



2011 Annual Report

The Disability Rights Center is a private non-profit organization, incorporated in Maine, governed by a volunteer board of Directors and designated by the Governor of Maine to serve as Maine's independent advocacy agency for people with disabilities.

Our mission is to enhance and promote the equality, self-determination, independence, productivity, integration, and inclusion of people with disabilities through education, strategic advocacy and legal intervention.

DRC Board and staff believe that people with disabilities must:

Be free from abuse;

Control the decisions that affect their lives;

Receive the services and supports necessary to live independently;

Have the opportunity to work and contribute to society; and

Have equal access to the same opportunities afforded all other members of society.

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history

DRC, and the national network of Protection and Advocacy (P&A) organizations of which we are a part, was **created by Congress in the mid-1970's, in response to deplorable conditions in facilities housing people with labels of the "R word" and other developmental disabilities.** Our job at that time was to ensure that people living in institutions were safe, warm, fed and clothed.

During the 1980's and 1990's, Congress recognized that the problems faced by people with disabilities were broader and deeper; that children and adults with psychiatric labels, mental illness, mobility impairments, other physical disabilities were also **subject to abuse, neglect and rights violations in facilities, schools and the community and were also often subject to discrimination in housing, employment, education, transportation, health care and access to goods and services.** Congress enacted more expansive disability legislation, allowing us to serve many more people on a wide array of issues.

In 1990, President George Bush signed the American's with Disabilities Act (ADA) into law, giving disability advocates and attorneys a powerful tool to address discrimination. During the ensuing 18 years, however, court interpretations across the country weakened the protections contained in the ADA. Congress recognized that its intent had been undermined and in 2008 passed the ADA Amendments Act which restored civil rights protections for Americans with disabilities.

The Disability Rights Center and other Protection and Advocacy organizations today use the legal tools we have to enforce and advance the rights of people with disabilities to live, be educated and work in the communities of their choice.

forward

Dear Friends and Colleagues,

I am pleased to present the 2011 Annual Report of the Disability Rights Center, which highlights examples of the important casework and systemic advocacy undertaken by DRC during the last fiscal year.

DRC's commitment to promoting the rights of Maine citizens with disabilities is as strong now as it has ever been. At a time when budgets are being cut and crucial services are at risk, the role of an independent advocacy organization - solely focused on the rights of people with disabilities in our communities - remains essential.

In this report, you'll find examples of DRC's vigilant and zealous representation of individuals. I am proud of this work and endlessly impressed with the spirit and endurance Maine citizens with disabilities bring to the challenges they face.

The work of the Disability Rights Center is grounded in the principle that change requires action. The DRC and our skilled legal partners (see page 15) recently settled a class action lawsuit to move individuals with Cerebral Palsy and related conditions out of nursing facilities in which they had been forced to live unnecessarily due to the lack of alternatives. This effort represented a forceful challenge to a longstanding injustice. It is the kind of change and reform that DRC promotes every day through direct and systemic advocacy, training, public policy reform - and when those strategies don't work, litigation.

As always, DRC's promise to Mainers with disabilities is to continue the fight to address issues of discrimination, violations of rights, and incidents of abuse and neglect. Through advocacy, legal representation, and public policy reform, we will continue to work to make Maine a better and fairer place for all citizens.

I appreciate the hard work and dedication of our supporters and partners.



Kim Moody, Executive Director

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To protect the confidentiality of our clients, pseudonyms have been used. The pictures are stock photos and are not actual DRC clients with the exception of cover story photos

Available in alternative formats upon request

Our Programs



PADD: Protection and Advocacy for Developmental Disabilities

is funded by the Administration on Developmental Disabilities (ADD) and serves persons who have a severe, chronic disability as a result of a “physical or mental impairment” that: arose prior to age 22; is likely to continue indefinitely; and causes substantial functional limitations in three or more areas of life activity, such as self-care, mobility, language, learning, self-direction, capacity for independent living and economic self-sufficiency.

PAIMI: Protection and Advocacy for Individuals with Mental Illness is funded by the Center for Mental Health Services (CMHS) and serves persons who have a diagnosis of a serious mental illness with priority given to persons residing in facilities.

