

## RSA-2207 – Annual Client Assistance Program (CAP) Report

State: Virginia

Fiscal Year: 2011

### Designated Agency Identification

Name:	Virginia Office for Protection and Advocacy
Address:	1910 Byrd Avenue, Suite 5
City:	Richmond
State:	Virginia
Zip Code:	23230
E-mail Address:	<a href="mailto:General.vopa@vopa.virginia.gov">General.vopa@vopa.virginia.gov</a>
Website Address:	<a href="http://www.vopa.state.va.us">www.vopa.state.va.us</a>
Phone:	804-225-2042
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### Operating Agency (if different from designated agency)

Name:	Not Applicable
Address:	
City:	
State:	
Zip Code:	
E-mail Address:	
Website Address:	
Phone:	
TTY:	
Toll-free Phone:	
Toll-free TTY:	
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### Additional Information

Name of CAP Director/Coordinator:	Colleen Miller, Executive Director
Person to contact regarding report:	Sherry Confer, Deputy Director
Contact Person Phone:	804-225-2042

**Part I: Agency Workload Data****A. Information and Referral Services (I&R)** (Multiple responses not permitted)

1. Information regarding the Rehabilitation Act	1430
2. Information regarding Title I of the ADA	1417
3. Other information provided	1216
4. Total I&R services provided (Lines A1+A2+A3)	4060
5. Individuals attending trainings by CAP staff (approximate)	950

**B. Individuals served** (An individual is counted only once during a fiscal year. Multiple counts are not permitted for Lines B1-B3.)

1. Individuals who are still being served as of October 1 (carryover from prior year)	17
2. Additional individuals who were served during the year	42
3. Total individuals served (Lines B1+B2)	59
4. Individuals (from Line B3) 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 B3 above.)	20

**C. Individual still being served as of September 30**

Carryover to next year. This total may not exceed Line I.B3.	9
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**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 to account for those unusual situations, referred to in Line I.B4, when an individual had multiple case files closed during the year.)

1. All issues resolved in individual's favor	55
2. Some issues resolved in individual's favor (when there are multiple issues)	37
3. CAP determines VR agency position/decision was appropriate for the individual	1
4. Individual's case lacks legal merit; (inappropriate for CAP intervention)	1
5. Individual chose alternative representation	
6. Individual decided not to pursue resolution	12
7. Appeals were unsuccessful	
8. CAP services not needed due to individual's death, relocation, etc.	
9. Individual refused to cooperate with CAP	
10. CAP unable to take case due to lack of resources	
11. Other (Please explain on separate sheet)	

**E. Results achieved for individuals**

1. Controlling law/policy explained to individual	59
2. Application for services completed	6
3. Eligibility determination expedited	7
4. Individual participated in evaluation	2
5. IPE developed/implemented	16
6. Communication re-established between individual and other party	6
7. Individual assigned to new counselor/office	7
8. Alternative resources identified for individual	2

9. ADA/504/EEO/OCR complaint made	
10. Other (Please explain on separate sheet): no outcome- declined services	1

**Part II. Program Data**

**A. Age**

1. 21 and under	18
2. 22 – 40	14
3. 41 – 64	24
4. 65 and over	3
5. Total (Sum of Lines A1 through A4. Total must equal Line I. B3.)	59

**B. Gender**

1. Females	30
2. Males	29
3. Total (Lines B1+B2. Total must equal Line I.B3.)	59

**C. Race/Ethnicity**

1. American Indian or Alaskan Native	
2. Asian	1
3. Native Hawaiian or Other Pacific Islander	
4. Black or African American	17
5. Hispanic or Latino	2
6. White	37
7. Race/ethnicity unknown	2

**D. Primary disabling condition of individuals served**

1. Blindness (both eyes)	1
2. Other visual impairments	7
3. Deafness	1
4. Hard of hearing	1
5. Deaf-blind	
6. Orthopedic impairments	5
7. Absence of extremities	
8. Mental illness	16
9. Substance abuse (alcohol or drugs)	
10. Mental retardation	4
11. Specific learning disabilities (SLD)	6
12. Neurological disorders	11
13. Respiratory disorders	1
14. Heart and other circulatory conditions	
15. Digestive disorders	1
16. Genitourinary conditions	
17. Speech impairments	1
18. AIDS/HIV positive	
19. Traumatic brain injury (TBI)	4
20. All other disabilities	
21. Disabilities not known	
22. Total (Sum of Lines D1 through D21. Total must equal Line I. B3.)	59

**E. Types of individuals served**

1. Applicants of VR Program	24
2. Clients of VR Program	29
3. Applicants or clients of IL Program	
4. Applicants or clients of other programs and projects funded under the Act	6

