



Protection & Advocacy Project

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House Appropriations Committee, Human Resource Division House Bill 1014 - Protection & Advocacy Appropriations Detail

January 22, 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 founded to assert and advance the rights of people with disabilities. The agency's mission is to champion equality and inclusion for people with disabilities in all aspects of life.

Purpose & Authority

Through the Developmental Disabilities Assistance and Bill of Rights Act of 1975, US Congress recognized that a federally directed system of legal advocacy was necessary to ensure the humane care, treatment, habilitation, and protection of individuals with disabilities. This federally mandated system of legal advocacy is the protection and advocacy system, with a presence in each state and territory.

P&A's federal authority was further expanded by the 1986 Protection and Advocacy for Individuals with Mental Illness Act, as amended and Children's Health Act of 2000; 1973 Section 509 of the Rehabilitation Act, as amended; 1994 Technology-Related Assistance for Individuals with Disabilities Act, as amended; 1996 Traumatic Brain Injury Act reauthorized as part of the Children's Health Act of 2000; 1999 Section 1150 of the Social Security Act, added by the Ticket to Work and Work Incentives Improvement Act; 2002 Help America Vote Act; 2018 Strengthening Protections for Social Security Beneficiaries Act; and the Rehabilitation Act, as amended.

P&A's role and authority is further defined in NDCC 25-01.3 and NDAC 65.5 which recognizes P&A's purpose and authority to provide advocacy and protective services for individuals with disabilities.

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 resources.

Services

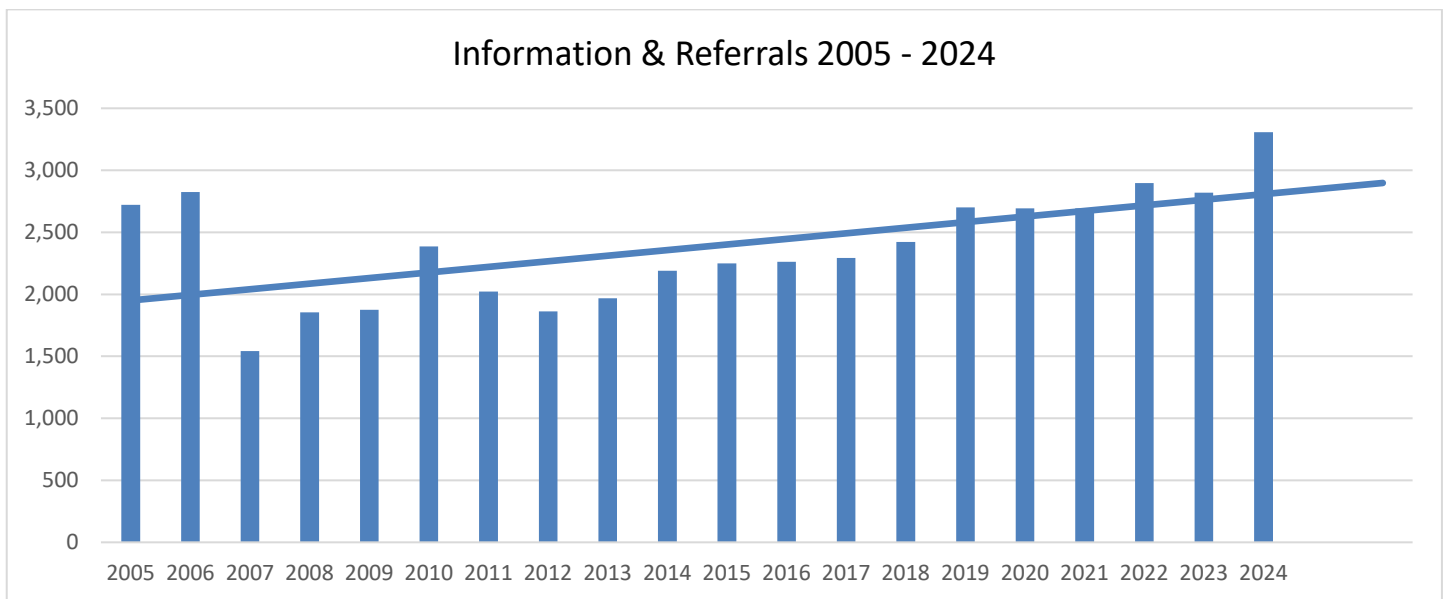
P&A provides free services to eligible individuals with disabilities across North Dakota.