PAIR: Protection and Advocacy for Individual Rights is funded by the Rehabilitation Services Administration (RSA) and serves persons who have a disability and who are not eligible for either the PADD or PAIMI programs. PAIR focuses on civil rights violations.

PAAT: Protection and Advocacy for Assistive Technology is funded by the Rehabilitation Services Administration and serves persons who have a disability and who need assistance in obtaining assistive technology devices or equipment in order to live more independently, work, attend school, or meet medical needs.

PABSS: Protection and Advocacy for Beneficiaries of Social Security is funded by the Social Security Administration (SSA) and serves individuals who have a disability and who receive Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) and who want to work, return to work, or are working and need assistance with respect to benefits.

PATBI: Protection and Advocacy for Traumatic Brain Injury is funded by the Health Resources Services Administration (HRSA) and serves individuals who have brain injury.

PAVA: Protection and Advocacy for Voting Access is funded by the Administration on Developmental Disabilities (ADD) through the Help America Vote Act (HAVA). The role of DRC is to increase access to voting for Maine citizens with disabilities.

EA: Educational Advocacy is funded by the State of Maine and provides representation to parents of children with disabilities in accessing appropriate special education services.

CMHA: Contract Mental Health Advocacy is funded by the Maine Department of Health and Human Services and Acadia Hospital and provides advocacy to residents of Riverview and Dorothea Dix Psychiatric Centers and Acadia Hospital.



Our Clients

In fiscal year 2011, DRC provided direct representation to 981 clients for 1106 cases. Information and referral services were provided to an additional 1707 individuals.

Client Age

4 and under	16
5 to 12	115
13 to 18	117
19 to 25	145
26 to 64	545
65 and over	43

Client Disability

Physical Disability, Health Impairment, Chronic Illness	185
Developmental Disability	161
Brain Injury	39
Deafness/Hard of Hearing	9
Learning Disabilities	31
Mental Illness	538*
Blindness/Visual Impairment	18

* Includes RPC/DDPC/Acadia clients

Clients by County

Androscoggin	62
Aroostook	38
Cumberland	133
Franklin	20
Hancock	21
Kennebec	316
Knox	22
Lincoln	15
Oxford	19
Penobscot	140
Piscataquis	10
Sagadahoc	19
Somerset	25
Waldo	39
Washington	17
York	23
Unknown	62

Case Problem Area

Abuse/Neglect	224
Architectural Accessibility	9
Education	101
Employment	43
Financial Entitlements	21
Government Benefits and Services	11
Guardianship/Conservatorship	6
Healthcare	66
Housing	22
Non-Government Services	26
Rehabilitation Services	16
Rights Violations	241
Voting	4
Acadia Hospital and Dorothea Dix and Riverview Psychiatric Centers	316



employm

DRC strives to promote equal access to employment opportunities, necessary workplace supports, and discrimination-free workplaces for Maine citizens with disabilities.



Due to DRC's intervention, Steven, a self-employed lobsterman with a spinal cord injury is able to maintain his business. The Social Security Administration had incorrectly assessed Steven's earnings, in part by failing to assess the fact that due to his physical limitations he must hire out all of the physically demanding work and supervise the operation. As a result SSA found him to be over-income and assessed a penalty. DRC intervened and corrected the record, allowing Steven to continue to maintain his business.

ent

David, a young man with autism and Tourette's syndrome, was able to keep his job because of DRC's advocacy. David had developed the routine of having something (usually a pen) in his hand while at work, but a manager had criticized this behavior and told him to stop. David, with DRC's assistance, obtained information from his doctor indicating that the pen was part of a routine and behavioral symptom of David's autism, and in this case helped David stay focused on his work. David's employer allowed this routine as a reasonable accommodation, and David was able to continue to work successfully.

