

## Tab D.1 – P&A Compliance Checklist

<i>Due Date for Checklist:</i>	
<i>ADD Mailing Address</i>	Administration on Developmental Disabilities Administration for Children and Families U.S. Department of Health and Human Services 370 L'Enfant Promenade, S.W. MAIL STOP: Humphrey Building, 405D Washington, D.C. 20447
<i>Team Member Mailing Address</i>	
<i>Team Member Mailing Address</i>	

### I. COLLABORATION

<i>I.1 DD Network Collaboration</i>	<i>Document</i>	<i>Interview</i>
The P&A maintains collaborative relationships with the Council and the UCEDD. Sec.104(a)(3)(D)(iii)		
Comments:		

### II. ORGANIZATIONAL ADMINISTRATION

<i>II.1 Staff</i>	<i>Document</i>	<i>Interview</i>
The P&A hires and maintains sufficient numbers and types of qualified staff to carry out its functions and is not subject to State policies such as hiring freezes, reductions in force, and prohibitions on travel that would impact the staff or functions of the system funded with Federal funds. Sec.143(a)(2)(K)		

Comments:		
P&A staff are trained and experienced in the investigation of abuse and neglect. 45 CFR 1386.21(e)		
Comments:		
P&A staff are trained and experienced in the representation of individuals with developmental disabilities regarding rights violations. 45 CFR 1386.21(e)		
Comments:		
<b><i>II.2 Authority and Independence</i></b>	<b><i>Document</i></b>	<b><i>Interview</i></b>
The P&A has the authority to pursue legal, administrative and other appropriate remedies to ensure the protection of the rights of individuals with developmental disabilities individuals with developmental disabilities who are, or may be, eligible for treatment, services or habilitation or who are being considered for a change in living arrangements, with particular attention to members of ethnic and racial minority groups. Sec.143(a)(2)(A)(i)		
Comments:		
The P&A has the authority to provide information and referral to programs and services. Sec.143(a)(2)(A)(ii)		
Comments:		
The P&A has the authority to investigate incidents of abuse and neglect of individuals with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred. Sec.143(a)(2)(B)		

Comments:		
The P&A has policies or practices that preserve the authority of the P&A and do not restrict the remedies which may be sought on the behalf of individuals with developmental disabilities. 45 CFR 1386.21(c)		
Comments:		
The P&A has policies or practices that do not compromise the authority of the P&A to pursue remedies through litigation, legal action or other forms of advocacy. 45 CFR 1386.21(c)		
Comments:		
The P&A is not administered by the State Council on Developmental Disabilities. Sec143(a)(2)(F)		
Comments:		
The P&A is independent of any agency that provides treatment, services, or habilitation to individuals with developmental disabilities. Sec.143(a)(2)(G)		
Comments:		
No State law diminishes the required authority of the P&A. 45CFR 1386.21(f)		
Comments:		
The P&A is free from any State policies which impact the ability of the staff or the functions of the P&A which would prevent the P&A from carrying out its mandates under the Act. 45 CFR 1386.21(d)		
Comments:		
If the P&A is in state government, there are specific		

provisions which protect its operations from hiring freezes, training limitations, restrictions on obtaining and maintaining equipment, materials and supplies and services. Sec.143(1)(2)(K)		
Comments:		

<b>III. MEMBERSHIP</b>		
<i>III.1 Board Composition &amp; Selection</i>	<i>Document</i>	<i>Interview</i>
If the P&A is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system. Sec.144(a)		
Comments:		
The governing board shall be composed of members who broadly represent or are knowledgeable about the needs of the individuals served by the system. Sec.144(1)(A)		
Comments:		
A majority of the board members shall be individuals with disabilities, including individuals with developmental disabilities who are eligible for, have received or are receiving services through the system; or parents, family members, guardians, advocates, or authorized representatives of such individuals. Sec.144(1)(B)		
Comments:		
The board may include a representative of the State Council on Developmental		

Disabilities, the University Center for Excellence in Developmental Disabilities Education, Research and Service (UCEDD) in the State, and self-advocacy organizations. Sec.144(1)(C)		
Comments:		
Not more than 1 /3 of the members of the governing board may be appointed by the chief executive officer of the State involved, in the case of any State in which such officer has the authority to appoint members of the board. Sec.144(a)(2)		
Comments:		
The membership of the governing board shall be subject to term limits set by the system to ensure rotating membership. Sec.144(a)(3)		
Comments:		
Vacancies are filled in a timely manner. Sec.144(a)(4)		
Comments:		
Board members are not selected or appointed to represent any agency providing treatment, services or habilitation. Sec143(a)(2)(G)		
Comments:		
<b>III.2 Governing Board Duties</b>	<b>Document</b>	<b>Interview</b>
The P&A has policies and practices that provide a voice for individuals with developmental disabilities on its governing board or advisory board. 45 CFR 1386.21(g)		

Comments:		
<b>III.3 Advisory Council</b>	<b>Document</b>	<b>Interview</b>
If the P&A is organized as a public system without a multimember governing or advisory board, the system shall establish an advisory council. Sec.144(a)(5); 45 CFR 1386.21(g)		
Comments:		
The advisory Council shall advise the system on policies and procedures to be carried out by the P&A. Sec144(a)(5)(A); 45 CFR 1386.21(g)		
Comments:		

**IV. PROGRAM ADMINISTRATION**

<b>IV.1 Planning</b>	<b>Document</b>	<b>Interview</b>
By January 1 of each year, the P&A shall submit an Annual Statement of Goals and Priorities (SGP) that describes <ul style="list-style-type: none"> <li>➤ the priorities and selection criteria for P&amp;A's individual advocacy casework;</li> <li>➤ the systemic advocacy work and training activities,</li> <li>➤ the outcomes the P&amp;A strives to accomplish;</li> <li>➤ how the P&amp;A operates; and,</li> <li>➤ how it coordinates with other P&amp;A programs in the State.</li> </ul> 45 CFR 1386.23(c).		
Comments:		
Annually, members of the public, including individuals with developmental disabilities, and other advocates shall be given an		

<p>opportunity to comment on the goals, priorities and activities of the P&amp;A. Sec.143(a)(2)(D)</p> <p>Each fiscal year, the P&amp;A shall:</p> <ul style="list-style-type: none"> <li>➤ obtain formal public input on its Statement of Goals and Priorities (SGP);</li> <li>➤ provide for broad distribution of the proposed SGP for the next fiscal year in a manner accessible to individuals with development disabilities and the representatives and allow at least 45 days from the date of distribution for comment;</li> <li>➤ provide the State Council on Developmental Disabilities and the University Center a copy of the proposed SGP for comments concurrently with the public notice;</li> <li>➤ incorporate or address comments received in the final SGP submitted to the Department; and,</li> <li>➤ address how the P&amp;A, State Council on Developmental Disabilities, and the University Center will collaborate with each other and with other public and private entities. 45 CFR 1386.23(d).</li> </ul>		
<p>Comments:</p>		
<p>On an annual basis, the P&amp;A develops, submits to the Secretary, and takes action with regard to goals (each of which is related to 1 or more areas of emphasis) and priorities, developed through data driven strategic planning, for the system's activities. Sec.143(a)(2)(C)</p>		
<p>Comments:</p>		

<b><i>IV.2 Confidentiality</i></b>	<b><i>Document</i></b>	<b><i>Interview</i></b>
The P&A has policies and practices to keep confidential all information contained in a client's record. 45 CFR 1386.22(e)(1)		
Comments:		
The P&A system has written policies governing access to, storage of, duplication of, and release of client information. 45 CFR 1386.22(e)(2)		
Comments:		
The P&A has policies and practices that assure the P&A has written consent from the client or his or her guardian before releasing information to individuals not otherwise authorized to receive it. 45 CFR 1386.21(i).		
Comments:		
The P&A has authority to keep confidential the names and identity of individuals who report incidents of abuse and neglect. 45 CFR 1386.22(e)(3).		
Comments:		
<b><i>IV.3 Client Eligibility &amp; Case Selection</i></b>	<b><i>Document</i></b>	<b><i>Interview</i></b>
The P&A has developed case or client acceptance criteria as part of its annual priority setting process. 45 CFR 1386.21(c)		
Comments:		
Clients are informed at the time they apply for services of the case or acceptance criteria. 44 CFR 1386.21(c)		
Comments:		



<b><i>IV.4 Legal Representation</i></b>	<b><i>Document</i></b>	<b><i>Interview</i></b>
The P&A represents individuals with developmental disabilities in lawsuits against the State or any agency or instrumentality of the state without limitation. Sec.144(b)(1).		
Comments:		
The P&A provides assistance in a manner that is consistent with section 5 of the Assisted Suicide Funding Restriction Act of 1997. Sec.144(b)(3).		
Comments:		
<b><i>IV.5 Investigations of Abuse and Neglect</i></b>	<b><i>Document</i></b>	<b><i>Interview</i></b>
The P&A investigates incidents of abuse and neglect of individuals with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred. Sec.143(a)(2)(B).		
Comments:		
The P&A has access to individuals with developmental disabilities and records as provided in the Act and regulations. Sec.143(a)(2)(H), (I) and (J)		
Comments:		
<b><i>IV.6 Access to Individuals with Developmental Disabilities</i></b>	<b><i>Document</i></b>	<b><i>Interview</i></b>
The P&A has access at reasonable times to any individual with a developmental disability in a location in which services, supports and other assistance are provided. Sec.143(a)(2)(H); 45 CFR		

1386.22(f)		
Comments:		
The P&A has the opportunity to interview any facility service recipient, employee, or other persons, including the person thought to be the victim of an incident of abuse or neglect, who might be reasonably believed by the P&A to have knowledge of the incident under investigation. 45 CFR 1386.22(f)		
Comments:		
The P&A has opportunity to inspect, view and photograph all areas of a facility's premises that might be reasonably believed by the P&A to have been connected with an incident of abuse or neglect. 45 CFR 1386.22(f)		
Comments:		
The P&A and all of its authorized agents have unaccompanied access to all residents of a facility at reasonable times to monitor compliance with respect to the rights and safety of service recipients. 45 CFR 1386.22(g)		
Comments:		
The P&A and all of its authorized agents have unaccompanied access to all residents of a facility at reasonable times to provide: ➤ information and training on, and referral to, programs addressing the needs of individuals with developmental disabilities and the P&A services		

including the name, address, and telephone number of the P&A; ➤ other information and training about individual rights. 45 CFR 1386.22(g)		
Comments:		
The P&A has unaccompanied access to all residents of a facility including the opportunity to meet and communicate privately with individuals, both formally and informally, by telephone, mail and in person. 45 CFR 1386.22(h)		
Comments:		
<b><i>IV.7 Access to Records</i></b>	<b><i>Document</i></b>	<b><i>Interview</i></b>
The P&A shall have access to records of clients if such person, legal guardian, conservator or other legal representative has authorized such access or where a complaint has been received about the individual or there is probable cause that the individual has been subject to abuse or neglect. Sec.143(a)(2)(I).		
Comments:		
The P&A shall have access to the records that are relevant to conducting an investigation not later than 3 business days after the system makes a written request for the records and have immediate access not later than 24 hours after the system makes such a request to the records without consent from another party. Sec.143(a)(2)(J).		
Comments:		
The State provides the P&A with a copy of		

each independent review of an ICF/MR within the state not later than 30 days after the availability of such review about the adequacy of health care and other services, supports and assistance received by individuals with developmental disabilities through home and community-based waivers. Sec.143(a)(3).		
Comments:		
<b><i>IV.8 Grievances</i></b>	<b><i>Document</i></b>	<b><i>Interview</i></b>
The P&A shall establish a grievance procedure for clients or prospective clients to ensure that individuals with developmental disabilities have full access to services of the system. Sec.143(a)(2)(E)		
Comments:		

<b>V. EVALUATION AND REPORTS</b>		
<b><i>Program Performance Report</i></b>	<b><i>Document</i></b>	<b><i>Interview</i></b>
By January 1 of each year the P&A shall submit an Annual Program Performance Report in a format designated by the Secretary. Sec. 144 (e); 45 CFR 1386.23(a); 45 CFR 1386.23		
Comments:		

<b>VI. FISCAL</b>		
	<b><i>Document</i></b>	<b><i>Interviews</i></b>
Grantee shall keep records that disclose: <ul style="list-style-type: none"> <li>➤ Amount and disposition of assistance by recipient</li> <li>➤ Total cost of project or undertaking in connection with assistance given</li> </ul>		

<ul style="list-style-type: none"> <li>➤ Amount of project costs supplied by other sources</li> <li>➤ Such other records that will facilitate an effective audit</li> </ul> <p>Sec.103</p>		
<p>Comments:</p>		
<p>In a State in which the system is housed in a State agency, the State may use not more than 5 percent of any allotment under this subsection for the costs of monitoring the administration of the system.</p> <p>Sec.142(a)(5)</p>		
<p>Comments:</p>		
<p>Attorney fees are considered program income and must be added to the funds committed to the program and used to further the objectives of the program. This requirement shall apply to all attorney fees, including those earned by contractors and those received after the project period in which they were earned. 45 CFR 1386.24(b)</p>		
<p>Comments:</p>		
<p>Expenditures and obligations are reported semiannually by SF 269. 45 CFR 1386.23(b)</p>		
<p>Comments:</p>		
<p>The P&amp;A may use its allotments to bring lawsuits in its own right to redress incidents of abuse or neglect, discrimination and other rights violations impacting on individuals with developmental disabilities to obtain access to records and when it</p>		

appears on behalf of named plaintiffs or a class of plaintiff for such purposes. 45 CFR 1386.25		
Comments:		
Funds have been obligated within one year of the close of the Federal fiscal year in which they were awarded. Sec.142(c)		
Comments:		
Obligated funds have been liquidated within two years of the close of the Federal fiscal year in which they were awarded. 45 CFR 1386.3(a)		
Comments:		
The P&A provides assurances to the Secretary that funds will be used to supplement, and not supplant, non-Federal funds. Sec.143(a)(2)(M)		
Comments:		
Amounts received through court judgments are used only for furthering the purposes of protecting and advocating for the legal and human rights of individuals with developmental disabilities and shall not be used to augment payments to legal contractors or to award personal bonuses. Sec.144(b)(2)		
Comments:		
The P&A system has implemented the necessary procedures to assure the proper disbursement of and accounting for Federal funds. 45 CFR 1386.20(a)		
Comments:		

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<b>VII. DESIGNATED STATE AGENCY</b>		
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<i>VII.1 DD Act requirements for DSA</i>	<i>Document</i>	<i>Interview</i>
Where a private non-profit agency serves as the P&A system, a state representative is designated to receive notices of disallowances and/or non-compliance. 45 CFR 1386.20(c)		
Comments:		

## Tab D.2 – P&A Program Operation and Practices Checklist

<b>I. COLLABORATION</b>	
<i>Collaboration</i>	<i>Comments</i>
Collaboration is an integral part of the P&A scope of work. The DD Act includes requirements for collaboration across the DD network and with community partners. In addition, P&As have unique opportunities to collaborate with local, state, and national organizations and agencies. Effective collaboration strengthens the P&A's ability to outreach and engage multiple audiences in projects and activities.	
The P&A coordinates its advocacy efforts and collaborates with other advocacy programs, parent training and information centers, long-term care ombudsman programs, and other federally funded P&A programs in the State. Sec.143(a)(2)(D)(ii)	
<b>II. ORGANIZATIONAL ADMINISTRATION</b>	
<i>Mission</i>	<i>Comments</i>
The P&A has a clear mission statement consistent with the purpose and mandates of the Act. Sec.101(b), 101(c), 141, 143.	
<i>Organizational Policies</i>	<i>Comments</i>
The P&A has written conflict of interest policy, fiscal and personnel policies, and any other policies relevant to the operation of the P&A. Sec.144; 45 CFR 1386.21, 1386.24, 1386.	
The P&A has no administrative links to any service providing agency.	
<i>Authority</i>	<i>Comments</i>
By-laws and Policies assure the independence of the P&A. Sec143(a)(2)(F)	
Articles of incorporation, by-laws, assurances of the governor, implementing statutes and executive orders do not limit the authority mandated to the P&A in the Act. Sec.143(a)(2)(A)(i)	
The P&A has the authority to educate policymakers. Sec.143(a)(2)(L)	
<i>Staff</i>	<i>Comments</i>
Staff has opportunities for training and skill development consistent with the established activities and priorities. 45 CFR 1386.21(e)	
The P&A takes affirmative action to employ and advance qualified individuals with disabilities. Sec.107	



### III. MEMBERSHIP

<i>Support to Board and Council Members</i>	<i>Comments</i>
P&A practices encourage the participation of individuals with developmental disabilities and family members in leadership positions on the governing board or advisory council. Sec.144(a)(1)(A)	
New members are provided with an orientation to the values, mission, and federal mandates of the P&A and their roles and responsibilities as governing board or advisory council members. Sec.144.(a)(1)(A)	
P&A governing board or advisory council members are provided with information about the service system for and the needs of individuals with developmental disabilities. Sec.144(a)(1)(A)	
P&A provides for on-going opportunities for members of its governing board or advisory council to attend conferences, workshops and other training events. Sec.144(a)(1)(A)	
<i>Policies for Boards and Councils</i>	
If the P&A is required to have an advisory council, there are written operating procedures for the advisory council that set out the advisory council's duties and responsibilities; process for selection of membership; membership criteria and assure that a majority of the membership are consumers or family members. Sec.144(a)(5); 45 CFR 1386.21(g)	
The P&A has written policies in place that govern participation, attendance, membership terms and rotation, election of officers, and membership term limits. Sec.144.	
By-laws and written policies provide for a process for the selection of governing board members or advisory council members who broadly represent the needs of individuals with developmental disabilities and who reflect the racial and ethnic diversity of the State. Sec.101(c); 144(a)	
The P&A has a recruitment process to identify individuals with developmental disabilities or family members, guardians, advocates for membership on the governing board or advisory council. Sec.144(a)(1)(B)	

#### IV. PROGRAM ADMINISTRATION

<i>Planning</i>	<i>Comments</i>
The P&A implements an annual planning process to establish goals and priorities. It engages in a strategic planning process that is data driven and produces goals that reflect the P&A mission and are related to areas of emphasis within the Act. Sec.143(a)(2)(C)	
P&A has a data information system in place to describe its goals and the extent to which the goals were achieved, barriers to their achievement, the process used to obtain public input, the nature of the input and how such input was use. Sec.144 (e); 45 CFR 1386.23(a)	
Activities of the P&A are consistent with its annual Statement of Priorities, and its mission and values.	
The P&A investigates alleged incidents of abuse and neglect consistent with its annual priorities and available resources, if the incidents are reported to the P&A or if there is probable cause to believe that the incidents occurred as determined by the P&A. Sec143(a)(2)(B)	
<i>Program Policies and Practices</i>	<i>Comments</i>
The P&A policies or practices provide for a broad range of remedies or approaches through litigation, legal action or other forms of advocacy to protect and advocate the rights of individuals with developmental disabilities. Sec143; 45 CFR 1386.21(c)	
The P&A has written by-laws, policies and procedures for program operations including the intake process, confidentiality, legal advocacy program, information and referral process, systemic advocacy work and training activities. Sec.144; 45 CFR 1386.21, 1386.24, 1386.	
P&A policies and practice on confidentiality provide for the protection of the identity of, or any other personally identifiable information related to any individual requesting assistance. 45CFR 1386.22(e)(2)	
The P&A has written policies on case selection and eligibility consistent with its annual goals and priorities. 45 CFR 1386.21; 1386.24(a)(1)	

<i>Information and Referral</i>	<i>Comments</i>
P&A has a program that provides information and referral services including written materials that are easy to understand and accessible in formats and languages other than English. Sec.143(a)(2)(A)(ii)	

#### **V. EVALUATION AND REPORTS**

P&A annually evaluates its effectiveness and whether its performance is consistent with its mission and priorities and the values and provisions of the DD Act. Sec.143(a)(2)(C)	
The governing board or advisory council regularly receives reports on grievance outcomes. Sec.143(a)(2)(E).	
The P&A provides opportunities for the public to comment on its performance by interested persons and groups. Sec143(a)(2)(D)	

#### **VI. FISCAL**

P&A has adequate and audited fiscal controls, policies and written recordkeeping procedures. 45 CFR 1386.20(a)	
Allowable costs include the Protection and Advocacy System providing disability related technical assistance information and referral to appropriate programs and services. 45 CFR 1386.24.	
Allotments are paid directly to the P&A system. Sec142(b)	

## Tab D.3 - Protection & Advocacy Best or Innovative Practices Checklist

*Instructions:* The elements below are criteria to use to identify a best or innovative practice. Although a practice does not need to excel in every one of the elements, it must be noticeably superior to what is regarded as common practice among grantees to qualify as a best or innovative practice. Reviewers should rely on information provided by the grantee and will need to use their personal judgment when determining if a practice does qualify as a best practice. A best practice may be a research or evaluation project, policy analysis, data assessment, outreach initiative or awareness effort. It may provide direct service or supported opportunity to people with developmental disability, indirect support to family and community care givers or interdisciplinary training for students, fellows, professionals and policymakers. It may involve leadership development, community work or clinical practice. While best practices are diverse in their workings, they share these common characteristics:

### **ELEMENT #1: *It reaches the population of focus***

Grantee should explain how the practice reaches the population of focus and improves the lives of people with developmental disability, who are people with severe and multiple disabilities, without regard to disability label.

### **ELEMENT #2: *It is an effort characterized by quality***

Grantee demonstrates how this practice rises above the routine and can be fairly characterized as an outstanding or significant achievement due to model or innovative methods which are reasonable in cost; supported by individuals, families, policymakers and professionals; easily taught; replicable and adaptable by others.

### **ELEMENT #3: *Its impact is measurable***

Grantee can quantify the impact on people with developmental disabilities, families, community care givers, students, fellow, professionals, direct services and policy makers. Grantee can quantify the result of the practice with respect to leadership development, community work, litigation, mediation or clinical practice. Grantee describes the impact in terms of increased services, new individual supports, additional access to enriching community opportunities, improved awareness, better compliance monitoring, new legal precedent or a trained workforce. Grantee demonstrates that impacts are sustainable.

### **ELEMENT #4: *It addresses the aspirations of individuals***

Grantee demonstrates how the practice supports individuals with developmental disabilities in exercising choice, self determination and control of resources and how the practice contributes to the ability of

individuals with developmental disabilities to live in the community in full and unqualified integration and inclusion with non-disabled peers and associates. The practice may, for example, provide access to safe and appropriate child care, after school services, public transportation, recreation, leisure and social activities; but it will certainly do so in the most integrated setting. It is often a practice which provides an opportunity to contribute and participate in the community, develop new friendships and lead a meaningful and productive life.

**ELEMENT # 5: *It is respectful in its methods***

Grantee demonstrates how the practice reflects a social service philosophy that uses the strengths, resources and capabilities of the individual, respects the individual's dignity and priorities. It and views the individual as the primary decision maker in the service delivery process. The design, focus and direction of such a practice are derived from the involvement of people with developmental disabilities and their families. They support access to generic services rather than isolation within services specific to disability. They are cultural competent and reflect the meaningful preferences of many different communities.

**ELEMENT #6: *It safeguards those it intends to benefit***

A best practice is one which is free of risk, abuse, exploitation, neglect or violation of civil rights.

Use the checklists below to describe best or innovative practices by identifying 2 or 3 of the most significant accomplishments during the past five years (or since the last MTARS visit). In your description, discuss the steps that the P&A took to achieve the significant accomplishment.

<b>BEST OR INNOVATIVE PRACTICES</b>	
<i>Accomplishment</i>	<i>Description and Relevant Comments</i>
Describe accomplishment 1 – <ul style="list-style-type: none"> <li>• Was it related to a goal in the 5-year application?</li> <li>• Were there barriers to its completion?</li> <li>• If so, how were they resolved?</li> <li>• What community partners were involved?</li> <li>• What was the impact on consumers?</li> <li>• What was the impact on the community and/or state?</li> <li>• Was the impact systemic?</li> <li>• Was the impact statewide?</li> </ul>	
Describe accomplishment 2 – <ul style="list-style-type: none"> <li>• Was it related to a goal in the 5-year application?</li> <li>• Were there barriers to its completion?</li> <li>• If so, how were they resolved?</li> <li>• What community partners were involved?</li> <li>• What was the impact on consumers?</li> <li>• What was the impact on the community and/or state?</li> <li>• Was the impact systemic?</li> <li>• Was the impact statewide?</li> </ul>	
Describe accomplishment 3 – <ul style="list-style-type: none"> <li>• Was it related to a goal in the 5-year application?</li> <li>• Were there barriers to its completion?</li> <li>• If so, how were they resolved?</li> <li>• What community partners were involved?</li> </ul>	

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|---|--|
| <ul style="list-style-type: none"><li>• What was the impact on consumers?</li><li>• What was the impact on the community and/or state?</li><li>• Was the impact systemic?</li><li>• Was the impact statewide?</li></ul> |  |
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## Tab D.4 - Protection & Advocacy System Case File Review

### P&A Case File Review Protocol for MTARS

ADD conducts monitoring and technical assistance reviews of the DD network programs periodically depending on available resources. Review of a sampling of client case eligibility records is a required element of the P&A monitoring visit. The DD Act authorizes ADD to have access to these records<sup>1</sup>, but precludes access to any personal identifying information<sup>2</sup>. Further, the regulation explicitly states that P&As may obtain consent from all clients to have information related to client and case eligibility disclosed to ADD<sup>3</sup>.

Given this authority, and pursuant to the results of ADD's test of a streamlined protocol for accomplishing the onsite review of client and eligibility case files for the five 2005 monitoring reviews, ADD will continue to use the streamlined protocol.

The purpose of the case file review is to ascertain and certify that the clients meet the eligibility criteria for developmental disability and that the case handling procedures are timely, reasonable and complete from intake to formal closure.

ADD will use the attached questionnaire (developed by Lois Simpson, Executive Director, Louisiana P&A, 2004) to guide the "non-hands-on" case file review conducted jointly by the MTARS team and the Legal Director/managing attorney and/or other P&A staff who will handle the selected case files.

#### Case File Review Protocol

- In advance of the monitoring visit, the P&A will provide to the P&A MTARS Team Leader a list of up to 100 cases by case number and status (including open, closed, and designated information and referral, full representation, etc.), in which ADD funds are/were used during the period of the review.
- MTARS Team Leader will select at least 10 cases at random for review and notify the P&A Executive Director.
- The P&A Executive Director and the MTARS Team Leader will agree upon the date and time for the case file review, during which the Legal Director/managing attorney and/or other P&A staff who are knowledgeable about

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<sup>1</sup> See Sect. 103(b) of the DD Act, 42 U.S.C. §15003(b)

<sup>2</sup> See 42 U.S.C. §15044(c) and 45 C.F.R. §1385.9(e)(1) and §1385.9(e)(2).

<sup>3</sup> See Id. 1385.9(e)(2)



the selected cases will be available to participate in the review to answer questions and handle the case files. At no time will the MTARS team seek or have access to personal identifying information.

- For the cases selected for review, the P&A will have the paper files on site at the location designated for the case file review and, for those parts of the file that are electronically maintained, P&A staff will be able to access the electronic records during the course of the MTARS review.
- P&As may also provide certain information to the MTARS review team by sharing copies of the “face page” or other documents from electronic or paper files with personal identifying information of clients redacted.
- During each case file review, the MTARS team will note whether the case file is in order (eligible, timely, reasonable and complete) and if not, will recommend corrective action.
- The P&A must certify that all client case files are stored under lock and key to be in compliance with the regulations implementing the DD Act<sup>4</sup>.

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<sup>4</sup> See 45 C.F.R. §1386.22 (e)

## **KEY ELEMENTS OF A CASE FILE REVIEW**

- Is there evidence that the client meets the eligibility criteria for developmental disability?
- Does the issue in the case conform to one of the priorities set by the P&A?
- Is there a retainer agreement that clearly states what the P&A will do for the client?
- Is there evidence that action on the case began promptly and proceeded at a reasonable pace?
- Is there evidence that the client was kept informed about progress on the case?
- Is there evidence that sufficient research and document review was carried out in order to achieve the client's objective?
- Was the expected outcome of the case achieved for the client?
- If not, why not?
- Is there evidence that the client was notified when the case was formally closed?

## Tab D.5 - Protection & Advocacy System Fiscal Review Checklist

SYSTEM QUESTIONS				
Review Prompt	Yes	No	N/A	Comments
<b><u>Section 142(a)(5)</u></b> In a State in which the System is housed in a State agency, does the System use less than 5% of their allotment for the cost of monitoring the administration of the system? What is the percentage?				
<b><u>45 CFR 1386.20(c)</u></b> Where a private non-profit agency serves as the System, is there a state representative designated to receive notices of disallowances and/or non-compliance? Who is the representative?				
<b><u>Section 142(c)</u></b> Have the Federal funds been obligated within one year of the close of the Federal fiscal year in which they were awarded? [ <i>For the past closed year</i> ]				
<b><u>45 CFR 1386.3(a)</u></b> Have the obligated Federal funds been liquidated within two years of the close of the Federal fiscal year in which they were awarded? [ <i>For the past closed year</i> ]				
<b><u>Section 143(a)(2)(M)</u></b> Has the System provided assurances to the HHS Secretary that the DD funds will be used to supplement, and not supplant, non-Federal funds?				
<b><u>Section 144(b)(2)</u></b> Have amounts received through court judgments been used only for furthering the purposes of the DD program and not to augment payments to legal contractors or to award personal bonuses? What procedures are in place?				

