

# SUMMARY OF MAJOR CHANGES P&A STANDARDS - REVISED 2022

[New subsections appear in blue font]

## I. Introduction

### A. Use of the Standards

3. Added: “orientation” as a use in addition to board and staff “training.”
4. Added that NDRN will “provide training and technical assistance to support the development of skills and knowledge to implement” the Standards.
5. Added: “other funders”

Deleted: “The NDRN Board recognizes that federal administering agencies may also wish to use these standards as a basis for the development of evaluation instruments. In that event, NDRN is committed to negotiating and developing appropriate protocols for their use in promoting quality services. Such protocols will be developed with input from the NDRN membership.”

### B. Philosophy Guiding P&A Work

Added:

“1. People with disabilities freely exercise their legal, civil, and human rights in an equitable society.”

Other language changes: people with disabilities are “valued members of our society” with “meaningful” community life and make choices “without fear of reprisal or loss of liberty.”

### C. Principles Guiding P&A Work

#### Multiple strategies

Added: [P&As] use multiple strategies to “address the root causes of discrimination, challenge institutional bias ...”

1. Added: “especially those at greatest risk of harm or discrimination, to achieve a more equitable society.”
3. Added: “and eradication of systems of inequality.”

Added:

“6. P&As use collaborative, community-based approaches to legal services to build the power of individuals and communities to challenge and eradicate systems of inequality.”

### **Client directed**

4. Added: [programs are] “informed by people with disabilities at the greatest risk of discrimination and/or who are multiply marginalized”

Added: “6. P&As prioritize empowering and being advised by people with disabilities directly affected by the intended activities at all stages of the P&A's action. Intentionally planning partnerships with clients, client communities, and other diverse allies is evident throughout P&A activity.”

### **P&As are leaders**

2. Added: “and decisional law”

### **Independent, accessible services**

1. Added: “The P&A’s name is recognizable and germane to disability rights. Services and location of offices are accessible to people with disabilities, especially those with limited resources.”

2. Added: “physical or virtual”

Added:

“6. Advocacy efforts focus on multiply and systemically marginalized people with disabilities, to achieve justice for people who have been most harmed by exclusion and discrimination:

7. Advocacy services address the intersectional discrimination that many people with disabilities experience, and the root causes of disparities faced by people with disabilities who have been and remain excluded and discriminated against, including Black, Indigenous, People of Color (BIPOC) and Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual (LGBTQIA+) people, among others.

8. P&A services are trauma-informed. Staff are trained on the impact and incidence of trauma, and employ trauma-informed approaches when conducting their work.”

### **D. Values Guiding P&A Work**

1. Added: “including BIPOC, LGBTQIA+ and others who experience multiple marginalization.”

2. Added: “to advance the rights” of people with disabilities, and “to achieve a more equitable society.”
3. Added: “and staffing” and “geographic, gender identity, age, [diversity]”

## **II. Governance and PAIMI Advisory Council**

### **A. Governance**

Preamble: added “equitable,” “reasonable accommodations,” etc.

1. Added “fiduciary duties” and added “obedience and care” to “loyalty.”
  - a) Added: “and the disability community at large, with a specific focus on individuals experiencing the greatest degree of discrimination or marginalization.”

Added:

“d) The board is committed to addressing the root causes of individual and systemic discrimination, challenging institutional bias, and promoting rights enforcement, independence, and inclusion for people with disabilities to create a more equitable society.”

4. Changed: “protection of” to: “advance and defend,” and “the mission” to: “its roles and responsibilities.”
  - a) Added “represents” and “and is connected to the BIPOC, LGBTQIA2+ and other highly impacted and significantly marginalized communities.”
  - d) Added “and programmatic”
6. c) Added “including linguistic accessibility where necessary.”
7. Reorganized subsections
8. Added: “b) Develops the PAIMI priorities jointly with the PAIMI Advisory Council.”
  - e) Added: “Intentional planning partnerships with authentic stakeholder communities are evident throughout P&A activity.”

Added:

“9. The governing board members contribute meaningfully to advance the mission of the P&A, including a commitment of time and financial resources within their individual means.”

### **B. PAIMI Council**

Changed: “The following standards shall apply to PAIMI Advisory Council:” to “Every P&A shall maintain a PAIMI Advisory Council that meets the following Standards:”

3. Added “voting.”

### **III. Leadership and Management**

#### **A. Leadership and Overall Management**

2. Added: “Authentic and diverse stakeholder community partnerships are evident throughout the work of the P&A.”
3. Added: “/territory, with a particular focus on individuals experiencing the greatest degree of discrimination and marginalization.”
4. Added: “equitable”
5. Added: “that represent the diversity of the state, and is connected to the BIPOC, LGBTQIA+ and other significantly marginalized communities.”
6. Changed: “reflect” to “are driven by”
7. Added “a) Meets all the federal requirements of a P&A.”
8. Added “and equitable”
9. Changed: “clearly outlined” to “well-defined.”
10. Added “including but not limited to training on racial equity and prevention of sexual harassment.”
11. Changed: “has policies in line with federal and state laws to protect the confidentiality” to “establishes and implements policies aligned with federal and state laws and professional responsibility rules to protect the confidentiality ...”
13. Added: “The P&A establishes and implements fiscal, personnel, communications, and other policies consistent with these Standards. Such policies comply with federal and state requirements.”
15. Added “and client confidentiality.”

