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November 22, 2017

The Honorable Andrew M. Cuomo  
Governor of New York  
NYS State Capitol  
Albany, NY 12224

RE: Disability Rights Community's 2018 budget priorities

Dear Governor Cuomo:

The New York Association on Independent Living (NYAIL) is a statewide membership organization of Independent Living Centers (ILCs) across New York State. ILCs are cross-disability, locally administered not-for-profit organizations, run by and for people with disabilities. We are writing in regard to our top budget priorities for SFY 2018-19. It is critical to the disability rights community that they be included in the Executive Budget proposal in January.

Almost 30 years after the passage of the Americans with Disabilities Act (ADA), people with disabilities are still facing lower educational attainment, lower levels of employment and wages, greater social isolation, worse health outcomes and greater levels of poverty than their nondisabled counterparts. Further, threats at the Federal level are putting our rights and the services we depend on at grave risk. No one has spoken out more forcefully and effectively on the negative impact that considered Federal policy, tax and Budget decisions will have on New Yorkers. Persons with disabilities are particularly at risk. Support for these proposals will demonstrate New York's leadership in promoting community integration for people with disabilities.

Our priorities are:

- **Increase base funding for Independent Living Centers (ILCs) to \$18 million in SFY 2018-19 as recommended by the State Education Department and Board of Regents, with the ultimate goal of increasing the State appropriation to a much needed \$25 million.**

Independent Living Centers (ILCs) provide critical services to people with disabilities all designed to assist them in navigating the ever-changing service system in order to live independent, fully integrated lives in the community. As the State continues to redesign health care in ways that are intended to increase quality and decrease costs, ILCs play a crucial role. ILCs provide a wide range of services based on the local needs, all of which are aimed at addressing the social determinants of health: education, employment, housing, transportation, and other independent living skills.

ILCs have been severely underfunded for the past thirteen years while the cost of providing services has increased dramatically, creating a crisis for centers and the people with disabilities they serve. In 2016/2017, the state's network of ILCs served over 100,000 people with disabilities, family members and others; an increase of more than 20,000 in just five years. This demonstrates the pressing need for IL services in communities, and the number served would likely be higher had the IL funding kept up with the capacity needs of centers.

Over the past few years, the Board of Regents and the Legislature have all acknowledged that ILCs are essential providers for some of their most vulnerable citizens, yet have not been able to meet the needs of their local community's due to this severe underfunding. The Board of Regents recommended a \$5 million increase to the network of ILCs in last year's budget, and the Senate and Assembly both included an increase in their one house budget proposals for ILCs last year. In the final Budget, these increases disappeared and ILCs received no increased funding once again.

Investment into ILCs actually saves the State money it would otherwise be obligated to spend. Data from the New York State Education Department, ACCES-VR, show that the work of ILCs to transition and divert people with disabilities from costly institutional placements saved the State more than \$2.3 billion since 2001 as a result of avoided institutional care. ILC transition and diversion activities save the State more than \$9 in institutionalization costs for every state dollar invested in ILCs.

- **Provide a necessary voice for people with disabilities in state government by reactivating the duties of the State Office for the Advocate for Persons with Disabilities as established by former Governor Mario Cuomo in 1983 through Executive Order No. 26.**

The disability community desperately needs a voice in state government that represents all people with disabilities. Reinstating the Office for the Advocate for Persons with Disabilities is a critical first step. This concept has been championed by the Assembly's Task Force for People with Disabilities and supported by members of this administration.

Governor Mario Cuomo originally established this office to advocate for people with disabilities in state government. This office was responsible for advising and assisting the Governor in developing policies designed to help meet the needs of people with disabilities and serving as the State's coordinator for the implementation of Section 504 of the Federal Rehabilitation Act of 1973 (this would now include the Americans with Disabilities Act and Olmstead).

