

**Outreach to DDS and HHS Regarding Problems with
the Failure of DDS to Provide Guidance to and
Oversight of Regional Centers in Their Role
in Connection with Conservatorships**

Materials Attached

- 6-01-2014: Letter to DDS Director
- 1-20-2015: Letter to DDS Director
- 1-16-2017: Letter to DDS Director
- 1-20-2017: Letter to HHS Secretary
- 3-07-2017 Meeting with DDS Legal Council and HHS Assistant Secretary
- 3-29-2017 Email to HHS Secretary
- 3-30-2017 Email and materials to AA to DDS Director
- 4-1-2017 Letter and materials to DDS Director
- 4-7-2017 Email and report to ARCA members and HHS Assistant Secretary
- 10-7-2017 Email and materials to HHS Assistant Secretary

Tom Coleman - Spectrum Institute

From: Spectrum Institute <tomcoleman@spectruminstitute.org>
Sent: Saturday, October 7, 2017 3:07 PM
To: 'Kristopher.Kent@chhs.ca.gov'
Subject: FW: next steps in DDS oversight of regional center conservatorship assessment services
Attachments: bargmann-letter.pdf; dds-attachments.pdf

Mr. Kent,

I am following up with you regarding our meeting in March of this year.

We are doing the final filming of our documentary – *Pursuit of Justice* – and I am asking for updates from agency representatives whom we have met with over the past few years about conservatorship reform. At the end of the film there will be a segment where we briefly summarize what we asked of agencies and officials and what, if anything, they did. I want to make sure to accurately describe the response of DDS and HHS and so I thought I should reach out to you for that information.

We will have a rough cut of the film in early November and hope to release it in January. I would very much like to report that some serious interest was shown by DDS and HHS in improving the conservatorship system and in protecting the rights of people with intellectual and developmental disabilities. The film is the culmination of five years of advocacy efforts. I alone have devoted more than 5,000 hours of pro bono time. Many other volunteers have worked tirelessly alongside of me throughout the process.

The film will have national distribution and will be used in educational programs for attorneys, judges, and disability rights organizations.

Please give my regards to HHS Secretary Dooley and tell her that I appreciate her helping to arrange the meeting with DDS last March and for having you present at the meeting.

I look forward to hearing from you soon.

Tom Coleman

p.s. My last communication with you was by email in March. Below is an email by which I transmitted a letter to Nancy Bargmann and some research materials. Although more than six months have passed, I never heard back from Ms. Bargmann or from anyone else at DDS.

Tom Coleman - Spectrum Institute

From: Spectrum Institute <tomcoleman@spectruminstitute.org>
Sent: Friday, April 7, 2017 12:26 PM
To: 'pbonnet@altaregional.org'; 'hflores@cvrc.org'; 'gwong@elarc.org';
'llarson@farnorthernrc.org'; 'msullivan@lanterman.org'; 'ezigman@ggrc.org';
'patricia.delmonico@harborrc.org'; 'ljohnson@inlandrc.org'; 'rriddick@kernrc.org';
'bobh@nbrc.net'; 'gstevens@nlacrc.org'; 'rblumberg@redwoodcoast.org';
'srogers@rceb.org'; 'llandauer@rcocdd.com'; 'kyrc@lanterman.org';
'carlos.flores@sdrc.org'; 'kpenman@sgprc.org'; 'dexterh@sclarc.org'; 'trcweb@tri-
counties.org'; 'tanderson@vmrc.net'; 'carmineM@WestsideRC.org'
Subject: A "Must Read" for Regional Center Directors
Attachments: dds.pdf; arca-ltr.pdf
✓ bcc: KRISTOPHER KENT (chhs)

Dear Directors,

About two weeks ago, representatives of Spectrum Institute met with officials at DDS and its HHS oversight agency. We discussed the need for improvements in conservatorship assessment and reporting services by regional centers, as well as the need for guidance from and oversight by DDS.

In the days following that meeting, the attached report was produced. It was sent in the postal mail yesterday to DDS, HHS and ARCA. A copy of the letter to ARCA is also attached.

We have been advocating for reform of the limited conservatorship system for several years – reviewing all moving parts of the system. Our attention is now focused on the regional center component.

We would like to see DDS, HHS, ARCA, and the individual regional centers work together collaboratively to develop a new set of policies and procedures that will bring the conservatorship assessment and reporting services in compliance with applicable state and federal law, as well as the relevant contractual agreements between each regional center and DDS.

Spectrum Institute is available to assist you and these government agencies as you move forward toward improving the regional center aspect of the limited conservatorship system.

