

Agenda

Working Interdisciplinary Network of Guardianship Stakeholders

May 13, 2015
12:00 to 2:00 p.m.

Administrative Office of the Courts
Scott M. Matheson Courthouse
450 South State Street
Judicial Council Room, Suite N31

Welcome and approval of minutes	Tab 1	Judge Kate Toomey
Bylaws: feedback and finalization	Tab 2	Nancy Sylvester
Report from Education Subcommittee		Kent Alderman
Interview with Dick Van Duizend on WINGS		Nancy Sylvester
Geriatric Conference		Judge Kate Toomey
Guardianship Signature Program Update		Nancy Sylvester
Fellowship application update; study item for fellow		Rob Denton
Annual guardianship reports and the Court Visitor Program		Nancy Sylvester

Committee webpage: <http://www.utcourts.gov/howto/family/GC/wings/>

Meeting Schedule: (12 - 2 p.m. at the Matheson Courthouse unless otherwise noted):

August 12, 2015

October 14, 2015

December 9, 2015

TAB 1

Working Interdisciplinary Network of Guardianship Stakeholders

March 11, 2015 summary minutes: DRAFT

Attending:

Judge Kate Toomey, Chair
Nan Mendenhall
Kent Alderman (via phone)
Ellen Silver
Lisa Thornton (via phone)
Shannon Alvey
Rob Denton
Norman Foster

Staff

Nancy Sylvester

Guest

Sunni Walker

Welcome and minutes

Judge Toomey welcomed everyone present to the WINGS meeting. The January 14, 2015 meeting minutes were then unanimously approved

Ms. Sylvester introduced a guest, Sunni Walker, who is a graduate student at the University of North Carolina, Chapel Hill. Ms. Walker said she got in touch with Karolina Abuzyarova after noticing that she would be in Salt Lake City on her spring break at the same time as this WINGS meeting. Ms. Walker said North Carolina is interested in studying what Utah is doing because of the potential for duplication.

Karolina's sabbatical

Judge Toomey announced that Ms. Abuzyarova is on sabbatical researching rights of the elderly at the University of Buenos Aires, Argentina, from March to June 2015.

WINGS Bylaws

Judge Toomey introduced the proposed WINGS bylaws. These were originally drafted as a charter, but bylaws seemed to be a more fitting structure. She noted that the goal of the bylaws is to institutionalize WINGS. So, for example, the bylaws discuss meetings and membership, and also objectives and constraints, especially with respect to the judiciary. Judge Toomey noted the annual open invitation and goal setting meetings. She then requested that any comments, suggestions, or edits be done by email for voting at the May meeting. Ms. Sylvester will send out the bylaws via email.

Legislative Session Update

Ms. Alvey updated the committee on the legislative session. She explained that Representative Becky Edwards ran H.B. 399, which sought to reduce the adult guardianship filing fee for parents of disabled children who are coming of age. The bill also removed the requirement of appointed counsel for the disabled child, but that was ultimately stricken. Ms. Alvey noted that Rep. Edwards reached out to many people for feedback on the bill. In its final form, the reduced bill without the attorney provision will run on H.B. 380, another bill dealing with guardianship matter. The reason she wasn't running it as the original bill is that Representative Cox was running a similar bill, which is now at the Interim Committee.

Dr. Foster clarified that this bill did not come from this committee. Judge Toomey confirmed that it did not because WINGS is housed under the judiciary. Dr. Foster asked, if this was such a big issue, why wasn't it raised in WINGS? He also expressed surprise that there was such a

pushback on fees. Ms. Alvey said the primary concern with the bill was the fact that it originally removed the counsel requirement, which presented large due process concerns.

Ms. Sylvester noted that Ms. Thornton had brought up this issue at the last meeting (her first meeting) and also that Rep. Edwards had attended the same one. Ms. Sylvester said that since Ms. Thornton is now a WINGS stake holder, Ms. Thornton will be bringing these issues to WINGS since she is so intricately involved in them.

Ms. Thornton then elaborated on the reasons for the filing fees, namely that parents of disabled children already suffer tremendous hardship with their children's medical expenses. So over \$300 in filing fees is a lot just to continue the care the parents have already been doing since their child's disability began.

Ms. Alvey noted that Rep. Edwards took into account the Guardianship Signature Program, which is now launching and will provide a reduced or no cost attorney to the child.

