

# STATE OF CONNECTICUT



*AUDITORS' REPORT  
OFFICE OF PROTECTION AND ADVOCACY FOR PERSONS  
WITH DISABILITIES  
FOR THE FISCAL YEARS ENDED JUNE 30, 2014 AND 2015*

**AUDITORS OF PUBLIC ACCOUNTS**  
JOHN C. GERAGOSIAN ❖ ROBERT J. KANE

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## AUDITORS OF PUBLIC ACCOUNTS

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March 29, 2017

### **AUDITORS' REPORT OFFICE OF PROTECTION AND ADVOCACY FOR PERSONS WITH DISABILITIES FOR THE FISCAL YEARS ENDED JUNE 30, 2014 AND 2015**

We have audited certain operations of the Office of Protection and Advocacy for Persons with Disabilities in fulfillment of our duties under Section 2-90 of the Connecticut General Statutes. The scope of our audit included, but was not necessarily limited to, the years ended June 30, 2014 and 2015. The objectives of our audit were to:

1. Evaluate the office's internal controls over significant management and financial functions;
2. Evaluate the office's compliance with policies and procedures internal to the department or promulgated by other state agencies, as well as certain legal provisions; and
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing written policies and procedures, financial records, minutes of meetings, and other pertinent documents; interviewing various personnel of the department; and testing selected transactions. We obtained an understanding of internal controls that we deemed significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contracts, grant agreements, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Résumé of Operations is presented for informational purposes. This information was obtained from the department's management and was not subjected to the procedures applied in our audit of the department. For the areas audited, we identified:

1. Deficiencies in internal controls;
2. Apparent noncompliance with legal provisions; and
3. Need for improvement in management practices and procedures that we deemed to be reportable.

The State Auditors' Findings and Recommendations in the accompanying report presents any findings arising from the audit of the Office of Protection and Advocacy for Persons with Disabilities.

## COMMENTS

### FOREWORD

The Office of Protection and Advocacy for Persons with Disabilities (OPA) operates primarily under the provisions of Title 46a, Chapter 813, Sections 46a-7 through 46a-13a of the Connecticut General Statutes, to provide protection and advocacy for persons with disabilities. Also, OPA is subject to the provisions of several other state statutes and one executive order. The primary mission of OPA is to advance the cause of equal rights for persons with disabilities and their families and to protect people with disabilities from abuse and neglect.

OPA is required by the Connecticut General Statutes to investigate allegations of abuse or neglect by the caregivers of persons with intellectual disabilities between the ages of 18 and 59, inclusive. On average, over 1,000 such complaints are received and accepted annually. Due to limited resources, OPA cannot investigate each allegation directly and must rely on other agencies, primarily the Department of Developmental Services (DDS), to conduct many of its investigations. Those investigations that are not directly investigated by OPA are monitored by OPA under the terms of an interagency agreement with DDS.

OPA and DDS have an interagency agreement governing the investigation of abuse and neglect of individuals with intellectual disabilities and the provision of protective services to those individuals. Section 8 of Public Act 05-256 required the interagency agreement to include, among other things, guidelines identifying the responsibilities of each agency with respect to

investigations of abuse and neglect and the individuals in each agency who shall carry out such investigative responsibilities, and interagency documentation and reporting procedures.

OPA conducts primary investigations of allegations of abuse and neglect that involve private individual or family homes, individuals who self-direct their own support staff, and cases in which there is a reasonable cause to suspect or believe the death of a person with intellectual disabilities was due to abuse or neglect. DDS ordinarily conducts the primary investigation of allegations that implicate DDS employees or occur at DDS facilities. Upon completion, these investigations are forwarded to OPA for review. According to the interagency agreement, primary investigations are to be completed within 90 days, unless a more stringent rule applies, while certain other cases may take longer.

