



## Developmental Disabilities Council 2015 Position on Human Rights

"There is no tyranny so great as that which is practiced for the benefit of the victim."  
C.S. Lewis

### Position Statement

"...the basic principle that people with disabilities are, first and foremost, citizens who have the right to expect that they will be treated according to the principles of law that apply to all other citizens. All laws and policies that restrict the rights of people with disabilities simply because of their disabilities are inharmonious with basic principles of law and justice, as well as with such landmark civil rights laws as the Americans with Disabilities Act." (From Privileges to Rights: People Labeled with Psychiatric Disabilities Speak for Themselves. National Council on Disability, 2000)

People with developmental disabilities have the same right to self-determination as other people. Human Rights, Constitutional Rights, and other legal rights must not be abridged because of disability.

Human Rights in Delaware must include:

- Public Policy that supports a voluntary community-based health system that safeguards human dignity and respects individual autonomy.
- Treating professionals shall provide understandable information and explanation relative to risks and benefits of treatment, to the person (patient) and/or his or her legal guardian or legally authorized representative.
- Federal, state, and local governments, including education, health care, social services, juvenile justice, and civil rights enforcement agencies, work together to reduce the placement of children and young adults with disabilities, particularly those labeled seriously emotionally disturbed, in correctional facilities and other segregated settings. These placements are often harmful, inconsistent with federally-protected right to a free and appropriate public education, and unnecessary if timely, coordinated, family-centered supports and services are made available in mainstream settings.
- The enforcement of critical existing laws such as the Americans with Disabilities Act(ADA), Fair Housing Act (FHA), Civil Rights of Institutionalized Persons Act (CRIPA), Protection and Advocacy for Individuals with Mental Illness Act (PAIMA), the Help Americans Vote Act (HAVA), and the Individuals with Disabilities Education Act (IDEA).



- Supports are available, accessible, and affordable for people with disabilities who need them to exercise and ensure their human rights. This includes supports for victims of crimes and for emergency preparedness.
- Fair treatment by all personnel in the justice system including judges, defense lawyers, prosecutors, court personnel, forensic evaluators, law enforcement personnel, victim assistance personnel, and criminal justice policymakers.
- An advocate in court, in addition to a lawyer, who has disability expertise.
- Care and treatment should be about healing, not punishment. "Accordingly, the use of aversive treatments, including physical and chemical restraints, seclusion, and similar techniques that restrict freedom of movement, should be banned. Effective humane alternatives to these techniques exist now and should be promoted." (From Privileges to Rights: People Labeled with Psychiatric Disabilities Speak for Themselves. National Council on Disability, 2000)
- Eligibility for services in the community should not be contingent on participation in treatment programs with the exception of court ordered treatment as a contingency for release and/or an imminent threat to public health. People should be able to select from a menu of independently available services and programs, including mental health services, housing, vocational training, and job placement, and should be free to reject any service or program.
- "In part in response to the Supreme Court's decision in *Olmstead v. L.C.*, State and federal governments should work with people with disabilities and others receiving publicly-funded care in institutions to expand culturally appropriate home-and community-based supports so that people are able to leave institutional care and, if they choose, access an effective, flexible, consumer/survivor-driven system of supports and services in the community." (From Privileges to Rights: People Labeled with Psychiatric Disabilities Speak for Themselves. National Council on Disability, 2000)
- Supported Decision-Making must be included in the continuum of options that exist between full civil rights and decision-making at one end and full Court Appointed Guardianship at the other end. Courts should have the ability to educate Guardianship petitioners the option of Supported Decision-Making prior to appointing a Legal Guardian. People and families should have the option made available to them to choose Supported Decision-Making rather than Legal Guardianship is that is what will meet the needs of the individual.

## Discussion

The Delaware Developmental Disabilities Council strongly believes that people with developmental disabilities deserve the same rights under the law as everyone else. This includes human rights, constitutional rights, and other legal rights. We also believe that each person has the right to determine his/her own life as he/she sees fit and at the same time fulfilling the co-existent responsibilities that we all have as citizens of our communities.



In order to ensure that the broad community recognizes and respects our premise, it is imperative that people with disabilities serve and act in roles of authority and decision-

making within our government and in support of our community. This allows for the opportunity for their knowledge and desires to be heard and considered. In addition, people with disabilities should have a major role in the direction and control of programs and services designed for their benefit. This includes serving on advisory boards and review panels. All programs and services must be culturally appropriate for the populations that they support.

"The right of people with disabilities to be free from discrimination is a basic human right that should be recognized as part of the fundamental law of the land" (AAIDD/ARC 2008). Public policy and education efforts must diminish societal attitudes of devaluation and fear and eliminate the historical practice of under-compensation for labor and services.

On Friday, July 24, 2009, President Barack Obama, on behalf of the people of the United States, joined 140 other nations and signed the United Nations Convention on the Rights of Persons with Disabilities (December 13, 2006). At that signing, President Obama stated what we contend. "Disability rights aren't just civil rights to be enforced here at home. They are universal rights to be recognized and promoted around the world" (Press Release, 2009). Congress has yet to ratify this Convention of Rights.

The Developmental Disabilities Assistance and Bill of Rights Act of 2000 begins "Congress finds that disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to live independently, to exert control and choice over their own lives, and to fully participate in and contribute to their communities through full integration and inclusion in the economic, political, social, cultural, and educational mainstream of the United States society..." (Subtitle A, General Provisions). In fulfilling our mandates under this Act, we offer the following recommendations for action in Delaware.

#### Recommendations

- 1) Act now to ensure that all Delawareans enjoy an accessible and eco-friendly environment in each of our communities.
- 2) Collect Delaware data of numbers of victims of crimes with disabilities.
- 3) Enforce H.B. No. 65 for victims and witnesses of crimes who have disabilities.
- 4) Enforce existing laws: Americans with Disabilities Act, Individuals with Disabilities Education Act, Help Americans Vote Act, Civil Rights of Institutionalized Persons Act, and the Protection and Advocacy for Individuals with Mental Illness Act.



- 5) Informed consent must be obtained prior to all care and treatment for people with disabilities.
- 6) Update the elections code and reduce barriers to voting.
- 7) Provide initial and continuing education to all justice and court personnel on disability.
- 8) Where at all possible and in best interest of the person, provide care and treatment in our state and close to home.
  
- 9) Include in Delaware Code a statute that provides for Supported Decision-Making as an option in the continuum of options between full civil rights as citizens on one end and Legal Guardianship on the other end.
- 10) Ban all aversive treatment, containment, and over medication for both state and private facilities, including schools, through statutory prohibitions. Strong enforcement mechanisms must be instituted to hold agencies, facilities, organizations, and individuals accountable for violations.
- 11) Actively recruit people with disabilities to assume decision-making positions on Boards and Commissions and in government positions to provide a major role in the direction and control of programs and services designed for their benefit.
- 12) Fully support the United Nations Convention on the Rights of Persons with Disabilities (December 13, 2006).