

# Ohio Legal Rights Service

*Stephanie Suer, Budget Analyst*

- The bill includes funding of \$5,375,674 in both FYs 2008 and 2009
- 86% of OLRs' funding is made up of federal funds

## OVERVIEW

### Duties and Responsibilities

Revised Code section 5123.60 created the Ohio Legal Rights Service (OLRS) in 1975 as Ohio's federally mandated protection and advocacy (P&A) agency. The federal government requires every state to designate a P&A system to protect and advocate for the rights of people with disabilities. Ohio Legal Rights Service provides P&A services to individuals with a developmental disability, mental illness, or other significant physical or mental impairment that substantially interferes with life activity. The agency's goal is to provide people with disabilities the opportunity to realize self-determination, equality of opportunity, and full participation in the community. Ohio Legal Rights Service responds to allegations of abuse, neglect, and rights violations and advocates for access to appropriate education, health care, housing, employment, and institutional reform for individuals with disabilities. Ohio Legal Rights Service provides legal representation, information and referral, professional assistance, negotiation and mediation, education, and training.

The administrator of OLRs is appointed by a seven-member commission. The Chief Justice of the Supreme Court appoints one member, who serves as chair, and the Speaker of the House of Representatives and the President of the Senate appoint three members each. Terms of office are for three years. The commission advises the administrator on policy and budget issues.

Ohio Legal Rights Service receives several federal grants, which constitute the majority of its funding. Initially, OLRs primarily served individuals with developmental disabilities and/or mental illness. Additional federal funding has allowed OLRs to also serve those individuals with physical impairments such as deafness, blindness, cancer, traumatic brain injury, and multiple sclerosis.

### Agency in Brief

Agency In Brief					
Number of Employees*	Total Appropriations - All Funds		GRF Appropriations		Appropriation Bill(s)
	2008	2009	2008	2009	
44	\$5,375,674	\$5,375,674	\$489,322	\$489,322	Am. Sub. H.B. 119

\*Employee count obtained from the Department of Administrative Services (DAS) payroll reports as of June 2007.

## Budget Issues

### Martin Settlement

In 1989, OLRS filed a federal class action lawsuit against Ohio claiming undue segregation in institutions for individuals with mental retardation or other developmental disabilities (MR/DD) and large waiting lists for people in need of services. According to OLRS, the *Martin* lawsuit seeks integrated community residential services, specifies that state programs should not discriminate against people with severe disabilities, and states that integrated residential services should be developed.

Recently, a settlement to the longstanding case was announced. The settlement specifies that the Governor will request 1,500 new, state-funded, Individual Option (IO) waiver slots in the 2008 - 2009 biennial budget. The Department of Mental Retardation and Developmental Disabilities must request Controlling Board approval for \$4.2 million of capital dollars for the Community Capital Assistance Housing Program, 7% of which must be allocated for housing accessibility. All class members in ICFs/MR or NFs will be surveyed about their preference regarding community placement.

The Court issued final approval of the consent order on February 5, 2007. OLRS, as class counsel, is awarded \$150,000 as costs in the litigation.

### Developmental Center Closures

During the last biennium, OLRS monitored the conditions at each center and the subsequent community placement to assure the safety and quality of life of the residents. OLRS staff attended each placement meeting and met with families to assist them with their placement options. Representatives from OLRS estimated that approximately 1,271 staff hours were spent on the Apple Creek closure, which occurred in the context of the *Sidles v. Moritz* consent order, and approximately 272 hours were spent on the Springview closure.

### Major Unusual Incidents (MUIs)

One of the fundamental ways OLRS monitors the health and safety of individuals with disabilities is through the review, analysis, and investigation of Major Unusual Incidents (MUIs). MUIs, as defined in the Ohio Administrative Code, is an alleged, suspected, or actual occurrence of an incident that adversely affects the health and safety of an individual, including acts committed or allegedly committed by one individual against another. The ODMR/DD and Ohio Department of Mental Health (ODMH) are required by state statute to notify OLRS of all MUIs and furnish all relevant reports within 48 hours. For the past several years, ODMR/DD and OLRS have shared a secured database. OLRS receives MUI data from ODMR/DD in a paperless, web-based format.