Yours truly,

Thomas F. Coleman
Legal Director
Spectrum Institute



**Disability and Guardianship Project
Disability and Abuse Project**

9420 Reseda Blvd. #240, Northridge, CA 91324
(818) 230-5156 • www.spectruminstitute.org

April 1, 2017

Director Nancy Bargmann
Department of Developmental Services
P.O. Box 944202
Sacramento, CA 94244-2020

Re: Next Steps in DDS Oversight of Regional Center Conservatorship Assessment Services

Dear Director Bargmann:

As you know, Dr. Nora J. Baladerian and I and various advisors to Spectrum Institute met with representatives of the Department of Developmental Services on March 27, 2017. We were pleased that Kristopher Kent, Assistant Secretary of the Health and Human Services Agency, participated in the meeting. It was unfortunate that you were not able to attend.

The conversation at that meeting stimulated me to do additional research into the duties of DDS to provide guidance to and oversight of regional centers in connection with their assessment and reporting services for clients involved in limited conservatorship proceedings. The enclosed materials are the product of that research.

1. Commentary on authority of state and federal agencies to intervene if ADA violations occur
2. Statutory duties of DDS and regional centers regarding conservatorship assessments
3. Clauses in existing contracts between DDS and regional centers on these issues
4. ADA Title II regulations regarding DDS grievance procedures for ADA violations
5. Authority of DDS to monitor regional center services for ADA compliance

After you and Assistant Secretary Kent have had an opportunity to review these materials, I would like us to continue the conversation that began at the meeting on March 27. I hope that future interactions will be collaborative, constructive, and designed to improve the oversight activities of DDS in connection with the conservatorship assessment and reporting services of regional centers.

It may be appropriate to have the Association of Regional Center Agencies included in future conversations on these issues. The participation of ARCA could be helpful as we move toward ensuring that clients receive the full benefit of ADA-compliant conservatorship assessment services.

Respectfully submitted:

Thomas F. Coleman
Legal Director, Spectrum Institute
tomcoleman@spectruminstitute.org

Tom Coleman - Spectrum Institute

From: Spectrum Institute <tomcoleman@spectruminstitute.org>
Sent: Thursday, March 30, 2017 2:43 PM
To: 'Reyes, Julia@DDS'
Cc: ✓ 'Kristopher.Kent@chhs.ca.gov'
Subject: next steps in DDS oversight of regional center conservatorship assessment services
Attachments: bargmann-letter.pdf; dds-attachments.pdf

Julia Reyes

Administrative Assistant to
Director Nancy Bargmann
Department of Developmental Services

Dear Ms. Reyes,

Please forward the attached letter and other materials to Director Nancy Bargmann. They are being sent to her in the postal mail tomorrow.

I look forward to her reply and to meeting with her soon to continue this important conversation with DDS.

Thanks for your assistance.

Thomas F. Coleman
Legal Director
Spectrum Institute
(818) 482-4485

Tom Coleman - Spectrum Institute

From: Spectrum Institute <tomcoleman@spectruminstitute.org>
Sent: Wednesday, March 29, 2017 1:55 PM
To: 'ddooley@chhs.ca.gov'
Cc: 'Kristopher.Kent@chhs.ca.gov'
Subject: Thank You

Hon. Diana Dooley
Secretary
Health and Human Services Agency
Sacramento, California

Dear Secretary Dooley,

I am writing to thank you for arranging for members of our organization to meet with Assistant Secretary Kristopher Kent and two representatives of the Department of Developmental Services on Monday.

Mr. Kent was very attentive and appeared to be genuinely interested in the concerns we have been raising about the lack of oversight by DDS of the role of regional centers in limited conservatorship proceedings. Since Mr. Kent is involved at the agency level, I did not expect him to be well versed in the details of the duties and authority of DDS in this regard. I assume that is why Hiren Patel from the Office of Legal Affairs of DDS was at the meeting.

After the meeting, members of our group compared notes and we were unanimous that, from our perspective, Mr. Patel's words and demeanor appeared to be designed to obfuscate the issues and direct us to another agency of government. Unlike all of the meetings we had on Monday with other officials who were cooperative and collaborative in seeking solutions, Mr. Patel seemed intent on denying any responsibility of DDS under existing law to address these issues. His methodology and demeanor were so upsetting to me that I found myself grumbling about him for several hours after the meeting ended.

