

WINGS ACL Elder Justice Innovation Grant: Utah WINGS Phase I Program Report

This report covers activities from June 1, 2017 through September 29, 2017.

Due Date: October 30, 2017

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List the Utah WINGS Stakeholders, and indicate members of the Steering Committee:

1. Andrew Riggle, Disability Law Center, **Steering Committee**
2. Daniel Musto, Long-Term Care Ombudsman
3. David Connors, Second District Court Associate Presiding Judge, WINGS Chair, **Steering Committee**
4. Dustin Hammers, University of Utah Center for Alzheimer's Care, Imaging and Research
5. James Brady, Fourth District Court Judge
6. James Toledo, Office of Indian Affairs
7. Joanne Bueno Sayre, Probate Department, Third District Court
8. Karolina Abuzyarova, WINGS and Court Visitor Program Coordinator, Utah State Courts, **Steering Committee**
9. Kaye Lynn Wootton, Medicaid Fraud Control Unit, Office of Utah Attorney General
10. Kent Alderman, Elder Law Attorney, **Steering Committee**
11. Mary Jane Ciccarello, Borchard Foundation on Law and Aging, **Steering Committee**
12. Nan Mendenhall, Adult Protective Services, **Steering Committee**
13. Nancy Sylvester, Associate General Counsel, Utah State Courts, **Steering Committee**
14. Nels Holmgren, Division of Adult and Aging Services, **Steering Committee**
15. Robert Denton, Disability and Elder Law Attorney
16. Shannon Alvey, Office of Public Guardian, **Steering Committee**
17. Wendy Fayles, National Alliance on Mental Illness.

List any Working Groups your WINGS has created:

- Subcommittee on judicial response protocol in cases of abuse, neglect and exploitation
- Subcommittee on judicial protocol in establishing limited guardianship.

What did you accomplish during the reporting period?

- **Qualitative:**

Utah WINGS formed two Subcommittees that were able to generate lively productive discussions on establishing judicial protocol in area on responding to abuse, neglect and exploitation, and in establishing limited guardianship. Abuse Subcommittee produced a flow chart, but above all discussions and increased level of coordination improved communication

between agencies, when a referral became a phone call away and agency representatives met each other in person at the WINGS meetings.

Limited guardianship subcommittee discussed the guardianship process as a whole, as it is difficult to dissect only the limited guardianship from the whole process. Members of the Steering Committee, in particular, Disability Law Center Policy Analyst, Andrew Riggle, brought up alternatives to guardianship as a crucial piece of judicial education. Judicial determination of capacity was another important segment, as well as restoration of capacity. Unless a problem is brought up to the judicial attention, most of the matters are viewed as a consent calendar. As pointed out by the WINGS Chair, Judge David Connors, judges need to know what questions to ask. Subcommittee identified the need in providing training to the private Bar and the Court clerks, as these are the parties that the judges heavily rely on in guardianship proceedings. WINGS experts are working on updating the judicial materials and flowchart will be part of the materials together with the updated Bench Book and Bench Card. Based on the judicial feedback, materials will be presented in 20-minute Nuts and Bolts of Guardianship session at statewide bench meetings in January-May 2018 by experienced attorneys-members of the WINGS group and WINGS Coordinator. In addition, a plenary session on guardianship will be part of the Annual District Court Judges Conference in May 2018.

- **Quantitative:**

Utah WINGS had two Steering Committee meetings where Elder Justice Innovation grant was discussed on May 25 and August 8, 2017. Full WINGS group met twice during the reporting period on June 28 and August 23, 2017. Agendas and minutes are posted at <https://www.utcourts.gov/utc/wings>. Two Subcommittees met for a full hour at each meeting in June and August and had follow up assignments. Multiple calls and emails were placed between the Courts and WINGS participating agencies, as well as outside agencies, to work on the flowchart on judicial response in cases of abuse, neglect and exploitation. Multiple emails and phone calls were exchanged to communicate with the Subcommittee on establishing limited guardianship: Handbook on Judicial Determination of Capacity in Older adults produced by the American Bar Association and American Psychological Association was circulated and feedback was gathered on what had to be included in the Bench Book and Bench Card.