**F. Source of individual's concern**

1. VR agency only	47
2. Other Rehabilitation Act sources only	6
3. Both VR agency and other Rehabilitation Act sources	3
4. Employer	3
5. Other	

**G. Problem areas**

1. Individual requests information	
2. Communication problems between individual and counselor	3
3. Conflict about services to be provided	21
4. Related to application/eligibility process	25
5. Related to IPE development/implementation	6
6. Other Rehabilitation Act-related problems	1
7. Non-Rehabilitation Act related	
8. Related to Title I of the ADA	3

**H. Types of CAP services provided**

1. Information/referral	12
2. Advisory/interpretational	42
3. Negotiation	38
4. Administrative/informal review	12
5. Alternative dispute resolution	1
6. Formal appeal/fair hearing	
7. Legal remedy	1
8. Transportation	

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 Management Information System (MIS) via the Internet. Information on transmittal of the form, including electronic transmission, is found on pages 19 and 20 of the reporting instructions.

\_\_\_\_\_  
Signature and title of designated agency official

\_\_\_\_\_  
Date

**Paperwork Burden Statement:** According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1820-0528. The time required to complete this information collection is estimated to average 16 hours per response, including the time to review instructions, search existing data resources, gather the data needed,

and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202-2703. If you have comments or concerns regarding the status of your individual submission of this form, write directly to: OSERS/RSA, U.S. Department of Education, 400 Maryland Avenue S.W, Washington, DC 20202-2800.

**PART III. Narrative**

Refer to pages 16-19 of the instruction for guidelines on the contents of the narrative.

**a. Type of agency used to administer CAP:**

- 1) External-Protection & Advocacy

**b. Sources of funds**

Source of funding	Amount Received	Amount Spent
Federal funds	265,538	143,145
State funds	-	-
Program Income	-	-
Private	-	-
All other funds (carryover)	59,664	59,664
Total from all sources	325,202	202,809

**c. Budget for current and following fiscal years**

Category	Current Fiscal Year FY11	Next Fiscal Year FY12
Wages & Salaries	118,318	149,684
Fringe Benefits (FICA, unemployment, etc.)	39,644	45,132
Materials/Supplies	805	923
Postage	175	370
Telephone/Internet	-	-
Organization memberships/Subscription	1,855	1,157
Travel	4,725	7,103
Training	875	955
Equipment Purchase/Repair	2,195	95
Temporary Personnel Services	420	324
Indirect Costs	18,845	18,845
Miscellaneous	3,864	4,939
Total Budget	191,721	229,527

**d. Number of person-years**

Type of position	Full-time equivalent	% of year position filled	Person-years
Professional			
Full-time	15.5	75%	14
Part-time	.5	25%	1
Vacant			
Clerical			
Full-time	5.5	75%	4
Part-time	.5	25%	1
Vacant			

**e. Summary of presentations made:**

VOPA provided training to clients of the Department of Rehabilitative Services (DRS) in west and southwest Virginia. Because DRS has closed all of its eligibility categories, VOPA provided information on services that DRS can provide to clients during the application stage. VOPA also provided DRS clients training on Employment Rights.

Another area of outreach was trainings for vocational rehabilitation (VR) consumers regarding services they should receive from VR agencies, such as DRS and Department for the Blind and Vision Impaired (DBVI). As part of this training, VOPA provided information about CAP, including information about contacting VOPA if the consumer needs assistance in receiving VR services from the VR agency.

VOPA also provided training to DRS case managers and supervisors in areas of case management, trial work experience, extended evaluations, and case closures, in an effort to improve DRS' training curricula in those areas.

VOPA routinely provides training and speaking engagements through our Speakers Bureau. The Speakers Bureau provides training and presentations that are related to the Office's current Goals, Focus Areas, and Objectives (priorities). There is a link on the VOPA website for the public to make request a for a Speaker's Bureau presentation. VOPA also provides exhibits and materials for fairs, conferences, and meetings on request. Whenever a presentation is conducted about VOPA in general, it addresses some of the work we do related to CAP.

VOPA's outreach and training related to CAP work was completed in conjunction with other funding streams. It makes more sense to our constituents (and is more practical for VOPA) to provide presentations and training on related topics no matter what the funding source. For example VOPA presented to DRS counselors, Center for Independent Living (CIL) counselors and consumers, Employment Centers and case managers, foster care and adoption centers, middle school, high school, community college, private schools and other vocational programs, caregivers, parents, and individuals with disabilities. Goals of the training included providing information about

CAP, appropriate VR services, work incentives, special education rights and transition services, employment rights under the ADA, increase DRS compliance with state and federal laws and policy, and rights of individuals to receive maximum employment.