However, I decided today that his obstructionism (there is no existing duty) and diversionary tactic (we need new legislation) was actually a blessing in disguise. I was so upset with him and felt he was being so disingenuous that it caused me to do additional research today. I found ample provisions in existing statutes, and sufficient clauses in existing DDS contracts with regional centers, that I am thoroughly and firmly convinced that DDS has a duty to provide guidance and oversight to regional centers in connection with their role in limited conservatorships – obligations that the department is currently not fulfilling.

In the next day or so, I will be sending a memo to you, Mr. Kent, and Director Nancy Barggman explaining the results of my research in this regard – including citations of specific statutes and references to specific clauses in these contracts. In the meantime, suffice it to say that Mr. Patel’s negativity inspired me to make lemonade out of come very sour lemons.

Again, thank you for helping to facilitate this meeting.

Thomas F. Coleman
Legal Director
Spectrum Institute
(818) 482-4485



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January 20, 2017

Secretary Diana Dooley
Health and Human Service Agency
1600 Ninth Street #460
Sacramento, CA 95814

Re: Request for Meeting to Discuss Role of DDS in Regulation and Oversight
of Regional Center Functions in Limited Conservatorship Proceedings

Dear Secretary Dooley:

I am writing to request a meeting with you or the liaison officer or agency official with responsibility for oversight of the Department of Developmental Services.

The purpose of the meeting is to discuss the need for DDS to take an active role in regulating and monitoring the important functions that regional centers should be providing in connection with limited conservatorship proceedings. Our research indicates that DDS has not been providing any oversight in this regard. We believe this is adversely affecting regional center clients who become involved in such proceedings.

We have tried in the past to engage DDS in conversation about this problem but our outreach efforts were unsuccessful. With a new director at DDS, we have reached out again. However, we feel that with the rights of 43,000 conservatees at stake, and with thousands of new petitions being filed each year, this matter should be brought to the HHS Agency. Perhaps you and your staff can help us get DDS more interested in addressing this problem.

I will be making a presentation at the Public Policy Conference of The Arc of California on March 26, 2017 and will be available to meet with public officials on March 27. Five of my colleagues at Spectrum Institute will join me in these meetings.

We would very much like to meet with you if you are available sometime on March 27. I would appreciate hearing from your scheduling person to arrange a mutually agreeable time to meet and open a conversation on this topic.

Respectfully submitted:

Thomas F. Coleman
Legal Director, Spectrum Institute
tomcoleman@spectruminstitute.org

cc: Nancy Bargmann, DDS
Encl.

p.s. We worked together in 1980 in connection with the formation of the Governor's Commission on Personal Privacy. I have enclosed some materials that memorialize our communications.



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January 16, 2017

Director Nancy Bargmann
Department of Developmental Services
P.O. Box 944202
Sacramento, CA 94244-2020

Re: Request for Meeting to Discuss Improving DDS Oversight and Regulation of
Regional Centers and Their Function in Limited Conservatorship Proceedings

Dear Ms. Bargmann:

I am writing to request a meeting with you to discuss serious problems with respect to oversight and regulation of an important function of regional centers. DDS can play a role in helping to ensure that regional center clients receive access to justice in limited conservatorship proceedings. Unfortunately, access to justice in these proceedings is being systematically denied due to flaws in various aspects of the limited conservatorship system, one of which involves regional centers.

At our request, the Judicial Council and the State Bar are in the process of addressing other parts of the problem – seeking to formulate improvements from their own independent perspectives.

The Department of Developmental Services is the only agency in the Executive Branch that has any role to play in connection with these proceedings. Regional centers have a direct and important function in limited conservatorship cases. However, because DDS is not providing guidance, regulation, and oversight of these functions, the quality of the services in these cases varies significantly among the 21 regional centers. (<http://spectruminstitute.org/rc-report.pdf>)

I will be in Sacramento on March 26 to deliver a presentation at the Public Policy Conference of The Arc of California. Dr. Nora Baladerian and I would like to meet with you and other appropriate DDS personnel the next day to discuss ways in which DDS can take a pro-active role to improve access to justice and to protect the civil rights of people with intellectual and developmental disabilities who are involved in limited conservatorship proceedings.

We would appreciate a morning meeting on March 27 if possible. I look forward to your reply.

Respectfully submitted:

Thomas F. Coleman
Legal Director, Spectrum Institute
tomcoleman@spectruminstitute.org

cc: Brian Winfield, Community Services Division
Rapone Anderson, Regional Center Branch

Enclosure:
[Booklet of Reference Materials](#)



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January 30, 2015

Mr. Santi J. Rogers
Director
Department of Developmental Services
P.O. Box 944202
Sacramento, CA 94244-2020

Re: Request to Amend Regulations on Social Rights

Dear Director Rogers:

Our review of DDS Regulations on "Client's Rights" indicates a need to clarify with more specificity the right of clients to freedom of association. The case of a client at the Westside Regional Center was brought to our attention which caused us to look carefully at the current regulations found in Section 50510 of Title 17 of the California Code of Regulations. (See enclosed copy of this section). A summary of Gregory's Case explains how the constitutional and statutory rights of this young man to freedom of association and freedom of religion have been violated. (See enclosed summary of Gregory's Case.)

