



Protection & Advocacy Project

400 E. Broadway, Suite 409
Bismarck, ND 58501
701-328-2950
1-800-472-2670
TTY: 711
www.ndpanda.org



**House Appropriations Committee, Human Resource Division
House Bill 1014 - January 14, 2025
Testimony of Veronica Zietz, P&A Executive Director**

Greetings Chairman Nelson and members of the Human Resource Division of the House Appropriations Committee. My name is Veronica Zietz and I'm the Executive Director of the North Dakota Protection and Advocacy Project (P&A). P&A is an independent state agency established in 1977 to assert and advance the rights of people with disabilities. The agency's mission is to champion equality and inclusion for people with disabilities where we live, learn, work and play.

Purpose

US Congress enacted the Developmental Disabilities Assistance and Bill of Rights Act of 1975, which recognized that a federally directed system of legal advocacy was necessary to ensure the humane care, treatment, habilitation, and protection of individuals with disabilities. Every US state and territory is federally mandated to have a protection and advocacy agency. P&A's role and authority is further cemented in NDCC § 25-01.3, which recognizes P&A's authority to provide advocacy and protective services for persons with disabilities. Century code sections provide detail on definitions; the governing board; administrative authority; reporting of abuse, neglect, or exploitation; authority; access; investigations; conflicts of interest; confidentiality; refusal of services; and penalties. Accompanying rules are detailed in NDAC Title 65.5 and are specific to the organization of the governing board, definitions, access to records, authority of P&A, grievance procedures, and public inquiries. P&A also follows federal laws and regulations applicable to federal grants.

Services

P&A provides free services to individuals with disabilities. Services include:

- **Protective Services:** P&A receives and investigates reports of abuse, neglect, and exploitation (ANE). Additionally, P&A conducts monitoring to ensure quality assurance and compliance with state/federal laws, regulations, and standards.
- **Assistance with Self-Advocacy:** P&A helps individuals develop advocacy skills, which empower them to advocate for themselves on disability rights issues.
- **Advocacy & Legal Services:** P&A provides Advocates and Attorneys to represent eligible individuals with disabilities whose rights have been violated.

- Information & Referral: P&A staff provide information and answer questions about disability-related issues. Additionally, P&A connects individuals with organizations that can provide assistance.
- Education & Training: P&A provides presentations on disability-related issues.
- Collaboration, Systems & Legislative Advocacy: P&A works to realize positive change in the systems, regulations, and laws that impact individuals with disabilities.

Accomplishments

During Federal Fiscal Years (FFY) 2023 and 2024, P&A provided case level services, including advocacy, legal representation, and protective services to 1,771 clients (863 in FFY 2023 and 908 in FFY 2024). The previous two years totaled 1,668. In FFY 2023 and 2024, 99% of cases were resolved completely or partially in the client's favor.

Over the last two federal fiscal years, P&A completed 6,126 information and referral requests (2,819 in FFY 2023 and 3,307 in FFY 2024). P&A's information and referral volume is 9% higher than the prior biennium.

In FFY 2023 and 2024 P&A provided education and training that impacted 17,266 individuals (6,843 in FFY 2023 and 10,423 in FFY 2024) across all programs. The most popular training topics during this period included voting rights; abuse, neglect, exploitation, and mandatory reporting; investigations; P&A services; client rights; employment; and education.

Additionally, P&A collaborates with partners on various projects, educates policymakers, and engages in systemic work to improve the lives of people with disabilities.

P&A establishes focus areas that guide the agency's work and use of limited resources. This process includes various mechanisms for gathering public comment. Public comment data from 2024, found that of individuals surveyed, 94% agreed that P&A's work is beneficial to people with disabilities. Further public comment data identified that:

- 83% of respondents identified abuse, neglect, and exploitation as a priority.
- 79% of respondents identified inclusion (community services/supports, deinstitutionalization) as a priority.
- 69% of respondents identified education as a priority.
- 41% of respondents identified criminal/juvenile justice as a priority.
- 39% of respondents identified employment as a priority.
- 37% of respondents identified assistive technology as a priority.
- 9% of respondents identified voting as a priority.

