



## **Disability and Guardianship Project**

## **Disability and Abuse Project**

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April 6, 2017

Ms. Amy Westling  
Interim Executive Director  
Association of Regional Center Agencies  
980 Ninth Street, Suite 1450  
Sacramento, CA 95814

Dear Ms. Westling:

Regional centers play an important role in the lives of individuals with intellectual and developmental disabilities. These nonprofit organizations perform services advancing the laudable goals of the Lanterman Act to promote independence while at the same time providing supports, services, and protections.

When a child with such disabilities becomes an adult, the function of regional centers becomes even more challenging – especially when an adult client becomes involved in a conservatorship proceeding. Presumably for benevolent reasons, a conservatorship petition seeks to transfer authority to make major life decisions from the adult to someone else, thus restricting the civil rights of the regional center client in significant ways.

To ensure that a judge has an objective and more complete picture of the strengths, abilities, and capacities of the proposed conservatee – and whether less restrictive alternatives are viable, such as supported decision-making – the Legislature has given an important role to regional centers in these proceedings. A regional center must conduct an analysis of the situation by interviewing people in the client's life, examining relevant documents, and soliciting the opinion of qualified professionals.

The important role of the regional center is heightened due to several serious limitations of the conservatorship system. Petitioning parents or relatives may have a bias favoring protection more than independence for the proposed conservatee. Either an attorney may not be appointed to represent him or her, or the attorney may be undertrained or under serious time constraints. If a court investigator is not waived, caseloads may be so great that a thorough job is not done. With these serious systemic deficiencies in mind, whether a proposed conservatee receives access to justice may very well depend on whether the regional center does a good job in its assessment services.

Our review of the conservatorship assessment and reporting services of regional centers indicates that these services vary from one location to another. Since the Department of Developmental Services has not provided guidance to regional centers in this regard, and does not monitor or evaluate these services, each regional center is on its own in determining the qualifications of those who conduct these services, as well as the policies that guide them and the procedures that are used. The statutes that govern these procedures, therefore, are not operating uniformly throughout the state.

An added factor that adversely contributes to the quality of these services is the matter of budget. There is no specific line item in the budget of regional centers for conservatorship assessment and

reporting services. They are expected to absorb the cost of these services as a general budgetary matter. Some regional centers seem to find more resources than others to fulfill their statutory duties in connection with conservatorships. It appears to be a hit and miss situation.

A recent survey of regional centers shows that a majority that responded would welcome greater involvement by DDS in providing guidance, training, and oversight in connection with conservatorship assessment services. The survey also showed that budget issues are very much on the mind of those who provide these services.

Spectrum Institute has just released a report titled “Regional Center Conservatorship Assessments: The Need for Guidance and Oversight from the Department of Developmental Services.” It was sent to the DDS Director as well as the Assistant HHS Secretary. A copy is being transmitted to ARCA as well as the directors of all 21 regional centers.

The limited conservatorship system was created in 1980. It has never been the focus of legislative oversight hearings during the ensuing years. It has not been on the political or administrative radar of DDS either. As a result, each local court operates the way it chooses to, as does each regional center. There has been no statewide or even local monitoring of the system to ensure that the rights of regional center clients are being protected or that the practices of judges, attorneys, court investigators, and regional centers are complying with applicable state and federal laws.

Spectrum Institute has been studying the limited conservatorship system for several years. We have published more than 220 reports, articles, and letters about this system – identifying problems as well as possible solutions. We have reached out to every state official and agency with even tangential jurisdiction over parts of this system. As part of that outreach effort, we have now turned our attention to the Health and Human Services Agency, the Department of Developmental Services, the Association of Regional Center Agencies, and to all 21 regional centers.

We hope that this report will stimulate conversations among officials at these agencies and organizations, as well as get the attention of others with access-to-justice oversight authority – including the state Department of Fair Employment and Housing (ADA violations), the Governor (budget approval), and the federal Department of Justice and Department of Health and Human Services (ADA violations).

We would like to be a part of such conversations, envisioning a time in the near future when these assessment and reporting services are conducted in accord with the law, when budgetary concerns are addressed, and when regional center clients involved in conservatorship proceedings receive access to justice as guaranteed by the constitution and the Americans with Disabilities Act.

We look forward to hearing from ARCA, DDS, HHS, and individual regional centers about the issues raised in this letter and in the enclosed report.

Respectfully yours:



Thomas F. Coleman  
Legal Director

cc: All 21 Regional Centers  
Ms. Nancy Bargmann (DDS)  
Mr. Kristopher Kent (HHS)