



## PROTECTION & ADVOCACY PROJECT

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### **Senate Appropriations Committee**

**Senate Bill 2014 – January 9, 2023**

### **Testimony of Veronica Zietz, P&A Executive Director**

Greetings Chairman Bekkedahl and members of the Senate Appropriations Committee. My name is Veronica Zietz and I'm the Executive Director of the North Dakota Protection and Advocacy Project (P&A). I will be providing you with an overview of P&A's purpose, programs and services, and appropriation request.

#### **Overview**

Protection & Advocacy is an independent state agency established in 1977 to advance the human and legal rights of people with disabilities. P&A's mission is to champion the equality and inclusion of people with disabilities where we live, work, and play. P&A fulfills its mission by providing services to individuals with disabilities, their support networks, and the public.

Every US state and territory (57 agencies nationwide) is federally mandated to have a protection and advocacy agency. While most are private, non-profit entities, in ND the P&A is an independent state agency with a seven-member governing board, which includes appointees from the Legislature, Mental Health America ND, The Arc of ND, an advocacy-based non-profit for individuals with disabilities, and the public.

P&A is statutorily authorized under NDCC § 25-01.3. Century code includes sections regarding the governing board, reporting of abuse, neglect, or exploitation, authority, access, investigations, and confidentiality. 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 its federal grants.



P&A provides services to North Dakota's largest minority population, people with disabilities which makes up between 20-25% of ND residents. Ensuring the availability of services to this large population over an expansive geography is possible due to ten offices located throughout the state. P&A is designated 28.5 FTEs by the Legislature. This includes, an executive director, two program directors, a director of policy and operations, seventeen full-time advocates, one part-time advocate, three attorneys, a fiscal manager, and two administrative assistants. P&A's structure and staff levels allow the agency to meet the needs of our diverse population. In 2019, the Legislature additionally designated P&A as the new home of the Olmstead Commission and its coordinator. The organizational chart is attached for reference.

## **Services**

P&A's services seek to protect and advocate for individuals with disabilities. Services include:

- **Protective Services:** P&A receives and investigates reports of abuse, neglect, and exploitation (ANE).
- **Assistance with Self-Advocacy:** P&A provides advocacy skills development for individuals seeking to advocate for themselves regarding disability 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 provides information and answers questions about disability-related issues.
- **Education & Training:** P&A staff provide presentations to groups on disability-related issues.
- **Systems & Legislative Advocacy:** P&A works to realize positive change in the systems and laws that impact individuals with disabilities.

During Federal Fiscal Years (FFY) 2021 – 2022, P&A provided case level services, including advocacy, legal representation, and protective services for 1,668 clients (799 in FFY 2021 and 869 in FY 2022). The previous two years totaled 1,934. Case level services appear to be rebounding from a decrease during the pandemic.



Over the last two federal fiscal years, P&A provided information and referral services on 5,552 occasions (2,687 in FFY 2021 and 2,865 in FFY 2022). In FFY 2022 P&A had a 7% increase in requests for information and referral services and in the last decade P&A has seen a 49% increase (1,928 in FFY 2013) in requests for information and referral services.

In FFY 2021 – 2022 P&A provided education and training to 11,719 individuals (3,208 in FFY 2021 and 8,511 in FFY 2022) across all programs. This is a drastic increase compared to the two previous reporting periods with a 62% increase from FFY 2017 – 2018 and 72% increase from FFY 2019 – 2020. This number increased largely due statewide trainings efforts on the following topics supported decision making, individual justice planning, and abuse, neglect, and exploitation.

In addition to case work, education and training, and information and referrals, P&A works with various partners to make systemic improves for people with disabilities.