As one of his first acts in office, Governor Cuomo continued Executive Order 26. However, despite the existence of the Office on the books, any advocacy function in State Government disappeared when the Justice Center reorganized itself without any advocacy functions.

A new home for advocacy and independent living must be established. At a minimum, and immediately, the responsibilities of the Office for the Advocate must be activated. We urge you to include this proposal in your SFY 2018-19 budget, and highlight it in your State of the State Address.

- **Address the home care crisis by providing a living wage to home care workers.**

People with disabilities who require home care are having a harder and harder time getting the care they require to remain in their homes and out of costly institutions. In many parts of the state, particularly upstate, people are unable to get care at home because not enough people want these jobs due to the low pay. The State has a legal obligation under Olmstead to ensure people have access to appropriate care in the most integrated setting, their home communities. The State needs to provide a living wage to home care workers in order to attract people to work in that field.

One way to address the home care crisis would be to ensure home care workers are paid equivalent rates to those of providers under OPWDD. The State is obligated to rationalize rates across systems in the approved State Plan Amendment (SPA) for the Community First Choice Option (CFCO), which is set to be implemented by April 2018. Given the timeline for CFCO implementation, the State needs to address the disparity between rates in this year's budget. By increasing rates for home care up to

the funding levels of OPWDD providers, the State will truly help address the current home care crisis by offering essential home care workers a living wage.

- **Increase the State's share of funding for the Long-Term Care Ombudsman program to \$3 million.**

The Long-Term Care Ombudsman Program (LTCOP) serves as an advocate and resource for people living in nursing facilities and other institutions. The program is intended to promote and protect residents' rights as well as their health and safety by receiving, investigating and resolving complaints made by or on behalf of residents. The LTCOP receives Federal funding, but it is insufficient to provide adequate services in NYS. Despite this, New York's match is one of the lowest when compared to other states. The State must increase its share of funding to adequately serve the State's population of people in long-term care facilities.

Currently, LTCOP downstate providers are extremely overburdened, relying heavily on volunteers. In New York City, about 52% of nursing home residents are being served by volunteers. CMS recommends 1FTE per 2,000 nursing home beds. In NYC, they would have a staff of 26 staff members, but currently only have six. This results in LTCOP staff members spending a disproportionate amount of time recruiting and training volunteers. The State can address this by increasing the state share of LTCOP funding to \$3 million.

- **Fully fund New York's No Wrong Door system and restore cuts made to the program in the 2017-18 SFY.**

As part of the Balancing Incentive Program, the State has expanded its No Wrong Door system to bring together the federally funded Area Agencies on Aging (AAAs) and Independent Living Center networks to create a true single point of entry system for accessing long term services and supports. Ensuring access to comprehensive, accurate and unbiased information about long term service and support options and linkages to services is essential as New York continues to implement major systemic reforms to the State's Medicaid system that drastically change the way long term care is delivered. Over the past year, AAAs and ILCs have been successfully working together and have expanded the program, with numbers served continuing to increase thanks in large part to a successful advertising campaign. New York must keep the system whole by fully funding the program, including restoring the \$3.5 million cut from 2017-18 and ensuring the ILC's annual appropriation is \$8 million.

- **Increase funding for Access to Home to \$10 million.**

Access to Home is an important program administered by NYS Homes and Community Renewal (HCR) that provides funding for home modifications to allow individuals with disabilities and older New Yorkers to stay in their homes and out of costly institutions. For many people, the addition of a ramp to their front door makes the difference between being able to leave the house and being homebound. Access to Home was cut by 75% several years. Ever since, Access to Home has been funded at a mere \$1 million statewide, leaving many parts of the state without the program and resulting in years long waiting lists. While the State did allocate \$19.6 million over three years to the program in the 2015-16 SFY from the J.P. Morgan settlement funds, those funds were limited to veterans with disabilities. This meant that the vast majority of low income families who needed home modifications to remain at home, couldn't access them.