Responding to an ugly case of discrimination, DRC fought for the rights of Lynn, a woman being harassed on the basis of physical and mental disabilities. Lynn, who worked at the front counter of a coffee shop, has a congenital hand deformity. During employment, the

employer yelled obscenities at her and when Lynn asked for a reasonable accommodation related to her hand, the owner said, "this is not a doctor's office" and "that's gay." The owner refused her request to stop yelling at her, worsening her mental health. At her last day on the job, the owner yelled at her, "good luck finding another job with that f--king hand!" DRC filed a charge of discrimination on Lynn's behalf at the Maine Human Rights Commission, which found reasonable grounds to believe she was discriminated against based on physical and mental disability. DRC, joined by the Maine Human Rights Commission, then filed suit on client's behalf, alleging violations of the MHRA and the ADA. The Court found that Lynn was discriminated against and suffered damages, including emotional distress, other compensatory damages and lost back pay, and found the coffee shop owners liable.

advocacy successes

DRC hosted a public forum on employment opportunities for people with disabilities. Over 100 members of the public attended the event, which focused on customized employment and other strategies to create work opportunities for people, regardless of the severity of their disability. Michael Callahan, national expert on customized employment, gave the featured presentation.

DRC recruited and trained 20 individuals from across Maine and with varying life experiences of disability to serve as advocates promoting employment opportunities for people with disabilities. The employment advocates convened for a two day intensive training, focused on public policy interventions and strategies for pushing employment issues to the forefront of the public policy debate on work, benefits, and the service system. The employment advocates have fanned out to join policy and advisory venues like the Governor's Commission on Disability and Employment and the state rehabilitation councils.



housing

DRC fights so that people with disabilities can live in the community of their choosing, independently, and free from discrimination.



As a result of DRC's advocacy, Lisa, a woman with traumatic brain injury, will be able to continue to live in stable housing in her community. Lisa, while residing in her second floor apartment, was admitted to the hospital after having a stroke. She had in-home support services assisting her, but due to the effects of the stroke, could no longer climb the stairs safely. She requested to move to a first floor unit but was denied by her landlord, who stated there was a waiting list and she'd need to go to the end of the line. DRC intervened, requesting a reasonable accommodation on Lisa's behalf, and the landlord allowed her to move to a first floor unit to accommodate her disability.

training+ outreach

DRC intervened to ensure stable housing

existed for Sara, a woman with mental illness. Sara had been denied a housing voucher based on a criminal conviction more than 15 years old that resulted from behaviors related to her disability. At the time of the conviction Sara was not receiving mental health services. DRC sought a reasonable accommodation from the housing authority for Sara. They agreed, and Sara was able to maintain her housing assistance, continue to receive mental health services, and live successfully in the community.

A homeless shelter agreed to institute a policy of non-discrimination, post a notice of the policy, institute a client grievance policy and compensate James, a man with physical disabilities, after he was barred from the shelter due to his disability. James, while a resident at the shelter, required hospitalization

and a brief period of physical rehabilitation. After his rehabilitation, he had no home to return to and sought readmission to the shelter, but was barred as they perceived him, erroneously, as requiring more physical care than they could provide. DRC represented James before the Maine Human Rights Commission, and resolved his complaints in a manner that hopefully lowers barriers for other people with disabilities to face in the future.

DRC assisted a young woman with a developmental disability to move out of a nursing facility and into an apartment in the community. Amy, with the assistance of a DRC attorney, fought for eligibility and obtained services under a waiver program allowing her to benefit from personal care services that would aid her in living in the community. Amy now lives in the community with supports.

DRC's attorney presented on housing and reasonable accommodations as part of a training sponsored by the Maine Human Rights Commission, as part of "Fair Housing Month"

DRC, in collaboration with the Maine Department of Health and Human Services, developed and presented a 3 hour training targeted to social workers who work with individuals with mental illness. The training focused on strategies for ensuring that clients obtain needed assistance in securing housing, and information on legal rights at application or during tenancy. The trainings were attended by over 200 social workers and presented in Bangor, Augusta and South Portland.



rights vi

DRC's legal advocacy enforces the rights of Maine citizens with disabilities to be free from abuse and neglect.



The parent of 11-year old Natalie contacted DRC regarding numerous rights violations that occurred during her daughter's psychiatric hospitalization. DRC investigated and determined that the hospital had inappropriately used emergency/ involuntary medication, failed to obtain informed consent, failed to provide individualized treatment, failed to follow federal restraint and seclusion procedures, and used coercion in obtaining consent from the parent. DRC filed a formal complaint, resulting in the hospital instituting significant policy and practice changes.