P&A establishes annual priorities per federal requirements. These priorities take into account stakeholder input through a public comment period and guide the agency's work for the following year. Public comment data from July 2022, found that 94% of individuals surveyed agreed that P&A's work is beneficial to people with disabilities and their families. P&A actively worked 2,264 cases during Federal Fiscal Years (FFY) 2021 – 2022. Service requests were specific to the following priorities:

Priority Area	FFY 21	FFY 22	FFY 21 - 22 Total
ANE/Protective Services	689	715	1,404
Criminal/Juvenile Justice	47	74	121
Education	200	185	385
Employment	26	45	71
Health Care	23	13	36
Inclusion	109	120	229
Other	6	12	18
<b>Total</b>	<b>1,100</b>	<b>1,164</b>	<b>2,264</b>

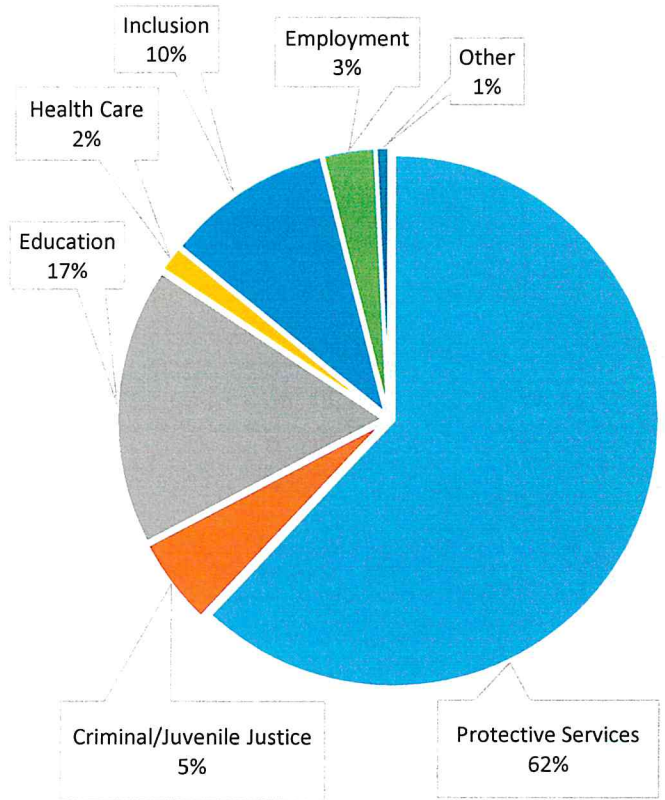




Protective services or abuse, neglect, and exploitation investigations historically make up 60-70% of all case work; consistent with that 62% of casework in FFY 2021 – 2022 was in this area. In these cases, P&A conducts objective investigations or reviews investigations completed by providers to address alleged incidents of abuse, neglect, and exploitation. P&A addresses issues identified to ensure the safety of involved individuals.

Case work is conducted in various other priority areas such as education and inclusion. Case level services focus on the rights of clients and resolving the issue at the lowest level possible. Thus, litigation is a last resort. P&A is committed to ensuring client rights are fully protected and that issues are appropriately resolved. Please see the attachment for case examples.

FFY 2021 - 2022 Active Cases By Priority



### Federal Programs

P&A receives grants from the federal government to meet its obligations. These grants come through the:

- US Department of Health & Human Services:
  - P&A for Developmental Disabilities (DD)
  - P&A for Mental Health (MH)
  - P&A for Assistive Technology (AT)
  - P&A for Voting Access (PAVA)
  - P&A for Traumatic Brain Injury (TBI)
- US Department of Education:





- P&A for Individual Rights (PAIR)
- Social Security Administration:
  - P&A for Beneficiaries of Social Security (PABSS)
  - P&A for Beneficiaries with Representative Payees (Rep Payee)

Each federal program allows P&A to provide services, fulfilling various obligations to people with disabilities as defined by the federal government. North Dakota is a minimum allotment state for federal grants, which have seen little to no growth in more than a decade. Regardless of funding level, P&A is required to continue to provide level and often increase services.