- Information & Referral
- Training & Education
- Monitoring
- Investigations
- Self-Advocacy Assistance
- Advocacy & Legal Representation
- Collaboration
- Systems & Legislative Advocacy

Information & Referral (I&R)

P&A staff respond to individuals seeking help by providing information, answering questions, and connecting individuals with other organizations that can provide assistance. 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.

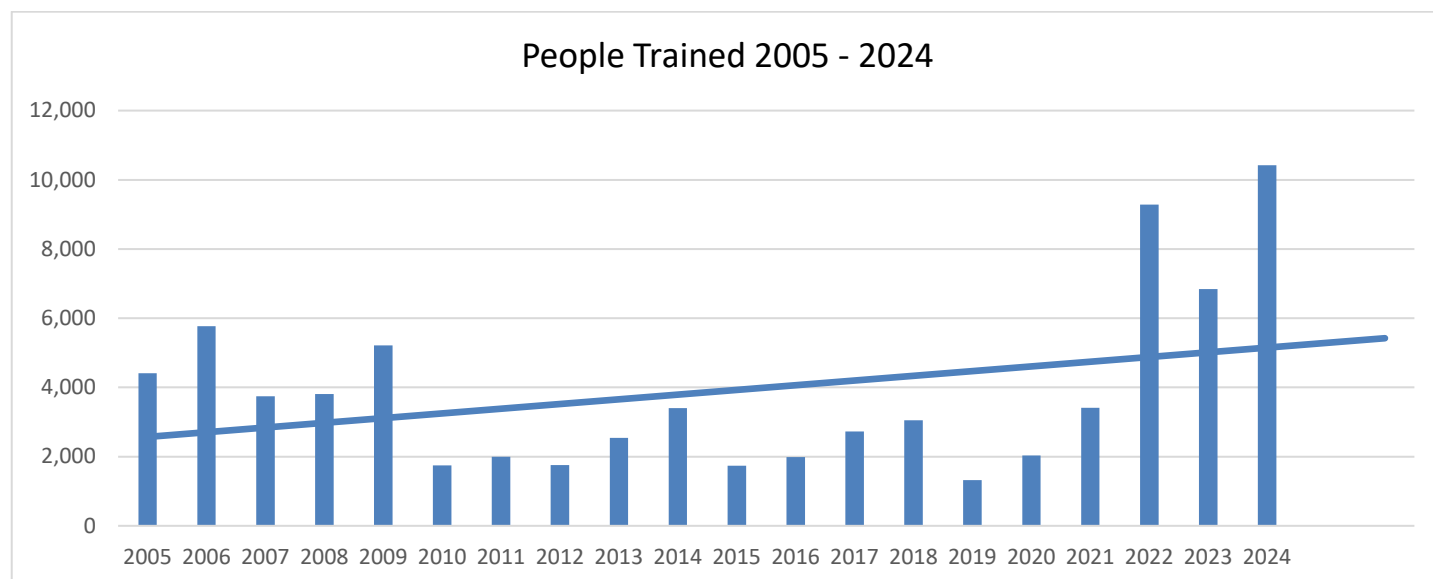
P&A provided an average of 2,125 I&Rs each year from 2005 - 2014, compared to an average of 2,634 I&Rs per year from 2015 - 2024. This equates to growth of 24% when comparing averages for these periods. In the past 20 years, P&A’s I&Rs were at their lowest with 1,541 (2007) and at their highest at 3,307 (2024) equating to growth of 115%.



Training & Education

P&A provides education and training on disability-related issues. 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.

P&A trained an average of 3,438 individuals per year from 2005 - 2014, compared to an average of 4,282 individuals per year from 2015 - 2024; this equates to growth of 25% when comparing averages for these periods. In the past 20 years P&A's training numbers have moved from 4,406 (2005) to 10,423 (2024) equating to growth of 137%.