Parent concerns about a school principal restraining their daughter Lisa, who has autism and an intellectual disability, led them to contact

Violations

DRC for help. DRC determined that incidents of what the school called “carrying” the daughter out of class were in fact restraint by law, the district did not adequately document the restraints, staff were not trained in their use, and no nursing assessment was occurring as required by state regulations. DRC intervened with the school to address the rights violations and worked with the family and school to develop an educational program emphasizing behavioral supports.

DRC intervened on behalf of Michael, a boy under public guardianship, who while resident at a treatment facility was barred from having access to his personal items, such as clothing and books, for extended periods of time and he was unsure of what was expected of him before they would be returned. DRC determined that the facility had failed to follow the rights regulations regarding these

limitations, and assisted Michael in negotiating a plan of treatment that recognized his rights. Michael was able to obtain his personal items and acknowledgement of his rights.

DRC assisted a young woman with mental illness in asserting her rights while inpatient at a psychiatric hospital, and as a result changed hospital policy to better honor patients’ rights. Jane had been denied the right to participate in treatment groups and to attend off unit group walks. DRC determined that Jane’s rights were unfairly restricted in a way that violated rights regulations. DRC assisted Jane in filing a complaint and as a result, the hospital instituted policy changes respecting the limitation of freedoms. As well, the hospital instituted a review of all policies to ensure compliance with relevant patient rights regulations.

advocacy successes

DRC’s success before Maine Supreme Judicial Court ensures clients have additional fairness protection at commitment hearings.

DRC represented Alex, a young man with mental illness, who had been involuntarily committed to a psychiatric hospital after a court hearing. Alex reported that he had been involuntarily medicated prior to his hearing and was too sedated to work with his attorney and assist in his own defense at hearing.

As a result of DRC appealing to the Law Court in this case, judges who preside over commitment hearings – upon learning an individual has been involuntarily medicated – must seek input as to whether the individual’s ability to participate is impaired and if so continue the hearing to a later date.

DRC contracts with Acadia Hospital to provide advocacy services to all patients. DRC’s advocate works to enforce patient rights and to address systemic problems, provide training and technical support.

education

DRC advocates for appropriate education for Maine students with disabilities.



DRC forced a return to school for Michael, a young man with mental health issues who had been wrongly removed from school. Prior to DRC intervention, Michael had not attended school for a full day in over three years. He was either out of school receiving a minimal tutoring program or placed on an abbreviated school day. His school had violated his rights by failing in their obligation to evaluate and properly serve him, and Michael had gone without proper services as a result. Due to the serious nature of the violations, DRC filed complaints on Michael's behalf with Maine's Department of Education and the federal Office of Civil Rights. As a result of DRC's intervention, Michael benefited from a settlement that included his being properly identified,

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receiving necessary services, a monetary trust for educational purposes, and comprehensive training for the school district. Michael is successfully participating in school and has made the honor roll since his return. "I couldn't have made this happen on my own," said Michael's mom, Louise. "The tone of the conversation changed when DRC got involved."

DRC intervened on behalf of Ethan, a young boy with autism, and obtained an augmentative communication device for his use after the school district refused to make the device available to him. Ethan's parents were frustrated that after a successful trial implementing the device with Ethan, the district refused to consider ongoing use of the device. DRC intervened with the Maine Department of Education on Ethan's behalf, and the district provided the device to Ethan, as well as training for staff and family in its use.

DRC assisted Megan, a young girl with a learning disability, in obtaining appropriate educational services after years of frustration for her and her family. Megan was in the 8th grade but had not progressed beyond the first grade reading level despite her average cognitive abilities. Over the years, the school had continued with the same approach despite Megan's obvious lack of progress. DRC filed a complaint with the Maine Department of Education and negotiated a broad settlement, including the provision of a complete learning evaluation by a specialist, an assistive technology review, and 140 hours of compensatory direct reading instruction. In implementation of these recommendations, Megan uses speech-to-text software and gets 2 hours of direct reading instruction daily.

advocacy successes

As a result of DRC's advocacy, a comprehensive stakeholder group met over the course of nearly a year and produced a complete re-write of Maine's education regulations, proposing improved rules regarding time out rooms, the planned use of restraint or seclusion, and providing for a complaint process for parents.

DRC filed a systemic complaint resulting in Maine's Department of Education issuing guidance to all school districts clarifying their responsibilities for students in the juvenile justice system. Schools must implement a student's educational plan or contract for those services for students "held for court" at the two state juvenile justice facilities.