**f. Involvement with advisory boards**

VOPA participates on the Virginia Rehabilitation Council for DBVI and the Rehabilitation Council for DRS. The Rehabilitation Act of 1973, as amended, requires the establishment of a Statewide Rehabilitation Council to be appointed by the Governor. The amendments identify specific organizations to be represented on the Council, and also specify that a minimum of four individuals represent business, industry and labor on the Council as well as current or former applicants for or recipients of VR services. The Rehabilitation Council advises the VR program in development of the State plan and completion of the federally required needs assessment. The Council also assists with customer satisfaction surveys, training or employment opportunities, and completion of the required Annual Report on the status of VR services in the State. VOPA staff fully participates in the meeting, although the Governor has not made formal appointments of VOPA staff for either council.

VOPA has two Advisory Councils known as the Disabilities Advisory Council (DAC) and the Protection and Advocacy for Individuals with Mental Illnesses (PAIMI) Council. The Councils' primary responsibility is to advise the protection and advocacy system on policies and priorities to be carried out in protecting individuals with disabilities. This function helps VOPA to identify underserved and unserved Virginians. Both Councils have strong consumer representation. The Council Chairs are non-voting members of the VOPA Governing Board. Additionally, Council members participate on the Governing Board Committees. On those committees, the Council members have an equal vote.

**g. Outreach to unserved/underserved populations:**

This year, VOPA focused on the west and southwest regions of Virginia for outreach and training for DRS clients. This region of Virginia was selected based on the findings of a VOPA analysis on demographic and historical data indicating that the west and southwest regions of Virginia may be an underserved population where VOPA can target its advocacy services.

**h. Alternative dispute resolutions:**

VOPA staff routinely engages in alternative dispute resolutions (ADR), including negotiation, mediation, informal review, and administrative review. VOPA staff assists clients with self-advocacy efforts with entities such as DRS, at the lowest level of the administrative chain of command. Often, the presence of the VOPA staff encourages the "provider" to more willingly explore ADR prior to the client and VOPA resorting to more formal or legal remedies, including a request for a Fair Hearing. In most cases, more clear and direct communication is the optimum resolution. In all CAP cases, we engage in ADR to the maximum extent possible. VOPA always conducts significant negotiation prior to considering litigation.

VOPA has provided representation or Technical Assistance (TA) in 15 cases where DRS clients requested Fair Hearings to contest DRS decisions. In one case, VOPA represented the client in his request for Fair Hearing after DRS stated it would close his case because his disability was allegedly too severe for him to be employed. VOPA gathered evidence to contradict DRS' position, including evidence showing the client was employable. VOPA drafted a new Request for Hearing and filed it along with request for documents. This case was resolved prior to a hearing when DRS rescinded its decision to close his case.

In another case, VOPA represented a client in her appeal of Department for the Blind and Vision Impaired (DBVI's) decision to terminate her transportation services. VOPA drafted a new request for hearing for the client and gathered evidence showing that the client could not rely on public transportation as DBVI wanted. VOPA then requested mediation on behalf of the client and represented the client at the mediation. The matter was resolved at mediation when DBVI agreed to provide the client with appropriate private transportation services when she needed them from school.

**i. Systemic advocacy:**

VOPA addressed several systematic issues with DRS this year. These have included investigation and forwarding allegations that DRS counselors have refused to provide certain services due to an alleged lack of funding; refusals by DRS counselors to engage in good faith mediation; investigating DRS' provision of information and services to students who are involved in transition planning; ensuring that DRS provides students with proper information about their right to receive DRS services while in school; and ensuring that DRS provides appropriate services while it has closed all of its Order of Selection Categories.

VOPA has worked to ensure that DRS complies with state and federal law and has advocated for DRS to make several systematic changes to its service provision. VOPA has secured changes to DRS' training curricula in the areas of case management, trial work experience, extended evaluation, and case closure. VOPA provided training to DRS case managers and supervisors as part of this change. VOPA also secured changes to the way DRS provides services to transition-eligible children and the way it provides services to people with intellectual disabilities. VOPA gives DRS' Central Office notice when it feels that DRS counselors or officials have violated state or federal law or regulations.

The Virginia Office for Protection and Advocacy (VOPA) takes cases that we believe will have a strong systemic impact on the lives of Virginians with disabilities. When we open individual cases, we are always alert to systemic issues. In this way, we make a significant impact on a much larger population group. VOPA plans its objectives based on the needs within the state; not by funding stream or specific disabilities. Some of the identified estimated cases and proposed activities may have been addressed in conjunction with other funding streams, but the result is still a positive impact on CAP-eligible individuals.