#### **B. Fiscal Management**

Preamble: added language including “experienced fiscal staff” and “an equitable manner.”

2. Added “and executive director,” reorganized subsections, tweaked language

2. a) Added “board-approved.”

2. b) Added: “and reviewing analysis of any material variances and action plans as necessary.”

### **C. Personnel Practices**

Preamble: Added “Leadership and management are committed to creating and maintaining a diverse, inclusive workplace in which all staff and volunteers have opportunities to participate and contribute to the success of the organization and are valued for their skills, experience, and unique perspectives.”

1. Added: “Recruitment practices incorporate strategies to intentionally seek out applicants from underrepresented communities, including people with disabilities, BIPOC, LGBTQIA+ individuals, and others. Recruitment practices are free of barriers (disabilities, language/LEP, plain language) and provide accommodations as needed.”
2. Added: “The P&A maintains an inclusive workplace where staff feel welcomed, supported, and valued ... The organization consistently provides training and resources to ensure this.”
3. Added: “and addresses diversity, equity and inclusion goals” and “each employee should sign an acknowledgement that they have received and read the manual.”
4. Added: “Staff are encouraged to seek training that increases their knowledge and skills in all areas of their work. The P&A encourages and provides opportunities for staff to exercise self-care and avoid burnout.”

Added:

“5. P&A practices include coaching and mentoring activities, approached from a perspective of diversity, equity, and inclusion, that build a diverse and inclusive workplace.”

6. Added: [job description] “that include essential functions of the job duties an employee must be able to perform, with or without reasonable accommodation(s). Each position is examined to determine which functions or tasks are essential to performance. The job descriptions also include the qualifications needed for the position, and where indicated, the requisite level of experience required.”

7. Added: “will have standardized, accessible on-boarding for all employees”

8. Added: “interactive” and “and goal-setting on a regular basis. The evaluation process includes feedback from employees and management.”

Added:

“9. The P&A provides Equal Employment Opportunity training to all staff and volunteers on a variety of topics including, but not limited to, workplace harassment, the Americans with Disabilities Act as well as discrimination based on religion, race, pregnancy and age. Additional training around cultural awareness is also recommended.”

Added:

“11. The P&A has a policy regarding staff conduct that creates an actual or apparent conflict of interest, or that may be inappropriate, unprofessional and/or reflect poorly on the P&A or its mission.”

#### **D. Recordkeeping and Data Collection**

Preamble: added language including “diverse client population,” “legal compliance” and “retention protocols.”

Added:

“3. P&As have a policy and procedure for maintaining confidentiality and security of all files, including but not limited to electronic records.”

6. Added: “(Federal or state regulations may dictate retention periods. For grant- or contract-related record keeping, the grant/contract documents may dictate the record retention requirements.)”

#### **IV. Access, Presence, Outreach and Training**

Preamble: Added language including “timely,” “are informed by people with disabilities,” “input,” and “P&A access, presence, outreach and training (APOT) is trauma-informed and intentional about connecting with BIPOC, non-English speaking, immigrant, LGBTQIA+, and other disabled people with intersectional identities.”

Subsections were reorganized and language tweaked/updated.

1. c) Added: “These strategies include intentional outreach to the intersectional and diverse communities served by the P&A.”

2. Added: “community partnerships, staffing that reflects the diversity of the communities being served.”

3. Added: “is culturally responsive” and “are reflective of the diverse community.”

4. Added: “with a focus on the most adversely impacted and marginalized.”

Added:

4. c) Recognizing the importance of having staff who reflect the diversity of the communities being served, demonstrate an understanding of the impact of racism and structural inequities, and exhibit a passion for/knowledge regarding disability rights.

4. d) Ensuring accessibility standards are met in all outreach and training efforts.

5. Added:

“Facilities and settings could include institutions, hospitals, schools, residential facilities, group homes, nursing facilities, jails and prisons, juvenile justice and immigration detention facilities.”

5. Deleted:

• The program resolves challenges to its access authority as they arise, or proactively addresses access issues in advance.

• The program maintains a consistent schedule to visit facilities and informs residents of those dates; this does not preclude other, unannounced visits.”

(Eliminates redundancy of purpose with Investigations and Monitoring Standards.)

6. Added:

e) Conducting community outreach and education activities based on the needs of the disability community, as resources permit, with a priority on reaching diverse audiences, considering intersectional identities, and ensuring trainings are culturally responsive.

f) Ensuring that its in-person and virtual events and trainings are fully accessible to people with all types of disabilities. Trainings and events are provided in an accessible format, live-streamed whenever possible, materials meet accessibility standards, a method is provided to request accommodations as part of the registration process and in informational materials, and ASL interpreter and/or CART services are available. The P&A shall also seek to ensure that events in which it is participating are fully accessible to people with disabilities.

g) The P&As shall consider paying people with disabilities at trainings, panel discussions, and events where they are sharing their expertise and are not being paid by another source.

## **V. Information, Referral and Intake**

Preamble changed to: “As the entry point for assistance, the Information, Referral and Intake staff are key to accessing P&A services. I&R staff must have a baseline level of competency that includes knowledge of disabilities; an ability to engage a trauma-informed approach; a perspective that recognizes the intersectionality of disability and diverse identities; an understanding of P&A programs, eligibility requirements, and priorities; a comprehensive knowledge of resources for a variety of needs; and an understanding of the P&A’s grievance policy and procedures.

Some P&As have I&R as a separate function from Intake, while others have them combined. Some separated I&R teams provide basic I&R, while others add a certain level of technical assistance. Some P&As' I&R/Intake functions are conducted by non-attorneys. Though each P&A is structured differently, the functions of I&R and Intake must be in place.”

Section was reorganized. Section headings have changed – previously they were:

- A. Accessibility of Intake Process
- B. Timelines
- C. Staff and Intake Supervision
- D. Material Development and Provision
- E. Record Keeping
- F. Case Selection
- G. Grievances

Revised section headings are:

- A. Process and Workflow – essentially covers the former A. and B.
- B. Legal Oversight
- C. Informative Materials
- D. Grievances
- E. Documentation and Recordkeeping
- F. Quality

(Given the extent of the changes and added level of detail, it is recommended that CEOs/board members review this section in its entirety.)

## **VI. Communication Advocacy**

This entire section is new. The original P&A Standards did not have a section on Communication Advocacy.

## **VII. Individual Legal Advocacy**

1. a) Added “litigation” and “training.”

Added:

1. b) P&A capacity includes staff with racial, ethnic and gender diversity as well as lived experience with disability.

1. d) The P&A strives to conduct outreach to unserved and underserved populations.

2. Changed: “whose rights are at issue” to: “who have experienced rights violations.”

Added:

2. b) The P&A has policies regarding case selection criteria and the development of annual objectives and priorities, consistent with grant terms and conditions that govern cases selected for individual advocacy.

2. c) The P&A's established priorities should include a plan to reach underrepresented populations within the disability community.

3. Added:

b) When the client is subject to a guardianship, the P&A should advocate for the client's expressed interests consistent with governing rules of professional conduct.

5. Added: "and cultures, particularly clients with mental health disabilities. Training on properly accommodating people with various types of disabilities should be explicitly provided (e.g., how to accommodate clients with autism spectrum disorders and sensory disabilities). Attorneys and advocates receive training in cultural awareness and humility, diversity, equity and inclusion."

7. Changed: "Each client is provided zealous representation" to: "Each client is provided high-quality representation that is properly documented."

7. a) Added: "thoroughly and timely" and "There are specific time lengths set forth in each P&A manual for timely determinations of case representation and reaching the goals of a client during the representation."

9. Added: "translators" and "language lines and alternative forms of communication."

14. Added: "and oversight."

15. Added: [grievance] "information should be mentioned and made readily available to clients who make it clear that they are dissatisfied with services. A reasonable accommodation for filing a grievance should always be offered (e.g., if someone is not able to fill out the grievance form in a traditional way)."

## VIII. Monitoring

New preamble:

"**Monitoring**," as described in federal law, is access to public and private facilities and community service providers for the purpose of (1) providing information and training on, and referral to programs that benefit people with disabilities; and providing information and training about individual rights and services available from the protection and advocacy network; (2) monitoring compliance regarding the rights and safety of people with disabilities; and (3) inspecting viewing, and photographing/

videotaping all areas of the facility that are used by, or accessible to residents/program participants. Monitoring is best accomplished in-person, but can be virtual when resources or conditions warrant.”

Section has been reorganized and language added. Previous section headings were:

1. Scope
2. Identification of Settings
3. Reports of Abuse and Neglect
4. Access Authority
5. Protocols
6. Advocacy Requests
7. Post Monitoring Activities

Revised section headings are:

1. Scope
  2. Protocols
  3. Training
  4. Education
  5. Notice and Communication
  6. Identification of Settings
  7. Remote Monitoring
  8. Access Authority
  9. Advocacy Requests
  10. Post Monitoring Activities
  11. Confidentiality
- 

1. Changed: “different types of institutional and community settings” to: “locations where people with disabilities reside or receive services.”

