

RSA-227 - Annual Client Assistance Program (CAP) Report

New York (Disability Rights New York) - H161A170065 - FY2017

General Information

Designated Agency Identification

Name Disability Rights New York (DRNY)

Address 725 Broadway

Address Line 2 Suite 450

City Albany

State New York

Zip Code 12207

E-mail Address mail@drny.org

Website Address <http://www.drny.org>

Phone 518-432-7861

TTY 518-512-3448

Toll-free Phone 800-993-8982

Toll-free TTY 800-993-8982

Fax 518-427-6561

Operating Agency (if different from Designated Agency)

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Additional Information

Name of CAP Director/Coordinator Erica M. Molina, Esq.

Person to contact regarding report Erica M. Molina, Esq.

Contact Person Phone 518-432-7861

Part I. Non-case Services

A. Information and Referral Services (I&R)

Multiple responses are not permitted.

1. Information regarding the vocational rehabilitation (VR) program	71
2. Information regarding independent living programs	4
3. Information regarding American Indian VR Service projects	0
4. Information regarding Title I of the ADA	0
5. Other information provided	27
6. Information regarding CAP	14
7. Total I&R services provided (Lines A1 through A6)	116

B. Training Activities

1. Number of training sessions presented to community groups and public agencies. 4

2. Number of individuals who attended these training sessions. 156

3. Describe training presented by the staff. Include the following information:

- a. topics covered
- b. purpose of the training
- c. description of the attendees

***Note** In New York, the state vocational rehabilitation agencies are the New York State Adult Career and Continuing Education Services-Vocational Rehabilitation (ACCES-VR) and the New York State Commission for the Blind (NYSCB). The former is a general VR agency serving people with all disabilities except blindness, while the latter is a VR agency only serving those who are blind.*

DRNY successfully conducted 4 trainings about the CAP program and other Rehabilitation Act-related programs and projects throughout FY 2017. DRNY continues to attend meetings at ACCES-VR and NYSCB agency district and satellite offices with the goal of educating the attendees about the P&A system, the CAP program, and DRNY's priorities. The attendees at these meetings have included VR counselors, senior VR counselors, directors of counseling, district office managers, regional coordinators, and statewide-level VR administrative staff.

DRNY also has conducted trainings in other venues. These trainings covered several topics, including managing difficult client interactions, the Workforce Innovation and Opportunities Act (WIOA), and VR eligibility. DRNY also provided training on the P&A System and CAP. During these presentations, DRNY discusses the history and scope of its services. The audiences at these trainings included members of the National Disability Rights Network (NDRN); the NYS Disability Services Council; adults and youth with disabilities; their families; disability advocates; attorneys; and VR and ILC personnel.

C. Agency Outreach

Describe the agency's outreach efforts to previously un-served or underserved individuals including minority communities.

In FY 2017, DRNY continued to conduct outreach and expand its services to individuals in previously unserved or underserved groups. As a result of this outreach, DRNY reached 1,069 individuals throughout NY State. This number includes people from unserved or underserved communities who benefited from the systemic projects described later in this report.

DRNY is a member on both the ACCES-VR and NYSCB State Rehabilitation Councils. DRNY is also a member on the Advisory Council on Postsecondary Education for Students with Disabilities. The Council is overseen by the NYS Education Department; it focuses on expanding the opportunities available to the transition-age and postsecondary student population.

DRNY also continued to target the transition-age population in light of WIOA's emphasis on pre-employment transition planning. DRNY conducted several outreaches, such as at school-sponsored transition and college fairs; special needs and family support fairs; and Special Education PTA meetings.

DRNY conducted an outreach via webinar for the NY State Division of Veterans Affairs (DVA). DRNY was able to educate attendees about VR services available to veterans with disabilities from state agencies ACCES-VR and NYSCB, as well as DRNY's own advocacy services. As this outreach was conducted via webinar, DRNY was able to reach dozens of DVA employees across the entire state at once, who then in turn could refer their clients appropriately.