While the State has invested in programs designed to help people leave nursing facilities, such as Open Doors and the Olmstead Housing Subsidy, without adequate or associated funding for home

modifications, many people still can't leave the nursing facility. The State must increase funding for Access to Home to \$10 million to help people to leave institutions and move back into the community.

- **Ensure funding for housing subsidies for people transitioning out of institutions.**

Rental subsidies are essential to transitioning people out of nursing facilities and preventing unwanted and unnecessary institutionalization. The Olmstead Housing Subsidy (OHS), a project of the Medicaid Redesign Team supportive housing workgroup, helps people move back into the community or avoid unwanted institutionalization by providing eligible applicants with a rental subsidy. OHS has proven to be an essential tool in helping the state move people back into the community by making housing affordable. We urge the State to continue this program at \$5 million to ensure people can get affordable housing in the community. In addition, the State must continue to fund the housing subsidy programs associated with the Nursing Home Transition and Diversion and Traumatic Brain Injury Medicaid waivers to ensure new participants have access and current enrollees do not lose their subsidy.

- **Create a Visitability tax credit to help homeowners retrofit their homes to make them more accessible, or to incentivize including visitable features at the time of construction.**

Due to the high cost of home modifications, many people cannot afford to make changes to their homes to make them more accessible, or to move to a more accessible home. Most prefer to remain at home rather than move to nursing facilities or different, more accessible housing as their needs change. However, many are forced out because their homes are no longer safe or practical for them to live in. The Visitability Tax Credit would help to ensure that people with disabilities and older New Yorkers are able to afford these modifications and remain in their homes.

Despite strong support from the legislature, who has passed it for three years in a row, this bill has been vetoed each time. The veto messages have lauded the goals of the legislation but stated it needs to be handled in the Budget, but it has never been proposed and/or supported by this Administration in the Executive Budget. Given Legislative support for this issue, we urge the Cuomo Administration to include the \$1 million pilot program as proposed in A.5950/S.2411 of 2017 in the 2018-19 Executive Budget and make this incentive a reality.

- **Create a cross-disability tax credit geared toward small businesses, as laid out in A1369/S3688.**

NYAIL strongly supported recommendations included in the Employment First Commission's report, which the Cuomo administration committed to enacting back in 2015. However, we have been extremely frustrated by the lack of progress the State has made to date in implementing the vast majority of the recommendations in that report. Several of the recommendations included in the report had existing legislation in place at the time of the report's issuance, and thus could have been advanced immediately following. Implementation must not be delayed any longer.

One of the items in the Employment First Report was a recommendation to expand the Developmental Disability Tax Credit to include all disabilities. We believe this would help incentivize the hiring of people with a wide range of disabilities. However, we believe that a similar proposal would be preferable as an incentive to the hiring of people with disabilities by the business community. We propose that the State create a cross-disability tax credit, geared toward small businesses.

Targeting small businesses for a more generous tax credit makes sense. The Small Business Administration in its Fact Sheet states that small business has accounted for 66% of all new net jobs in this country since 1970. With this in mind, a small business cross-disability tax credit to promote private sector hiring of people with disabilities is desirable. This proposal would simplify the process for employers, because it would have a set tax credit, require a shorter length of time for the worker to be on the job for the employer to be eligible for the credit, and, by using the Human Rights Law definition of disability, bypasses lengthy certification processes so the employer is able to realize the tax credits in a timelier manner.

We strongly urge this administration to make the integration and equality of people with disabilities a priority in this year's Budget.

Sincerely,

A handwritten signature in black ink, appearing to read "Lindsay Miller", with a long horizontal flourish extending to the right.

Lindsay Miller  
Executive Director

CC: Paul Francis, Deputy Secretary for Health and Human Services  
Megan Baldwin, Assistant Secretary for Health  
Shelly Weizman, Assistant Secretary for Mental Hygiene  
Kerri Neifield, Assistant Secretary for Human Services  
Jamie Frank, Assistant Secretary for Education