SEEKING STAFF ATTORNEY – LITIGATION

Disability Rights Pennsylvania (DRP) is looking for an experienced litigator to work on innovative and sophisticated impact litigation aimed at protecting the rights of people with disabilities to be free from discrimination, abuse and neglect in the receipt of government services and in public accommodations, employment, voting, education and housing. In a lead role, DRP Staff Attorneys develop and litigate individual and class actions and administrative complaints and will be responsible for all stages of litigation, including fact and legal theory development, research and writing, emergency motion practice, discovery, settlement negotiations, trial, appeal and post-litigation monitoring/enforcement. A sampling of DRP’s litigation work follows.

DRP Staff Attorneys also assist in implementing the other legal initiatives of the organization, including drafting demand letters, advising clients about their rights, consulting with colleagues, investigating and monitoring facilities where people with disabilities live and receive services, conducting training and community outreach, participating in policy development and conducting client intake.

DRP Staff Attorneys work on legal matters affecting both children and adults with disabilities, including preventing abuse, neglect, discrimination, and unnecessary institutionalization and protecting the right of people with disabilities to participate in and equally access community life.

DRP is a private, nonprofit organization with offices in Harrisburg, Philadelphia, and Pittsburgh, Pennsylvania. Since 1977, DRP has been the protection and advocacy agency in Pennsylvania, operating under the authority of eight federal statutes and regulations and funded largely through federal appropriations. These federal programs exist to protect people with disabilities against abuse, neglect, and to provide legal and advocacy assistance to those whose rights are violated in areas like special education, housing, public access, employment, waiver services, and more.
DRP protects and advocates for the rights of people with disabilities so that they may live the lives they choose, free from abuse, neglect, discrimination, and segregation. For nearly 40 years, DRP has offered free legal and advocacy services statewide to people with disabilities on issues that fall within its annual program goals and objectives. To view DRP’s goal and objectives, visit https://disabilityrightspa.org/about-drp/priorities/. DRP offers legal and advocacy services, training, information and referral, and outreach. All services are accessed through a toll-free intake system at 1-800-692-7443. In addition to litigation, DRP uses investigations and monitoring, policy advocacy, and education to achieve its mission.

DRP is part of a national system of protection and advocacy agencies created by Congress in the early 1970’s to stop abuse and neglect. Since then, DRP’s mandate has grown with the passage of laws that have expanded the rights of people with disabilities. To learn more about the protection and advocacy network, visit www.ndrn.org.

Minimum Qualifications:

Applicants must have at least seven years of litigation experience, including substantial experience in federal court, and possess excellent written and oral communication skills, analytical abilities, initiative, creativity, judgment and litigation acumen. Applicants should be able to work independently and collaboratively as part of a team in a collegial environment to move projects forward. Experience specific to the rights of individuals with disabilities is preferred but not required. Applicants should be licensed to practice law in Pennsylvania and be willing to litigate cases throughout Pennsylvania, primarily in federal courts in Philadelphia, Harrisburg and Pittsburgh. Minority candidates and persons with disabilities are encouraged to apply.

Position: Staff Attorney

Position Location: Philadelphia, Pittsburgh or Harrisburg, but Staff Attorneys are working remotely at this time

Reports to: Legal Director and Managing Attorney – Litigation

Position Purpose and Objectives: To assist in carrying out the legal functions of DRP.
Physical/Mental Requirements:

1. Uses computer approximately to 6-8 hours per day.

2. Travel to all areas of the Commonwealth, including some overnight travel required. Infrequent travel outside the Commonwealth may be required.

3. Sits approximately 2-8 hours per day.

4. Spends approximately 2-4 hours per day in meetings.

5. Requires working under a moderate degree of stress (time constraints, deadlines, multi-tasking, adherence to grant requirements, complex issues, conflict resolution, etc.).

Essential Functions:

1. Manages his or her own litigation and client caseload.

2. Files litigation and pursues legal work.

3. Thinks strategically and develops litigation opportunities.

4. Conducts legal research and writing.

5. Participates in client intake.

6. Participates in investigating abuse and neglect and monitoring facility conditions.

7. Prepares reports.

8. Conducts trainings and participates in outreach.

Compensation:

DRP offers a salary and benefits package. Employment benefits include leave time, health, dental, life insurance and 401(k) retirement plan.
Disclaimer:

This position description serves as a general summary and overview of the major duties and responsibilities of the job. It is not intended to represent the entirety of the job nor is it intended to be all-inclusive. Management reserves the right to modify or rescind this position description at any time, with or without prior notice. To perform this job successfully, the employee must possess the abilities or aptitudes to perform each duty proficiently. Continued employment remains on an “at-will” basis.

Candidates should send a cover letter, resume, and writing sample to: recruiting@disabilityrightspa.org. Please include “Staff Attorney” in the subject line.
DISABILITY RIGHTS PENNSYLVANIA: LITIGATION SAMPLING

DRP is litigating a federal action on behalf of youth with disabilities at the three youth development centers (“YDCs”) owned and operated by the Pennsylvania Department of Human Services (“DHS”). DRP alleges that DHS staff abusively restrain YDC residents who have disabilities, often because of manifestations of their disabilities; verbally abuse and harass residents based on their disabilities; and fail to provide them with programs, services, and rehabilitation. The lawsuit alleges that those actions violate the youths’ rights under the Americans with Disabilities Act (“ADA”), Rehabilitation Act (“RA”), and Fourteenth Amendment of the Constitution.

DRP is litigating a case filed against DHS on behalf of a class of Pennsylvania youth who have been adjudicated dependent and have mental health disabilities. The lawsuit alleges that DHS violates the federal Medicaid law by failing to provide them with medically necessary behavioral health services and violates the ADA and RA by, among other things, failing to provide them with services in the most integrated settings appropriate to their needs.

DRP is litigating a case filed on behalf of a 21-year-old Philadelphia woman with cerebral palsy who was at risk of homelessness or institutionalization, alleging that its failure to ensure that the client could remain in the community violated the ADA, RA, and the federal Medicaid law. DRP succeeded in securing a temporary restraining order and then a preliminary injunction in the summer of 2020 to require DHS to provide temporary housing in the community as well as supported services pending development and implementation of an appropriate service plan.

DRP filed an administrative complaint with the Office for Civil Rights of the U.S. Dep’t of Health and Human Services (“OCR”) to challenge the policy promulgated by the Pennsylvania Department of Health (“DOH”) to allocate health care resources during the pandemic in the event that rationing becomes necessary. We alleged that DOH’s policy violated the ADA, RA, and Section 1557 of the Patient Protection and Affordable Care Act by unlawfully discriminating against people with disabilities. As a result of the complaint, DOH made substantive changes to its policy.

DRP and private co-counsel filed a federal action on behalf of the National Federation of the Blind in Pennsylvania and a blind voter, asserting that the
Pennsylvania Department of State (“DOS”) violated the ADA and RA because its paper-based mail-in and absentee ballot process is inaccessible to blind voters who cannot use it to vote privately and independently. The court granted a preliminary injunction requiring DOS to make a temporary modification for the June 2020 primary. In August 2020, following expedited discovery and cross-motions for summary judgment, DOS announced that it contracted to implement a system for the November 2020 election that allowed voters to receive and mark ballots electronically using screen-reader software. DOS implemented the system beginning at the end of September.

After receiving a letter from a 20-year-old youth who was confined in a Philadelphia jail and asserted that he was not receiving special education services to which he was entitled, DRP filed a complaint with the Pennsylvania Department of Education’s Division of Compliance (“DOC”) on behalf of the individual client and similarly situated special education students incarcerated in Philadelphia's jails. DOC investigated our complaint and determined that the School District of Philadelphia did not comply with the Individuals with Disabilities Education Act (“IDEA”) in multiple ways. DOC required the school district to remedy those violations through adoption and implementation of policy changes and to provide all affected students with supplementary programs or services.

DRP filed a federal lawsuit on behalf of individuals with intellectual disabilities and co-occurring medical or behavioral health issues that precluded prompt access to residential services to which they were entitled under a Medicaid waiver. After filing the lawsuit and securing relief for the individual clients, DHS made systemic changes to its reimbursement system for residential services to better account for acuity differences. The parties then entered into a settlement allowing DRP to access information to track whether the systemic changes adopted by DHS after the lawsuit was filed to address the situation had the desired impact.

DRP and Community Legal Services filed a federal court action asserting that the state statute that terminated the General Assistance cash benefits program was enacted in violation of the Pennsylvania Constitution. The Pennsylvania Supreme Court ultimately agreed and declared the statute unconstitutional. The Pennsylvania Legislature then enacted another bill to
end the General Assistance cash benefits program. DRP joined Community Legal Services again in filing a similar challenge in Pennsylvania Commonwealth Court, which is pending.

DRP filed a federal class action lawsuit on behalf of Medicaid-eligible children with mobility disabilities to challenge DHS's policy of denying authorization for medically necessary mobility equipment. This litigation is pending.

DRP filed and is now litigating a lawsuit against the owner/developer and builder of the Michener Lofts, a recently constructed 44-unit apartment building in Philadelphia, alleging that they violated the “design and construction requirements” of the Fair Housing Act.

DRP filed an ADA lawsuit on behalf of a fourth-grade student with cerebral palsy to challenge the inaccessibility of the sole middle school in his school district. After concluding discovery, the parties reached a comprehensive consent decree that requires the school district to make accessibility modifications made to the middle school before the client began 6th grade. The consent decree also requires that the school district ensure that its newly-constructed middle school will be fully accessible.

DRP and private co-counsel filed a Fair Housing Act complaint against a large Philadelphia landlord to challenge its refusal to modify its policy that lessees pay their rent on the first of the month for Social Security Disability Insurance recipients who needed the accommodation so they could pay their rent when they received their benefits. After the federal court denied the defendant’s motion for summary judgment, the parties entered into a settlement agreement in which the defendants agreed to change the payment date.

DRP filed a federal class action ADA lawsuit on behalf of residents of Pennsylvania’s institutions for people with intellectual disabilities to challenge the state’s failure to provide community services to those individuals who are appropriate for and want those services. The court granted the plaintiffs’ motion for summary judgment, resulting in a settlement agreement. The agreement was then disputed by intervenors and vacated in the Third Circuit. Plaintiffs, DHS, and the intervenors then entered into a global settlement agreement, which is being implemented.
DRP filed a federal lawsuit that ended the state's placement of individuals with serious and persistent mental illness in solitary confinement and improved mental health treatment in the state prisons.