



# DISABILITY RIGHTS NEW YORK



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## VIA ELECTRONIC SUBMISSION

Administration for Community Living  
Department of Health and Human Services

### **RE: Proposed Collection; Public Comment Request; of the One Protection and Advocacy Annual Program Performance Report OMB #0985-0063**

Disability Rights New York (“DRNY”) submits the following comments on the proposed data collection of the One Protection and Advocacy Annual Program Performance Report (“One PPR”). DRNY is the designated Protection and Advocacy system (“P&A”) for people with disabilities in New York State. As New York’s P&A, we value the Administration for Community Living’s commitment to ensuring that a diverse population of individuals with disabilities benefits from P&A services and activities. We offer the following comments to propose that additional measures are taken to foster increased recognition of the intersection between disability and gender diversity and to further ensure that P&As are serving all marginalized populations. Therefore, we propose that the One PPR be amended to include an increased range of gender identity reporting options, and also to include reporting requirements for the gender spectrum as a facet of diversity measures.

### Reporting on Gender of Individuals Served

Currently, Part 1, section C of One PPR requires reporting on the gender of individuals served. The only currently available choices in this section are male or female. P&As across the nation proudly support LGBTQ people with disabilities. However, the current reporting requirements project a false narrative that the individuals we serve must identify as male or female. While an individual P&A may increase the range of possible responses for gender demographic questions in its own internal data collection, doing so creates an unnecessary tension with the need to keep data in a manner consistent with federal reporting requirements.

Since gender demographics are already a required section of the annual report, changing this section to permit a broader array of responses would result in a negligible increase in the reporting burden on P&As. However, it would make a marked difference in the ability of P&As to collect and report accurate and affirming gender demographic information about the individuals we serve.



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## Disability and the LGBTQ Population

There is significant overlap between the disability and LGBTQ communities. The National Institute on Minority Health and Health Disparities identified the LGBTQ community as a “health disparity population,” meaning that individuals in this community have disproportionate rates of illness and disability.<sup>1</sup> Due to factors including medical discrimination, minority stress, and lack of access to healthcare, LGBTQ people are more likely than the general population to live with a disability. Thirty nine percent (39%) of transgender people have a disability.<sup>2</sup> Additionally, studies have shown that neurodiversity and gender diversity overlap. One study found that people with autism are more likely than neurotypical people to be gender diverse, and that gender diverse people are more likely to have autism than cisgender people.<sup>3</sup>

As service providers, we want our clients to feel respected, comfortable, and safe. Affirmation of gender identity is an important step in showing that the P&A as an organization will understand and work respectfully with clients who are transgender, nonbinary, or otherwise gender diverse. Gender identity affirmation is also critical in helping establish trust between individual clients and their advocates. DRNY has represented clients whose legal needs involve both disability and gender identity. In particular, this has come up in guardianship termination cases and cases involving barriers to healthcare. DRNY has represented clients who are under guardianship and whose guardians have refused to support their expression of their gender identity, including preventing them from receiving gender-affirming healthcare. In these cases, the client’s fight for their right to self-determination and a restoration of their legal capacity inherently involves their right to self-identify.

## Gender as an Aspect of Diversity

Keeping an accurate record of gender identity in P&A records and in the annual reporting will also allow National Disability Rights Network (NDRN), P&As, and our federal funders to track cases, develop priorities and trainings, and allocate resources to better serve this continuously underserved population. Presently, the demographic information about groups served (Part 1) and board, staff, and advisory councils (Part 3) do not include reporting about gender identity as an aspect of diversity. Adding reporting requirements in these sections about the gender spectrum would allow for the examination of whether the P&As are reaching the LGBTQ population and whether further outreach and tailored projects should be implemented. Doing so would be in

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<sup>1</sup> National LGBT Health Education Center. March 2016. *Understanding the Health Needs of LGBT People*. <https://www.lgbtqiahealtheducation.org/wp-content/uploads/LGBTHealthDisparitiesMar2016.pdf>. (Accessed December 22, 2021).

<sup>2</sup> Movement Advancement Project. July 2019. *LGBT People With Disabilities*. <https://www.lgbtmap.org/lgbt-people-disabilities>. (Accessed December 22, 2021).

<sup>3</sup> Walsh R.J. et al. J. Autism Dev. Disord. 48, 4070-4078 (2018) PubMed; Strang J.F. et al. J. Am. Acad. Child Adolesc. Psychiatry 57, 885-887 (2018) PubMed.



alignment with our goal of protecting and advocating for all individuals with disabilities with their complete and multifaceted identities.

### Conclusion

In summary, we believe that amending the One PPR to include an increased range of gender identity reporting options, and also to include reporting requirements for the gender spectrum as a facet of diversity, would result in a small burden yet have a tremendous impact on the ability of P&As to recognize and track service provision to a population of the disability community in need of service. Thank you for considering DRNY's comments on this matter.



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