Dr. Foster then sought further clarification on legislation. Judge Toomey said we can make people aware of the issues surrounding proposed legislation, but, she said, WINGS cannot endorse it. She also noted that as a practical matter, getting a consensus from the list of agencies involved in WINGS would be extremely difficult. She said she imagined that there would be a wide range of views on any given piece of legislation, even if WINGS did not have the constraints of the judiciary.

Dr. Foster said he could understand how the group would not having a position, but he wondered about how we can address these issues if they are out there. Ms. Sylvester again noted the constraints of the committee but said at the annual invitation meeting, for example, the invitees may bring up issues like this and the group as a whole can see how they fit within WINGS's objectives and constraints.

Judge Toomey said we can't lose sight of the fact that guardianships are a serious thing. Dr. Foster noted that it was good to have Rep. Edwards involved in WINGS given the issues surrounding guardianships and the need for legislative changes. Ms. Mendenhall then suggested that having a taskforce to explore guardianship issues more deeply would be a good idea. Judge Toomey confirmed that a task force would be exactly the sort of thing this WINGS group could take up.

Ms. Thornton concluded the discussion by noting that the meetings with Rep. Edwards involved people with kids with multiple disabilities, not just autism, and that the legislation she proposed was geared toward children with severe disabilities since birth.

Ms. Alvey then brought up another concern she had, that of the OCAP Petition for Adult Guardianship. She said she gets a lot of calls about it, but said she had difficulty locating it in OCAP. Ms. Sylvester said she would look into it and update the group on its status.

Ms. Sylvester then said that was a good segue into the online training said she is planning to create. At the January meeting, Ms. Thornton requested the training on behalf of members of the Utah Parent Center. The online training would basically cover in a more palatable way the resources and information available on the courts' website.

Public Education Subcommittee Report:

Judge Toomey then transitioned the discussion to the education subcommittee's work. Mr. Alderman began his report by noting that the Guardianship Signature Program's education component could work on getting information to people regarding the issues that were dealt with in Rep. Edwards' legislation. He said some education could focus on parents of disabled children and resources needed for them. There could also be educational programs about guardianships for the elderly versus guardianships for adult children.

Mr. Alderman then discussed the work that the Education Subcommittee is doing. He said the target date for the script covering his section is the May 13th meeting. He said he should have something to present to cover several of these areas.

Mr. Alderman said he is working with Mary Jane Ciccarello and Ellen Silver on a three-part education program. The first training will be by Mary Jane and will discuss pre-judicial involvement; in other words, how to do powers of attorney, trusts, and other methods of caring for disabilities. A working title for this is "How to Avoid Guardianship."

Mr. Alderman will then cover in the second part emergency guardianships, the court process, medical evidence, and reporting requirements. Ms. Silver then discussed her part, which is on resources to support guardians, assistance and help once a guardianship is in place, and the issues of caregiving.

Launch of the Guardianship Signature Program

Ms. Sylvester announced the launch of the Guardianship Signature Program. She said she just has a few more groups to train within the courts before the program takes off. She said the program will offer an online training (OTP) on guardianship for attorneys who choose to take pro bono and low bono cases. The goal of the program is to provide respondents in guardianship cases with representation. This project is a partnership with the Utah State Bar, and the list of attorneys who sign up and who have certified to competence in guardianship cases will be forwarded to the probate clerks in each district. Once a case comes in showing a respondent without counsel, the clerks will send out an email with a request for representation. The first attorney to respond will be appointed. Ms. Sylvester said she will be shortly sending an email to the Bar for inclusion in the Bar President's monthly message.

Dr. Foster then raised a hypothetical to flesh out more of the program. He said, suppose there is an autistic child and Dr. Foster is the parent. Does he, Dr. Foster, have to get an attorney, and the child gets a free attorney under the Signature Program? Mr. Denton and Ms. Sylvester explained that, yes, the child's attorney would probably be free, but it would depend on if the child has any estate. The assumption is that the proposed ward has no assets. Mr. Denton also noted that Dr. Foster could be pro se. Dr. Foster said his concern came from the fact that Medicaid is based upon family resources, not individual resources.

Ms. Thornton brought up a resource for spreading the word about the program's launch. She said the Utah Parent Center has a big email list, so Ms. Sylvester could tap into that resource in order to increase the Guardianship Signature Program's reach.