Added:

**2. Protocols:** The P&A has protocols regarding how to conduct its monitoring activities. The P&A should develop written policies or procedures to document and guide its monitoring activities:

- a) to reflect the diversity of the community being monitored;
- b) to ensure the use of trauma-informed practices; and
- c) to ensure understanding of the intersectionality of various groups.

**3. Training:** P&A staff are trained to conduct monitoring. The P&A should consider the following topics in designing effective monitoring training: the P&A enabling statutes and regulations, the P&A’s annual priorities and goals, addressing complaints received, responding to requests for assistance, utilizing communication and interviewing techniques that reflect the diversity of the community being served, trauma-informed

practices, health and safety concerns, and facility and licensing standards.

**4. Education:** During monitoring, P&As provide training and plain language education to people with disabilities and others within the setting. The P&A should consider the following when designing effective educational materials: the cultural and linguistic needs of the audience, education on the P&A system, information about the civil and legal rights of those residing or receiving services, and the intersectionality of race, ethnicity, gender identity, age, and religious affiliation.

**5. Notice and Communication.** The P&As should ensure that its contact information is posted in facilities and available to people with disabilities, that people with disabilities can contact the P&A as needed and can speak privately with P&A staff in-person and over the telephone.

**6. Identification of Settings:** The P&A identifies and prioritizes settings based upon annual priorities and resources. P&As should develop policies or practices for monitoring selection. This may include: reviewing internal or public data, outreach or other community surveying, referrals or complaints, or designing other selection criteria. Policies or practices should identify how the P&A will ensure that locations with large populations of BIPOC and with lower incomes are identified for monitoring. P&As should also monitor a mix of urban and rural settings in various parts of the state as resources allow.

**7. Remote monitoring:** P&As should develop policies or procedures on conducting remote monitoring. The P&A should consider: the technology needs for remote monitoring, the training needs of the P&A staff, the selection process for using remote monitoring, and the ability of the P&A to have effective confidential communication with those residing or receiving services within the setting being monitored. P&A policies should include accommodations for those with communication disabilities. Remote monitoring supplements but does not replace the P&A's in-person monitoring activities.

8. Changed: "The P&A has, and utilizes as needed, the capacity to challenge in court any denials of access to monitor institutional and community settings" to: "The P&A must ensure that it has the resources to challenge any denials of its access authority to conduct monitoring by a service provider."

10. Changed: "The P&A has a policy or practice that addresses how information acquired through monitoring activities will be used" to: "The P&A should notify the service provider of any issues discovered that need to be immediately addressed, and follow up after the visit to address other concerns."

Added:

"11. **Confidentiality:** All information gained from monitoring will remain confidential to the extent required by the P&A statutes and regulations."

## **IX. Investigations of Abuse and Neglect**

2. Added: “The P&A has the capacity to remedy any lack of compliance and to process reports received.”

3. New language: “P&A investigations are conducted on behalf of the P&A. Any other investigation conducted on behalf of an individual or group will be in accordance with Section VII of these Standards.”

4. Added: “The P&A has policies or procedures for maintaining confidentiality of investigative files. Where the P&A is providing advocacy services to an individual or group in accordance with Section VII, the P&A must ensure that the investigative file is distinct from any advocacy file.”

6. New language: “The P&A must ensure that it has the resources to challenge any denials of its access authority to conduct investigations by a service provider.”

7. New language:

“The P&A has written protocols regarding how to conduct its investigations. The P&A should develop policies or procedures to ensure that investigations are conducted:

- in a culturally and linguistically competent manner
- using trauma-informed practices
- with an understanding of the intersectionality of various groups

10. Added: “such as licensing authorities.”

## **X. Systemic/Impact Advocacy (formerly “Systems Advocacy”)**

The preamble has been changed. CEOs and board members should review it.

Added:

3. P&As prioritize empowering and being advised by people with disabilities directly affected by the intended systemic activities at all stages. Intentionally planning partnerships with clients, client communities, and other diverse allies should be an evident focus for systemic advocacy activities.

4. P&As seek to address the intersectional discrimination that many people with disabilities experience, and the root causes of disparities faced by disabled people who have been and remain excluded and discriminated against, including BIPOC, LGBTQIA+ people, and other oppressed groups.

5. Deleted: “leadership.”

7. Added: “including seeing the impact from a racial and intersectionality lens.”

Added:

8. The P&A is informed by, and seeks to represent and/or work in concert with, a variety of clients and allies, including BIPOC communities.

Added:

[A new subsection has been added at the conclusion of this section: Systemic Advocacy Appendix: Federal Grant Terms and Definitions.]