

# Protection & Advocacy System Programs



## **2020 Annual Report** Promoting & Protecting Disability Rights

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## “Hope Has No Limits”

*Vanessa Whiddon describing self-advocate, Hope Krause*

The Protection & Advocacy (P&A) System is unique and powerful. It was born of the desire to protect the human rights of individuals with disabilities after grave abuses were discovered in a large facility that was supposed to be “treating” those very individuals. That was in the 1970’s.

In the decades since then, P & A organizations across the country have been a part of securing and expanding the rights of people with disabilities. Their work includes guaranteeing accessible voting, fighting to keep people out of institutions, and ensuring that *all* children receive an education alongside their peers.

Of course, this year we have endured some significant challenges as the state and the world have faced the COVID-19 pandemic. People with disabilities have fought to be treated equitably in receipt of precious medical care, worked to be safeguarded in facilities when they have little to no input on their surroundings, and struggled to receive the education and supports they need in the community. Through it all, our staff and constituents have remained dedicated to the pursuit of justice for individuals with disabilities. In this way, they have shown the same perseverance of a self-advocate we worked with this year, Hope Krause. Hope navigates the streets of Ft. Morgan in her powerchair just like any “normal person” and struggles to find ways that her life is harder than anyone else’s. Her caregiver, Vanessa Whiddon, summed up this attitude by noting that, “Hope has no limits.” Let us all live by this mantra as we navigate our new normal and remain steadfast in our belief that we can affect positive change for people with disabilities.



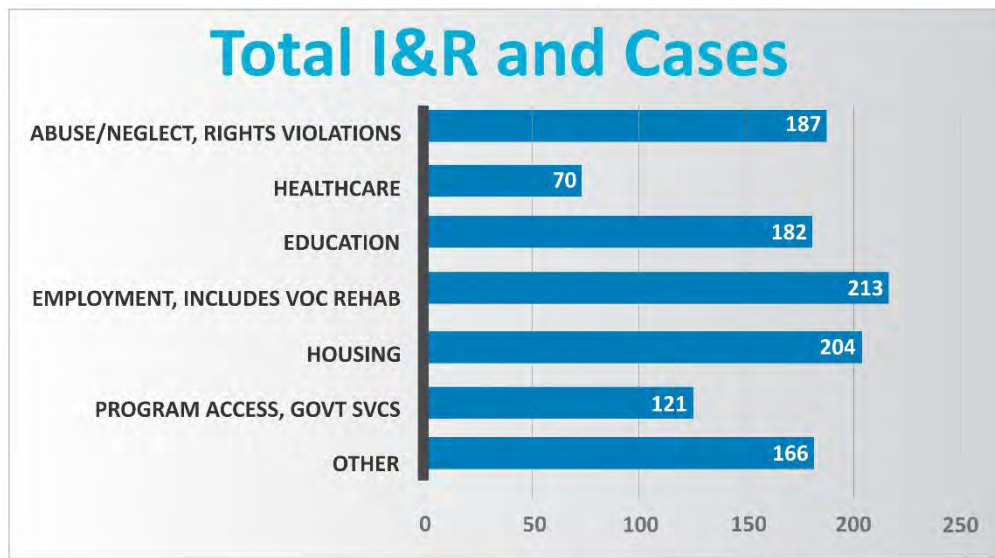
# A LOOK BACK AT FISCAL YEAR 2020

## Statistics on Information & Referrals and Casework:

The work of the organization begins with our diligent and knowledgeable **Intake Team**. The Intake Team is our front line. They answer calls, respond to web submissions and letters, and work with individuals who come into our office. They are oftentimes the first people to dedicate time to listen to a person's challenge. People don't tend to call Disability Law Colorado when things are going well, so you can imagine that this team spends significant time with folks in crisis. They are patient, knowledgeable, and provide much needed self-advocacy assistance to every person that contacts our agency. The Intake Team also determines if a person needs further legal intervention or advocacy. Disability Law Colorado could not function without the incredible work of this dedicated team of advocates.



Staff from all teams contributed to the following cases and Information and Referrals (I & R's) broken down by issue area:



The Representative Payee Investigation Team completed 54 investigations. In fiscal year 2020 we assisted a **total of 1,090 clients and provided services in 1,143 cases and I&R requests**. Clients were assisted in 48 of Colorado's 64 counties, with 62% of clients in urban settings and 38% from rural areas.



