

STATE OF CONNECTICUT



*AUDITORS' REPORT
OFFICE OF PROTECTION AND ADVOCACY
FOR PERSONS WITH DISABILITIES
FOR THE FISCAL YEARS ENDED JUNE 30, 2016 AND 2017*

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

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October 8, 2019

Executive Summary

In accordance with the provisions of Section 2-90 of the Connecticut General Statutes, we have audited certain operations of the Office of Protection and Advocacy for Persons with Disabilities. The objectives of this review were to evaluate the department's internal controls, compliance with policies and procedures, as well as certain legal provisions, and management practices and operations for the fiscal years ended June 30, 2016 and 2017.

Our audit did not identify any control deficiencies or instances of noncompliance with laws, regulations, and policies, or the need for changes in management practices that warrant the attention of management.

STATE OF CONNECTICUT



AUDITORS OF PUBLIC ACCOUNTS

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October 8, 2019

INTRODUCTION AUDITORS' REPORT OFFICE OF PROTECTION AND ADVOCACY FOR PERSONS WITH DISABILITIES FOR THE FISCAL YEARS ENDED JUNE 30, 2016 AND 2017

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, 2016 and 2017. 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 effectiveness, 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 various available sources including, but not limited to, the department's management and the state's information systems, and was not subjected to the procedures applied in our audit of the department. For the areas audited, we identified:

1. No deficiencies in internal controls;
2. No apparent noncompliance with policies and procedures or legal provisions; and
3. No need for improvement in management practices and procedures that we deemed to be reportable.

COMMENTS

FOREWORD

During the audited period, the Office of Protection and Advocacy for Persons with Disabilities (OPA) operated primarily under the provisions of Title 46a, Chapter 813 of the Connecticut General Statutes, to provide protection and advocacy for persons with disabilities. OPA was also subject to the provisions of several other state statutes and an executive order. The primary mission of OPA was to advance the cause of equal rights for persons with disabilities and their families and to protect people with disabilities from abuse and neglect.

Public Act 16-66 eliminated the Office of Protection and Advocacy for Persons with Disabilities along with the Board of Advocacy and Protection for Persons with Disabilities, effective July 1, 2017. The act required OPA to submit a plan to the Office of Policy and Management, by November 1, 2016, to effectively transfer its protection and advocacy and client assistance functions to a nonprofit entity designated by the Governor, by July 1, 2017. The act also transferred from OPA, its investigatory responsibilities to the Department of Rehabilitation Services (DORS), effective July 1, 2017.

Accordingly, as of July 1, 2017, Disability Rights Connecticut, Inc. (DRCT), a new independent, non-profit organization was established to succeed OPA, and duties to investigate abuse or neglect were transferred to DORS.

Prior to its elimination, the Connecticut General Statutes required OPA to investigate allegations of abuse or neglect by the caregivers of persons with intellectual disabilities between

the ages of 18 and 59. On average, OPA received and accepted over 1,100 such complaints annually. Due to limited resources, OPA could not investigate each allegation directly and relied on other agencies, primarily the Department of Developmental Services (DDS), to conduct many of its investigations. Those investigations that were not directly investigated by OPA were monitored by OPA under the terms of an interagency agreement with DDS, which governed the investigation of abuse and neglect of individuals with intellectual disabilities and the provision of protective services to those individuals.

OPA conducted primary investigations of allegations of abuse and neglect that involved private individual or family homes, individuals who self-direct their own support staff, and cases in which there was a reasonable cause to suspect or believe the death of a person with intellectual disabilities was due to abuse or neglect. DDS ordinarily conducted the primary investigation of allegations that implicated DDS employees or occurred at DDS facilities. Upon completion, DDS forwarded these investigations to OPA for review. An interagency agreement required DDS to complete primary investigations within 90 days, unless a more stringent rule applied. Per a February 15, 2017 agreement between DDS and OPA, the OPA Abuse Investigations Division was physically transferred to DDS as of March 17, 2017.

OPA maintained a Case Management System to track its abuse investigations. According to the OPA final administrative report, the Abuse Investigation Division received 1,321 allegations of suspected abuse or neglect of persons with intellectual disabilities. OPA staff investigated and monitored 1,128 of those cases. The OPA Fatality Review Board (FRB) reviewed the deaths of 257 individuals who were served by DDS. Fifty-eight of the deaths received a more in depth review or investigation. The FRB also reviewed the deaths of 4 individuals who died in facilities run by the Department of Mental Health and Addiction Services and an individual in Department of Correction custody.

Craig Henrici was appointed executive director of OPA, effective July 1, 2014, and continued to serve in that capacity through June 30, 2017.

Section 46a-9 of the Connecticut General Statutes established a Board of Protection and Advocacy for Persons with Disabilities (Advocacy Board), which served in an advisory capacity to OPA. The statute required the board's 15 members, appointed by the Governor, to be comprised of 10 persons with disabilities or a parent or guardian of a person with a disability, at least 4 of whom represented developmentally disabled persons, 5 persons 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, 2017, board members were as follows:

Sheila Mulvey, Chairperson	Melissa Marshall
Thomas Behrendt	Elizabeth McArthur
John Clausen	David Morgana
Melody A. Currey	Chadwick Sinanian
Jill Hall	Jonathan Slifka
Sandy Inzinga	Miles Wilkerson

William Knight

There were 2 vacancies on the board as of June 30, 2017.