DRNY has also continued its focus of reaching those people with disabilities who work in sheltered workshops at a subminimum wage rate, in light of WIOA's Section 511. DRNY has developed resources and training and scheduled site visits for early FY 2018. DRNY will

provide a “know your rights” presentation to workers and employers at the workshops, and will discuss VR services and employment services with interested individuals.

D. Information Disseminated To The Public By Your Agency

For each method of dissemination, enter the total number of each method used by your agency during the reporting period to distribute information to the public. For publications/booklets/brochures (item 4), enter the total number of documents produced. Agencies should not include website hits. See instructions for details.

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|---|------|
| 1. Agency Staff Interviewed or
Featured on Radio and TV | 4 |
| 2. Articles about CAP Featured in
Newspaper/Magazine/Journals | 0 |
| 3. PSAs/Videos Aired about the CAP
Agency | 6 |
| 4. Publications/Booklets/Brochures
Disseminated by the Agency | 3500 |
| 5. Number of Times CAP Exhibited at
Conferences, Community Fairs, etc. | 14 |
| 6. Other (specify below) | 0 |

DRNY has worked to make sure that the agency is recognized as a resource for people with disabilities seeking services under the Rehabilitation Act. This includes disseminating brochures and other resources to clients, the public, and stakeholders. DRNY’s information is provided to the public by DRNY as well as other groups within New York State. DRNY has targeted VR agencies and ILCs to disseminate information and these referral sources have produced many new referrals to DRNY. Referrals also come from stakeholders who participate with DRNY in various state councils, committees, and taskforces.

E. Information Disseminated About Your Agency By External Media Coverage

Describe the various sources and information disseminated about your agency by an external source.

N/A

Part II. Individual Case Services

A. Individuals served

An individual is counted only once during a fiscal year. Multiple counts are not permitted for Lines A1-A3.

1. Individuals who are still being served as of October 1 (carryover from prior year)	93
2. Additional individuals who were served during the year	210
3. Total individuals served (Lines A1+A2)	303
4. Individuals (from Line A3) who had multiple case files opened/closed this year (In unusual situations, an individual may have more than one case file opened/closed during a fiscal year. This number is not added to the total in Line A3 above.)	19
5. Individual still being served as of September 30 (Carryover to next year. This total may not exceed Line A3.)	66

B. Problem areas

Multiple responses permitted.

1. Individual requests information	3
2. Communication problems between individual and VR counselor	96
3. Conflict about VR services to be provided	175
4. Related to VR application/eligibility process	33

5. Related to assignment to order of selection priority category	0
	13
6. Related to IPE development/implementation	
i. Selection of vendors for provision of VR services	
ii. Selection of training, post-secondary education	
iii. Selection of employment outcome	
iv. Transition services	
7. Related to independent living services	4
8. Other Rehabilitation Act-related problems	1
9. Non-Rehabilitation Act related	1
i. TANF	
ii. SSI/SSDI	
iii. Housing	
iv. Other:	
10. Related to Title I of the ADA	0

C. Intervention Strategies for closed cases

(Choose one primary service the CAP provided for each closed case file. There may be more case files than actual individuals served.)

1. Short Term Technical Assistance	51
2. Investigation/Monitoring	107
3. Negotiation	97
4. Mediation and other methods of Alternative Dispute Resolution	3
5. Administrative / Informal Review	1

6. Formal appeal / Fair Hearing	1
7. Legal remedy / Litigation	0
8. Total	260

D. Reasons for closing individuals' case files

(Choose one primary reason for closing each case file. There may be more case files than the total number of individuals served.)

