

**Plan to Transition the
Virginia Office for Protection and Advocacy
to a Private Nonprofit Entity**

November 30, 2012



**Darrel T. Mason
Chair
VOPA Governing Board**

**Colleen Miller
Executive Director**

Plan to Transition the Virginia Office for Protection and Advocacy to a Private Nonprofit Entity

November 30, 2012

Pursuant to HB 1230, passed by the Virginia General Assembly and approved by the Governor on May 18, 2012, the Virginia Office for Protection and Advocacy will transition from an independent state agency to a private nonprofit organization no later than January 1, 2014. HB 1230 requires the Virginia Office for Protection and Advocacy to develop a plan for the transition.

The Governing Board for the Virginia Office for Protection and Advocacy unanimously supports VOPA's transition to a private nonprofit, consistent with the Office's mission and resources. Although HB 1230 requires that the transition plan be completed by December 1, 2013, VOPA's Governing Board directed that the plan be completed by December 1, 2012. This document is the transition plan required by HB1230.

The Governing Board is aware that, in reviewing HB 1230, the Governor suggested delaying HB 1230 while a Study is conducted about the effects of transitioning to a nonprofit. The General Assembly declined the Study and the necessary delay. Nonetheless, on April 25, 2012, VOPA's Governing Board directed staff to prepare a Study that will address the questions raised by the Governor and by other policy makers. That Study has been completed and has been provided to the Governor and to legislative leaders.

Pursuant to federal law, the Protection and Advocacy System in each state is designated by the Governor and cannot be redesignated except for good cause. The planned conversion of Virginia's protection and advocacy system is to ensure greater independence of the entity. Moreover, in general, the federal oversight agencies consider it to be "good cause" if the agency participates in the redesignation voluntarily. Therefore, this plan assumes that this is a voluntary redesignation, and that VOPA staff will manage the transition to a new organization.

Based on these assumptions, federal law, and the recent experience of other states with the federal authorities, VOPA intends to take the following steps in support of transition:

- 1. Develop Study report on impact of transition, specifically addressing issues raised during Governor McDonnell's review of HB 1230. Present to the Governor, the Disability Commission and to legislative committees**

Status: Done.

Next steps: Provide to additional legislators and to the federal funders.

- 2. Convene regular staff discussions to evaluate transition process.**

Status: In Progress

- 3. Create and identify a specific nonprofit organization in order to receive the designation. Obtain legal counsel if necessary.**

Status: Done. State Corporation Commission has approved the disAbility Law Center of Virginia.

- 4. Obtain 501(c)(3) status from the Internal Revenue Service.**

Status: In Process

Target Dates: File application in fall 2012.

- 5. Review State law references to the protection and advocacy system with recommendations for preserving existing state law authority for the protection and advocacy system where appropriate and eliminating responsibilities where appropriate. Obtain patrons for all necessary legislation identified.**

Status: Submitted to legislative services and Disability Commission in August 2012.

Target Dates: Legislative sponsors confirmed, fall 2012. Passage, spring 2013

- 6. Register with the Department of Consumer Affairs**

Status: On hold

Target Dates: Apply after IRS approval, late spring 2013

- 7. Determine whether there are any issues regarding identification of liabilities and any need to create hold harmless provisions for nonprofit for any audit findings for prior years.**

Status: Pending

Target Dates: Spring 2013

8. Negotiate with the Department of General Services for the transfer of property and other assets to the nonprofit.

Status: In Process. Legislation needed. Patron has agreed. Submitted to Legislative Services in November, 2012.

Target Dates: Passage of legislation in spring 2013.

9. Negotiate new website and email addresses with VITA

Status: In Process

Target Dates: Complete by summer 2013.

10. Evaluate whether there is any the need for part or full time staff at the nonprofit prior to transition, in conjunction with National Disability Rights Network, in order to establish “capacity.”

Status: Pending

Target Dates: Spring 2013

11. Develop operating procedures, and other necessary documentation.

Status: Pending

Target Dates: Spring 2013

12. Recruit and train board members.

Status: Pending

Target Dates: Open application and recruitment process, beginning March 1, 2013

13. Develop necessary business relationships, including legal, HR, payroll, audit, accounting, and banking.

Status: In Process

Target Dates: Late spring 2013.

14. Negotiate transfer of fiscal records and personnel records with respective executive branch agencies

Status: In Process. Possible legislation needed.

Target Dates: Spring 2013

15. Provide staff with information about options for retaining state employment and for use of retirement.

Status: In Process

Target Dates: Complete summer 2013

16. Develop benefits package including health, short and long term disability, EAP, unemployment, director's and officers insurance, and malpractice

Status: In Process

Target Dates: Summer 2013

17. Develop personnel policies

Status: In Process

Target Dates: Approval by July 2013

18. Negotiate and develop operational details such as rental cars contracts, personal use guidelines (insurance), charge cards, gas cards and parking pass.

Status: In Process

Target Dates: Summer 2013

19. Establish basic fiscal systems that will allow compliance with OMB Circular A-133 and filing of IRS 990.

Status: In Process

Target Dates: Operational by summer 2013

20. Revise accounting manual.

Status: Pending

Target Dates: Approval by July 2013

21. Renegotiate building and equipment leases and operational contracts, including copier, phones and internet, Information technology support

Status: Pending

Target Dates: Spring to summer 2013.

22. Renegotiate contract for sign language interpreters

Status: Pending

Target Dates: Late spring 2013

23. Notify federal authorities responsible for approving redesignation, and provide these authorities with regular updates on the status of the transition.

Status: In process. Several notices already sent

Target date: Ongoing

- 24. Public notice and hearing process:** The formal redesignation process is initiated when the Governor gives notice to the current P&A system / CAP of intent to redesignate, names the new designee, and states good cause for the redesignation. Subsequently, there must be a detailed public notice, a 45 day comment period, and a public hearing, all of which must comply with federal law. The Governor then gives the P&A / CAP notice of his final designation decision, explaining good cause and the appeals process, and summarizing public comment. The P&A / CAP may appeal that determination, but even if no appeal is filed, the Governor must provide the Secretaries of the funding authorities with documentation of good cause. The Governor must, within 30 days of the redesignation, supply assurances to the federal authorities that the new designee complies with all federal requirements.

Status: Pending

Next steps: Meet with Governor's staff to review process. Notice to P & A and begin comment period, no later than May 1, 2013. Comment period closes June 15, 2013. Final decision to P & A by June 30, 2013. Assurances to Feds by July 31, 2013.

Target Dates: Begin in April 2013, complete by July 31, 2013

- 25. Make job offers, detailing salary and benefits, with resignation from state agency**

Status: Hold until 2013

Target Dates: Summer 2013

- 26. Celebrate transition and staff contributions to the transition**

Status: On hold

Target Dates: Fall 2013