According to the OLRS, ODMH enacted administrative rules that allow providers to no longer report episodes of restraint, seclusion, or emergency medication interventions unless serious injury occurs. These incidents are now recorded in restraint/seclusion logs that ODMH and OLRS plan to review biannually. This change in reporting has significantly reduced the number of reports from children's mental health facilities. In FY 2006, OLRS reviewed more than 20,000 MUI reports indicating alleged abuse, neglect, and emergency situations or rights violations. In FY 2005, OLRS reviewed 270 MUI death reports. In part to obtain information from these logs, and also because of denial of access to investigation records, OLRS has filed litigation against providers, prevailing in each case.

## ANALYSIS OF THE BUDGET

### Single Program Series

### Operating Expenses

**Purpose:** To protect and guarantee the human, civil, and legal rights of people with disabilities.

The following table shows the line items that are used to fund the Ohio Legal Rights Service, as well as the enacted funding levels.

Fund	ALI	Title	FY 2008	FY 2009
<b>General Revenue Fund</b>				
GRF	054-321	Support Services	\$198,075	\$198,075
GRF	054-401	Ombudsman	\$291,247	\$291,247
<b>General Revenue Fund Subtotal</b>			<b>\$489,322</b>	<b>\$489,322</b>
<b>State Special Revenue Fund</b>				
5AE	054-614	Grants and Contracts	\$100,000	\$100,000
<b>State Special Revenue Fund Subtotal</b>			<b>\$100,000</b>	<b>\$100,000</b>
<b>General Services Fund</b>				
5M0	054-610	Program Support	\$81,352	\$81,352
<b>General Services Fund Subtotal</b>			<b>\$81,352</b>	<b>\$81,352</b>
<b>Federal Special Revenue Fund</b>				
3AG	054-613	Protection and Advocacy –Voter Accessibility	\$115,000	\$115,000
3B8	054-603	Protection and Advocacy – Mentally Ill	\$1,089,999	\$1,089,999
3CA	054-615	Work Incentives Plan and Assistance	\$355,000	\$355,000
3N3	054-606	Protection and Advocacy – Individual Rights	\$560,000	\$560,000
3N9	054-607	Assistive Technology	\$160,000	\$160,000
3R9	054-604	Family Support Collaborative	\$55,000	\$55,000
3R9	054-616	Developmental Disability Publications	\$130,000	\$130,000
3T2	054-609	Client Assistance Program	\$435,000	\$435,000
3X1	054-611	Protection and Advocacy and Beneficiaries – Social Security	\$235,001	\$235,001
3Z6	054-612	Traumatic Brain Injury	\$70,000	\$70,000
305	054-602	Protection and Advocacy – Developmentally Disabled	\$1,500,000	\$1,500,000
<b>Federal Special Revenue Fund Subtotal</b>			<b>\$4,705,000</b>	<b>\$4,705,000</b>
<b>Total Funding: Ohio Legal Rights Service</b>			<b>\$5,375,674</b>	<b>\$5,375,674</b>

Ohio Legal Rights Service is a single program series agency. The specific programs that this analysis will focus on include:

- **Ombuds/Legal Section**
- **Federal Protection and Advocacy**

## Ombuds/Legal Section

**Program Description:** The Executive Director appoints ombudspersons, disabilities rights advocates, and attorneys who advocate for individual and systemic change through individual, group and class action cases, monitoring policies, legislative activity, and education and training. Ohio Legal Rights Service represents large numbers of clients through investigation, negotiation, and policy development. Legal action is taken only as a last resort. Under law, OLRS is required to facilitate the resolution of complaints through nonlegal means whenever possible.

**Ombuds Section:** The Ombuds program provides investigation, advocacy, mediation, and information and referral to individuals with a mental illness, mental retardation, or developmental disabilities. The Ombuds section also acts on complaints from mentally retarded and other developmentally disabled and mentally ill persons, their relatives or guardians, public officials, or interested citizens regarding health and safety, abuse and neglect, and rights violations.

Revised Code section 5123.604(C) also requires the Ombuds section to receive and monitor all Major Unusual Incident (MUIs) reports from public, private, and community providers. The Ohio departments of Mental Retardation and Developmental Disabilities (ODMR/DD) and Mental Health (ODMH) are required by statute to notify OLRS of all investigations of MUIs and furnish all relevant reports within 48 hours. Ombudspersons notify ODMR/DD, ODMH, or any other appropriate governmental agency of the complaint. If the situation cannot be satisfactorily resolved, the Ombuds section can recommend action to the appropriate authorities. If the complaint involves the commission of a crime or the violation of standards of professional conduct, the section may notify the Attorney General, county prosecuting attorney, or other appropriate law enforcement agency. In FY 2006, over 20,000 MUI reports were received by OLRS.