1. All issues resolved in individual's favor	125
2. Some issues resolved in individual's favor (when there are multiple issues)	22
3. CAP determines VR agency position/decision was appropriate for the individual	21
4. Individual's case lacks legal merit; (inappropriate for CAP intervention)	0
5. Individual chose alternative representation	1
6. Individual withdrew complaint	43
7. Issue not resolved in clients favor	2
8. CAP services not needed due to individual's death, relocation, etc.	30

9. Individual not responsive/cooperative with CAP	18
10. CAP unable to take case due to lack of resources	0
11. Conflict of interest	0
12. Other (Please explain below)	0
	N/A

E. Results achieved for individuals

(Choose one primary outcome for each closed case file. There may be more case files than the total number of individuals served.)

1. Controlling law/policy explained to individual	107
2. Application for services completed	18
3. Eligibility determination expedited	8
4. Individual participated in evaluation	9
5. IPE developed/implemented/Services Provided	63
6. Communication re-established between individual and other party	24

7. Individual assigned to new counselor/office 24

8. Alternative resources identified for individual 6

9. ADA/504/EEO/OCR complaint made 0

10. Other (Please explain below) 1

DRNY agreed to represent an individual, seeking ACCES-VR's services, at his impartial hearing. DRNY prepared the client case for a hearing. A week before the hearing, however, the client changed his mind and withdrew his request for hearing.

Part III. Program Data

A. Age

Multiple responses not permitted.

1. Up to 18	6
2. 19 - 24	37
3. 25 - 40	74
4. 41 - 64	168
5. 65 and over	18
6. Total (Sum of Lines A1 through A5. Total must equal Part II, Line A3.)	303

B. Gender

Multiple responses not permitted.

1. Females	138
2. Males	165
3. Total (Lines B1+B2. Total must equal Part II, Line A3.)	303

C. Race/ethnicity of Individuals Served

1. Hispanic/Latino of any race (for individuals who are non-Hispanic/Latino only)	27
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2. American Indian or Alaskan Native	3
3. Asian	11
4. Black or African American	91
5. Native Hawaiian or Other Pacific Islander	0
6. White	160
7. Two or more races	8
8. Race/ethnicity unknown	3

D. Primary disabling condition of individuals served

Multiple responses not permitted.

1. Acquired Brain Injury	7
2. ADD/ADHD	12
3. AIDS/HIV	0
4. Amputations or Absence of Extremities	0

5. Arthritis or Rheumatism	8
6. Anxiety Disorder	6
7. Autism Spectrum Disorder	22
8. Autoimmune or Immune Deficiencies (excluding AIDS/HIV)	1
9. Blindness (Both Eyes)	8
10. Other Visual Impairments (Not Blind)	8
11. Cancer	3
12. Cerebral Palsy	11
13. Deafness	10
14. Hard of Hearing/Hearing Impaired (Not Deaf)	7
15. Deaf-Blind	0
16. Diabetes	3
17. Digestive Disorders	0

18. Epilepsy	3
19. Heart & Other Circulatory Conditions	5
20. Intellectual Disability	14
21. Mental Illness	76
22. Multiple Sclerosis	3
23. Muscular Dystrophy	1
24. Muscular/Skeletal Impairment	16
25. Neurological Disorders/Impairment	14
26. Orthopedic Impairments	32
27. Personality Disorders	2
28. Respiratory Disorders/Impairment	0
29. Skin Conditions	0
30. Specific Learning Disabilities (SLD)	21

31. Speech Impairments	1
32. Spina Bifida	1
33. Substance Abuse (Alcohol or Drugs)	5
34. Other Disability	3
35. Total (Sum of Lines D1through D34. Total must equal Part II, Line A3.)	303

E. Types of Individual Served

Multiple responses permitted.

1. Applicant of VR	40
2. Individual eligible for VR services currently on a wait list	0
3. Individual eligible for VR services not currently on a wait list	261
4. Applicant or individual eligible for Independent Living	6
5. Transition student/High school student	0
6. All other applicants or individuals eligible for other programs or projects funded unther Rehabilitation Act 1	

Part IV. Systemic Activities and Litigation

A. Non-Litigation Systemic Activities

1. Number of non-litigation systemic activities not involving individual representation that resulted in the change of one or more policy or practice of an agency.