Protective Services

P&A receives and investigates reports of abuse, neglect, and exploitation (ANE). Abuse, neglect, and exploitation are defined in NDCC 25-01.3-01. Abuse can include verbal abuse, acts that cause injury or death, sexual assault, corporal punishment, use of excessive force in the placement of restraints, and more. Investigations of abuse, neglect, and exploitation (ANE) made up 63% of P&A's case work during FFY 2023 - FFY 2024. 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. P&A also conducts reviews of representative payees and monitoring of providers/facilities to ensure quality assurance and compliance with regulations, and standards; note reviews and monitorings are not included in case work numbers.

Abuse Investigation: 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 cursed 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, individuals in this facility will be safer and receive proper medical care.

Neglect Investigation: 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. 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 to help him live and work more independently. 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 his independence.

Exploitation Investigation: 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 told him that he was not receiving SSDI benefits, and he didn't have any income. P&A investigated and found that the client's mother had continued to receive his SSDI payments; however, she was not providing for her son's basic needs. After concluding the investigation activities, P&A helped 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.

Advocacy Services

P&A provides a spectrum of individual advocacy services based on each client's need. P&A provides self-advocacy assistance to help individuals develop skills to advocate for themselves. P&A also provide advocacy representation and legal services where P&A represents individuals with disabilities whose rights have been violated. During FFYs 2023 - 2024 advocacy case work made up 37% of P&A's case work. 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.

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.

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.

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.

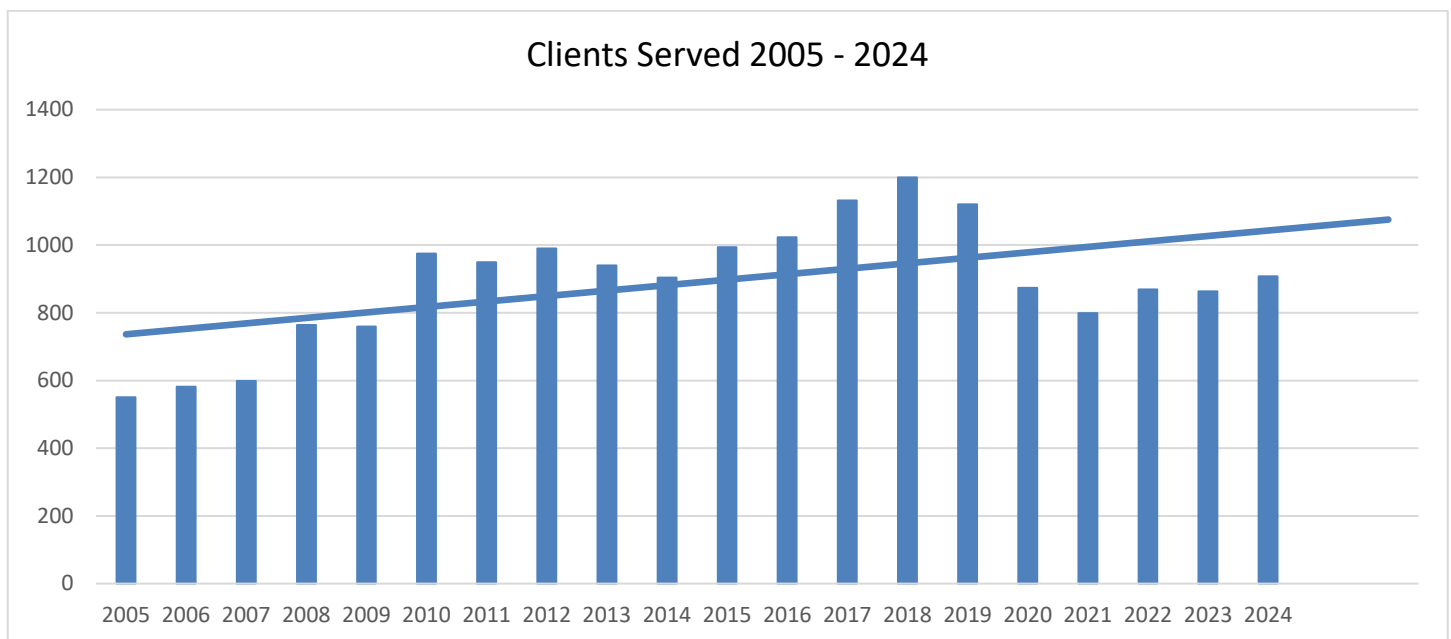
Employment: P&A was contacted by an individual with a disability due to concerns about employment with a large retail company. He had been employed for a long time performing self-checkout duties. He had concerns about his employment, because he was placed at a regular checkout register and had difficulties 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.

