

Making Alternatives a Reality in North Carolina



Year 2 Progress Update * 7/1/21 to 6/30/22

RG-MAR Covered Much Ground in Year Two

Year Two of Rethinking Guardianship Making Alternatives a Reality (RG-MAR) was a busy year! The year began with a revision of the initiative's Common Agenda. We provided "best practice" training materials to the NC Department of Public Instruction (DPI) and the Division of Aging and Adult Services; created a train-the-trainer PowerPoint presentation with suggested narrative; made numerous presentations; made detailed recommendations to the State Olmstead Plan; produced a video titled An Introduction to Supported Decision-Making plus three additional videos featuring individuals with I/DD and their stories of guardianship and less restrictive alternatives; published twelve educational handouts on less restrictive alternatives to guardianship; published a compilation of the educational materials in "Supporting Choice & Self-Determination in NC: A Guide" in both English and Spanish; analyzed an approach to Supported Decision-Making legislation; and, drafted statutory reform language.

Twelve Educational Handouts

Our website now features downloadable, printable handouts in English and Spanish on twelve options for supporting choice and self-determination. The options include: Supported Decision-Making Formal and Informal; Power of Attorney; Healthcare Power of Attorney; Living Will; Living Trust; Special needs Trust; Simple Financial Tools; Foster Care 18-21; Representative Payee for Social Security Benefits; Fiduciary for Veterans Benefits; and Psychiatric Advance Directives.



Conference Presentations

Linda Kendall Fields and Jonathan Martinis made a presentation at the 2021 Exceptional Children Conference, where their materials were distributed to the 1,550 conference attendees. Linda also presented at the the Statewide DSS Adult Services Meeting with 550 attendees and the MFP Roundtable with 320 attendees

New Training for NC Adult Social Workers & Corporate Guardians

UNC Cares created a new pre-service training on guardianship for the Division of Aging and Adult Services. The training, which is now required for all DSS adult social workers and corporate guardians, includes three on-line, on demand, self-paced modules that begin with the concepts of choice and self-determination, and introduce Supported Decision-Making and other less-restrictive alternatives to guardianship.

Fundamentals of Guardianship: Laying the Foundation A Pre-Service

Created by UNC Cares for the North Carolina Division of Aging and Adult Services 2021

Local Education Agency Benefits from RG-MAR

A Local Education Agency (school district) turned to Rethinking Guardianship for input on their brochure for families about the transfer of rights. RG-MAR was able to suggest best practice revisions.

RG-MAR Contributes to the NC Olmstead Plan

RG-MAR made detailed recommendations to the Olmstead Plan, which was finalized in January 2022. As a result, the plan includes "Exploring other ways, besides guardianship, to help people make decisions" as one of its eleven priorities.

Statute-Writing and -Review Teams Tackle Statutory Reform Language

The RG MAR-NC Statute Team completed a 79-page draft that spells out important reforms to General Statute 35A, the law that governs adult guardianship in North Carolina. The group is continuing to refine this draft with key representatives of the NC Bar, Conference of Clerks of Superior Court, Indigent Defense Services, Administrative Office of the Courts, and others, so that legislation can be introduced during the 2023 long session of the NC General Assembly.

With information and consultation provided by national SDM advocate, Jonathan Martinis, the 35A statute draft lays out changes that will increase choice and autonomy for individuals encountering the guardianship system, and achieves an important objective of the RG MAR-NC grant to "Evaluate state interest and readiness for possible Supported Decision-Making legislation"

Example of track-change edits to General Statute 35A

Chapter 35A, Subchapter 1, Article 1, Section 1. Definitions.

(1) **Adult.** - An individual at least 17 1/2 years of age or an emancipated individual under 17 1/2 years of age.

(2) **Adult guardianship.** - A legal relationship in which a court of competent jurisdiction appoints a person or persons to make decisions on behalf of an adult who lacks adequate decision-making capacity.

(3) **Adult subject to guardianship.** - An adult for whom a guardian has been appointed under this law.

(4) **Clerk.** - The clerk of superior court.