The Lanterman Act states unequivocally: "Persons with developmental disabilities have the same legal rights and responsibilities guaranteed all other individuals by the United States Constitution and laws and the Constitution and laws of the State of California." (See enclosed copy of Lanterman Act Statement of Rights.) The Statement of Rights also focuses on "personal liberty of the individual" and "least restrictive conditions," as well as a "right to religious freedom and practice," and a "right to social interaction." It also mentions a client's "right to make choices in their own lives" including "relationships with people in their community" and "leisure" activities.

The Department has promulgated regulations interpreting and implementing the rights mentioned in the Lanterman Act. With respect to the "right to religious freedom and practice" specified in that Act, the regulations explain it in greater detail, stating that it encompasses: "A right to religious freedom and practice, *including the right to attend services or to refuse attendance, to participate in worship or not to participate in worship.*" (Section 50510(a)(4)) The italicized language was placed in the regulations to explain the scope of the statutory language.

An additional phrase should be added to subdivision (6) so that it states "A right to social interaction and participation in community activities, *including the right to associate with specific individuals or not to associate with them.*" We are asking that the italicized language be added to the regulations so that it is abundantly clear that the right to social interaction includes the constitutional right to freedom of association. As the United States Supreme Court once clarified, "Freedom of association . . . plainly presupposes a freedom not to associate." (Roberts v. United States Jaycees, 468 U.S. 609, 622 (1984))

We would like to discuss this request with your staff so that we may learn what additional steps, if any, we need to take to have this regulation amended. Thousands of people with developmental disabilities will benefit from such a regulatory clarification.

Very truly yours,

A handwritten signature in blue ink that reads "Thomas F. Coleman".

THOMAS F. COLEMAN
Legal Director
(818) 482-4485



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June 1, 2014

Mr. Santi J. Rogers
Director
Department of Developmental Services
P.O. Box 944202
Sacramento, CA 94244-2020

Re: Request for a Meeting

Dear Director Rogers:

The Executive Director of our Project, Dr. Nora J. Baladerian, and I would like to meet with you to discuss the ongoing violation of the rights of people with developmental disabilities by the Limited Conservatorship System in California.

As far as we can tell, the Department of Developmental Services does not play a direct role in the administration of that system, nor does it have any monitoring or oversight responsibility. We believe that when the Limited Conservatorship System was created some 30 years ago, the architects of that system made a serious mistake when they did not include any Executive Branch agency, such as DDS, into its operations, even if only as a monitor or quality assurance auditor. They placed too much confidence in the ability of the judiciary to play too many roles in administering justice for people with developmental disabilities who may need the protections of a limited conservatorship.

We are aware that DDS contracts with Regional Centers to provide and coordinate services for people with developmental disabilities, and awards more than a billion dollars a year for this purpose. It appears that only one small aspect of these services involves limited conservatorships – doing a statutorily mandated assessment about the client's capacity to make various decisions. The Department also awards more than \$19 million per year to Disability Rights California, some of which is used for the Office of Client's Rights. Our preliminary investigation suggests that DRC plays virtually no role in protecting the rights of Regional Center clients when they are threatened or violated by the Limited Conservatorship System.

We have reached out to all seven Regional Centers in Los Angeles County, inviting them to participate in our conferences on the Limited Conservatorship System. We also reached out to several people at DRC. The lack of participation by DRC and the limited participation by only a few Regional Centers suggests to us that violations of the rights of limited conservatees is not in the contract of these agencies with DDS.

I am enclosing a copy of a report we recently issued about the myriad problems with the Limited Conservatorship System. Among those problems is the lack of a role for DDS and DRC and the unduly limited role of the Regional Centers. We believe those roles need to be enhanced.

Our Project is eager to meet with you and your staff to discuss the important matters addressed in *Justice Denied*. We look forward to hearing from you soon.

Very truly yours,

A handwritten signature in blue ink that reads "Thomas F. Coleman". The signature is fluid and cursive, with the first name being the most prominent.

THOMAS F. COLEMAN
Legal Director
(818) 482-4485 / tomcoleman@earthlink.net