

Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

Thursday, December 17, 2020 - 12:00 to 2:00 p.m.

Attended			Not Present
Judge Keith Kelly	Rob Ence	Nancy Sylvester	Judge David Connors
Kent Alderman	Nan Mendenhall	Shonna Thomas	Judge James Brady
Shane Bahr	Michelle Miranda	James Toledo	Jeff Daybell
Brant Christiansen	Daniel Musto	Norma Valavala-Ballard	Xia Erickson
Tantalisa Clayton	Alan Ormsby	Michelle Wilkes	Wendy Fayles
Rob Denton	Andrew Riggle		Nels Holmgren
			Todd Weiler
			Kaye Lynn Wootton

Agenda			
	Topic	Presenter	Materials
12:00	Meeting begins		
	Welcome, Minutes, Housekeeping		<u>October 2020 meeting minutes</u>
12:10	2021 Legislative Session	Group discussion	
12:25	Annual Report Review Process	Judge Kelly Nancy Sylvester	<u>Report Coversheets</u> <u>Rule 6-501</u>
1:00	Financial Accounting / Audit Subcommittee	Shonna Thomas Michelle Wilkes	<u>Financial Reports</u>
1:10	WINGS Projects Updates:		
	• CJA Rule 6-507	Nancy Sylvester Michelle Wilkes	
	• Annual Report Reminder Notice	Shonna Thomas	
	• Guardianship “Basic Guidelines” Manual	Brant Christiansen	
	• Clerical Manual	Shonna Thomas	
1:45	Judicial Council Annual Report	Group discussion	
2:00	Meeting adjourned		

1. Housekeeping

- Meeting commenced at 12:05pm
- A motion was made to approve the minutes from the previous meeting (October 15, 2020). The motion was seconded and approved.
- Meeting adjourned at 1:47pm.

2. 2021 Legislative Session

The session will be starting in the next month. Two bills may relate to WINGS - one that references guardianship, by title, and the other that references protected persons. There is no indication yet, beyond these references, how these bills might relate to guardianship and/or WINGS. The Disability Law Center has an intern trying to reach out to the sponsors to get more information about these bills.

Discussion –

- Senator Hillyard was not reelected, so it is unclear if the Uniform Probate Code has been picked up by another legislator.
- There does not appear to be anything related to guardianship on the legislative radar of the Bar / Elder Law section.
- The session will likely focus a great deal on health-related issues, due to COVID.

Decisions made –

- Andrew Riggle will share with the group if more information is learned about the content of the two proposed bills.
- Brant Christiansen will check with the Bar’s legislative liaison and share with the group if the Bar plans to address in the upcoming session anything that relates to WINGS.
- If other stakeholders receive word of related proposed legislation, this information will be passed onto the WINGS group.
- This item will be added to the agenda for the Executive Committee meeting in January, and WINGS meeting in February.

3. Annual Report Review Process

The annual report review process was discussed at recent Clerks of Court and Board of District Court Judges meetings.

During the Clerks meeting, it was determined that each district has a different review process they follow. Some use a coversheet to assist judges in reviewing the annual reports. Samples of these coversheets were provided, and a coversheet draft, incorporating all in-use forms, was created for WINGS members to review.

During the Board meeting, the idea of a coversheet was broached and the Board agreed that a standard, statewide form for judges to fill out could be a reasonable approach; they were amenable to receiving a draft to review.

Discussion –

- Court Services is working on a report that will make it easier for Clerks to track and identify if reports have been submitted and any reports that are outstanding. It should also filter between cases where reporting is required or not. This should be coming out early next year.
- The Board of District Court Judges meets again on January 8th, if WINGS wants to present a coversheet draft.
- Based on the Clerks meeting, it appears that the smaller rural areas are better equipped to meet the annual report review requirements, while the larger districts, such as 3rd District / Salt Lake County, have more of a challenge.

In addition to the coversheet, there is a recommended language change for CJA Rule 6-501, which refers to annual report review. This rule does not currently clarify what “reviewed and approved” means. The court provides a general approval of the report; however, if there is malfeasance not reflected in the report, the previous report approval does not exonerate the individual.

Language has been drafted to add to the rule clarifying what it means and what it does not mean to approve an annual report under the statute.

Discussion –

- The new language may not agree fully with 75-5-419(3).
- Once an annual report is approved, there should be a cut-off point or finality with these reports and the information therein.
- When you have a Final Accounting and it is signed off on, that is essentially an adjudication of the estate and you are closing it out.
- Rule 6-501 does indicate that those who receive notice have 30 days to object. However, the rule does not clarify what occurs if you do *not* object within those 30 days.

