Care Homes

The Cabinet for Health and Family Services (CHFS) and Kentucky Protection and Advocacy (P&A), an independent state agency that advocates for the legal rights of persons with disabilities, have extended by two years an agreement reached in 2013 to provide much-needed community supports and services to eligible individuals with serious mental illness (SMI) who reside in or are at risk of residing in a personal care home (PCH).

The agreement calls for CHFS to continue to expand community-based supported housing assistance and services, including assertive community treatment, case management, peer support services, crisis services and supported employment to serve 675 individuals, extending the time frame of the agreement from three years to five, through Oct. 1, 2018. Many individuals who could have received services under the initial agreement have not yet done so.

Under the terms of the initial agreement, services were provided solely by the 14 regional community mental health centers (CMHCs) to individuals within their regions. The new terms will allow CMHCs to serve individuals outside their service area, if it increases access to appropriate housing and services. In addition, other behavioral health providers will now be able to provide services to these individuals.

The agreement acknowledges that CHFS made a regulation change that allows those receiving state supplement dollars and living in personal care homes and those eligible to receive the state supplement to continue to receive and use that money to prevent institutionalization regardless of their living situation. As part of the extended agreement, CHFS will introduce a regulation to make this approach to providing services to individuals with SMI a routine element of the Department for Behavioral Health, Development and Intellectual Disabilities (DBHDID) protocols for those who reside in personal care homes. CHFS and P&A believe that this five-year agreement will allow the cabinet to ensure supports are in place as the regulation expands eligibility for services.

The terms of the agreement avoid litigation on behalf of individuals with SMI served by the state's programs who can receive those services in an integrated community setting. The agreement is based on Title II of the Americans with Disabilities Act (ADA) as interpreted by the United States Supreme Court in the landmark decision in *Olmstead v. L.C.*, which found that it is discrimination to not provide services to persons with disabilities in the most integrated setting.

Personal Care Homes (PCHs) are long-term care facilities that provide care for persons who do not require the intensive medical care normally provided in a hospital or nursing home, but who do require care beyond solely room and board.

These services include basic physical and behavioral health and health-related services, personal care services, residential care services and social and recreational activities. The majority of persons living in these facilities receive state financial assistance to supplement federal dollars to help enable them to live outside of a higher cost facility.

Several agencies within the cabinet play important roles in the agreement, including the (DBHDID), the Department for Community Based Services, the Department for Aging and Independent Living and the Department for Medicaid Services.



New Education Law Passed by Leslie Lederer

The Every Student Succeeds Act – ESSA- is the seventh reauthorization of the landmark civil rights Education and Secondary Education Act that was first passed in 1965. It replaces No Child Left Behind- NCLB- that was implemented in 2002. NCLB was step forward, especially for children with disabilities and other high need students, as it looked at where students were making progress and where they needed additional support. However, NCLB’s many requirements became increasingly unworkable for schools and educators. Educators, parents, and students across the country called for a better law and provided a great deal of input on what they would like to see in a new law. The reauthorization was years in the making but legislators finally hammered out a compromise and passed the bill with bipartisan support. It was signed into law by President Obama in December of 2015.

Some of the Basics of the new bill:

ESSA

- requires that all children will have equity and opportunity and be held to high academic standards that prepares them for success in college and careers.
- balances the roles of the federal ,state and local governments in formulating education policy
- reduces the amount of high stakes testing to allow districts to use other nationally recognized assessments and grow local innovations—including evidence-based and place-based interventions developed by local leaders and educators
- reduces the amount of time students spend taking tests
- makes sure there is accountability and action to effect positive change in the lowest-performing schools, where groups of students are not making progress, and where graduation rates are low over extended periods of time
- ensures that vital information is provided to educators, families, students, and communities through annual statewide assessments that measure students’ progress toward those high standards

In addition for students with disabilities states must:

- be accountable for the performance of students with IEPs on state assessments
- limit the use of alternate assessments designed for students with the most significant cognitive disabilities to 1 percent of all students
- allow students who take such “alternate” assessments to be given “alternate” diplomas, and these diplomas must be counted when calculating a school’s Adjusted Cohort Graduation Rate
- allow students who take alternate assessments to work toward a regular diploma

Next Steps in KY:

With The passage of this new bill the work is just beginning.

- the commissioner of education and his staff will have to look through the bill to see what changes will need to take place in KY
- Senate Bill 1-the Education bill- has included language in it that makes changes from NCLB requirements to ESSA requirements. This bill may be passed in the current legislative session.
- local Districts and their stakeholders will be working to design new ways of assessment and accountability systems

For mor information: <http://www.ed.gov/essa>



Upcoming Events

March 4: 27th Annual Brain Injury Summit, Lexington, Cardinal Hill Rehabilitation Hospital, 2050 Versailles Rd, 7:30am-4:15pm

March 15: Central Kentucky Education Cooperative Transition Fair, Lexington, BCTC - Newtown Campus

March 15 & 16: Victim Assistance Conference, Lexington, Embassy Suites, 1801 Newtown Pike, for more information - <http://ag.ky.gov/family/victims/vac/Pages/default.aspx>

March 17 & 18: The Arc of Kentucky Conference and Parent/Professional Mini Conference, Ramada Plaza, Louisville, KY, Registration information forthcoming, www.arcofky.org

March 21 & 22: Operation Preperation, Kentucky State University, for more information contact Amy.Nance@Franklin.kyschools.us

March 31: Transition Conference, Elizabethtown, Hardin County, Right or No Right presentation with Leslie Lederer

April 30: Special Education Camp, Elizabethtown, free workshop will help you understand the basic rights and protections of Special Education Law with tips and strategies to help you when working with the school as part of the ARC team. Contact the Arc for location and time, www.arcofky.org or 800-281-1272

May 14: Special Education Camp, see April 30 for info

June 3-5: Family Learning Vacation, Kentucky School for the Deaf, for additional information please contact Linda Cannon at 859-936-6722 or linda.cannon@ksd.kyschools.us

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