Describe the status of your strategic planning process and its results:

- **Who participated?**

Since the Steering Committee was build on the basis of the WINGS existing Executive Committee, initial participants included: Shannon Alvey, David Connors, Mary Jane Ciccarello, Kent Alderman, Nancy Sylvester, Karolina Abuzyarova. In June 2017 WINGS Coordinator reached out to WINGS Chair and Courts Associate General Counsel to seek advice on the format and scheduling of the Steering Committee meeting. First full Steering Committee meeting took place after the end of phase I on October 13, 2017. Adult Protective Services Director, Nan Mendenhall, was excused, but Disability Law Center and Division of Adult and Aging Services representatives participated, Andrew Riggle and Nels Holmgren respectively.

Full WINGS discussed Elder Justice Innovation grant at the meetings in June and August. Committee discussed strategic goals and then divided into two Subcommittee discussions. Work was mostly done in the Subcommittees at the breakouts and between the meetings.

- **Objectives identified:**

Subcommittee on judicial response protocol on abuse, neglect and exploitation decided to identify the protocol in the format of a flowchart. Nancy Sylvester, Associate General Counsel, was Subcommittee Chair and coordinated the work completed.

Subcommittee on judicial protocol on limited guardianship discussed available resources and focused on reviewing Handbook on Judicial Determination of Capacity in Older Adults that provides detailed description of crafting limited guardianship. Question remained on the format of the protocol to be presented to the judges.

- **Strategies to reach the objectives:**

Subcommittee on abuse, neglect and exploitation reached out to agencies outside WINGS to identify the referral process when cases of abuse, neglect and exploitation come up in the court. Generally, probate matters are on consent calendar of the judge assigned on probate matters that could be as short as a six months assignment, and cases are transferred to trial by a different judge when parties don't agree. With 70% of the District Court bench being newly appointed by the Utah Governor, there are many new judges and very rarely they come with expertise in disability or elder law or adult guardianship. A flowchart was finalized in October

2017. As part of the materials presented to the new bench the flowchart could provide guidance in navigating cases involving abuse, neglect and exploitation of vulnerable adults. Subcommittee on limited guardianship reviewed existing Bench Book for Adult Guardianship and Conservatorship that was created in 2014 and updated in 2017. Bench Book is 34 pages long and provides an overview of the adult guardianship process. However, more detailed and comprehensive information has to be included on capacity determination and limited guardianship and restoration of capacity from the Handbook on Judicial Determination of Capacity in Older Adults. Subcommittee discussions shifted from solely limited guardianship towards the whole guardianship process that would also look at less restrictive alternatives. WINGS Coordinator reached out to the Board of District Court Judges to seek guidance on the format of the information to be presented. Judges responded that with a lot of new members of the bench the most appropriate format would be 20-minute presentations at the monthly bench meetings in 2018 on “Guardianship Nuts and Bolts” with review of existing resources and contact information to seek further advice.

Describe the actions you have taken to ensure broad-based public participation:

An active member of Utah WINGS is Utah Office of Indian Affairs. Looking forward, WINGS are going to collaborate on outlining jurisdiction of the Tribal Courts and Utah State Courts in potential adult guardianship cases and in response to abuse of vulnerable adults.

In 2015-2016 Utah WINGS reached out to the non-profits Comunidades Unidas, Centro de La Familia and a Consulate of Mexico in Salt Lake City. WINGS members conducted presentations in Spanish at the Consulate of Mexico on advance life planning and guardianship process.

Despite continuous communication from WINGS, non-profits serving Utah’s largest minority group are currently not attending the meetings. WINGS created online training program on advance life planning and guardianship that is published in English and Spanish on the Utah State Courts website.