## **j. Interesting cases:**

In FY11, VOPA addressed 106 requests for CAP services, serving fifty-nine (59) separate individuals. Please find below cases of particular interest.

VOPA has represented individuals who have disputes with DRS, including issues relating to eligibility; VR services, transition services, VR counselors, and case closure.

### Eligibility

VOPA is currently providing representation or has provided representation in sixty-six (66) cases in which people had complaints with DRS regarding either eligibility or VR services. In each case, VOPA advocates for a client to be found eligible for services or for the client to receive proper evaluations and services. In one case, VOPA successfully advocated that DRS determine that the client is eligible for VR services despite the case counselor's initial conclusion that the client is not eligible for VR services because he is too severely disabled to benefit from VR services. VOPA advocated that DRS has been unable to demonstrate clear and convincing evidence that the client is too severely disabled to be employed, and based on the Trial Work Experience (TWE) evaluations, he meets the criteria of eligibility.

### VR Services

In one case, VOPA successfully advocated for a client to receive Self Employment Enterprise services, new eyeglasses, new hearing aids, and increased counseling. In another case, VOPA successfully advocated for a client to receive new computer software to help him with his job training. In a third case, VOPA successfully advocated for a client to receive job interview training and to have DRS follow up on job interviews to determine the skills he needed to improve. Yet in another case, VOPA successfully advocated that DRS provide financial support for services vocationally necessary to achieve the client's Individualized Plan of Employment (IPE) goal, including payment for tuition and fees not covered by financial aid, textbooks, gas card for transportation to and from classes, appropriate attire for accounting classes and interviews, and an eye examination.

### Transition from School to Work

VOPA currently represents or has represented children in ten (10) cases to ensure that they received appropriate transition planning. VOPA has also provided advocacy for each student to receive information and services about DRS. When we represent a child in transition planning, we also cover voting rights, benefits planning, and DRS eligibility. In one case, VOPA ensured that a child would receive appropriate transition services even while on homebound education. In another case, VOPA successfully advocated for a student to receive a change in placement to a new school that was better able to provide him with transition services, and then negotiated an appropriate transition plan including services designed to help him improve his skills in the area of Post Secondary Education, Post Secondary Training, Post Secondary Employment, and Independent Living. VOPA also successfully advocated for this student to become enrolled in a Work Readiness class. In many of these other cases, VOPA successfully

advocated that schools invite DRS to participate in the IEP transition planning process in a timely manner; and also successfully advocated that DRS attend and actively participate at IEP meetings to collaborate with the schools in developing the student's transition plan.

### Case Closure and VR Counselors

In one case, DBVI sent the client a case closure notification without an explanation of the reason for closure, and the client did not agree with case closure. VOPA successfully advocated that DBVI keep the client's case open and continue to provide VR services. VOPA also successfully advocated on strategies to improve communication between the client and her case counselor, as the client did not understand the reason for case closure.

It should be noted that VOPA plans its objectives based on the needs within the state; not by the funding stream or specific disabilities. Some of the identified estimated cases may be addressed in conjunction with other funding streams, but the result will still be a positive impact on CAP eligible individuals.

### **k. On-line information/outreach:**

VOPA maintains a website that posts all of our federal grants' goals and objectives. This website also has notices for the Board of Directors' and VOPA's Advisory Councils' meetings, job vacancies, announcements, VOPA publications, and disability-related links are also available. The annual public comment process is posted on the website and visitors can participate online.

VOPA developed and implemented strategies for gathering public comment on the FY12 objectives as well as the work of VOPA in general. A web-based survey was posted on the VOPA website and announced to the public via several list-servs. The VOPA Advisory Councils also participated in focus group activities with VOPA staff and provided input on the objectives.

VOPA provides "Office Hours" at some of the local CILs or other organizations. Individuals with disabilities are informed of their rights and provided with other legal advice and services when appropriate.

VOPA regularly collaborates and consults with the National Disability Rights Network (NDRN). Several VOPA staff subscribe to NDRN supported Protection and Advocacy (P&A) listservs. These listservs offer P&As the opportunity to consult and collaborate nationwide on similar issues and concerns facing people with disabilities.

VOPA uses a "VOPA alert," an email distribution list service to communicate with our constituents. In the past year, "VOPA alert" notified constituents of important legal and legislative developments as well as changes in other service agencies.

VOPA also uses "The Directors' Blog" on our website. VOPA offers this blog as a way of alerting the public to news and developments in disability law, sharing activities of the Office, and getting feedback about how we're doing.

In Virginia, the Client Assistance Program (CAP) is administered by VOPA, the designated protection and advocacy entity for Virginia.

**Signature and title of CAP program director:**

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Colleen Miller, Executive Director

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Date