Grant opportunity

Judge Toomey then discussed a potential fellowship opportunity that Mary Jane Ciccarello received from Adina Zahradnikova at the Disability Law Center. Mr. Denton said the grant is for programs involved in supported decision making. Judge Toomey pointed out that it looked like the grant had to go to a non-profit. WINGS is not a non-profit. She asked if Mr. Denton would look into whether the Disability Law Center could be the lead on this. Mr. Denton said he would work on seeking it, but noted that WINGS should sign on as a stakeholder.

Dr. Foster's announcements

Dr. Foster announced the 13th Annual Geriatric Conference, which is sponsored by the VA and the Salt Lake City and Denver GREC's. He said it is also supported and sponsored by the University of Utah. Last year there was a proposal to talk about patients with dementia and the intersection of behavioral medicine and dementia. This will be a two day conference with three distinguished speakers. He said the set-up is two patients: one patient with persistent serious mental illness and changes in behavior that engage APS, and another is a patient with frontal temporal degeneration. He said there will be four sessions. The first session, for example, will discuss what the nature and scope of the problem is and how it's addressed across

interdisciplinary lines. At each session, there will be a panel of experts. Dr. Foster is on the planning committee and has recommended people from WINGS to participate on the panels.

Dr. Foster and others then discussed the status of the medical evidence paper. Mr. Alderman said the paper has been finalized and the last revision is part of his materials that he will be presenting at the Spring Bar Convention. Mr. Alderman said he will encourage attorneys attending his training on guardianships in St. George to take the paper to doctors so that the doctors can see what it is the attorneys need for the guardianship court proceedings. Mr. Denton said they hope to get the paper published in a few medical journals. He suggested that some journals may want the paper in different forms (short versus long). Dr. Foster said he will speak to medical associations about the paper.

Judge Toomey asked Mr. Denton to follow up at the May meeting about how the paper is getting published. She also said Wisconsin requested a copy. Dr. Foster said he will follow up on that.

Dr. Foster then discussed a few legislative items. He said there had been a request for appropriations for high quality dementia care with the Department of Health taking the lead on it. He said there were two bills. Rep. Ray is co-chair of the social services subcommittee and one bill would have designated the Department of Health as the state agency to coordinate all Alzheimer's care in the state. He said DHS requested a fiscal note.

The second bill, Dr. Foster said, is the second attempt at a high quality dementia care act. It would have given "tele-help" to St. George by paying for experts' outreach from Salt Lake City. Senator Shiozawa was trying to run two appropriations bills on this. One would build expertise in medical community by creating fellows in dementia care, for example. Dr. Foster said Senator Christiansen said he couldn't support that bill because of potential conflict of interest (he has Alzheimer's in family). He said the senator also said if Healthy Utah passes, nothing else will be funded this legislative session. Dr. Foster will give an update to WINGS at the May meeting.

The meeting concluded at 1:30 p.m.

TAB 2

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Utah WINGS

Working Interdisciplinary Network of Guardian Stakeholders

ORGANIZATIONAL BYLAWS

MISSION

The mission of **Utah WINGS** is to bring together stakeholders from various disciplines with interest in the guardianship/conservatorship system for short-term and long-term planning and action to improve the state's spectrum of guardianship/conservatorship services and processes, including those services and processes related to alternatives to guardianship/conservatorship. **Utah WINGS** will prioritize issues and action items to develop and implement necessary improvements to Utah's infrastructure in order to ensure a sustainable system for Utahns needing guardianship, conservatorship, or related alternatives.

OBJECTIVES

To carry out its mission, **Utah WINGS** shall:

- Support policy initiatives for the enhancement of guardianship and related infrastructure;
- Identify and develop education and outreach opportunities regarding guardianships, conservatorships, and their **alternatives**;
- Promote and provide training and support to those **engaging the** guardianship/conservatorship system;
- Promote high standards for guardians and conservators;
- Promote expanded collaboration between **Utah WINGS** members and other stakeholders; **and**
- Regularly assess the needs and priorities of **Utah WINGS** efforts.

CONSTRAINTS

Utah WINGS recognizes the importance of the following objectives and strongly encourages its members to engage in them. But as long as **Utah WINGS** is housed under the judiciary, which must maintain its neutrality, the group may not engage in them as official **Utah WINGS** projects:

- Advocate for the rights of individuals with decisional impairments;
- Promote independence to the greatest extent possible for those experiencing incapacities, unless it takes the form of public education about alternatives to guardianships and conservatorships **or established standards for a guardian's conduct**;
- Lobby the legislature for changes to guardianship policy; and
- Any other activity that may call into question the judiciary's **neutrality**.