(5) **Designated agency.** - The State or local human services agency designated by the clerk in the clerk's order to prepare, cause to be prepared, or assemble a multidisciplinary evaluation used to perform other functions as the clerk may order. A designated agency includes, without limitation, State, local, regional, or area mental health, intellectual disability, vocational rehabilitation, public health, social service, and developmental disabilities agencies, and diagnostic and treatment centers.

(6) **Financial incapacity.** - The state of incapacity as defined in G.S. 122C-31.4(d).

(7) **Financial report.** - The report filed by the guardian concerning all financial transactions, including receipts and expenditures of the money of the adult subject to guardianship, sale of the property of the adult subject to guardianship, or other transactions involving the property of the adult subject to guardianship.

(8) **Full guardianship.** - A guardianship that grants the guardian all powers available under this Chapter.

(9) **General guardian.** - A guardian of both the estate and the person.

(10) **Guardianship.** - A legal relationship to the court to make decisions with respect to the personal affairs of an individual. The term includes a co-guardianship.

(11) **Guardian ad litem.** - A guardian appointed pursuant to G.S. 1A-1, Rule 17, Rules of Civil Procedure.

(12) **In need of adult guardianship.** - The inability to manage some or all of one's personal affairs, even with the most appropriate decision-making support that can reasonably be provided.

New Guides in English and Spanish!

Our new guides are now available for download and printing from our website. They are also linked to from the State Olmstead Webpage.

New Train-the-Trainer Presentation Available

You're invited to request, adapt and use our 44-slide Power Point presentation "Supporting Choice and Self-Determination" to help us educate stakeholders about less restrictive alternatives to guardianship. Comes with slides, links, and suggested narration.

Profile in Self-Determination: Janie Desmond

Janie Desmond is a member of the Rethinking Guardianship Steering Team. She is also an individual with I/DD. Earlier this year she and her mother met with members of Restorative Justice Durham (RJD) to introduce concept of Supported Decision-Making and discuss how it is complementary to the concept of restorative justice. They recognized that the intersectionality of RJ and SDM is of great relevance to the community. Based upon this introduction, RJD agreed to work with Janie in a RJ process for handling a crime committed against her. Janie had chosen this approach herself. Although the former staff person who had stolen from her was unwilling to meet in a RJ process, Janie was able to face the former staff

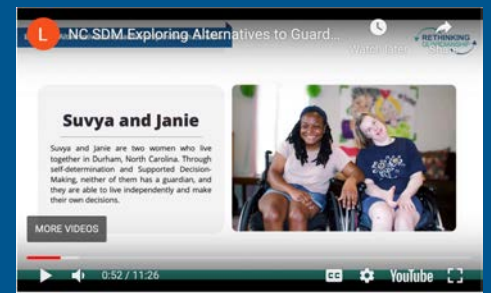
person, accompanied by the RJD team. She told the staff person that she (Janie) in fact had not authorized the removal of money from her account. Janie told her its impact on her mentally, emotionally and financially. Afterward, the RJD team shared that they were so impressed and amazed by Janie's self determining manner of handling this huge personal problem. Well done Janie!



Janie Desmond (left) and her roommate Suya (right)

RG-MAR produced four videos featuring the following stories:

- Janie and Suya and their experience living independently with supported decision-making.
- Jason and his experience regaining his rights after being subject to guardianship.
- Carol and her mother's story of a predatory guardianship.
- Jeremy and his parents and their experience using Supported Decision-Making. Check out these stories on our YouTube channel below!



<https://www.youtube.com/channel/UCh0ojj2IP19ckL5O8ZLuVNg>

Thank you!

RG-MAR By the Numbers

159 members of the RG-MAR Statewide Workgroup

26 individuals on the RG-MAR Steering Team

28 individuals contributing to RG-MAR statute writing work

4 individuals with I/DD participating in RG-MAR

12 families of individuals with I/DD participating in RG-MAR

60 NC Clerks of Court trained on Supported Decision-Making

5,377 unique website views

137 DSS social workers and public guardians enrolled in or completed *Fundamentals of Guardianship* training

2000+ individuals reached through trainings since June 2020

**To our Consultant,
Jonathan Martinis**
Senior Director for Law
and Policy in the Burton
Blatt Institute (BBI) at
Syracuse University



To our Funders at the NC Council
on Developmental Disabilities



To our many Statewide Partners:



And to our Backbone Entity:

