



**OUR  
CENTER  
OUR  
SERVICES**

**HAWAII DISABILITY RIGHTS CENTER**

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**Hawaii's Protection and Advocacy System for People with Disabilities  
Hawaii's Client Assistance Program**

**CAP**

# HAWAII DISABILITY RIGHTS CENTER OUR CENTER - OUR SERVICES

## I. INTRODUCTION

### A. HISTORY AND MISSION

The Hawaii Disability Rights Center (HDRC) is Hawaii's designated protection and advocacy system for people with disabilities and Client Assistance Program. HDRC was established as a non-profit corporation in 1977 to protect and advocate for the human, civil and legal rights of people with disabilities.

- **Human Rights** are those natural rights that are accorded to all human beings. They are clearly stated in the U.S. Constitution as the right to life, liberty and the pursuit of happiness.
- **Civil Rights** are an expansion of basic human rights and are specified in the U.S. Constitution, the Bill of Rights and the Hawaii State Constitution. They include the rights to: freedom of religion, speech, press, assembly; petition for change; equal protection under the law; privacy; confidentiality; appeal decisions; freedom from oppression, unlawful search and seizure; and cruel and unusual punishment.
- **Legal Rights** are an expansion of our human and civil rights as established by specific laws, such as those laws which authorize protection and advocacy for people with disabilities.

### B. FEDERAL MANDATE

Protection and advocacy for people with disabilities is mandated in six separate federal laws:

- **Protection and Advocacy for Individuals with Developmental Disabilities (PADD)** is authorized in the Developmental Disabilities Assistance and Bill of Rights Act, 42 USC 15001, PL 106-402.
- **Protection and Advocacy for Individuals with Mental Illness (PAIMI)** is authorized in the Protection and Advocacy for Mentally Ill Individuals Act, 42 USC 10801, PL 106-310.
- **Protection and Advocacy for Individual Rights (PAIR)** is authorized in the Rehabilitation Act, 29USC 794e, PL 106-402.
- **Protection and Advocacy for [Individuals in Need of] Assistive Technology (PAAT)** is authorized in the Assistive Technology Act, 29 USC 3011,3012, PL 105-394.
- **Protection and Advocacy for Beneficiaries of Social Security (PABSS)** is authorized in the Ticket to Work and Work Incentives Improvement Act, 42 USC 1320b-20, PL 106-170.
- **Protection and Advocacy for Individuals with Traumatic Brain Injury (PATBI)** in the Children's Health Act of 2000, 42 USC 300d-53, PL 106-310.
- **Protection and Advocacy for Voter Assistance (PAVA)** in the Help America Vote Act of 2002, 42 USC 15461-62, PL 107-252.

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In addition, applicants and recipients of Vocational Rehabilitation are entitled to assistance in obtaining services funded under the Rehabilitation Act by the:

- **Client Assistance Program (CAP)**, authorized in the Rehabilitation Act, 29 USC 732, PL 105-220.

### **C. STATE MANDATE**

Protection and Advocacy is also authorized in Hawaii Revised Statutes 333F-8.5, and HDRC is designated by the Governor (Executive Orders 77-3, 82-4, 89-2 and 94-06) to provide its important protections for people with disabilities.

On August 14, 1984, the Attorney General rendered the opinion that the Governor's designation conferred "quasi-agency" status upon the protection and advocacy system for people with disabilities. That is, HDRC has its own legally mandated duties and responsibilities which are not performed by another State agency.

### **D. COORDINATION AND PARTNERSHIPS**

The Hawaii Disability Rights Center assures that its programs are coordinated through centralized intake, case assignment and supervision, creation of priorities and objectives, public comments, client grievance procedures and a consolidated information system.

HDRC meets regularly with the State Planning Council on Developmental Disabilities (SPCDD) and the University Center for Excellence (UCE) to assure coordination of mandates and activities established in the federal DD Act. HDRC serves on the SPCDD Council and on the UCE Advisory Council. HDRC meets with the Office of the Long Term Care Ombudsman (LTCO) to assure coordination of services.

### **E. CONSTITUENTS - PEOPLE WITH DISABILITIES**

HDRC serves people with disabilities. Disability is usually defined in terms of functional limitation in the following areas: Capacity for self-care, Mobility, Independent living, Economic self-sufficiency, Learning, Self-direction, or Receptive and expressive language.

The Americans with Disabilities Act (ADA) definition of disability consists of three parts:

- A physical or mental impairment that substantially limits one or more major life activity;
- A record of such impairment(s); or
- The perception of having such an impairment.

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According to U.S. Census Bureau data the State of Hawaii has about 1,200,000 residents. Federal health and census data conservatively estimates that 15% of the population has a disability; therefore, it is estimated that 180,000 of Hawaii's citizens have a disability.

### F. RESOURCES

HDRC has resources to serve one to two percent (1,800 to 3,600) of the State's citizens with disabilities a year. HDRC has a staff of 15.5 FTE employees, including 8 attorneys and 3.5 FTE advocates, to serve the entire State of Hawaii.

## II. SCOPE OF SERVICES

### A. RIGHTS ISSUES

HDRC has identified and organized the *“universe” of issues* in which the agency may protect and advocate for the human, civil and legal rights of people with disabilities, as follows:

1. **Care and Treatment** - the right to receive care and treatment in the most integrated setting appropriate; which is free from abuse and neglect; and which is provided with access to due process, informed consent, confidentiality and privacy.
2. **Citizenship** – the rights to accessible public facilities; to move about freely; to vote; serve on juries; to enter into contracts; to own and dispose of property; and to become naturalized citizens.
3. **Education** – the rights to individualized educational programs and related services; integration into regular classrooms; freedom from discriminatory arrest, suspension, expulsion from school.
4. **Employment** – the rights to freedom from discrimination in hiring, provision of reasonable accommodation, advancement, or termination in competitive, supported, or sheltered employment; the right to assistance resolving problems with VR services.
5. **Freedom of Association** – the rights to form and maintain relationships; to reproduce; to raise children.
6. **Housing** – the rights to freedom from discrimination in obtaining and maintaining housing and to keep companion/service animals in one's home.
7. **Justice** - the right to be considered competent and to conduct one's own affairs, unless determined by a court of law to lack such capacity. Protection of civil rights in commitment and release proceedings, and the right to humane treatment during confinement.

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8. **Programs and Services** - the right to accessible programs and services; and to freedom from discrimination in obtaining and maintaining services for which one is legally qualified, such as Assistive Technology, Medicaid, SSI/SSDI, transportation, etc.

### B. SERVICE PRIORITIES

Priorities are those issues that are given preference in the case screening and selection process. Once each year HDRC solicits comments and recommendations from its constituency and the community on those issues which should be priorities for the Center. HDRC client services priorities should be:

- Compatible with our mission and values
- Compatible with our areas of expertise (i.e. problems have legal implications)
- Compatible with our Criteria for Representation
- Unmet by other organizations
- Of probable significant impact (Individual and systemic)
- Feasible - cost is within HDRC resources; and
- Consistent with funding requirements

## III. ELEMENTS OF ADVOCACY

### A. ADVOCACY ACTIVITIES

HDRC engages in the following activities to accomplish its objectives:

1. **Outreach and Access** - Identification of and outreach to un-served and under-served (racial, ethnic, geographic) groups. Service on councils, groups, task forces concerned with disability issues.
2. **Information and Referral** - Provision of information, and referral to other sources of assistance when HDRC is not able to help an applicant.
3. **Education and Training** - Education and training activities for people with disabilities, families, communities, legal professionals and service providers.
4. **Supervised Referral** - Provision of short-term guidance (More than I&R, less than Individual Casework) to help a person with a disability to successfully advocate for the resolution of their own problem.
5. **Individual Casework** - Provision of advocacy to resolve an issue or problem for individuals with disabilities.
6. **Systems Casework** - Provision of advocacy to resolve an issue or problem that affects many people with disabilities.