### Federal Grant History

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
DD	362,881	362,881	362,881	384,693	384,693	404,556	404,556	404,556	414,977	414,977
MH*	406,700	428,000	428,000	428,000	428,000	428,000	428,000	428,000	428,000	450,000
AT	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
PAVA	70,000	70,000	70,000	70,000	70,000	98,209	98,209	105,261	112,313	119,365
TBI	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
PAIR	166,132	171,598	171,598	171,598	171,598	171,598	171,598	171,598	176,454	186,177
PABSS*	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	144,776
Rep Payee							60,000	62,137	62,667	63,482
COVID-19**									39,713	
PAPH**										114,000
<b>Total</b>	<b>1,205,713</b>	<b>1,232,479</b>	<b>1,232,479</b>	<b>1,254,291</b>	<b>1,254,291</b>	<b>1,302,363</b>	<b>1,362,363</b>	<b>1,371,552</b>	<b>1,434,124</b>	<b>1,592,777</b>

- Note: All federal grants detailed above follow the federal fiscal year, which runs October – September, except for the Rep Payee grant which runs from August – July.
- \* These grants received a one-time funding boost related to covid-19 and will return to 2021 levels in 2023.
- \*\* P&A received one-time funding to carryout pandemic related activities. COVID-19 ended 9.30.22. PAPH ends 9.30.2024

P&A also receives a contract from the ND Department of Health and Human Services - Vocational Rehabilitation to implement the Client Assistance Program (CAP). CAP is a federally funded program designed to assist individuals with disabilities who are experiencing challenges with federally funded rehabilitation programs, which includes Vocational Rehabilitation, Centers for Independent Living, and Tribal Vocational Rehabilitation. The service agreement for the upcoming biennium is expected to be level funded at \$263,834.



Additionally, P&A's receives Medicaid funds through ND Department of Health and Human Services – Developmental Disabilities Division. As endorsed by the Center for Medicare & Medicaid Services (CMS), P&A serves as an independent screener of mandated reports of serious events concerning individuals with developmental disabilities. Serious events are categorically defined and include examples such as broken bones or sexual assault. For the current biennium, this contract is valued at approximately \$200,000 which is matched 100% with State General Funds as federally required.

P&A was audited by the ND Office of the State Auditor in 2021 for the two-year period ending June 30, 2020. The audit did not find any areas of concern.

### **2021 – 2023 Biennium**

For the current biennium, the Legislature appropriated \$4,263,590 in federal funds and \$3,139,350 in State General Funds for a grand total of \$7,402,940 with level staffing at 28.5 FTEs. While the overall appropriation increased in the biennium, the appropriation of State Funds decreased by \$100,665. There were no one-time funding requests.

Through November 30, 2022 (70.8% of biennium), P&A has spent approximately 66% of its State General Funds and approximately 63% of its total 2021 – 2023 biennium appropriation. P&A expects to expend all State Funds by the close of the current biennium. All projected unspent federal funds from the 2021 – 2023 biennium are budgeted to be carried over to the 2023 – 2025 biennium.

### **2023 - 2025 Biennium**

P&A's 2023 - 2025 base level budget is made up of 58% Federal Funds and 42% State General Funds. Of P&A's \$7,402,940 base level budget 21% is allocated to operating expenses with the remaining 79% being used for salaries and benefits. Note P&A is not requesting any new FTEs for the next biennium.

The Governor's budget recommendation for P&A is 56% Federal Funds and 44% State General Funds. The Governor's recommended budget of \$7,756,227 includes an increase of \$353,287. This includes an



increase to salaries and benefits calculated by OMB at \$6,339,310 (82% of budget). P&A supports Governor's recommended increase to salary, as P&A is consistently named one of the lowest paid agencies in the state. In summary, here is a comparison for the base level budget to the Governor's recommended budget:

2023 - 2025	Base Level	Gov. Budget	Difference
Federal Funds	4,263,590	4,360,132	+ 96,542
State General Funds	3,139,350	3,396,095	+ 256,745
Total	7,402,940	7,756,227	+ 353,287

Federal grant funds are not projected to increase for the next biennium and are expected to be close to a maintenance level. Federal grant monies that are unspent during the current biennium (carry-over funds) are tracked carefully and budgeted into 2023-2025.

Thank you for your time and I'd be happy to address any questions.

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### Organizational Chart

