



## ***Ball v. Kasich***

### **OACB Files Motion to Intervene as Defendant**

On November 29, 2016, the Ohio Association of County Boards of DD (OACB) filed a Motion to Intervene as Defendant in *Ball v. Kasich*, a proposed class-action lawsuit currently before the United States District Court for the Southern District of Ohio. The purpose of this motion is to request that the court permit OACB to formally join the lawsuit as a named party and to act in future proceedings as the single legal representative of Ohio's 88 county boards of developmental disabilities.

This action was unanimously approved by the OACB Board of Trustees at its regular meeting on October 10, 2016. The board's action was taken at the recommendation of a special committee the trustees had empaneled for this exclusive purpose. A copy of the filing can be downloaded at [www.oacbdd.org/intervention](http://www.oacbdd.org/intervention). For information about this recent development, please read the Frequently Asked Questions below to learn more.

### **Frequently Asked Questions**

#### ***Why is the Ohio Association of County Boards of DD (OACB) filing a motion to intervene in Ball v. Kasich?***

- First, Ohio's DD service delivery system is structured in such a way that many of the issues raised by the lawsuit fall under the statutory or administrative authority of county boards of DD. Despite this fact, county boards cannot currently participate in the lawsuit or advocate on their own behalf in a meaningful way because they are not listed as parties to the case. OACB becoming a formal party in the lawsuit gives all 88 county boards of DD, through its representative, a permanent seat at the negotiating table for all discussions between plaintiffs and defendants and allows them to advocate on their own behalf. County boards of DD are obligated to uphold the interests of the local taxpayers who fund them and the people with disabilities who depend on them for critical long-term services and supports – OACB intervening as a formal party in *Ball v. Kasich* guarantees county boards will be able to fulfill these important responsibilities for the duration of the lawsuit.
- Second, county boards possess a large amount of knowledge and expertise that the court needs in order to fully understand the opportunities and challenges currently facing Ohio's DD service delivery system. This knowledge and expertise will help the court (and other parties in the case) make better, more informed decisions about the future of DD services in Ohio. If OACB did not intervene on behalf of county boards as a party to the lawsuit, there is no guarantee that this critical information would become a part of any of the court's proceedings, as the court would not be required to either solicit or accept such information from county boards at any time. The organization's lawsuit argues that those issues, which DRO sees as structural barriers to community care options, are a violation of the ADA, the Rehabilitation Act, and Medicaid requirements.
- Third, the ability for all 88 county boards of DD to be represented by one entity is the most practical and cost-efficient way to ensure that county boards can formally participate in the lawsuit as effective advocates for the communities they serve.



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### ***Why should OACB be the entity that represents all of Ohio's 88 county boards in this case?***

Since 1983, the Ohio Association of County Boards of DD (OACB) has been the unified voice of Ohio's county boards of DD before state and federal policymakers and the courts. All 88 county boards are members of the organization. The organization's governing board consists of representatives from county boards distributed evenly across the state by both geographic region and size. The organization has demonstrated throughout its history that it can fairly and adequately represent a wide variety of opinions within its membership about many complex issues. OACB is the only organization with the history and capability to fulfill this important task.

### ***Does OACB's motion to intervene in the case as a defendant mean that county boards agree with the State of Ohio's arguments in Ball v. Kasich?***

No. OACB has not taken a formal position in any court filings on the arguments raised thus far by either plaintiffs or defendants in *Ball v. Kasich*. It is possible that OACB might support arguments made by either plaintiffs and/or defendants as the lawsuit makes its way through the legal process. It is also possible that OACB will take independent positions on issues that do not align with arguments made by any other parties in the case.

### ***Does OACB's motion to intervene in the case as a defendant mean that county boards are opposed to community-integrated services?***

No. By filing a motion to intervene as a defendant, county boards are simply asking the court to grant them a seat at the table for critical conversations about the future of Ohio's DD service delivery system. In fact, all 88 county boards of DD have supported, are now supporting, and will continue to support the creation and expansion of community-based services for people with disabilities regardless of the outcome of *Ball vs. Kasich*.

### ***If the court grants OACB's motion to intervene, who will OACB represent in this case?***

OACB would represent the 88 county boards of DD as statutory agencies in all legal proceedings before the court. OACB would not represent any individual people or groups of individuals – it would only represent the government entities in each county as defined in the Ohio Revised Code.

### ***How long does the court have to make this decision?***

Typically, these motions are ruled on within several months.



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### ***Could the court require participation by individual county boards?***

The court may decide that county boards should be made a part of the case, either individually or as part of a class. The court will provide instructions at the time of ruling.

### ***Who will pay the legal fees for OACB to represent county boards of DD in this case?***

Over a period of many years, the Ohio Association of County Boards of DD (OACB) has built and maintained a modest reserve fund for the sole purpose of paying attorney fees and associated expenses for situations in which the interests of a significant number of county boards of DD could be substantially impacted by a pending legal matter. Given the wide scope of the many issues raised in *Ball v. Kasich* that will have a direct impact on county boards, OACB expects to use this reserve fund for its intended purpose.

### ***Who is representing OACB (and county boards) in these proceedings?***

OACB General Counsel Franklin J. Hickman and attorney John R. Harrison of the law firm of Hickman & Lowder, Co. LPA represent the association and its members on this matter. Mr. Hickman has been OACB's Counsel since the association was formed in 1983 and has represented county boards of DD in similar proceedings at the local, state, and federal levels for more than 35 years. Mr. Harrison is extremely well versed on the issues raised by the lawsuit and brings additional perspective from years of experience in the public and private sectors.

### ***How can a county board of DD communicate about this case with OACB legal counsel?***

OACB has set up a special email account – [drolegal@oacbdds.org](mailto:drolegal@oacbdds.org) – to conduct attorney-client privileged communications between member boards and the lawyers working on the case. County board members and superintendents should feel free to send messages to this email address if they have any questions or feedback as legal proceedings move forward.

## **Updates and Additional Information**

*This document will be updated as necessary as this case evolves. OACB members will be kept up to date on all of the developments with this lawsuit via typical communications channels, including the OACB Insider, PolicyBrief, and other means. Where appropriate, OACB legal counsel may work directly with individual county boards of DD on specific issues related to these legal proceedings.*