2. Describe the systemic activities conducted by CAP during the fiscal year and its impact on other agency's policies or practices.

Successful non-litigation systemic activity (*answer to 1*):

In FY 2017, DRNY successfully advocated for a change in practice by ACCES-VR and its administrative review (AR) process. DRNY represented a client who was denied VR services after an AR review. The AR decision said the client was a recipient of Social Security Disability Insurance (SSDI) benefits and as such was entitled to reapply for services. This is a misstatement of basic VR eligibility law. The AR decision also said that the client's disability was too severe to allow her to benefit from VR services but failed to offer the client a trial work experience until the client reapplied.

As a result of DRNY advocacy, ACCES-VR modified its practice and now requires decisions to be reviewed by their District Office Manager before finalization. Further, if the issues in the AR are complex, the decision will be reviewed by the Regional Coordinator. This new practice will ensure that decisions are written consistent with VR law and policy, and that any misunderstandings or misstatements be addressed before the decision reaches any client.

Impartial Hearings:

DRNY has created a study of all VR agency impartial hearing decisions reported by the agencies in the last 5 years. This study is examining withdrawal of hearing requests, common issues appealed, and the outcome of the hearing. This study will assist DRNY to identify whether hearings are not being requested, decisions are unevenly biased towards the VR agency, and whether the process dissuades clients from seeking hearings. The project will continue in FY 2018 and will include DRNY's targeting training based upon the findings of this study.

Sub-Minimum Wage Workers:

DRNY targeted outreach and training to workers who receive sub-minimum wages in sheltered workshop settings. Pursuant to Section 511 of WIOA, DRNY has developed training materials to educate clients about their right to transition to competitive employment and receive VR services to assist with this transition. DRNY has met several times with VR agencies to ensure that the agencies are prepared to address the needs of these workers. DRNY will continue this work with targeted outreaches to sheltered workshop settings in FY 2018.

State & City Universities:

DRNY continued its outreach campaign to all Disability Services Offices in the SUNY/CUNY system (comprised of all the NY State- and NYC-operated colleges and universities). DRNY has successfully conducted 6 outreach

presentations at these schools. These outreaches focused on providing training to the youth and the college and university student population about VR and CAP services. DRNY will continue this work in FY 2018.

Transition Population:

DRNY continued to focus on serving the pre-employment transition (“Pre-ETS”) population in FY 2017. DRNY has attended several transition group meetings, transition fairs, and Special Education PTA events to further this mission.

Data on Students with Disabilities:

DRNY’s CAP Director continues to chair the Data Collection Committee of the Advisory Council on Postsecondary Education for Students with Disabilities at the NY State Education Department (NYSED). The Committee develops recommendations for how NYSED and VR can better track the successes of students with disabilities, from primary education, through the transition period, to employment. Through DRNY’s work, proposals to NYSED’s Commissioner and Chancellor were made to support the more consistent collection of data by postsecondary institutions on students self-identified as having disabilities. These proposals are directly related to the broadening and strengthening of services available to the population, including important guidance, counseling, and tuition support services by VR agencies.

ILC Grievance Policies:

DRNY reached out to all federally funded ILCs in the state to ensure that their grievance policies contain the most up-to-date information to obtain the CAP services for which an ILC applicant or client may be eligible. DRNY was successful in getting 14 out of 17 policies corrected. The three outstanding policies were from unresponsive ILCs. DRNY will focus on these three ILCs in FY 2018.

This project will evolve to a second phase in FY 2018. DRNY will establish a presence at ILCs across the state with office hours, outreach and training, and other networking opportunities.

Priorities:

DRNY developed 12 CAP program priorities to be in effect from FY 2016 thru FY 2018. With these priorities, DRNY has been able to focus its resources on certain substantive areas while providing the public with a clear articulation of issues with which DRNY might be able to assist. DRNY will continue to use these CAP priorities (copied below) in the coming fiscal year to inform its advocacy efforts.

Priority I

Advocate for those who are in the process of applying for Vocational Rehabilitation (VR) services while ensuring the legal standards for findings of eligibility and ineligibility are maintained by the VR agencies.

Priority II

Advocate for those who are in the Individualized Plan for Employment (IPE) development or implementation stages of the VR process in an effort to ensure a suitable employment goal consistent with the strengths, resources,

priorities, concerns, abilities, capabilities, interests, and informed choice of individuals, as well as timely execution of VR services.

Priority III

Advocate for those who are seeking to establish or reestablish communication and/or a productive working relationship with their vocational rehabilitation counselor (VRC).

Priority IV

Advocate for those who are seeking college and/or graduate school support from their VR agency in an effort to achieve their IPE goal.

Priority V

Advocate for the provision of pre-employment transition services for students with disabilities who require and are eligible or potentially eligible for such services under Section 113 of the Rehabilitation Act of 1973, as amended.

Priority VI

Advocate for those clients and applicants who are seeking support from their VR agency in their goal of self-employment.

Priority VII

Advocate for those clients and applicants who are seeking transportation and/or vehicle modification assistance from VR agencies in an effort to achieve their IPE goal.

Priority VIII

Advocate for those clients and applicants who are seeking assistive technology and/or rehabilitative technology in an effort to achieve their IPE goal.

Priority IX

Advocate for those eligible for services under Section 511 of the Rehabilitation Act of 1973, as amended, related to the payment of subminimum wages to persons with disabilities.

Priority X

Advocate for those clients and applicants of federally funded independent living centers.

Priority XI

Provide technical assistance and information to those applicants and clients who qualify for services and benefits under Title I of the Americans with Disabilities Act and/or Social Security work incentives such as PASS Plans and Ticket to Work.

Priority XII

Conduct an outreach and education campaign to ensure that individuals in underserved and unserved communities throughout New York State understand their rights, know about the Protection & Advocacy system, and can access appropriate Client Assistance Program services.

B. Litigation

1. Total number of CAP cases requiring litigation involving individual representation resulting in, or with the potential for, systemic change.

a. Number of cases requiring litigation involving individual representation filed during fiscal year. 0

b. Number of on-going cases pending at start of fiscal year (carryover from prior fiscal year). 0

c. Number of cases resolved through litigation during fiscal year. 0

2. Describe the agency's on-going and completed systemic litigation activities involving individual representation.

DRNY did not have any systemic litigation activity involving individual representation. Instead, DRNY's efforts to resolve disputes using alternative methods were very successful. DRNY participated in informal meetings, written and in-person negotiations, administrative reviews, and mediation, to successfully represent its clients.

Part V. Agency Information

A. Designated Agency

1. Agency Type (select only one option) External-Protection and Advocacy agency
2. Name of designate agency Disability Rights New York
3. Is the designated agency contracting CAP services? No
4. If yes, name of contracting agency: N/A

B. Staff Employed

Provide a description of all CAP positions (see instructions)

Type of position	Full-time equivalent	% of year position filled	Person-years
Professional	7.91		
Full-time	7.91	94%	7.82
Part-time	0	0	0
Vacant	0.9	6%	0.9
Clerical	1.09		
Full-time	0.87	89%	0.87
Part-time	0	0	0
Vacant	0.22	11%	0.22

Professional FTE

DRNY paid 17 professional staff in the 2017 fiscal year from Section 112 funds. Allowing for the timing of hires during the year as well as the percentage of indirect staff time allocated to Section 112 funds the 17 professional EE's equate to 7.91 FTE. During FY 2017, 94% of the full time professional positions were filled for 12 months equating to 7.82 person years. The vacancies for FY 2017 equate to 6% of the positions unfilled. DRNY did not have any part time professional employees during FY 2017.