OPA maintains a Case Management System to track its abuse investigations. According to that database, as of June 30, 2015, there were 92 open investigations being conducted by OPA, and another 469 cases being conducted by private providers and monitored by OPA for a total of 561 open cases. The case tracking system database also shows the number of days a current case has been opened. As of June 30, 2015, 216 cases, or 39 percent, were less than 60 days old; 131 cases (23 percent) were between 61 and 120 days old; and 80 cases (14 percent) were between 121 and 180 days old. The remaining 134 cases (24 percent) were from 180 days to more than 720 days old. We found some issues with the data produced by the OPA Case Management System, which are discussed further in the State Auditors Findings and Recommendations section of this report.

Since November 2005, the Office of Protection and Advocacy's business office functions, together with payroll and personnel functions, were absorbed by the Department of Administrative Services (DAS). Employees at the Office of Protection and Advocacy who performed these functions were transferred to DAS.

Section 46a-10 of the Connecticut General Statutes provides that the Office of Protection and Advocacy shall be administered by an executive director appointed by the Governor. James D. McGaughey served as executive director until his retirement, effective June 1, 2014, when Assistant Director Gretchen Knauff took over those duties as interim executive director. The Governor appointed a new executive director, Craig Henrici, effective July 1, 2014, who continues to serve in that capacity.

Section 46a-9 of the Connecticut General Statutes established a Board of Protection and Advocacy for Persons with Disabilities (Advocacy Board), which serves in an advisory capacity to the Office of Protection and Advocacy. The statute requires that the board's fifteen members, appointed by the Governor, be comprised of ten persons with disabilities or a parent or guardian of a person with a disability, at least four of whom shall represent developmentally disabled persons, five persons who are knowledgeable in the problems of persons with disabilities, and the chairperson for the advisory board of the protection and advocacy for individuals with mental illness program. As of June 30, 2015, board members were as follows:

Sheila Mulvey, Chairperson

William Knight

Thomas Behrendt  
Alexandria Bode  
John Clausen  
Harvey Corson  
Jill Hall  
Melissa Marshall

Elizabeth McArthur  
David Morgana  
Chadwick Sinanian  
Jonathan Slifka  
Miles Wilkerson

There were two vacancies on the board as of June 30, 2015.

Governor Rowland's Executive Order Number 25, later modified by Governor Rell's Executive Order Number 42, established the Fatality Review Board for Persons with Disabilities (Fatality Review Board). The board investigates the circumstances surrounding the untimely deaths of Department of Developmental Services clients in cases when the death was likely caused by abuse or neglect which, in the opinion of the executive director, warrant a full and independent investigation.

The Fatality Review Board is chaired by the OPA executive director and consists of the following members appointed by the Governor: one law enforcement professional with a background in forensic investigations, one developmental services professional, the Chief State's Attorney or a designee, two medical professionals, and one person with expertise in teaching forensic investigation techniques. The commissioner of the Department of Developmental Services, or a designee, serves as a non-voting liaison to the Fatality Review Board.

As of June 30, 2015, the members of the Fatality Review Board, in addition to the executive director, were as follows:

John DeMattia, Esq.  
Gerard Kerins, M.D.  
Patricia Mansfield, R.N.  
James McGaughey  
Timothy Palmbach  
Lakisha Hyatt, M.S.N. R.N, DDS

Section 46a-11 of the Connecticut General Statutes permits the executive director to establish an Accessibility Advisory Board (Access Board), appoint board membership, and convene meetings of said board. The Access Board advises the executive director on accessibility matters relating to housing, transportation, government programs, and services. As of June 30, 2015, the board members were as follows:

Candace Low  
Suzanne Tucker  
Robert G. Sheeley  
Michael K. Geaker  
William K. Wasch  
Marty Legault

The Protection and Advocacy for Individuals with Mental Illness (PAIMI) Council, established under 42 U.S.C. Section 10801, advises the executive director on policies and priorities to be carried out in advocating for and protecting the rights of individuals with mental illness. As of June 30, 2015, the council members were as follows:

Jill Hall, Chairperson  
Deron Drumm  
Daniela Giordano  
Tara Bernoudy  
Patricia Carroll  
Tracie Compositor  
Michaela Fissel  
Kathleen Flaherty  
Jennifer Henry

Public Act 16-66 eliminates the Office of Protection and Advocacy for Persons with Disabilities and the Board of Advocacy and Protection for Persons with Disabilities, effective July 1, 2017, and dictates that not later than November 1, 2016, OPA shall submit a plan to the Secretary of the Office of Policy and Management containing provisions for the July 1, 2017 effective transfer to a nonprofit entity designated by the Governor. The act also states that the Department of Rehabilitation Services shall constitute a successor department for OPA with respect to investigations of allegations of abuse or neglect effective July 1, 2017.

## **RÉSUMÉ OF OPERATIONS**

### **Revenues – Federal and Other Restricted Accounts Fund**

OPA receipts totaled \$1,632,852 and \$1,650,349 during the fiscal years ended June 30, 2014 and 2015, respectively, compared to \$1,521,980 for the fiscal year ended June 30, 2013. The receipts consisted of restricted federal contributions from the U. S. Department of Health and Human Services, the U. S. Department of Education, and the U.S. Social Security Administration, including Social Services Block Grant funds, which pass through the Connecticut Department of Social Services.

### **Expenditures – General Fund**

General Fund expenditures totaled \$2,387,742 and \$2,390,962 during the fiscal years ended June 30, 2014 and 2015, respectively, compared to \$2,238,177 for the fiscal year ended June 30, 2013. A comparison of total General Fund expenditures for the audited fiscal years along with the prior year information is presented below:

	<b><u>Fiscal Year Ended June 30,</u></b>		
	<b><u>2013</u></b>	<b><u>2014</u></b>	<b><u>2015</u></b>
<b>General Fund Expenditures:</b>			
Personal Services and Employee Benefits	\$2,060,114	\$2,178,705	\$2,213,365

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Professional, Scientific & Technical Services	58,396	103,816	111,563
Purchased Commodities	43,078	9,173	9,638
Communications	19,322	21,224	16,931
Other Services	27,176	36,963	17,298
Other Miscellaneous Expenditures	<u>30,091</u>	<u>37,861</u>	<u>22,167</u>
<b>Total General Fund Expenditures</b>	<b><u>\$2,238,177</u></b>	<b><u>\$2,387,742</u></b>	<b><u>\$2,390,962</u></b>

These totals represent an increase of \$149,565 and \$3,220 during the fiscal years ended June 30, 2014 and 2015, respectively, and can be attributed primarily to increases in personal service costs.

**Expenditures - Federal and Other Restricted Accounts Fund**

Expenditures from the Federal and Other Restricted Accounts Fund in the fiscal years ended June 30, 2014 and 2015, amounted to \$1,628,085 and \$1,586,425 respectively, compared to \$1,582,393 for the fiscal year ended June 30, 2013. These expenditures consisted mainly of personal services and employee benefit costs. A comparison of total Federal and Other Restricted Accounts Fund expenditures for the audited fiscal years along with the prior year's information is presented below:

	<b><u>Fiscal Year Ended June 30,</u></b>		
	<b><u>2013</u></b>	<b><u>2014</u></b>	<b><u>2015</u></b>
Personal Services and Employee Benefits	\$1,407,814	\$1,451,228	\$1,421,503
Professional, Scientific & Technical Services	97,770	129,967	40,276
Fixed Charges	0	5,000	78,000
Other Services	26,216	36,841	39,142
Other Miscellaneous Expenditures	<u>50,593</u>	<u>5,049</u>	<u>7,504</u>
<b>Total General Fund Expenditures</b>	<b><u>\$1,582,393</u></b>	<b><u>\$1,628,085</u></b>	<b><u>\$1,586,425</u></b>

The totals represent an increase of \$45,692 and decrease of \$41,660 during the fiscal years ended June 30, 2014 and 2015 respectively.



## STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

Our review of the records of the Office of Protection and Advocacy for Persons with Disabilities identified areas requiring improvement or attention, as discussed in this section of the report.

### **Upgrading the Case Management System**

*Criteria:* Section 46a-11c of the Connecticut General Statutes states that “the director, upon receiving a report that a person with intellectual disability allegedly is being or has been abused or neglected, shall make an initial determination whether such person has intellectual disability, shall determine if the report warrants investigation and shall cause, in cases that so warrant, a prompt, thorough evaluation to be made to determine whether the person has intellectual disability and has been abused or neglected.”

To comply with the requirements of this statute, the Office of Protection and Advocacy for Persons with Disabilities uses a computer software program, Microsoft Access, to track the status of its cases. One of the reports produced, called the Case Tracking Statistic Summary, aggregates the cases by the age of the case: 0 to 60 days, 61 to 120 days, etc. Two other reports produced are the Abuse/Neglect Summary by OPA, which reports the number of cases by OPA investigator, and the Case Inventory by Year and Month, which reports the monthly ending inventory of cases.

*Condition:* We obtained the case management reports, as of June 30, 2015, and found the following issues with the data presented in the reports:

- The Case Management Tracking System produces three reports that have different total case inventory amounts that could not be reconciled to each other: Case Inventory by Year and Month (667 total cases), Abuse/Neglect Summary by OPA (593 total cases) and the Case Tracking Statistic Summary (561 total cases).
- The Case Management System does not report cases that are 61 to 90 days old, instead reporting cases that are 61 to 120 days old. However, the memorandum of understanding between OPA and the Department of Developmental Services establishes 90 calendar days as the required timeframe for completion of most investigations.

*Effect:* The Case Management System cannot be relied upon to produce the accurate and timely data needed to properly administer investigations.

- Cause:* While we recognize attempts have been made to update the system, the fact remains that the case management system is antiquated. The department has indicated that the resources to upgrade the system have not been available.
- Recommendation:* The Office of Protection and Advocacy for Persons with Disabilities should continue seeking available solutions to upgrade its case management system to ensure it produces accurate, complete, and timely data on abuse investigation cases. (See Recommendation 1.)
- Agency Response:* “The Office of Protection and Advocacy for Persons with Disabilities agrees that it needs a new database to accurately and consistently produce both investigation and statistical reports. Although, this has been a finding on the past several audits, the agency has constantly worked to obtain resources to fund the development of a new database. Since the prior audit, the agency has made significant progress toward the development of the database. A vendor was chosen to gather information and develop a detailed plan for the database. The agency is now waiting for the office of Policy and Management to approve the release of the Capitol Equipment Funds.”

### **Overtime and Compensatory Time Procedures and Records**

- Criteria:* Management Personnel Policy 06-02, published by the Department of Administrative Services, provides that management and confidential employees must receive written authorization in advance by the agency head or a designee for compensatory time in order to record the extra hours as time earned. Proof of advance authorization must be retained in the employee’s personnel file for audit purposes.
- In addition, it has been OPA policy to require that overtime be approved in advance. The only exceptions are for extreme exigent circumstances.
- Condition:* We reviewed ten instances of compensatory time and 12 instances of overtime earned and were unable to verify that prior written authorization was received in 15 out of the 22 instances.
- Effect:* Without proper oversight, the office has less assurance that the services it has compensated its employees for have been performed.
- Cause:* Administrative controls over the earning of compensatory time and overtime were inadequate.
- Recommendation:* The Office of Protection and Advocacy for Persons with Disabilities should strengthen controls over compensatory time and overtime.

Approvals should be issued before any overtime or compensatory time is earned. (See Recommendation 2.)