Comment [RD1]: One of the issues that came up in the symposium, and in discussions in the group before it, was the concern about the lack of knowledge amongst families, law enforcement, treating professionals and others about the resources that may be available when emergencies arise with a person with limited decision-making capacity and no guardian. Maybe that can be added to the education and outreach part.

Comment [RD2]: I'm not sure just what this refers to. How is it different from the previous bullet?

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Comment [RD3]: Is this, and the next bullet, an objective of the work of WINGS, or more of an internal goal or process? I'm not sure what this bullet is getting at.

Comment [RD4]: Is this neutrality limited to guardianship law, or could it extend to issues related to individuals with limited capacity and other court functions, such as criminal processes. Does this "neutrality" extend beyond issues that touch court processes?

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MEMBERSHIP

Utah WINGS will strive to maintain interdisciplinary representation from the following organizations, entities, and individual representatives, [acknowledging that other members may be added from time to time](#).

- Adult Protective Services
- Center for Alzheimer's Care, Imaging, and Research
- Centro de la Familia
- Court Visitor Volunteer Program
- Disability Law Center
- Division of Aging and Adult Services
- [Division of Services for People with Disabilities](#)
- Jewish Family Services
- Long-term Care Ombudsman
- National Alliance on Mental Illness
- Office of Public Guardian
- Private probate attorney
- Private guardian/care manager
- Salt Lake Police Department, [or other law enforcement agency](#)
- Utah Parent Center
- Utah State Legislature
- Utah State Courts/Probate judges
- Ute Tribe/Ute Family Center
- VA Salt Lake City Health Care System
- *[An organization that could represent the interests or needs of rural communities? We could try to get one of the rural independent living centers.](#)*

Comment [RD5]: Any way to broaden the representation of other cultural minorities? Maybe we could invite the Asian Association of Utah?

Succession Plan

While Utah WINGS is housed under the judiciary, the Utah WINGS chair shall be a district court judge who is well versed in probate matters. The chair shall serve a term of three years—with an option to renew for a subsequent term—and at the conclusion of his or her service, appoint a successor with the same, or similar, qualifications.

Members shall serve a term of three years, and may serve up to two terms at the Executive Committee's election. When a vacancy arises, a new member who can provide the same or similar representation shall be sought within 60 days.

Comment [RD6]: Does this mean that the organizations above can serve for only a maximum of six years, or only an individual representing that organization?

MEETINGS

Full Utah WINGS meetings

Utah WINGS shall meet approximately every 2 months. The meeting agenda shall be determined by the executive committee and circulated in advance of the full committee meeting.

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Members are expected to attend the meetings and may be excused from the committee by the chair for failing to attend three meetings in a calendar year.

Executive Committee

While **Utah WINGS** is housed under the judiciary, the executive committee shall consist of the **Utah WINGS** chair, the Court Visitor Coordinator, a staff attorney from the Administrative Office of the Courts, and up to three members of the full **Utah WINGS** committee, as determined by the chair.

Annual Open Invitation Meeting

Every November, or on some other annual basis, **Utah WINGS** shall invite to its full committee meeting community members and agency partners who are not **Utah WINGS** members but who interface with guardianship and/or conservatorship issues on a regular basis. The purpose of this annual meeting shall be to raise awareness of **Utah WINGS** efforts, listen to the challenges facing those dealing with guardianship and conservatorship issues, and to identify potential projects that fall within the bounds of **Utah WINGS** objectives. This section is not intended to limit the ability of guests to attend and participate in **Utah WINGS**'s other regular meetings throughout the year.

Annual Assessment Meeting

Every January, or on some other annual basis, **Utah WINGS** shall hold an assessment meeting to determine how well the committee is meeting its objectives and whether **Utah WINGS**'s needs and priorities have—or should be—changed.

Sub-Committee Assignments

Standing and ad hoc sub-committees shall be created for the purpose of carrying out the objectives of **Utah WINGS** and will meet as necessary, either in person or by electronic means. The Executive Committee shall review sub-committee projects for consistency with **Utah WINGS** objectives, particularly within the judiciary's constraints. A *standing education sub-committee* is hereby created.

Quorum

A simple majority of members present shall constitute a quorum for purposes of voting on and approval of **Utah WINGS** minutes and all **Utah WINGS** projects.