Decisions made –

- A Motion was made and approved to form a WINGS subcommittee (Rule Review subcommittee) with members Judge Kelly, Kent Alderman, Brant Christensen, Nancy Sylvester, and Shonna Thomas.
- The subcommittee will review the proposed language of Rule 6-501.
- The coversheet draft and proposed language for Rule 6-501 will be shared at an upcoming Board of District Court Judges meeting for review. Once approved, it will go in front of the Policy and Planning and Forms committees.
- This item will be added to the Executive Committee meeting in January.

4. Financial Accounting / Audit Subcommittee

The Court Visitor Program intends to revise materials related to the Audit case type early next year. It may also be a good time for WINGS to take on the project of making suggested revisions to the Financial Accounting report, as it is regularly cited as being confusing and not user-friendly for guardians/conservators to complete.

Because WINGS has several ongoing projects, it may be more appropriate to delay this a few months, to give WINGS an opportunity to finalize some of its current projects.

Decisions made –

- This item will be added to the WINGS agenda for February and revisited at that time.

5. WINGS Projects Updates

CJA Rule 6-507:

Rule 6-507 went into effect on November 1, 2020. This rule better defines the scope of the Court Visitor and codifies the review process for Court Visitor reports. A Request to Submit for Decision will be filed with every Court Visitor report, which will start the timeline on the review process, giving judges 60 days to review and make findings on the report.

This rule was discussed at the Board of District Court Judges and one suggestion was to create a coversheet or embed a simple checklist review section on the first page of the report template, as this would lessen the work on judges during the review process.

Question Asked –

Has the Court Visitor Program had experience with attorneys requesting specific Court Visitors be appointed?

It does not happen often. There is a space on the Request for a Court Visitor form to request a specific individual. However, because Court Visitors are volunteers, ultimately, they get to decide what cases they will accept or decline.

Decisions made –

- Michelle Wilkes and Shonna Thomas will work on creating a checklist that can be added to the Court Visitor report templates.

Annual Report Reminder Notice:

This item was brought to the Clerks of Court meeting in November. The Clerks were provided with materials shared by Norma Valavala-Ballard on the process 4th district is using. Some of the smaller districts expressed concern that such a system would entail more work on their end, since they deal with a smaller number of guardianship cases overall. However, in general, the Clerks were interested in trying out the reminder notice system.

One suggestion made was to look at retrofitting the robo-call system used for jury duty. They also requested that implementing the system be postponed until after the new year, as some of the districts were heavily involved in other more pressing projects.

Decisions made –

- Shonna will reach out the Clerks and Norma Valavala-Ballard in early 2021 to discuss beta-testing the in a few districts.
- This item will be added to the agenda for the February WINGS meeting.

Guardianship “Basic Guidelines” Manual:

The manual was circulated to the Elder Law section and no additional comments or feedback were received. It appears to be ready for final review and approval.

Discussion –

- The manual mentions guardianship for school purposes (see “*Guardianship for School Purposes – Update*” below), so it may be appropriate for the new Rule Review subcommittee to look at this section in the manual.
- Section 9a talks about decision-making guidelines and refers to least restrictive environment. It may be beneficial to include information from the National Guardianship Standards on least restrictive environment.

- Guardians may not fully understand what being a fiduciary means, especially in terms of conflicts that arise with financial matters in guardianships. This should be clarified in the manual.

Decisions made –

- Rob Denton will make suggested additions regarding least restrictive environment and explanations on the requirements of the fiduciary role, and send those changes to Shonna.
- This item will be added to the Rule Review subcommittee agenda; Shonna will forward the most up-to-date version to the subcommittee prior to the meeting.
- This item will be included in the Executive Meeting agenda as well.

Clerical Manual:

Several judicial support staff members volunteered to review the clerical manual and provide feedback on its accuracy and completeness. The next step is to incorporate into the draft their comments and suggestions.

Once the content has been updated, the only remaining item before final review and approval is to update the screenshots of CORIS that are included throughout the manual. This will require assistance from Court Services. The goal will be to have a final draft by the February WINGS meeting for stakeholders to review.

6. Judicial Council Annual Report

WINGS will be reporting to the Judicial Council at the end of January. This report is both an oral and written update. The written document should include items WINGS has accomplished in 2020 and projects WINGS is currently working on and/or intends to take up in the coming year. Significant issues can also be mentioned, such as limited guardianship of a minor.

Decisions made –

- Email to Shonna any items to share on this report, including those in your organization or agency that have been worked on because of WINGS.
- Shonna will compile a draft report of items and send it to all WINGS stakeholders.