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## B. ADVOCACY INTERVENTIONS

HDRC always tries to resolve problems with the lowest feasible level of intervention, such as **counseling/professional assistance, investigation, mediation, negotiation, arbitration, administrative reviews; and administrative appeals.**

However, Congress has directed that protection and advocacy systems agencies should have the capacity to provide full **legal representation** for its clients, **including litigation**, if necessary.

## C. ADVOCACY OUTCOMES

In all its work, HDRC strives to achieve one of the following broad outcomes to advance the human, civil and legal rights of all people with disabilities:

1. **Freedom from Abuse and Neglect (FAN)** - People with disabilities are free from acts, or failures to act, which result in their physical, psychological or financial harm or death.
2. **Accessible Communities (AC)** - People with disabilities gain access to employment, public facilities, programs and services and transportation as established in the Americans with Disabilities Act.
3. **Independence, Productivity, Integration and Inclusion (IPII)** - People with disabilities have the right to live freely; to enjoy the opportunities to experience personal growth, to work and contribute to society; and to be accepted and recognized for their abilities. They have the right to accept challenges, to take risks, to learn from mistakes and to experience success. They have the right to live in interdependent relationships in their own homes and communities.
4. **Self Determination (SD)** - People with disabilities advocate and make choices for themselves; select, control and evaluate the services they receive; and demonstrate their own competence.

## D. ADVOCACY PRINCIPLES

HDRC strives to provide services that are:

- Sensitive to the personal dignity, choice and cultural/ethnic diversity of each client;
- Offered with appropriate accommodations;
- Distributed based on the needs of people with disabilities; and
- Consumer driven and consumer responsive.

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## IV. CRITERIA FOR DIRECT REPRESENTATION

**The Hawaii Disability Rights Center strives to provide direct representation when:**

1. The individual's disability, as defined in the federal laws or contracts under which HDRC operates, is central rather than incidental to the issue presented, and
2. The individual meets the eligibility criteria for services as defined in those federal laws, regulations and contracts, and the Center's priorities.

**HDRC considers the following questions to determine when to provide client assistance or direct representation:**

1. Can the individual take reasonable steps to resolve the problem through self-advocacy, or does the problem require the assistance of HDRC advocacy staff?
2. What is the strength of the evidence, or moral or legal grounds supporting the individual's claim?
3. What is complexity of the presenting legal problem or issues, and/or the complexity of the bureaucracy or service delivery system the individual must encounter to try to resolve the problem?
4. What is the immediacy, severity and duration of effects of the threatened harm to the individual?
5. Is there increased vulnerability of the individual based on social, economic, unserved or underserved status?
6. Are other advocacy resources available to provide the required assistance or assist the individual in advocating for himself or herself?
7. Does the individual case present a claim that has a good possibility of satisfactory resolution through HDRC involvement?
8. Does the individual case have the potential to impact the legal rights of other individuals with disabilities?
9. What are the potential benefits to the individual from HDRC involvement?
10. What are the potential detriments to the individual if HDRC is not involved?
11. Does HDRC have adequate staff and other resources necessary to accept the individual's case without negatively affecting the representation of existing clients?
12. Does HDRC staff have the expertise necessary to resolve the problem and/or handle the case?

**While not all factors need to be satisfied for a case to be accepted, collectively they provide an objective means for allocating HDRC's limited resources.**

**HDRC does not duplicate services. HDRC does not provide direct representation when:**

1. The problem is one commonly accepted by the private bar or by local legal services programs, or the legal expertise is available elsewhere.
2. The legal problem involves a statutory right to appointed counsel.
3. The problem concerns the interests of service providers or families, guardians, or conservators of persons with disabilities unless that interest is consistent with the interest of the person with a disability.

HDRC does not provide legal representation in the following areas except in compelling and unique circumstances:

Family law - divorce, child support, custody; workers compensation; products liability; bankruptcy; tax issues; estate planning and wills; consumer protection ERISA issues; property disputes; tort defense; malpractice; private insurance; personal injury; criminal proceedings; conservatorship or guardianship of the person or property.



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