**Legal Section:** The OLRS Legal section investigates and acts upon allegations of rights violations in cases that do not fit in any of the federal protection and advocacy programs (see below). The Legal section seeks settlements through advocacy and negotiation and provides legal representation in individual and class actions when necessary. OLRS continually monitors individuals involved in these cases and provides them with the necessary advocacy services.

**Implication of the Budget:** The budget provides level funding in FY 2008 and FY 2009 for all of the Department's GRF line items supporting the Ombuds/Legal programs, totaling \$489,322 in each fiscal year. The budget appropriations will cover the nonfederal match required to receive federal grant dollars. The budget appropriations will not have any implications on the agency's ability to seek federal grants that fit the agency's statutory mission.

## Federal Protection and Advocacy

**Program Description:** Ohio Legal Rights Service receives grants for nine federal protection and advocacy programs. They are as follows:

**Protection and Advocacy for Individuals with Developmental Disabilities (PADD)** – This federal program protects and advocates for the human and civil rights of people with developmental disabilities in developmental centers, schools, and in Ohio communities. This program served a total of 717 individuals in FY 2006 and made up approximately 20% of OLRS' individual cases.

***Protection and Advocacy for Individuals with Mental Illness (PAIMI)*** – The PAIMI program serves Ohio’s mentally ill adults, children, and youth in psychiatric hospitals and communities. This program served a total of 1,303 individuals in FY 2006 and made up approximately 36% of OLRs’ individual cases.

***Protection and Advocacy for Individual Rights (PAIR)*** – The PAIR program serves individuals with any significant disability other than those served by the PADD, PAIMI, or Client Assistance Programs. For example, PAIR eligible individuals include persons with chronic or serious medical conditions, people with physical disabilities, and people with traumatic brain injury who received the disabling injury after age 22. The PAIR program advocates for people who have been discriminated against or whose rights have been violated. This program served a total of 796 individuals in FY 2006 and made up approximately 22% of OLRs’ individual cases.

***Protection and Advocacy for Assistive Technology (PAAT)*** – This federal grant helps provide protection and advocacy services to individuals in need of assistive technology devices. OLRs uses this money to provide legal representation or mediation and negotiation services to those who need these devices. This program served a total of 56 individuals in FY 2006.

***Protection and Advocacy for Beneficiaries of Social Security (PABSS)*** – This federal grant is used to assist SSI or SSDI beneficiaries who seek vocational rehabilitation services, employment services, and other support services from employment networks and other service providers under the Ticket to Work Improvement Act of 1999. Under the program, the Social Security Administration tickets are issued to SSI and SSDI beneficiaries for vocational and employment services. This program served a total of 124 individuals in FY 2006 and made up approximately 3% of OLRs’ individual cases.

***Client Assistance Program (CAP)*** – The purpose of the CAP program is to establish a system to insure the rights of individuals seeking from, or receiving services through, the Rehabilitation Service Commission’s Bureau of Vocational Rehabilitation (BVR) or Bureau of Services for the Visually Impaired (BSVI). The Client Assistance Program informs, advises, and can pursue legal, administrative, or other appropriate remedies for clients and client applicants experiencing employment-related problems. The Client Assistance Program also provides information on Title I of the Americans with Disabilities Act. This program served a total of 260 individuals in FY 2006, approximately 7% of OLRs’ individual cases.

***Family Support Collaborative (FSC)*** – Ohio Legal Rights Service receives this federal grant through the Ohio Developmental Disabilities Council. The purpose of the FSC grant is to identify children and youth with disabilities in out-of-home placements, to identify barriers that keep children from living with a family, to plan for coordinated, efficient supports and services that assist children with disabilities to live with birth, adoptive, or foster families, and to bring together stakeholders to develop policy toward this end.

***Protection and Advocacy for Voting Assistance (PAVA)*** – Ohio Legal Rights Service receives this federal grant to implement the federal Help America Vote Act. The Act provides for protection and advocacy services to advance the voting rights of people with disabilities. This program served a total of 180 individuals in FY 2006, making up approximately 5% of OLRs’ individual cases.