P&A actively worked 2,390 cases during FFY 2023 - 2024. Protective services which involves investigations of abuse, neglect, and exploitation (ANE) made up 63% of P&A's case work. In these cases, P&A conducts objective investigations or reviews investigations completed by providers to address alleged incidents of abuse, neglect, and exploitation. P&A addresses issues identified to ensure the safety of involved individuals and to improve the quality of services. Advocacy case work, which is focused on asserting the rights of clients, made up 37% of P&A's case work. Within these cases, P&A ensures client rights are fully protected and that issues are appropriately resolved. Note state and federal law requires P&A to resolve issues at the lowest possible level. Cases numbers specific to priority areas are detailed below. Please see page 10 for case examples.

FFY 23 - 24 Cases By Focus Area		
Focus Area	# of Cases	% of Cases
Protective Services	1,503	63%
Inclusion	251	11%
Education	411	17%
Health Care	9	0%
Employment	107	4%
Assistive Technology	37	2%
Criminal/Juvenile Justice	63	3%
Other	9	0%
Total	2,390	100%

Staffing & Operations

P&A is designated 28.5 FTEs by the Legislature. There were no additional FTEs allocated to the agency by the 2023 Legislative Assembly; allocated FTEs have been at base level since the 2017 - 2019 biennium when P&A received one additional FTE moving it to the current 28.5 FTE. Staff includes one executive director position, five director positions, 17.5 disability advocates, two staff attorneys, one Olmstead Coordinator, and two administrative staff. Please see organizational chart on page 9.

P&A has experienced turnover during the current biennium with 11 vacancies to date. Vacancies were due to retirement (1), internal promotion (2), and left for other employment (8). Of employees leaving P&A to take other positions the reasons cited included higher pay, career advancement, and work-life balance. From July 2023 - June 2024 turnover was at 32% and from July 2024 to date turnover is at 11%. Average time to fill positions was approximately 3 months.

The 68th Legislative Assembly removed \$72,725 from P&A's 2023 - 2025 appropriation bill for the FTE funding pool (FTE pool) and of that amount added just \$50,908 to the FTE pool. To date P&A has not requested funds from the FTE pool; however, it is anticipated that a request will be made for the full

amount available to the agency this spring. The FTE pool has not resulted in agency savings; as of November 2024, costs associated with vacancies amounted to \$192,964. Vacancy related costs included accrued leave payouts, salary increases, funding for temps, and overtime. Vacancies cost the agency money, and underfunding the agency via the FTE pool has not resulted in cost savings to the agency or state.

Goals & Challenges

P&A's is committed to increasing awareness of the agency's purposes and services, improving quality and timeliness of services, amplifying collaboration with partners, strengthening staff engagement, and enhancing operational efficiencies. Barriers to achieving these goals include lack of staff, funding, and loss of institutional knowledge.

Grants & Contracts

P&A is funded by a combination of federal grants, contracts, and state general funds. Federal grants and service contracts generally follow the federal fiscal year, which runs October - September, with one exception, the Rep Payee grant which runs from August - July. These sources of funding run on a reimbursement basis, meaning P&A performs services and incurs costs upfront and cannot access funds until after services are rendered. North Dakota is a minimum allotment state for federal grants, which have essentially been level funded for years. P&A does not anticipate receiving any additional federal or state fiscal relief funds in the next biennium; however, funds for a covid-related federal grant received in 2021 are expected to be depleted by September 2025. A detailed listing of federal grants and contracts are as follows:

- P&A for Developmental Disabilities (DD) - Funding from the U.S. Department of Health & Human Services (HHS) to provide protective and advocacy services to individuals with intellectual and developmental disabilities.
- P&A for Mental Health (MH) - Funding from HHS to provide protective and advocacy services to individuals with mental health disabilities.
- P&A for Assistive Technology (AT) - Funding from HHS to assist individuals with disabilities in accessing AT devices and services.
- P&A for Voting Access (PAVA) - Funding from HHS to ensure full participation in the electoral process for individuals with disabilities.
- P&A for Traumatic Brain Injury (TBI) - Funding from HHS to provide protective and advocacy services to individuals with brain injury.
- P&A for Individual Rights (PAIR) - Funding from the U.S. Department of Education to provide protective and advocacy services for individuals not eligible for DD or MH programs.
- P&A for Beneficiaries of Social Security (PABSS) - Funding from the Social Security Administration (SSA) to provide services to SSDI and SSI beneficiaries to promote employment.
- P&A for Beneficiaries with Representative Payees (Rep Payee) - Funding from the SSA to

conduct reviews of individuals and organizations serving as representative payees.

- Client Assistance Program (CAP) Contract - P&A receives a contract from the ND Department of Health and Human Services Vocational Rehabilitation Section (VR) to assist individuals with disabilities who are experiencing challenges with federally funded rehabilitation programs such as VR, Tribal VR, or Centers for Independent Living. VR is the designated agency for the CAP program; however, they contract with P&A to provide the required services in ND.
- ND Department of Health and Human Services Developmental Disabilities Section (DD) Contract - P&A receives a contract from DD to independently screen mandated reports of serious events impacting individuals with developmental disabilities. This is an activity required and funded by the Center for Medicare & Medicaid Services (CMS). These funds require 100% match with State General Funds. Examples of serious events include death, broken bones, and sexual assault.

2023 - 2025 Biennium

The 68th Legislature appropriated \$4,266,541 in federal funds (56% of budget) and \$3,323,370 in State General Funds (44% of budget) for a grand total of \$7,589,911 with level staffing at 28.5 FTEs. There were no agency initiated one-time funding requests for the current biennium; however, P&A was allocated \$171,778 for target market equity and \$29,581 for changes related to employee retirement benefits.

As of November 30, 2024 (71% of biennium), P&A has spent approximately 68% of its State General Funds. P&A expects to expend all State Funds by the close of the current biennium. While the 68th Legislature appropriated P&A with \$4,266,541 in federal funds, actual federal funds received amounted to \$3,537,730; this is 17% lower than the 68th Legislature's projected income. As of November 30, 2024 (71% of biennium) P&A has spent approximately 76% of its actual federal funds. Note any unspent federal funds from the current biennium may be carried over to the next biennium.

Audit Findings

P&A was audited by the ND Office of the State Auditor in 2023 for the two-year period ending June 30, 2022. The audit did not identify any areas of concern.

2025 - 2027 Biennium

	Base Level HB 1014	25-27 P&A Request	25-27 Gov. Burgum Budget
Federal Funds	4,359,417	4,451,483	4,820,434
State General Funds	3,431,853	4,017,283	3,891,940
Total	7,791,270	8,468,766	8,712,374
FTE	28.5	30.5	29.5

Base Level Budget

P&A's 2025 - 2027 base level budget of \$7,791,270 consists of 44% State General Funds and 56% federal funds. P&A's base level budget is approximately 23% operating and 77% salaries/benefits.

P&A Requests

P&A made three new budget requests for the 2025 - 2027 biennium: 1) \$19,288 for retirement payouts, 2) \$237,878 for a communications specialist (1 FTE), and 3) \$237,878 for a workforce technology program coordinator (1 FTE).

First, P&A requests funds to assist with retirement payouts. During the 25 - 27 biennium 5 FTEs will reach the rule of 85. This is nearly 20% of P&A's staff. Long-term staff are eligible for substantial retirement payouts for accrued vacation and sick leave. These payouts are a hardship for the agency, as the position must remain vacant for an extensive period in order to re-coup payout funds before the agency has the resources to hire and fill the positions. These vacancies also jeopardize P&A's ability to provide timely quality services and are burdensome for existing staff who see their workloads increase. Funds requested are estimated to cover the expense associated with one retirement. This request was supported in Governor Burgum's budget recommendation.