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) to investigate the circumstances surrounding the untimely deaths of DDS clients where the death was likely caused by abuse or neglect, which in the opinion of the executive director, would warrant a full and independent investigation. The Fatality Review Board was established to consist 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, 2 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 March 17, 2017, Executive order 42 was replaced by Executive Order Number 57 thereby changing the chairmanship from the OPA executive director to the DDS Commissioner.

Prior to the change under Exec Order 57, the members of the Fatality Review Board, in addition to the executive director, were as follows:

John DeMattia, Esq.
James McGaughey
Gerard Kerins, M.D.
Kendres Lally
Timothy Palmbach
Jordan Scheff

Section 46a-11 of the Connecticut General Statutes permitted the executive director to establish an Accessibility Advisory Board (Access Board), appoint board membership, and convene meetings of said board. The Access Board advised the executive director on accessibility matters relating to housing, transportation, government programs, and services. As of June 30, 2017, 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, advised 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, 2017, the council members were as follows:

Jill Hall, Chairperson
Paul Acker
Tracie Compositor
Beverne Cordner
Michaela Fissel
Kathleen Flaherty
Jennifer Henry
Luis B. Perez

RÉSUMÉ OF OPERATIONS

Revenues

Federal and Other Restricted Accounts Fund receipts totaled \$1,497,103 and \$1,953,738 during the fiscal years ended June 30, 2016 and 2017, respectively, compared to \$1,650,349 for the fiscal year ended June 30, 2015. The receipts consisted primarily 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. In addition, General Fund receipts totaled \$250 and \$7,266 during the fiscal years ended June 30, 2016 and 2017, respectively.

Expenditures – General Fund

A comparison of total General Fund expenditures during the audited fiscal years, as compared to the prior year, is presented below:

	<u>Fiscal Year Ended June 30,</u>		
	<u>2015</u>	<u>2016</u>	<u>2017</u>
Personal Services and Employee Benefits	\$2,213,365	\$2,256,142	\$1,943,969
Professional, Scientific & Technical Services	111,563	123,320	118,911
Purchased Commodities	9,638	3,384	1,890
Communications	16,931	19,998	19,708
Other Services	17,298	22,339	11,074
Other Miscellaneous Expenditures	<u>22,167</u>	<u>16,568</u>	<u>18,568</u>
Total General Fund Expenditures	<u>\$2,390,962</u>	<u>\$2,441,751</u>	<u>\$2,114,120</u>

These totals represent an increase of \$50,789 and decrease of \$327,631 during the fiscal years ended June 30, 2016 and 2017, respectively, and can be attributed primarily to fluctuations in personal services costs.

Expenditures - Federal and Other Restricted Accounts Fund

A comparison of total Federal and Other Restricted Accounts Fund expenditures for the audited fiscal years, as compared to the prior year, is presented below:

	<u>Fiscal Year Ended June 30,</u>		
	<u>2015</u>	<u>2016</u>	<u>2017</u>
Personal Services and Employee Benefits	\$1,421,503	\$1,549,352	\$1,391,947
Professional, Scientific & Technical Services	40,276	54,520	63,576
Fixed Charges	78,000	25,000	273,785
Other Services	39,142	52,058	68,888
Other Miscellaneous Expenditures	<u>7,504</u>	<u>8,330</u>	<u>37,177</u>
Total Federal and Other Restricted Fund	<u>\$1,586,425</u>	<u>\$1,689,260</u>	<u>\$1,835,373</u>

The totals represent an increase of \$102,835 and \$146,113 during the fiscal years ended June 30, 2016 and 2017 respectively.

Expenditures – Capital Improvement and Other Purpose Fund

Disbursements from the Capital Improvements and Other Purposes Fund totaled \$90,000 during the fiscal year ended June 30, 2016. No disbursements were made during the fiscal year ended June 30, 2017.

OTHER MATTERS

As reported in our prior audit, 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 was well respected for its expertise and commitment, because it is a state agency with state responsibilities, it lacked 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 was 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.

The identified lack of independence and autonomy was addressed as part of a corrective action to transfer the state's protection and advocacy functions to the new independent non-profit Disability Rights Connecticut, Inc. In addition, the responsibilities pertaining to abuse and neglect investigations were transferred to the Department of Developmental Services.

STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

Our review of the records of the Office of Protection and Advocacy for Persons with Disabilities did not identify areas requiring improvement or attention.

RECOMMENDATIONS

Our previous audit examination of the Office of Protection and Advocacy for Persons with Disabilities presented 2 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 should continue seeking available solutions to upgrade its case management system to ensure it produces accurate, complete, and timely data on abuse investigation cases. **This audit recommendation is not being repeated. The agency is no longer in existence and this function is now being performed by the Department of Developmental Services.**
- 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. **The agency's overtime and compensatory time is relatively insignificant and the agency is no longer in existence, thus this audit recommendation is not being repeated.**

Current Audit Recommendations

- **There are no audit recommendations being reported for the current audited period.**

ACKNOWLEDGEMENT

The Auditors of Public Accounts would like to recognize the auditors who contributed to this report:

Frederick Armour

CONCLUSION

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



Frederick K. Armour
Principal Auditor

Approved:



John C. Geragosian
State Auditor



Robert J. Kane
State Auditor