***Implication of the Budget:*** Ohio Legal Rights Service received \$5,375,674 in FYs 2008 and 2009. These levels will allow for continued levels of service in these federally funded programs.

## Temporary and Permanent Law Provisions

***Program Income Fund for Legal Rights Service programs (R.C. 5123.605).*** Creates the Program Income Fund in the state treasury. Revenue generated from settlements, gifts, donations, and other sources of Legal Rights Service program income must be credited to the Fund. The Fund must be used to support Legal Rights Service programs for purposes from which the income was derived or for the general support of Legal Rights Service programs.

***Fiscal Effect:*** This provision codifies existing language.

***Ohio Legal Rights Service (R.C. 5123.60, 5123.602, 5123.603, and 5123.604).*** Removes specific Revised Code provisions on the access of the Legal Rights Service to provider records of services to mentally ill, mentally retarded, and developmentally disabled persons and instead allows access to those records in accordance with federal law.

Removes a requirement that the Legal Rights Service determine who is a “mentally retarded person” or “developmentally disabled person” for purposes of the law governing the Legal Rights Service and instead creates a statutory definition of “mentally ill person” and applies existing definitions of “mentally retarded person” and “developmentally disabled person” to the law governing the Legal Rights Service.

Requires the Legal Rights Service to maintain information confidentially in accordance with the law that applies to that information.

Removes a requirement that the Department of Mental Health notify the Legal Rights Service ombudsperson of major unusual incidents or life threatening situations involving mentally ill persons and instead requires the Department to notify the ombudsperson of reportable incidents.

Provides that individuals represented by the Legal Rights Service are its clients.

***Fiscal Effect:*** Removing the requirement that the Department of Mental Health notify the LRS Ombudsperson of major unusual incidents or life threatening situations may decrease the number of incidents LRS investigates. The other provisions will have no fiscal effect.

***Legal Rights Service Access to Records (R.C. 5123.60, 5123.602, 5123.603, and 5123.604).*** Restores the Legal Rights Service’s authority to decide who is a mentally retarded person or developmentally disabled person, revises the confidentiality requirements of the Legal Rights Service relating to certain information, requires that the administrator of the Legal Rights Service be an attorney licensed in the state of Ohio, revises the access to certain records by the administrator and others associated with the Legal Rights Service, removes the new definition of “mentally ill person,” authorizes the Legal Rights Service to seek contempt orders, and removes changes made to the duties of the ombudsperson section of the Legal Rights Service but limits that section’s access to premises and records.

***Fiscal Effect:*** Limiting the access of the Legal Rights Service to records may decrease the number of cases investigated. The other provisions will have no fiscal effect.

***Legal Rights Service Subpoena Power (R.C. 5123.60).*** Authorizes the Legal Rights Service to seek a contempt order with language stating that on the refusal of any person to produce or authenticate any requested documents, the Legal Rights Service may apply to the Franklin County Court of Common Pleas to compel the production or authentication of requested documents, and if the court finds that failure to produce or authenticate any requested documents was improper, the court may hold the person

in contempt as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify in the court.

***Fiscal Effect:*** This provision may result in increased administrative costs for the Legal Rights Service. Few cases will be affected under this provision since the majority of the time the agency is able to obtain records under section 5123.06(E) of the Revised Code without court action.

**FY 2008 - 2009 Final Appropriation Amounts**

**All Fund Groups**

**Line Item Detail by Agency**

*FY 2005:*      *FY 2007 Adj.*      *FY 2008*      *% Change*      *FY 2009*      *% Change*  
*FY 2006: Appropriations:*      *Appropriations:*      *2007 to 2008:*      *Appropriations:*      *2008 to 2009:*