Clerical FTE

DRNY paid 12 clerical staff in the 2017 fiscal year from Section 112 funds. Allowing for the timing of hires during the year as well as the percentage of indirect staff time allocated to Section 112 funds the 12 EE's equate to 1.09 FTE. During FY 2017, 89% of the full time positions were filled for 12 months equating to .87 person years. The vacancies for FY 2017 equate to 11% of the positions unfilled which equals .22 FTE's totaling .22 person years. DRNY did not have any part time clerical employees during FY 2017.

Part VI. Case Examples

Provide some examples of some interesting cases during the past fiscal year.

1.

DRNY represented a 43-year-old woman with a muscular skeletal impairment. She was seeking assistance from ACCES-VR for a high-tech vehicle modification. The ACCES-VR provider who conducted the initial assessment, refused to travel to the client's local area to provide necessary adaptive driving training. DRNY located a different provider and successfully negotiated with ACCES-VR to fund the adaptive driver training at the client's home. Today, the client is driving independently.

2.

DRNY represented a 24-year-old male with specific learning disabilities. He sought DRNY's assistance in receiving graduate school tuition and support to become an intelligence analyst, with the ultimate goal of working at the FBI's Accounting/Finance and Business Analysis and Administration departments. The client had already received ACCES-VR support to obtain his bachelor's degree. The agency denied the client's request because his broad goal of working in the field of criminal justice meant he was employable without the need for more schooling. DRNY successfully advocated for an updated targeted goal so the client could receive graduate school tuition and support.

3.

DRNY represented a 55-year-old man who wanted to start his own plant nursery business. The client was denied services by ACCES-VR even after compiling extensive research, meeting with a business consultant, creating a business plan. After a year of DRNY's advocacy, his self-employment plan was finally approved by ACCES-VR. However, ACCES-VR continued to deny technology, seeds, and supplies the client needed for his business. DRNY was successful in obtaining support from ACCES-VR for all the services he needed to run a successful business.

4.

DRNY represented a 22-year-old man with Autism who was denied ACCES-VR college sponsorship because his goal of becoming a Pixar animator was deemed not viable. DRNY discovered that the VR counselor (VRC) only met with the client one time before she and her supervisor had concluded that his goal was not viable. The VRC argued that the client seemed incapable of completing college level courses, though this conclusion was made without referring the client for any evaluations for the record. DRNY argued that such denials could not be made based on first impressions. DRNY advocated for the client to undergo several appropriate evaluations and to receive college sponsorship, contingent on those results. After the evaluations were completed, ACCES-VR granted the client college sponsorship to attend a university, where he is currently majoring in Computer Animation.

5.

DRNY represented a 19-year-old woman with physical impairments, and who uses a power wheelchair. ACCES-VR denied her sponsorship for college, alleging that the client was taking too many prerequisite courses. ACCES-VR also denied her transportation support to get her to

and from school. The client no longer wanted to work with her then-current VRC due to several communication errors between them. DRNY was able to obtain a new VRC for the client. ACCES-VR also reinstated the client's sponsorship for college and agreed to refer the client to complete an assistive technology evaluation for further potential supports.

6.

DRNY represented a 44-year-old woman who is deaf. The client was assigned a VRC that used American Sign Language. However, the client only wished to communicate with the use of Communication Access Real-time Translation (CART Interpreter Services). ACCES-VR denied the request for CART Interpreter services for use during these meetings. DRNY successfully advocated that CART be provided during all meetings and evaluations and that a new VRC be assigned to the client. Also, DRNY advocated that new eye glasses be provided to the client, since she had limited health insurance benefits. The client is currently moving toward her employment goal as a Graphic Designer with VR support.

Certification

Reports are to be submitted to RSA within 90 days after the end of the fiscal year covered by this report. Please be reminded that you can enter data directly into RSA's website via the internet. Information on transmittal of the form is found on pages 19 and 20 of the reporting instructions.

Name of Designated Agency Official Erica M. Molina, Esq.

Title of Designated Agency Official CAP Director

Date Signed

12/15/2017