DRC's education team provided training to 106 case managers from ten different agencies in Bangor, Machias, Presque Isle, Sanford, Portland, Waterville, Auburn, Randolph, South Portland, and Brunswick covering various special education and 504 related topics.

DRC attorney co-presented a 3 hour training at St. Joseph's College for over 30 certified public school staff throughout Maine as part of an intensive several-day training on serving students with Autism.

community

DRC works to ensure that people with disabilities have the opportunity to live, work, and participate in our communities.



Bangor Daily News:

Agreement reached in disability lawsuit against DHHS (see sidebar)

As a result of DRC's advocacy efforts, Nancy, a woman with an intellectual disability, will be allowed to vote with reasonable modifications. Nancy, who has limitations in the way in which she processes information, requires assistance from a reader when voting. When the town offered her only the option of voting by machine (which was not possible due to her disability) she sought DRC's assistance. Nancy's DRC attorney intervened with the town, citing their obligations under the ADA and other laws, and negotiated an agreement ensuring that Nancy will receive reasonable modifications when casting her ballot.

Town meetings in a small Maine community are now more accessible as a result of DRC's intervention.

integration

David, a man with physical disabilities, reached out to DRC after finding himself repeatedly unable to attend town meetings held on the second floor of an old grange hall. DRC intervened with the town administrators and obtained an assurance that all future town meetings will be held at the town office, which is accessible to people with mobility impairments.

A local restaurant is now accessible to individuals using wheelchairs due to DRC's advocacy. Sarah, a woman with physical disabilities, had recently experienced a decline in mobility and began using a wheelchair to get around. Unfortunately, she discovered that a restaurant she frequently visited was inaccessible due to a concrete step. DRC intervened with the establishment asking that they voluntarily make the facility accessible to individuals using wheelchairs. The restaurant responded by contracting to build an accessible entrance,

benefiting Sarah and all customers with mobility issues.

DRC filed a discrimination charge with the Maine Human Rights Commission on behalf of Mark, who is Deaf, when his optometrist refused to make sign language interpreting services available for his appointment. The Commission found grounds to believe that Mark had been discriminated against, and a settlement agreement ensured that the doctor revised his policy and practice with regard to ensuring effective communication for patients who are Deaf.

DRC intervened on behalf of Ann, a young girl who had been inpatient at a psychiatric hospital for over 6 months. DRC intervened with high-level mental health system administrators and participated in systems meetings, and this advocacy led to Ann's discharge to a less-restrictive program in her community.

advocacy successes

DRC and co-counsel settled a class-action lawsuit against the Maine Department of Health and Human Services on behalf of people with cerebral palsy and other related conditions confined in nursing facilities. In response to complaints by a group of young people with CP living in nursing homes without other options, DRC and co-counsel Maine Equal Justice Partners, the National Health Law Program, and the law firm of McTeague Higbee, alleged that DHHS violated federal law, including the Americans with Disabilities Act and the Nursing Home Reform Act. They asserted that DHHS had failed to offer people with CP, Epilepsy, and other related conditions opportunities to live outside of nursing homes. Under the settlement, the state agreed to alter Maine's Medicaid program, creating a waiver to allow those who formerly had no choice other than to live in nursing homes to live in the community and still receive necessary services.

healthca

DRC works to ensure people with disabilities access the crucial care and services they need.



Justin, a 5 year old medically fragile boy, continues to receive the home nursing services he requires due to DRC's intervention. Justin's family was faced with the threat of losing crucial nursing services hours due to a cutback by the state. Justin, who has cerebral palsy, microcephaly, and whose breathing must be monitored, communicates via subtle clues to indicate pain or other issues to his trained staff. When his family faced losing nursing hours, they sought DRC assistance. DRC prevailed at a hearing, where a hearing officer determined that Justin ought to continue to receive care as he was and that those services should be provided by qualified nurses.

re

David, a man with multiple sclerosis and a traumatic brain injury, will have adequate in-home personal care due to DRC's advocacy. David had recently been assessed as needing fewer home care hours, and was concerned that this level of care would no longer be enough to meet his daily needs and ensure that he lived safely and independently to the extent possible. With DRC's representation, David appealed the cut in service hours and they were largely restored. The Commissioner of DHHS affirmed this decision.