<b>45 CFR 1386.24; 45 CFR 72.24</b> Non-allowable costs include those costs incurred for activities on behalf of individuals with developmental disabilities to solve problems not directly related to their disabilities and which are faced by the general populace. Does the System engage in such activities (e.g., preparation of wills, divorce decrees and real estate proceedings)?				
Are attorneys fees considered program income and added to the funds committed to the program and used to further the objectives of the program? <i>The requirement applies to all attorneys' fees, including those earned by contractors and those received after the project period in which they were earned.</i>				

**FEDERAL FINANCIAL STATUS REPORTS & A-133 AUDITS**

<b>Review Prompt</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comments</b>
<p><b>45 CFR 74.21; 74.52; 92.20</b> Financial data and records were used in preparing the SF-269s for the budget period.</p> <p>a. Does the grantee's SF-269 reports correspond with the accounting records?</p> <p>b. Can the grantee readily identify how financial data from its accounting records were transferred to the Federal financial reports?</p> <p>c. Does the grantee maintain documentation that supports the line items reported?</p>				
Does the System have adequate and audited fiscal controls/policies and record-keeping procedures?				
<b>45 CFR 72.26; 92.26</b> Does the organization prepare audited financial statements and have an A-133 audit annually?				
Do subcontractors of the System also meet audit requirements and record-keeping procedures?				
<b>45 CFR 74.21; 92.20</b> Are written procedures in place to determine the allowability, allocability and reasonableness of costs?				

<b><u>45 CFR 74.22(K) &amp; (L); 92.21</u></b> Does the System earn interest on Federal funds? If yes, does the System have procedures in place to return interest earning to the Federal government?				
<b><u>45 CFR 74.27; 31, &amp; 48; Part 92.22</u></b> Has the System secured and keep in force, during operation period, adequate insurance coverage to protect against losses?				
<b>PROCUREMENT</b>				
<b>Review Prompt</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comments</b>
<b><u>45 CFR 74.43; 92.36</u></b> Are grantee procurement transactions, whether negotiated or advertised, and regardless of dollar value, conducted in a manner providing maximum open and free competition?				
<b>PROPERTY</b>				
<b>Review Prompt</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comments</b>
<b><u>45 CFR 74.34; 92.32</u></b> Does System's property management standards for nonexpendable personal property include the following procedural requirements:  a. Description of property b. Serial Number c. Source of equipment d. Name on title e. Acquisition date f. Cost of equipment g. % of Federal dollar (program dollars) used h. Current location, use, and condition of equipment i. Disposition data, including sale price, if applicable				
<b><u>45 CFR 74.34; 92.32</u></b> Is there evidence of the System conducting a physical inventory of property at least once every two years and verifying this with property records?				
<b><u>45 CFR 74.34; 92.32</u></b> Is a control system in effect to ensure adequate safeguards to prevent loss, damage,				

or theft to the property? Is any loss, damage, or theft of nonexpendable personal property investigated and fully documented?				
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<b>PAYROLL, ACCOUNTING &amp; INTERNAL CONTROLS</b>				
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Review Prompt	Yes	No	N/A	Comments
<b>45 CFR 1386.20(a)</b> Has the System implemented the necessary procedures to assure the proper disbursement of and accounting for Federal funds? Describe.				
Does the payroll distribution system account for the total effect (100%) for which the employees is compensated by the organization and are the charges appropriately allocated to funding sources?				
Does preparation of the payroll require more than one employee?				
Is the payroll verified at regular intervals against the personnel records?				
Is the payroll bank account reconciled by someone other than payroll staff or personnel who sign or distribute the pay checks?				
Does the organization have formal travel policies or consistently followed procedures?				
Does the organization have internal procedures to control the use of organizational credit cards, access to credit cards, and prohibit any personal expenditures?				
Do policies require prior approval of expenditures, documentation of amounts charged, and limit the amount and types of expenses that can be incurred?				
Is there a separation of responsibility in the receipt, payment, and recording of cash?  a. Is the signing of checks limited to those designated officials whose duties exclude posting and/or recording cash received, approving vouchers for payment, and payroll preparation?				
Are accounting entries supported by appropriate				

documentation (e.g., purchase orders, vouchers, and vendor payments)?				
Are all checks pre-numbered and accounted for when general purpose bank account is reconciled?				
If a mechanical or facsimile signature is used for cash disbursements, is the signature plate, die, key, electronic card, etc. under strict control?				
Are bank accounts reconciled by persons not handling cash in the organization?				
Are all employees who handle funds required to be bonded against loss by reason of fraud or dishonesty?				
Does the organization have a written allocation plan for administrative costs and/or a negotiated cost rate?				
Are persons in the organization who approve budget amendments authorized to do so by the Board of Directors or top management?				
<b><u>45 CFR 74.21(b)(5); 92.20(b)(7)</u></b> Are cash requirements and/or cash draw downs on letter of credit limited to immediate needs? (check last bank statement for unreasonably large cash balances).				