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## Access Team

The Access Team receives the most calls per year due to the wide variety of work for which the team is responsible. The team works to ensure that individuals with disabilities have full and equal access to services in the community. This includes disability discrimination in housing and employment, service and assistance animals, access to public facilities and higher education, ensuring the right to vote, and working with clients experiencing disputes with the Division of Vocational Rehabilitation (DVR). The team also welcomed a new housing program, funded by the Colorado Health Foundation. The program is working with five rural communities to determine impediments to accessible, affordable housing and educate the community on the rights and responsibilities of people with disabilities in housing. They are also forming important and long-lasting connections with the communities involved.



This year, the team has enjoyed many successes on behalf of clients with the Equal Employment Opportunity Commission (EEOC) and the Colorado Civil Rights Division (CCRD) and has counseled hundreds of clients, empowering them to engage in successful self-advocacy.

**Make Them Our Neighbors** – We were asked to provide an opinion on the Fair Housing Act for a community wishing to open a supported living housing project in Capitol Hill. The project targets the working poor who experience homelessness and have disabilities. We gladly stepped in and provided information for the Board of Adjustments, highlighting that the FHA *“is intended to prohibit the application of ... restrictive covenants, and conditional or special use permits that have the effect of limiting the ability of such individuals to live in the residence of their choice in the community.”* We are awaiting word on whether the project will open.

**Let Them Vote** - Colorado has become the center of attention when it comes to elections because of our 7-year-old all-mail ballot elections process. Due to that history and the expertise of the attorneys and advocates in the PAVA program, we have been able to provide technical assistance and advocacy advice to over a dozen state P&A’s throughout the country and invited by NDRN to do a training in March on our work addressing the disenfranchisement of long-term care facility residents. This is part of our successful We Vote Too! Campaign.

**My Dog is Not a Pet** – We were contacted by a woman with physical and mental disabilities who uses a service animal. She was not allowed to have her service dog in a community meeting at a venue in Denver. She was physically thrown out and banned from coming back. These instances exacerbated her PTSD (Post Traumatic Stress Disorder) and other mental health symptoms. We assisted the client in filing a complaint with the Colorado Civil Rights Division (CCRD) and assisted her throughout the entire CCRD process. Thankfully, the client won her complaint with the CCRD and after some negotiation, we were able to settle the case in the client’s favor.

# Community Integration Team

The Community Integration Team was created to help ensure individuals residing in facilities could gain access to less-restrictive settings in the community and those already living in the community could remain doing so.

This team's mission includes working on systemic solutions to guarantee the provision of appropriate services in the community, representing individuals at risk of losing their needed home-based services, and monitoring our on-going complaint with the U.S. Department of Justice regarding the State's failure to adequately enforce the provisions of *Olmstead* and provide transitions out of nursing homes for those who can live successfully in the community.

**I want to live in the community** - Though the team determined last fall that it would shift focus away from representing individuals in Medicaid hearings, we found ourselves in a situation where the team felt individual representation was the best way to further systemic efforts to correct deficiencies in the state's administration of these precious community services. This led to the team setting three cases for hearing and successfully completing two of them, allowing the individuals to stave off institutionalization.



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## Education Team

The Education Team is really the backbone of any P & A. Ensuring that all children with disabilities receive a free, appropriate public education in a setting together with their peers without disabilities is the foundation for all other work. We need our children and their families to understand their rights and recognize their value to society. When that occurs, we build a well-educated community that not only hopes, but expects, full accessibility and inclusion for people with disabilities.

This year the team has been particularly busy filing complaints with the Colorado Department of Education (CDE) and the U.S. Department of Education Office of Civil Rights (OCR). Though the team values its ability to collaborate with school districts to protect students' rights, sometimes the best solution requires pursuing legal action.

The team filed four complaints this year, all resulting in favorable outcomes for the student. It is our hope that such steadfast advocacy will result in systemic changes for many other students, as well. In addition to filing complaints, the team also spent many hours training parents and school districts this last year, including participating in CDE's first virtual PEP (Parents Encouraging Parents) conference. Training is a vital tool for the team, and they look forward to many more virtual conferences.