Due to DRC's intervention, Mary, a woman with cerebral palsy will be able to remain independent in her home with necessary personal care services in place. As a result of Mary's home care agency having trouble finding staffing for her on weekend hours - and her having to rely on friends and family instead - the state determined Mary

actually required fewer hours of support than she had previously received. DRC represented Mary at hearing challenging this reduction, as it was unfair for her to lose support hours due to an agency's staffing problems. The hearing officer agreed and found in Mary's favor.

As a result of DRC's advocacy, Louis, a man with quadriplegia and cancer, has a wheelchair that meets his needs. Louis had been fitted for a power wheelchair that, once delivered, he found was improperly fitted for him and un-useable. He tried to work with the provider agency but they refused to adjust the chair. A DRC attorney intervened with the company on Louis's behalf and they relented, without the need for litigation.

DRC training+ outreach

DRC staff conducted 82 trainings for 2378 people

DRC conducted monthly outreach and monitoring activities to adult and adolescent treatment units at hospitals in Lewiston and Westbrook and to children's residential treatment programs in Calais, Ellsworth, and Saco

DRC trained a total of 163 people in five locations regarding alternatives to guardianship and rights under guardianship. Of these, 68 were people with developmental disabilities and 17 were students in transition.



patti's st

Patti Sarchi was returning to her hometown on a sad occasion.

A close friend had died and she, her service dog, Othello, and another friend had ventured to western Maine for the funeral. Patti is blind and hard of hearing and needs Othello to assist her with getting around safely.

Patti arrived at her hotel only to be informed by the owner that they did not allow dogs of any kind. She and her friend tried to explain that Othello was not a pet, but a crucial service animal, but all to no avail.

Patti, who prides herself on being able to connect with people reasonably, found the situation going downhill: The owner continued to refuse. Patti's friend called the police. The police



PATTI SARCHI AT HOME

officer involved tried to speak with the owner, who still refused to allow Othello to stay.

Patti, who came prepared, gave the officer some information on the ADA; he read it and then decided to call the chief of police. When the chief arrived, he tried to negotiate with the

owner again. The owner finally offered to let her stay, but said she would have to pay a deposit. Patti knew her rights and knew that the fee was inappropriate – kind of like paying a fee for a wheelchair ramp. She refused, and was not allowed to stay at the hotel. She and Othello were sent out the door.

Story

Patti contacted the DRC and staff attorney Kristin Aiello was assigned. "When Kristin took over the case, she came to my house. This made me feel like she really cared and took an interest in my situation." Patti and Kristin filed a complaint in state court alleging violations of the Maine Human Rights Act and Americans with Disabilities Act. The case settled on the eve of trial, resulting in the hotel developing a policy allowing service dogs, an apology, and a confidential settlement amount.

"...in time, with enough of these cases coming forward, society will change..."

"I feel better now that I have accomplished this. The biggest thing that I took away from this experience is that, in time, with enough of these cases coming forward, society will change..." Patti said.

"I wish it wouldn't take that, though" Patti said. "Reactions from people should be more positive. I should be able to walk into a hotel and have someone greet me and ask how I'm doing, rather than looking at Othello and saying 'no dog.'"

Patti says it's hard to understand the embarrassment and humiliation she, and others in similar situations, have to go through in getting the public to understand the importance of service animals. "I'm very thankful to the Disability Rights Center for helping me get through this hard time."

financial summary

Year Ending September 30, 2011

REVENUE AND SUPPORT

Federal Grants	\$1,254,828
State Grants	362,051
Fiscal Agent Fees	22,018
Other Revenues	260,331
TOTAL REVENUE	\$1,899,228

EXPENSES

PADD	369,787
PAIMI	464,380
PAIR	177,449
PAAT	49,602
PABSS	94,237
PATBI	97,505
PAVA	59,898
EA	106,129
CMHA	189,478
Employment Adv	8,478
Management and General	239,446
TOTAL EXPENSES	1,884,964
Change in Net Assets	\$14,264



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Disability Rights Center

24 Stone Street

PO Box 2007

Augusta, ME 04338

207-626-2774 Voice/TTY

Fax: 207-621-1419

Toll Free: 800-452-1948



disability.rights.center.maine

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