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.

Client services are tracked by various metrics including number of active/closed cases, clients served, client outcome, and client satisfaction. Quite often clients may have more than one case during the year, due to multiple issues they may be facing. During Federal Fiscal Years (FFY) 2023 and 2024, P&A actively worked 2,390 cases and provided services to 1,771 clients. In FFY 2023 and 2024, 99% of cases were resolved completely or partially in the client’s favor and of individuals completing surveys, 94% agreed that P&A’s work is beneficial to people with disabilities.

P&A served an average of 801 clients per year from 2005 - 2014, compared to average of 978 clients per year from 2015 - 2024; this equates to growth of 22% when comparing averages over these periods. In the past 20 years P&A’s clients served has moved from 550 (2005) to 908 (2024) clients served per year equating to growth of 65%.

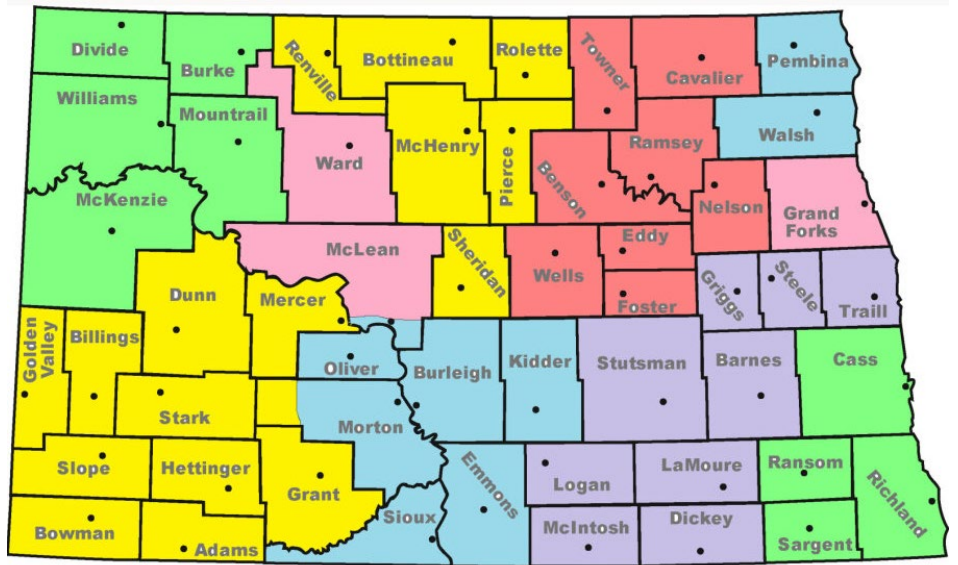


Note P&A does not have the resources to provide services to all who request them. To help guide the agency’s work and use of limited resources P&A annually establishes focus areas. This process includes various mechanisms for gathering public input. If a request for services falls outside of P&A’s focus areas the agency will provide I&R services or may try to address the issue through collaborative or systemic activities.

Staffing & Operations

P&A is designated 28.5 FTEs by the Legislature. P&A provides services and programming statewide by maintaining a presence in each of the following multi-county regions:

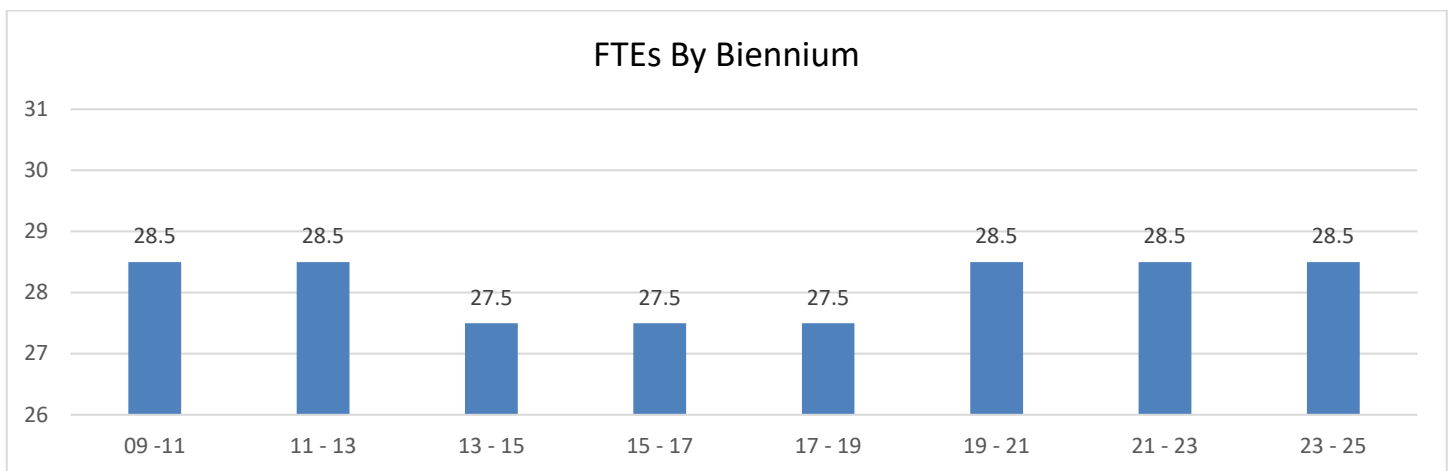
1. Bismarck -13 FTEs
2. Belcourt - 1 FTE
3. Devils Lake - 1 FTE
4. Dickinson - 1 FTE
5. Fargo - 5 FTEs
6. Grafton - 1 FTE
7. Grand Forks - 2 FTEs
8. Jamestown - 2.5 FTEs
9. Minot - 1 FTE
10. Williston - 1 FTE



During FFYs 2023 - 2024 P&A provided case services in 46 counties. During this period six counties (Burleigh, Cass, Grand Forks, Stutsman, Walsh, and Ward) made up 76% of cases.

Full Time Equivalent Details

There were no additional FTEs allocated to the agency by the 2023 Legislative Assembly. Staff includes one executive director position, five director positions, 17.5 disability advocates, two staff attorneys, one coordinator, and two administrative staff. Note during the current biennium the agency reclassified an administrative position to an advocate position to assist in managing caseloads. Please see organizational chart on page 15.



Agency Turnover

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.

FTE Funding Pool

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.

Agency Funding

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 seen minimal growth over the years. Note information is provided on growth rate and average award over 10 years or since year of inception. It is worth noting over this same period (Dec. 2015 - Dec. 2024) inflation was estimated to be approximately 33% according to the [US Bureau of Labor Statistics](#); this equates to an inflation rate of approximately 2.9% annually. This shows that even with some grant growth in the last decade, funding has not kept pace with the cost of running the agency; thus P&A is tasked to continually do more with less.

- P&A for Developmental Disabilities (DD)
 - Federal grant from the U.S. Department of Health & Human Services (HHS) to provide protective and advocacy services to individuals with intellectual and developmental disabilities.
 - Current award \$414,977/year; last increase 2021; 10-year growth 14%; 10-year average award \$397,202.
- P&A for Mental Health (MH)
 - Federal grant from HHS to provide protective and advocacy services to individuals with mental health disabilities.

- Current award \$473,700/year; last increase 2023; 10-year growth 11%; 10-year average award \$438,309.
- P&A for Individual Rights (PAIR)
 - Federal grant from the US Department of Education to provide protective and advocacy services for individuals not eligible for DD or MH programs.
 - Current award \$195,895/year; last increase 2023; 10-year growth 14%; 10-year average award \$177,782.
- P&A for Traumatic Brain Injury (TBI)
 - Federal grant from HHS to provide protective and advocacy services to individuals with brain injury.
 - Current award \$50,000/year; never increased from original award; 10-year growth 0%; 10-year average award \$50,000.
- P&A for Assistive Technology (AT)
 - Federal grant from HHS to assist individuals with disabilities in accessing AT devices and services.
 - Current award \$50,000/year; never increased from original award; 10-year growth 0%; 10-year average award \$50,000.
- P&A for Voting Access (PAVA)
 - Federal grant from HHS to ensure full participation in the electoral process for individuals with disabilities.
 - Current award \$141,043/year; last increase 2023; 10-year growth 101%; 10-year average award \$99,586.
- P&A for Beneficiaries of Social Security (PABSS)
 - Federal grant from the Social Security Administration (SSA) to provide services to SSDI and SSI beneficiaries to promote employment.
 - Current award \$123,965/year; last increase 2024; 10-year growth 24%; 10-year average award \$108,067.
- P&A for Beneficiaries with Representative Payees (Rep Payee)
 - Federal grant from the SSA to conduct reviews of individuals and organizations serving as representative payees.
 - Current award \$73,076/year; last increase 2024; established in 2019, 6-year growth 22%; 6-year average award \$64,765.
- Client Assistance Program (CAP) Contract
 - 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.
 - Current award 153,406/year; last increase 2024; 10-year growth 26%; 10-year average award \$131,433.

