



Disability and Guardianship Project

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February 9, 2016

Rebecca Cokley, Executive Director
National Council on Disability
1331 F Street, NW
Washington, DC 20004

Re: A federal role in guardianship reform

Dear Ms. Cokley:

We were pleased to learn that the quarterly meeting of the National Council on Disability will focus on guardianship and supported decision making. Demographics alone make this an issue worthy of the attention of the Council since it is estimated that about 1.5 million adults are currently under an order of guardianship in the United States. Many of them are people with intellectual and developmental disabilities. Tens of thousands of new cases are opened each year.

Guardianship is usually considered an issue for state governments since it is state courts that process these cases. However, federal law is, or should be, a major consideration of state and local officials who investigate and litigate these cases and for the guardians who are appointed to administer them.

Federal law requires that guardianship respondents are ensured access to justice in these proceedings. This is required by the Due Process Clause of the Fourteenth Amendment as well as Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. And yet, officials in most states act as though federal law is irrelevant to guardianship proceedings.

Our organization is working to educate state judges and court administrators of their responsibilities under applicable federal laws – especially their duty to ensure that guardianship respondents have access to effective advocacy services. (<http://spectruminstitute.org/outreach/>) We have developed a framework for training and performance standards for appointed attorneys who represent guardianship respondents. (<http://spectruminstitute.org/attorney-proposals/>) We have also published a White Paper to the Department of Justice in which we offer specific ADA-compliant training and performance standards that can be adopted by state courts. (<http://spectruminstitute.org/white-paper/>)

When our outreach efforts are not successful, we file complaints with the U.S. Department of Justice to seek federal intervention on behalf of guardianship respondents who, individually or as a class, are unable to seek redress for violations of their federal civil rights. (<http://spectruminstitute.org/doj/>)

We would be pleased to be of help as you develop any programs involving guardianship reform.

Very truly yours,

Thomas F. Coleman
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