**All Disabilities are Relevant** – We have been working with a high school student with multiple disabilities who has been suspended and expelled and we keep fighting to show that his actions were a result of his disabilities and he should not be punished. After successfully filing a complaint with CDE, we represented him at a Manifestation Determination Review (MDR) and the attorney for the school district was vocal that not all of the student's disabilities should be considered and claimed the student knew right from wrong – something that is not legally relevant. We objected, and alerted CDE who ordered another MDR. Unbelievably, the second MDR went the same way. When the school district balked at doing a third MDR, CDE responded by ordering that the student's behavior was a manifestation of his disability, expunged the student's expulsion, and ordered the school district to provide compensatory services.





## Facilities Team

The Facilities Team fights hard to protect the rights of Coloradans with disabilities who are living in facilities across the state. Their work includes extensive monitoring and advocacy in jails and state mental health institutions, as well as participating in community outreach and training to educate state and advocacy partners on the rights of individuals with disabilities in facilities. Many times, these individuals are overlooked, so the team takes their mission seriously and has devoted many resources to making sure that each person that contacts DLC receives a timely and appropriate response and assistance.



COVID-19 struck facilities particularly hard and institutionalization continues to be a concern for residents with disabilities and others at high risk of complications from the disease. As a result, the team decided to focus much of its efforts in the last six months to outreach and monitoring of facilities. They accomplished this through individual surveys sent to all residents at numerous jails across the state, engaging in video monitoring at several other jails, and working with state and advocacy partners to identify problem areas in other institutions. The team is very proud of the work and we have heard from many, many more folks who are incarcerated and plan to use those communications to help guide our work in the coming year.



**Constitutional violation remedied** – After years of litigation, followed by three years of comprehensive monitoring Disability Law Colorado is winding up its work in the lawsuit against the federal maximum-security prison in Florence Colorado, known as ADX. Attorneys in the facilities team partnered with major law firms to sue the U.S. Bureau of Prisons for violation of the Eighth Amendment’s prohibition against cruel and unusual punishment. The ADX now provides constitutionally acceptable screening and treatment of individuals with mental illness and inmates with serious mental illness are no longer incarcerated in the ADX. This litigation will benefit an untold number of federal inmates through the years.



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## Investigation Team

The Investigation Team was created during the FY 2019 year. The team primarily investigates situations in which a social security beneficiary appoints a representative payee to manage their funds and questions are raised regarding the actions of the representative payee. The team works in close coordination with the U.S. Social Security Administration (SSA) and travels state-wide to conduct their reviews. Recently, the team expanded and will now be working directly with the other P & A teams to conduct and assist various abuse and neglect investigations.

Although much of the work the team conducts is confidential, some of their accomplishments include completing 54 representative payee investigations, and researching hospital policies regarding medical rationing. It is intense work and the team handles it with strict professionalism.



## Congratulations to Mark Ivandick!



**Mark Ivandick:** During the last year, Mark celebrated 20 years with Disability Law Colorado and received the Randy Chapman Lifetime Achievement Award for his on-going dedication to fighting for the rights of people with disabilities. Mark is a calm presence, but when he speaks, he means it. Mark's near-decade long legal battle with the State over its treatment of people with mental illness who are incarcerated and awaiting evaluation and competency services has helped countless people in that position.

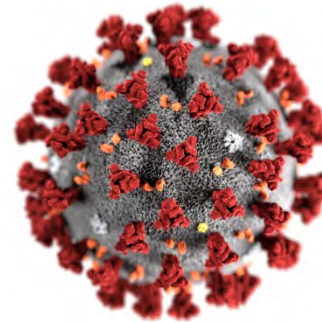




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## COVID-19 Response

Disability Law Colorado has spent much of the last six months responding to issues raised by COVID-19. Our response has been swift and impactful as we continue to work hard to protect and promote the rights of people with disabilities. Here are a few examples of our work:



- **Community Outreach:** We began a community outreach effort to let people know that we would remain open for business to protect the rights of people with disabilities and older people.
- **Legal Advocacy:** We co-filed a petition in state court to force the identification and release of individuals with disabilities at high risk for complications and death due to COVID. We also worked with CREEC on a similar suit against the ICE Detention facility in Aurora.
- **Education:** We drafted a resource sheet for parents to help them understand the rights and protections that exist for their children receiving special education during this pandemic. This resource was shared with our network, the Colorado Counsel of Special Education Lawyers and the Exceptional Student Services Director at the Colorado Department of Education.
- **Federal Policy:** We instigated an effort with our national organization to expand a program at the U.S. Department of Agriculture to allow SNAP (“food stamp”) benefit recipients to utilize curbside pickup and grocery delivery. We are excited about the possible systemic relief this may bring for so many of our constituents.
- **Advocacy:** We have been active on the Governor’s Community Engagement Community providing input to the GEEERC (Governor’s Expert Emergency Epidemic Response Committee) on the Triage Crisis Standards of Care Plan. A major victory of our advocacy was providing a crucial disability perspective to Colorado Department of Public Health & Environment in devising Crisis Standards of Care guidance on how to ration scarce medical resources during the pandemic in a way that does not discriminate against those with disabilities.



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# WELCOME!

This was a busy year for Disability Law Colorado, where we welcomed a new program and new staff.

**Housing Grant** - We are excited to announce that our two-year grant from The Colorado Health Foundation is officially underway – virtually, of course. Our new advocates have traveled to three communities so far this year and are making great connections. More on this to come, but meet our new housing advocates Erica and Patrick!

**Erica Newton:** Erica is one of our new housing advocates and she has really hit the ground running. Together with her teammate, Patrick, she has developed an entire program from just an idea. She is at once both tenacious and even keeled. She is quite adept at bringing people together.

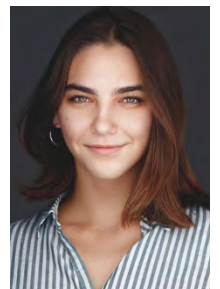


**Patrick Thibault:** Patrick is one of our new housing advocates, but he brings so much more to the table. Patrick has made it his mission to spread the word about Disability Law Colorado and its efforts to remedy discrimination against individuals with disabilities, particularly in relation to housing. Patrick has also shown significant interest in voting rights and registered DLC as a Voter Registration Drive organization.



**Mark Kollasch:** Mark is our newest attorney, joining our P & A crew late last year. He had only a few months in the office before the pandemic, but he managed to win over the staff and fully acclimate to all things Disability Law Colorado. He is not afraid to take on new legal issues and is quickly becoming an expert in the various areas of service for the Access Team.

**Camilla Kapustina:** Camilla joined Disability Law Colorado in September 2020 as a Representative Payee Investigator. She is originally from Southern California and has a bachelor's in Political Science from Tulane University. Prior to joining Disability Law Colorado, Camilla worked in criminal defense in Colorado and Louisiana. Camilla is passionate about social justice and is dedicated to ensuring everybody has access to the social services they need. In her free time Camilla enjoys tutoring, gardening, and spending time with friends.



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# OUR FISCAL YEAR 2020 PROTECTION & ADVOCACY TEAMS

**Mary Anne Harvey**, Executive Director  
**Alison Butler**, Director of Legal Services

## Access Team

Anna French  
Angie Garberding  
Emily Harvey  
Mark Kollasch  
Miriah Lawson  
Jennifer Levin  
Shannon MacKenzie  
David Monroe  
Erica Newton  
Olivia Pilcher  
Jenn Purrington\*  
Patrick Thibault

## Administrative Team

Kaytie Angeli  
Julie Busby  
Adriene Callahan  
Georgia Kasow  
Miriah Lawson  
Willie Lexier  
Jim McBride  
Mike Robbins  
Ellie Rodriguez

## Community Integration Team

Shannon MacKenzie\*  
Emily Harvey  
David Monroe  
Olivia Pilcher

## Education Team

Emily Harvey  
Jennifer Levin\*  
David Monroe  
Olivia Pilcher

## Investigations Team

Bill DeSonier\*  
Camilla Kapustina\*\*  
Rebecca Paruta

## Facilities Team

Meghan Baker  
Mark Ivandick  
Liz Kenny\*  
David Monroe  
Jenn Purrington

## Intake Team

Kaytie Angeli  
Emily Harvey\*  
Angie Garberding (Lead)  
Georgia Kasow  
Miriah Lawson  
Ellie Rodriguez

## Volunteers

Fern Black  
Kimberly McDevitt\*\*\*  
Howard Herzberg  
Alirio Moran  
Paul Stoiber\*\*\*

*\*Team Leaders*

*\*\* New staff member as of September 2020*

*\*\*\* Interns*