

**Guardianship  
Respondent/Topic Area /DDSD Respondent**

Public Respondent	Feedback	DDSD Response
8/16/17 Forum	Standards should communicate consistent message that people, verbal/non-verbal, etc. have right to make choices and should be supported to do this in every way possible – e.g.. pic symbols, etc.	DDSD has reviewed the comments regarding the Guardianship Section of the Human Rights Chapter of the proposed new DD Waiver Standards to be issued in January 2018. The decision has been made to remove the guardianship section of this chapter, as DDSD does not have jurisdiction over guardianship regulation. DDSD will post resources for guardianship information, including the Developmental Disabilities Planning Council (DDPC). Office of Guardianship, and the NM Guardianship Association. Please see the new DDSD website for resources regarding guardianship. The reason for the removal of this section is because we do not have jurisdiction over guardianship, instead emphasize DDSD’s role as resource and referral.
8/16/17 Forum	We MUST make sure each person is supported to know what is going on and given opportunity to make decision	See Above
8/16/17 Forum	DO NOT ASSUME a person cannot understand, make choices and contribute!	See Above
8/16/17 Forum	P5- DRNM urges the Department to add a line stating that least restrictive alternatives to guardianship are favored, and that participant independence and choice should be maximized whenever possible. DRNM strongly believes that alternatives to guardianship should be strenuously and explicitly favored in a person centered waiver model, and that a full guardianship should only occur as a very last resort.	See Above
8/16/17 Forum	P6-, DRNM is troubled by the following line in the proposed service standards: “A guardianship change should be considered only as a last resort and only when the guardian is clearly failing to act in the best interests of the individual.” A change in guardianship must always be strongly considered anytime a protected person wants a change in guardianship, period.	See Above

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8/16/17 Forum	P7- there is a list of possible conditions that the IDT will consider for the removal or change of a guardian. In accordance with the paragraph I wrote above, the most important factor-the individual wants to change his or her guardian-must be added to that list.	See Above
8/16/17 Forum	Make sure chapter is consistent with Probate Code	See Above
8/16/17 Forum	Also reviewed by DDPC O of G	See Above
8/16/17 Forum	-The chapter is silent on requirements of providers to contact guardians regarding specific issues like a change in condition etc., use of decision consultation process etc.	See Above
8/16/17 Forum	Is the list on page 7 , D497 requirement of guidelines? Need to flush this out. There is also the ability to write a letter to the judge A45 D46	See Above
8/16/17 Forum	Look at last two sentences on page 6	See Above
8/16/17 Forum	P6 - Make it clear- Removal of Guardian is not a team decision, it is a court decision.	See Above
8/16/17 Forum	Probate Code- Anyone can write to the judge	See Above
8/16/17 Forum	Definition of legal guardianship- clarify	See Above
8/16/17 Forum	wonder that Guardianship was included in the Standards	See Above
8/16/17 Forum	Wonderful that you included guardianship in the standards. Great Job on synthesizing DDSD P&P Directors Releases, etc.. Into the standards	See Above
8/16/17 Forum Poster note	pg. 6 last sentence Make it clear removal of guardian in not team decision- Court Decision	See Above
8/16/17 Forum Poster note	page 8 #7 CYFD	See Above
8/16/17 Forum Poster note	standards are silent	See Above
8/16/17 Forum Poster note	clear understanding Re: reporting to guardian?	See Above
8/16/17 Forum Poster note	use this as reference refer to statute and legal code	See Above
8/16/17 Forum Poster note	issues and inaccuracies e.g.: definition of legal guardian	See Above
8/16/17 Forum Poster note	regulations for modification/ interventions/ rights restrictions	See Above
DRNM	Page 5. Guardianship: In the top paragraph, it is noted that guardianship is only used as necessary to promote and protect the person, and that there are least restrictive alternatives to full guardianship. DRNM urges the Department to add a line stating that least restrictive alternatives to guardianship are favored, and that participant independence and choice should be maximized whenever possible. DRNM strongly believes that alternatives to guardianship should be strenuously and explicitly favored in a person centered waiver model, and that a full guardianship should only occur as a very last resort.	See Above