- **Serious Event Screening Contract**
 - Contract from the ND Department of Health and Human Services Developmental Disabilities Section (DD) to independently screen mandated reports of serious events impacting individuals with developmental disabilities. This activity is 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.
 - Current award \$112,309/year; last increase 2024; established in 2016, 8-year growth 48%; 8-year average award \$97,522.

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 (\$95,548 State and \$76,230 federal) for target market equity and \$29,581 (\$12,935 State and \$16,646 federal) 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 General 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	P&A Budget Request	Gov. Burgum Budget	Gov. Armstrong Budget
Federal Funds	4,359,417	4,451,483	4,820,434	4,792,011
State General Funds	3,431,853	4,017,283	3,891,940	3,865,368
Total	7,791,270	8,468,766	8,712,374	8,657,379
FTE	28.5	30.5	29.5	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.

25 - 27 P&A Requests

P&A Funding	
Federal Formula Grant Awards (24 mo.)	3,045,311
Contracts (24 mo.)	531,430
Federal Carryover from 23-25 Biennium	641,761
Other Grants	232,981
Federal Funds (Total)	4,451,483
State General Funds	4,017,283
Total	8,468,766

P&A submitted its requested budget in July 2024. Eight federal grants and two contracts for services were estimated to be funded for the 25-27 biennium at FFY 2024 levels, equating to \$3,045,311 and \$531,430 respectively. In July 2024, federal carryover was estimated to be at \$641,761 at the close of the biennium. The other grants line item includes estimates of additional federal and private foundation grants, which may be sought by the agency during the 25-27 biennium. It is worth noting that if P&A expends all 23-25 carryover and 25-27 grants and contracts during the 25-27 biennium, there would be no carryover for the 27-29 biennium, which could lead to a substantial deficit.

P&A Expenses	
Salaries & Benefits	6,374,622
Operating	1,599,106
Optional Budget Request - Retirement Payouts	19,288
Optional Budget Request - 1 FTE Communications	237,878
Optional Budget Request - 1 FTE Workforce Technology Project	237,878
Total	8,468,766

Salaries & Benefits includes employee compensation, health insurance, access to an employee assistance program, retirement, and other employer paid benefits for P&A's current staff of 28.5 FTEs. This includes funds for expected increases in benefit costs for the next biennium; this does not include salary increases.

P&A's 28.5 FTEs range from new hires to 40+ years with the state; 43% of P&A's staff have been with the state for more than 10 years. Note that the state uses pay ranges for classified positions, each position has five ranges (Minimum, First Control Point, Market Policy Point, Third Control Point, and Maximum). The Market Policy Point (MPP) is essentially equivalent to the average pay for a comparable position in the private sector and is used to determine where P&A staff should be compensated at to ensure competitiveness with the private market. All but one position at P&A are classified and subject to these pay scales. Currently 94% of P&A staff are compensated at a level below the MPP.

Operating expenses include costs incurred for travel, supplies, postage, printing, leases, utilities, insurance, repairs, periodicals and subscriptions, phone, computers, data processing, professional fees/contracts, operating fees, etc. Note increases are included for costs related to phone and IT services.

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 both Governor Armstrong and 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 either Governors' 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 with disabilities. 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 both Governor Armstrong's and 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 both Governors' budgets and P&A requests this recommendation be adopted by the legislature.
2. \$19,288 for retirement payouts. This item was fully supported in both Governors' budgets 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 either Governors' budgets; however, P&A requests this item be included in the appropriation.

Protection & Advocacy Organizational Chart

