

Report to the Legislative Health and Human Services Committee  
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The Developmental Disabilities Planning Council (DDPC) Office of Guardianship (OOG) provides legal services to income-eligible, alleged incapacitated adults that may need a guardian appointed by the district court. OOG contracts with petitioning attorneys, guardian ad litem (GAL), court visitors (CV), and corporate guardians, to provide probate code guardianship services, pursuant to NMSA 1978, §§ 28-16B-3, 45-5-101 et seq. OOG also contracts to provide treatment guardianship services through the Mental Health Code,

OOG does not have authority when it comes to boarding homes. Once the guardian is appointed, OOG's role is limited. Authority over the guardian is through the Court.

An individual that has a guardian appointed by the Court is referred to as a protected person (PP). There are limited guardianships and plenary guardianships. Once the guardian is appointed, and if the order appointing the guardian grants authority to make decisions regarding residential placement, then the guardian may decide where the individual may live. Keep in mind, that nationally certified guardians through the National Guardianship Association (NGA) are trained to practice informed consent and consider the opinions of the protected person prior to making a decision. In order to have authority over the PP's finances, the guardian has to be granted financial decision making in the order as well. An order appointing a plenary guardian, may include decisions regarding financial, medical, mental health, residential placement, safety, supervision and care of the protected person.

OOG and contracted guardians serve protected persons (PP) that are low income and have very limited resources. A majority of the protected persons receiving services through OOG, only have income from Social Security, ranging from \$300 to \$800 per month. As a result, there are very limited options for housing.

Another issue affecting the type of housing a PP may receive, is often dependent on the individuals' medical conditions. Protected persons on the Developmental Disabilities Waiver and Mi Via Waiver, will be able to obtain housing through that program. However, a protected person that does not qualify for the DDW or Mi Via Waiver, may only be able to afford a boarding home. According to guardians, boarding homes exist throughout the state. The rent paid is to pay for residing at the home and to have food provided.

The DDPC is extremely concerned about the individuals that live in boarding homes. DDPC Office of Guardianship recommends a statutory or regulatory definition for boarding homes, and examination of the Texas law, and how it can be re-drafted to work in New Mexico.