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DRNM	<p>Page 6. Guardianship and Individuals Best Interest: This section of the proposed service standards states that the guardian should always be acting in the individual’s best interest. It then lists some things DD Waiver service providers must do to accomplish that. Getting input from the individual is listed at #4, and providing information to the individual is #5. Both of these things should be moved to the top of the list, with a line added that it is critical for a provider to seek input from the individual. DRNM asserts that input from the protected person about his or her wishes, thoughts and opinions is the most significant part of determining what is in that individuals best interest. The standards should reflect that.</p>	See Above
DRNM	<p>Page 6 and 7. Change in Guardianship: DRNM emphatically believes that an individual’s desire to change his or her guardian should always be strongly considered, and must often be a key factor necessitating a change in guardianship. For that reason, DRNM is troubled by the following line in the proposed service standards: “A guardianship change should be considered only as a last resort and only when the guardian is clearly failing to act in the best interests of the individual.” A change in guardianship must always be strongly considered anytime a protected person wants a change in guardianship, period. Anything less is not consistent with a person centered waiver model. This part of the standards needs to be significantly changed to reflect the essential nature of the individual’s input, and that the input will be considered and often acted upon.</p> <p>On the top of page 7, there is a list of possible conditions that the IDT will consider for the removal or change of a guardian. In accordance with the paragraph I wrote above, the most important factor-the individual wants to change his or her guardian-must be added to that list.</p>	See Above
survey monkey	<p>I think this is one of the most important topics in the Standards. Having rights and responsibilities in one section, spelled out, is very helpful. This will be one of the chapters that can easily be provided to DSP so they have a better understanding. I think it's great that a section on guardianship is being added. This is very welcome! It will be very easy to give guardians and Individuals a copy of this chapter. Sometimes there are no issues at all between a guardian and person served. Other times, it's deep and complex and frustrating for all. I like that the process for changing guardianship is included with specific information.</p>	See Above
survey monkey	<p>Can there be some clarification related to reporting to guardianship/CYFD The guardianship needs to be looked at- there are some things that are inaccurate and misleading. There is no info related to the probate code and what the actual laws are. Page 7- process for when a guardian is not acting in the best interest of the individual- the teams do not have to follow the outlined process according to the probate code- Page 6- the team has no authority related to the removal of a guardian- the language here needs to be looked at. Standards are silent related to provider responsibility related to notifications to guardians. – this is covered it he chapter for reporting requirements.</p>	See Above
survey monkey	<p>How will this be trained to potential or guardians so they know the scope of this</p>	See Above

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ADDCP	<p>Page 7 – Second paragraph – This section supposedly deals with what to do when a guardian is not acting in the best interest of the individual. Item 1, appears to state that the team decides whether an individual needs a guardian. This is beyond the scope of what an IDT can accomplish. Secondly, if a guardian already exists, this is a legal matter that would need to be taken up by the courts.</p> <p>Second, this entire section puts the onus on the team to confront a guardian that they believe is not acting in the best interest of the individual. Since the guardian has control over choice of providers, choice of services, etc., isn't this something that DDSD should be responsible for? We question the rationale for teams being requested to police the guardianship system in the state.</p>	See Above
ADDCP	<p>Page 8 – First paragraph – item 7 – Please provide better information in this item. Is there a contact number, is this actually true of adult services, what about Adult Protective Services? If CYFD is the correct agency to contact, shouldn't they be the agency responsible for dealing with a guardian that the team has concerns about. If a guardian is not acting in the best interest of the individual doesn't that automatically rise to the level of abuse, neglect, exploitation since the guardian has a legal requirement to operate in the best interest of the individual?</p>	See Above