**Report For: Main Operating Appropriations Bill**

**Version: Enacted**

**LRS Legal Rights Service**

GRF	054-100	Personal Services	\$ 162,281	\$ 162,281	\$ 162,281	\$ 0	-100.00%	\$ 0	N/A
GRF	054-200	Maintenance	\$ 33,938	\$ 33,938	\$ 33,938	\$ 0	-100.00%	\$ 0	N/A
GRF	054-300	Equipment	\$ 1,856	\$ 1,856	\$ 1,856	\$ 0	-100.00%	\$ 0	N/A
GRF	054-321	Support Services	----	----	\$ 0	\$ 198,075	N/A	\$ 198,075	0.00%
GRF	054-401	Ombudsman	\$ 291,247	\$ 291,247	\$ 291,247	\$ 291,247	0.00%	\$ 291,247	0.00%
<b>General Revenue Fund Total</b>			<b>\$ 489,322</b>	<b>\$ 489,322</b>	<b>\$ 489,322</b>	<b>\$ 489,322</b>	<b>0.00%</b>	<b>\$ 489,322</b>	<b>0.00%</b>
416	054-601	Gifts and Donations	----	----	\$ 1,352	\$ 0	-100.00%	\$ 0	N/A
5M0	054-610	Program Support	\$ 36,293	\$ 3,800	\$ 75,000	\$ 81,352	8.47%	\$ 81,352	0.00%
<b>General Services Fund Group Total</b>			<b>\$ 36,293</b>	<b>\$ 3,800</b>	<b>\$ 76,352</b>	<b>\$ 81,352</b>	<b>6.55%</b>	<b>\$ 81,352</b>	<b>0.00%</b>
305	054-602	Protection and Advocacy-Developmentally Disabled	\$ 1,339,550	\$ 1,462,544	\$ 1,369,082	\$ 1,500,000	9.56%	\$ 1,500,000	0.00%
3AG	054-613	Protection/Advocacy-Voter Accessibility	\$ 103,938	\$ 106,786	\$ 114,090	\$ 115,000	0.80%	\$ 115,000	0.00%
3B8	054-603	Protection and Advocacy-Mentally Ill	\$ 1,032,422	\$ 995,983	\$ 1,059,041	\$ 1,089,999	2.92%	\$ 1,089,999	0.00%
3CA	054-615	Work Incentives Planning and Assistance	----	----	\$ 204,260	\$ 355,000	73.80%	\$ 355,000	0.00%
3N3	054-606	Protection and Advocacy-Individual Rights	\$ 581,447	\$ 541,176	\$ 550,283	\$ 560,000	1.77%	\$ 560,000	0.00%
3N9	054-607	Assistive Technology	\$ 154,743	\$ 163,130	\$ 141,686	\$ 160,000	12.93%	\$ 160,000	0.00%
3R9	054-604	Family Support Collaborative	\$ 108,063	\$ 99,570	\$ 59,083	\$ 55,000	-6.91%	\$ 55,000	0.00%
3R9	054-616	Developmental Disability Publications	----	----	\$ 65,000	\$ 130,000	100.00%	\$ 130,000	0.00%
3T2	054-609	Client Assistance Program	\$ 418,266	\$ 356,964	\$ 400,553	\$ 435,000	8.60%	\$ 435,000	0.00%
3X1	054-611	Protection and Advocacy for Beneficiaries of Social Security	\$ 173,257	\$ 160,855	\$ 187,784	\$ 235,001	25.14%	\$ 235,001	0.00%
3Z6	054-612	Traumatic Brain Injury	\$ 74,087	\$ 81,374	\$ 65,137	\$ 70,000	7.47%	\$ 70,000	0.00%
<b>Federal Special Revenue Fund Group Total</b>			<b>\$ 3,985,772</b>	<b>\$ 3,968,382</b>	<b>\$ 4,215,999</b>	<b>\$ 4,705,000</b>	<b>11.60%</b>	<b>\$ 4,705,000</b>	<b>0.00%</b>
5AE	054-614	Grants and Contracts	\$ 49,504	\$ 75,689	\$ 114,834	\$ 100,000	-12.92%	\$ 100,000	0.00%
<b>State Special Revenue Fund Group Total</b>			<b>\$ 49,504</b>	<b>\$ 75,689</b>	<b>\$ 114,834</b>	<b>\$ 100,000</b>	<b>-12.92%</b>	<b>\$ 100,000</b>	<b>0.00%</b>
<b>Legal Rights Service Total</b>			<b>\$ 4,560,892</b>	<b>\$ 4,537,193</b>	<b>\$ 4,896,507</b>	<b>\$ 5,375,674</b>	<b>9.79%</b>	<b>\$ 5,375,674</b>	<b>0.00%</b>