Second, P&A requests an additional FTE for the position of communication specialist. Disability is prevalent, with [1 in 4](#) or 25% of the population having a disability; this means that people with disabilities are the largest minority population in North Dakota. Many people with disabilities are not connected to services and resources and therefore are unaware of P&A and how we can help them. This position will increase awareness of P&A's purpose and services. This will allow individuals to seek assistance from the agency at the first point of need and access resources to advocate for themselves. This will allow P&A to move the provision of services from a reactive to a proactive stance. This FTE will help the agency optimize the use of resources, enhance government transparency, and improve access to services. This request was not included in Governor Burgum's budget recommendation.

Lastly, P&A requests an additional FTE to serve in the role of program coordinator. P&A received one-time covid funds last biennium to conduct a project focused on addressing the workforce shortage related to services provided to individuals with disabilities; in response P&A created the Workforce and Technology Project. P&A hired a coordinator to conduct work related to a pilot project examining the use of innovative assistive technology (AT) solutions to support individuals with disabilities in transitioning from congregate settings to independent living. The pilot is underway with four individuals that have mental health disabilities, developmental disabilities, as well as high medical needs. These individuals are very complex and were being served in settings such as the Life Skills Transition Center, Basic Care, and Intermediate Care Facilities. Goals of the project are to 1) develop novel AT solutions to address client needs, 2) create a platform for managing AT solutions, 3) establish funding streams through Medicaid Waivers and other sources, 4) reduce dependence on workforce, 5) examine benefits

to clients and workforce, and 6) perform cost benefit analysis. This project has been successful with several positive outcomes already realized; however, these positive outcomes could be amplified by continuing the program with the support of a program coordinator; without which the program will end. A failure to support this request will result in people with disabilities continuing to be served in congregate high-cost settings, and continued staffing shortages which will contribute to further erosion of the service delivery system. This request was supported in Governor Burgum's budget recommendation.

Additional Information

P&A does not anticipate a need for any other sections to be added to this appropriation bill. Currently, there are not any other bills being considered by the Legislative Assembly that have a budgetary impact on P&A.

Thank you for your time and consideration.