*Agency Response:* “The Office of Protection and Advocacy for Persons with Disabilities has relatively little overtime and supervisors follow the restrictions on the use of overtime. Instances of overtime were for a specific event or purpose and it can be verified that the employee performed the work. Except in emergency situations, all overtime is approved prior to being earned. Some of the overtime is approved orally by a supervisor and then committed to writing soon thereafter.”

## **OTHER MATTERS**

In accordance with federal law, protection and advocacy organizations must be independent of service-providing agencies. Protection and advocacy organizations must have the authority and capacity to conduct investigations, provide information and referrals, pursue legal and administrative remedies and educate policy makers.

The U.S. Department of Health and Human Services Administration on Intellectual and Developmental Disabilities (AIDD) conducted a Quality Review System Tier 3 review of OPA beginning in the fall of 2015 to examine whether OPA was in compliance with the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. 15041-45. A Tier 3 review is a “customized monitoring of ‘red flag’ programs,” ‘red flag’ being those programs that “AIDD has significant concerns about in terms of compliance.”

The AIDD found that, although OPA is well respected for its expertise and commitment, because it is a state agency with state responsibilities, it lacks the “safeguards that ensure a high degree of independence and autonomy,” and as a result, its capacity to protect and advocate for people with developmental disabilities is diminished. AIDD reported that OPA must take corrective action to strengthen its capacity to protect and advocate for the rights of people with developmental disabilities.

## RECOMMENDATIONS

Our previous audit examination of the Office of Protection and Advocacy for Persons with Disabilities contained five recommendations. A summary of those recommendations and the action taken follows:

*Status of Prior Audit Recommendations:*

- **The Office of Protection and Advocacy for Persons with Disabilities and the Fatality Review Board should prepare and submit an administrative report to the Governor in accordance with Section 4-60 of the General Statutes.** This audit recommendation is not being repeated.
- **The Office of Protection and Advocacy for Persons with Disabilities should implement the procedures necessary to ensure that it administers its petty cash fund in compliance with requirements of the State Accounting Manual.** This audit recommendation is not being repeated.
- **The Office of Protection and Advocacy should upgrade its Case Management System to ensure that it produces accurate, complete, and timely data on abuse investigation cases. OPA should update its interagency agreement with the Department of Developmental Services.** This audit recommendation is being repeated in modified form. (See Recommendation 1.)
- **The Department of Administrative Services should coordinate with all of its consolidated agencies, including the Office of Protection and Advocacy for Persons with Disabilities, to develop procedures to ensure that the software inventory records are prepared and maintained in accordance with the software inventory policy and procedures as set forth in the State Property Control Manual.** This audit recommendation is not being repeated.
- **The Office of Protection and Advocacy for Persons with Disabilities, in conjunction with the Department of Administrative Services, should strengthen controls over compensatory time and overtime. Approvals should be issued before any overtime or compensatory time is earned.** This audit recommendation is being repeated in modified form. (See Recommendation 2.)

*Current Audit Recommendations:*

- 1. The Office of Protection and Advocacy for Persons with Disabilities should continue seeking available solutions to upgrade its case management system to ensure it produces accurate, complete, and timely data on abuse investigation cases.**

Comments:

The OPA case management system cannot be relied upon to produce the accurate and timely data needed to properly administer investigations.

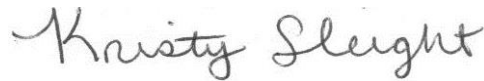
- 2. The Office of Protection and Advocacy for Persons with Disabilities should strengthen controls over compensatory time and overtime. Approvals should be issued before any overtime or compensatory time is earned.**

Comments:

Without proper oversight, the office has less assurance that the service it compensated its employees for has been performed.

**CONCLUSION**

We wish to express our appreciation for the courtesies extended to our representatives by the personnel of the Office of Protection and Advocacy for Persons with Disabilities during the course of our examination.



Kristy Sleight  
Associate Auditor

Approved:



John C. Geragosian  
Auditor of Public Accounts



Robert J. Kane  
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