7. Other Business

Guardianship for School Purposes - Update

When this issue was discussed previously, the concern centered on how to make the OCAP system more user-friendly for cases related to guardianship for school purposes only / limited guardianships of minors. A question was raised whether these types of guardianships are authorized by the statute. Thus far, no authorization has been found in statute that would allow the courts to grant limited guardianship of minors.

The district court process is governed by 75-5-204. Based on this statute, it seems that this type of appointment is only possible if parental rights have been terminated or suspended by circumstances of a prior court order.

Discussion –

- The guardianship statute expressly requires the court to consider a full guardianship only if a limited guardianship is insufficient.
- There are two separate statutes - one that deals with guardianship of a minor and the other that deals with guardianship of an adult. The adult statute states that limited guardianships are appropriate and should be considered, but the minor statute does not have the same language.

- There are other options that could be used in place of guardianship for school purposes, either through the school districts’ ability to grant guardianships (53G-6-302 and 53G-6-303) or through powers of attorney that parents could grant.
- Powers of attorney can also be revoked / adjusted as needed by the parent, whereas guardianship changes or termination can only be granted through the court.
- It may be appropriate on the court’s websites to suggest the other options so that parents understand, as well as update the bench books to inform the judges.
- This is also referenced in Rule 6-501 (line 7); this would also need to be updated.

Decisions made –

- The Rule Review subcommittee will look at the language of Rule 6-501 suggesting guardianship for school purposes only. The subcommittee will also ascertain the Board of Education’s stance on guardianship for school purposes, and determine whether the court’s website and bench books require revisions.
- This item will be added to the agenda for the Executive Committee meeting and the WINGS meeting in February.

GAL for Adults (In re GJP) – Update

This item was discussed at the WINGS October meeting. An update was requested.

There is no new information at this point, but it appears that a legislative fix is needed. It is on the radar of the court’s Legislative Committee.

Decisions made –

- Nancy Sylvester will follow up with the Legislative Committee to see if any progress has been made.

Massachusetts Colloquium

Shonna updated the group on a recent presentation the Court Visitor Program gave at a colloquium put on by the Massachusetts Guardianship Policy Institute. The Court Visitor Program was recognized and invited per the National WINGS organization. It was noted that Utah WINGS and the Court Visitor Program are leaders in guardianship monitoring, and recognized on a national level for the work this committee performs.

Action Items	
<ul style="list-style-type: none"> – Share with the group if more information is learned about the content of the two proposed bills. – Check with the Bar’s legislative liaison and share with the group if there is anything in the upcoming session that relates to WINGS. – Share any proposed legislation that applies to guardianship and WINGS. 	<p>Andrew Riggle Brant Christiansen WINGS Stakeholders</p>
<ul style="list-style-type: none"> – Review the proposed language of Rule 6-501 for the following: <ul style="list-style-type: none"> ○ what it means to approve an annual report ○ guardianship for school purposes only / limited guardianship of a minor – Review the Basic Guidelines manual for references to Rule 6-501 and/or guardianship for school purposes. 	<p>Rule Review subcommittee – Judge Keith Kelly Kent Alderman Brant Christiansen Nancy Sylvester Shonna Thomas</p>

<ul style="list-style-type: none"> – Ascertain the Board of Education’s stance on guardianship for school purposes. – Collect suggested revisions of websites and bench books. 	
<ul style="list-style-type: none"> – Create a coversheet or checklist that can be added to the Court Visitor report templates and provide to stakeholders for comment. 	Michelle Wilkes Shonna Thomas
<ul style="list-style-type: none"> – Schedule with the Clerks of Court and 4th District a beta-test of the Reminder Notice system. 	Shonna Thomas
<ul style="list-style-type: none"> – Make suggested additions to the Basic Guidelines manual on least restrictive environment and the requirements of the fiduciary role, and send those changes to Shonna. – Forward the most up-to-date version to the Rule Review subcommittee. 	Rob Denton Shonna Thomas
<ul style="list-style-type: none"> – Email to Shonna any items to share on the written update to the Judicial Council. – Compile a draft report of items and send it to all WINGS stakeholders. 	WINGS Stakeholders Shonna Thomas
<ul style="list-style-type: none"> – Follow up with the Legislative Committee on GAL for adults. 	Nancy Sylvester

Deferred / Continuing Items	
<ul style="list-style-type: none"> – 2021 Legislative session – Rule Review subcommittee – Basic Guidelines manual – Judicial Council report 	Executive Committee
<ul style="list-style-type: none"> – 2021 Legislative session – Financial Accounting subcommittee – Reminder Notice system – GAL for Adults – Rule Review subcommittee update 	Full Committee

Next Meeting(s):	February 18, 2021 April 15, 2021 June 17, 2021 August 19, 2021 October 21, 2021 December 16, 2021
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