Respectfully,



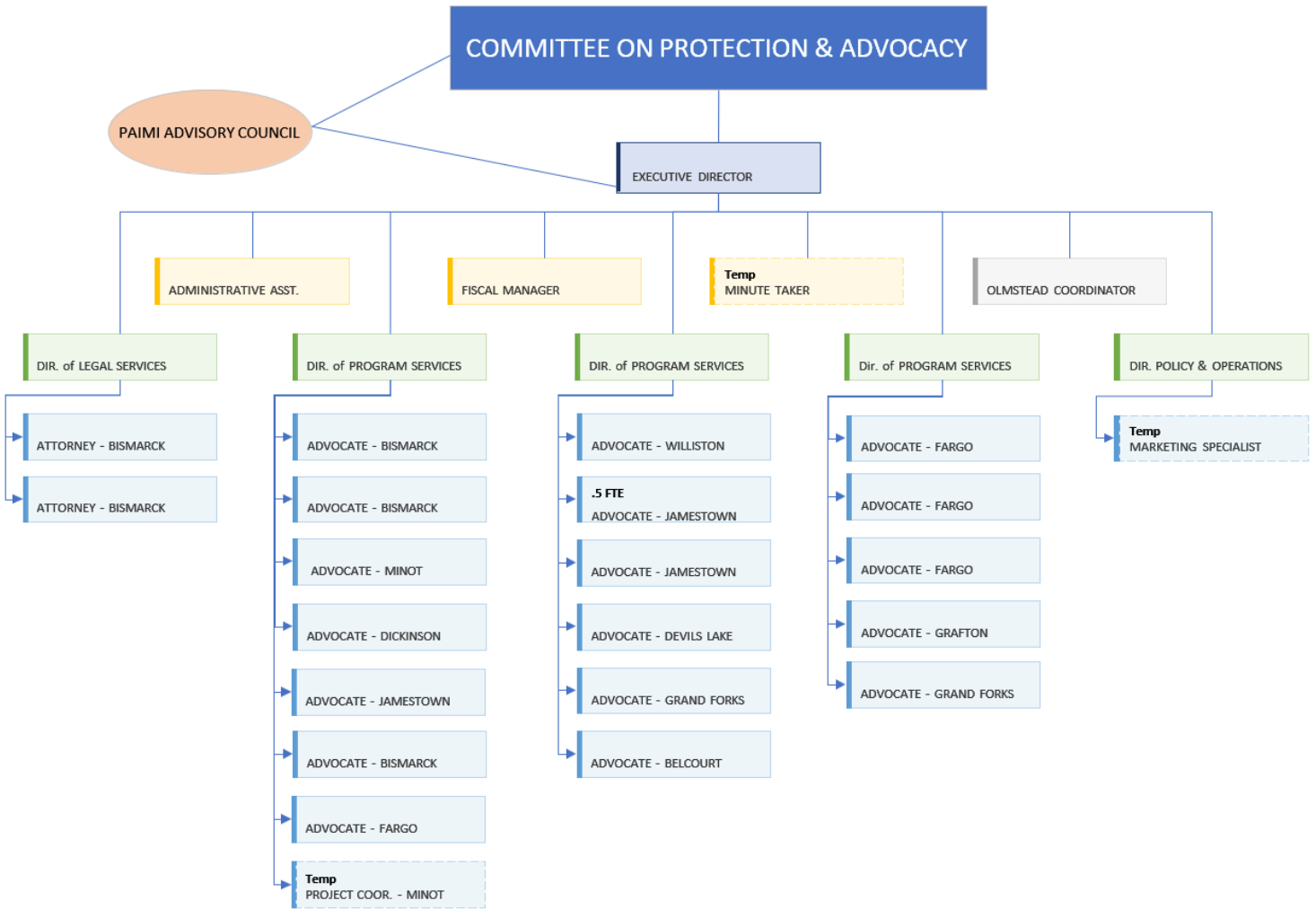
Veronica Zietz
Executive Director Protection & Advocacy Project
vzietz@nd.gov

P&A's Itemized Requests

P&A made three new budget requests for the 2025 - 2027 biennium:

1. \$237,878 for a workforce technology program coordinator (1 FTE). This item was fully supported in the Governor's budget and P&A requests this recommendation be adopted by the legislature.
2. \$19,288 for retirement payouts. This item was fully supported in the Governor's budget and P&A requests this recommendation be accepted by the legislature.
3. \$237,878 for a communications specialist (1 FTE). This item was not included in the Governor's budget; however, P&A requests this item be included in the appropriation.

Protection & Advocacy Organizational Chart



Case Examples

1. Abuse

It was reported to P&A that there was an inadequate response by a facility in relation to a suicide attempt of a person with a disability and that facility staff were being verbally abusive to him. A subsequent report of a second suicide attempt was received soon after this. Through investigation, P&A found evidence to determine that appropriate medical attention was not sought in a timely manner for the first suicide attempt, which resulted in hospitalization. It was found that the facility had not kept the client safe when there was a second suicide attempt. Evidence also confirmed that staff swore at the individual. As a result of P&A involvement, recommendations were made to the facility regarding reporting, documentation, medical care, and training. In response to P&A's investigation the facility developed a procedure to prevent individuals from having access to materials that may cause self-harm. As a result of P&A's involvement, clients will be in this safer environment and receive proper medical care.

2. Neglect

P&A received a report indicating that an individual with a disability was living in a very unkempt home with no running water. P&A investigated and found that the client's living condition was consistent with the report and was contributing to a deterioration of the client's health and care. P&A assisted the client with accessing Medicaid 1915(i) services, including case management, to support him with obtaining housing and finding a new living arrangement. He was also supported with a referral to Vocational Rehabilitation to work towards obtaining employment, so that he could gain skills and abilities to help him live and work more independently in his community. As a result of P&A involvement, the client was able to access a safe and appropriate living environment, while benefiting from services and supports to aid in his independence.

