



**Disability  
Advocacy  
Alliance**

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May 16, 2019

Chairman Bob Hackett  
Subcommittee on Health & Medicaid  
1 Capitol Square  
Columbus, Ohio 43215

Ranking Member Cecil Thomas  
Subcommittee on Health & Medicaid  
1 Capitol Square  
Columbus, Ohio 43215

Dear Chairman Hackett and Ranking Member Thomas:

Disability Advocacy Alliance is a grassroots advocacy organization formed by parents, family members and guardians to advance the rights of individuals with intellectual and developmental disabilities in Ohio.

On May 7, Michael Kirkman, Executive Director of Disability Rights Ohio (DRO), submitted testimony to the House Finance Committee. In his testimony, Mr. Kirkman expressed opposition to an amendment to the House version of the Ohio operating budget that calls for the Senate President and Speaker of the House of Representatives to appoint a joint committee every two years to examine whether a new entity should be designated to serve as the state's protection and advocacy system (P&A) and client assistance program (CAP) and to produce a report with a recommendation.

Families of Disability Advocacy Alliance strongly support this amendment that provides responsible review of an entity that has enormous power to affect the nature of or undermine the health care, residential, day habilitation, and employment supports of vulnerable Ohioans, many with no voice of their own. Any entity that is charged with protecting the rights of this fragile population, coupled with the responsibility to be a good steward of the millions of tax dollars it receives each year, should welcome objective review.

We note the following with respect to the points Mr. Kirkman raised in his testimony:

- Mr. Kirkman states that DRO is a non profit, however, through its designation as Ohio's P&A/CAP, DRO serves as a public entity. Its duties are outlined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000, the Rehabilitation Act of 1973, and Ohio Revised Code. As noted above, DRO receives millions in tax dollars to fulfill its public charge.
- Mr. Kirkman indicates that DRO does not receive state funds, however, federal statute instills with the Governor of Ohio oversight authority over the P&A. The Governor may remove the P&A for good cause as provided in 42 USC 15043 (4)(A) - (D)/ 29 USC (c)(1)(B). DRO describes the procedures for redesignation as "elaborate." We urge you to review the procedures in statute which appear to be straightforward. Certainly, the State of Ohio understands the process for redesignation as it recently redesignated its P&A/CAP. Furthermore, please note that federal law describes "redesignation" procedures. These are distinct from review procedures that a joint committee would undertake.

- Mr. Kirkman indicates that DRO is an independent body. Independence in the statute is related to being “independent of any agency that provides treatment, services, or habilitation to individuals with developmental disabilities.” [42 USC 15043(2)(H)/ 29 USC 732 (c)(1)(A)] The Speaker, Senate President, and the proposed joint committee do not/ would not provide direct services to the P&A/CAP constituency. Additionally, the statute does not preclude a state from establishing a review mechanism to support the Governor’s clear oversight authority.
- Mr. Kirkman suggests that any findings of “good cause” by a joint committee would be related to a “disagreement with advocacy priorities.” We believe it is unfair to characterize the work product of a joint committee that has not been appointed. There are many objective factors upon which a joint committee could base a biennial review of a P&A/CAP. Furthermore, no finding of good cause can occur or be ruled out unless the State is held to some process for carrying out ongoing review. The amendment establishes such a process that is transparent, representative, and includes multiple branches of government.
- Mr. Kirkman notes that redesignation can only be directed by the Governor. The proposed amendment does not infringe on this authority. The joint committee prepares a report that is submitted to the Speaker, Senate President, and the Governor. The Governor retains his/her oversight authority and can accept or reject the recommendation of the joint committee.
- Suggesting that federal funding is at stake for establishing a responsible review process to support the Governor in fulfilling his/her oversight authority is unreasonable. A review mechanism would only motivate all parties - the State and the P&A/CAP - to live up to their duties under the statute.

We urge you to support the P&A /CAP amendment in the operating budget. Thank you for your consideration of our concerns.

Sincerely,



Caroline Lahrmann  
President