Describe any indicators of increased collaboration among the WINGS stakeholders:

Some stakeholders reported improved communication with the Courts, in particular the Medicaid Fraud Control Unit got in touch with the Court Visitor Volunteer Program and was able to get the questions answered. Subcommittee on abuse, neglect and exploitation

coordinated with Adult Protective Services and other agencies on referral information for the flowchart. Court Visitor Volunteer Program regularly communicates with the Office of Public Guardian and Adult Protective Services. Office of Public Guardian contacted WINGS Coordinator with information request from Utah Legislators on guardianship reform efforts in Utah, caseload information and how guardianship oversight is being performed by the Courts. WINGS Coordinator attended Celebration of Self-Determination Conference organized by the Disability Law Center. WINGS Coordinator invited one of the Conference presenters, Self-Advocates Speakers Network, to present on supported decision-making to the full WINGS meeting in June and at the Court Visitor Volunteer recognition event in August.

Volunteer Court Visitors are self-organizing to support funding request from the Judiciary to fund the Court Visitor Volunteer Program. Volunteer visitors are meeting with legislators and registered voter groups to generate legislative support for the program they are passionate about during the February 2018 legislative session. Funding for the Utah WINGS comes from the Court Visitor Volunteer Program that is currently on a one-time funding support by the Utah State Courts.

What challenges did you face and what actions did you take to address these challenges?

Engagement of Court leadership in supporting WINGS continues to be a challenge. Judges learned to rely on volunteer court visitors significantly and appreciate the service. WINGS Chair and Coordinator annually report to the Utah Judicial Council on WINGS progress. Judicial Council hosts WINGS meeting and provides lunch for participants. Judicial Council also identified funding for the Court Visitor Program (WINGS and Court Visitor Program Coordinator is funded through that program) as one the programs in the building block of judicial funding request to the Utah State Legislature in 2018 session. We hope that in conjunction with the self-organized volunteer visitors, the guardianship reporting and monitoring program will be permanently funded. With support of the Elder Justice Innovation grant, WINGS will bring judicial education and resources on guardianship and less restrictive alternatives to the bench meetings and to the plenary session of the Annual District Court Judges Conference in 2018. WINGS hopes that continuous movement forward, better and more efficient collaboration with

agencies outside the court, and internal capacity building of the judiciary will eventually produce results by generating future champions of guardianship reform within the Courts.

What was produced during the project period and how have these projects been disseminated?

Subcommittee on abuse, neglect and exploitation finalized a referral flowchart. WINGS identified an expert, Co-Director of Borchard Foundation on Law and Aging, Mary Jane Ciccarello, to update the judicial materials including Bench Book and Bench Card for Adult Guardianship. This task will be completed by December 2017. Judicial class schedule will be part of the bench meetings in each judicial district, as recommended by the Board of District Court Judges. By the end of the 2017, Program Coordinator will schedule presentations at the monthly statewide bench meetings from January until May 2018. Program Coordinator will seek assistance of the Utah State Courts District Court Administrator, Trial Court Executives and Clerks of Court in each district.

In addition, online training program on advance life planning was published on the Utah State Courts website in Spanish <https://www.utcourts.gov/howto/family/gc/training.html>. WINGS finalized the script on serving as a court-appointed guardian that incorporates the guardianship standards of practice issued by the National Guardianship Association. It will be published on the Courts website by the end of 2017.

Outside of the Elder Justice innovation grant, WINGS is providing training on advance life planning and guardianship to families with children with disabilities on SSI within the ASPIRE project. With support of the Interagency Outreach Training Initiative of the Utah State University, WINGS is organizing a roundtable on “Crossroads on Guardianship, Involuntary Commitment and Essential Treatment” with over 40 participants on November 2, 2017.

In what specific areas will your WINGS need technical assistance in Phase II of the Project?

Utah WINGS needs assistance with developing indicators and gathering data in evaluation of judicial education to be performed in January-May 2018.