3. Exploitation

P&A was contacted regarding potential exploitation of an individual with a disability who was homeless and didn't have any income. The individual's mother was his appointed guardian and representative payee. The client's mother had informed him that he was not receiving SSDI benefits and that he had no income. P&A conducted an investigation and found that the client's mother had continued to receive his SSDI payments; however, she was co-mingling his SSA benefits with her monies and was not providing for her son's basic needs. After concluding the investigation activities, P&A provided advocacy representation to assist the client with obtaining a new representative payee and with the removal of his mother as his guardian in court. After the investigation, the client secured housing and support through the HCBS aged and disabled waiver, and his representative payee ensured that his bills were paid. As a result of P&A involvement, the client was able to safeguard his income and access appropriate services and housing.

4. Inclusion

At the time of case opening, a person with a disability had been in an institution for over a year. There was no medical or treatment-related reason for remaining at the institution, but she remained there due to no available community placements. The client's wishes were to move to a border state to be closer to her family. P&A worked with the team to support the client in transitioning out of the institution. A provider from out-of-state had discussion with the team and agreed to provide services and supports for the client. The team assisted in getting the client connected with an out-of-state Money Follows the Person program and Blue Cross Blue Shield Expansion to financially fund her transition. As a result of P&A's involvement, the client is presently living in the least restrictive setting, near her family with the proper services and supports to keep her safe and healthy.

5. Assistive Technology

P&A was contacted by the client and his mother, because they were experiencing challenges with ND Medicaid denying coverage for a new wheelchair. The client's wheelchair was over seven years old, was no longer safe, and could not be repaired. When P&A became involved it was found that the durable medical equipment provider had not complied with Medicaid's request to itemize the various supplemental equipment that was submitted with the initial quote, so that a determination could be made on medical necessity. Once this was done, it was discovered that items had been built into the chair that were not medically necessary and would not be approved. P&A was able to work with the client's case manager to obtain funding from the Waiver under the service category of equipment and supplies to cover the cost of the items that ND Medicaid denied. As a result of P&A involvement, all components of the chair were funded, and the client received a chair that fits him and will allow for his independence and involvement in all aspects of his life.

6. Education

P&A was contacted with concerns about a shortened school day for a student with a disability; the student had been on a shortened school day for 2 years and the school wanted to continue this for the coming year in part due to staff shortages at the school. With P&A's help, the school district agreed to have an outside entity provide Applied Behavior Analysis (ABA) therapy to support the behavioral needs of the student. Despite recommendations from the outside entity, the district was unwilling to extend the student's day, which at the time was just over one hour per day. P&A continued to advocate resulting in the outside entity providing more support, along with creating a concrete plan that extended the student's day. As a result of P&A involvement, by the end of the school year the client was attending school all day with his peers and had the necessary supports and services in place to be successful.

7. Employment

P&A was contacted by an individual with a disability due to concerns about employment with a large retail company. He had been employed for a long time performing self-checkout duties. He had concerns about his employment, because he was placed at a regular checkout cash register and had difficulties with this due to his disabilities. P&A assisted the client by contacting his supervisor and assisting with a request for a reasonable accommodation. As a result of P&A's involvement, the client was able to obtain a reasonable accommodation from his employer. The company gained information about reasonable accommodations and the client learned about his rights as an employee with a disability.

8. Criminal Juvenile Justice

A juvenile with a disability was facing legal charges due to the educational system citing him for disability-related behavior. P&A assisted the client with creating an individual justice plan (IJP) to limit further involvement with the justice system. The IJP identified enhanced supports through the Human Service Center and Youthworks, so the client could access academic, social, and emotional support and learning opportunities. In addition, the team was able to amend his Individualized Education Program (IEP) to include a behavior analyst that could further assess the student's behavior. As a result of P&A involvement, the IJP was implemented and the wrap around services were effective in supporting the student with intervention services through the developmental disabilities service delivery system.