

2018

Certified Professional Guardianship Board



Grievance Report

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CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD GRIEVANCE REPORT 2018

INTRODUCTION

We are pleased to present the 2018 Certified Professional Guardianship Board Grievance Report. We make this report available to all with the goal of increasing public awareness of the grievance process. We hope that the disclosure of these grievances will facilitate understanding of the rules and standards applied and the most common concerns of persons filing grievances.

Pursuant to legislative mandate, the Washington State Supreme Court established a certification process and procedure for professional guardians by promulgating General Rule (GR) 23. GR 23 created a Certified Professional Guardianship Board¹ to implement the activities necessary to develop a process to certify individuals who choose to become professional guardians. The Supreme Court, however, retains primary jurisdiction over the Board and its functions:

- The Supreme Court retains jurisdiction over all professional guardians who practice in the state of Washington. GR 23(b).
- The Supreme Court appoints all members to the Board. GR 23(c)(1)(i).
- The Supreme Court designates the Chair of the Board. GR 23(c)(1)(iii).
- The Supreme Court enters the order certifying an individual or agency as a certified professional guardian. GR 23(c)(2)(v).
- The Board may seek Supreme Court enforcement of an order or subpoena that it issued. GR 23(c)(2)(x)(c).
- The Supreme Court approves the Board's expense budget. GR 23(c)(3).
- The Supreme Court, pursuant to its statutory authority to direct the Administrative Office of the Courts, instructs the Administrative Office of the Courts (AOC) to provide administrative support to the Board and authorizes AOC to contract with other agencies or organizations on behalf of the Board. GR 23(c)(8).
- The Supreme Court extends quasi-judicial immunity to the Board where the Supreme Court would have immunity in performing the same functions. GR 23(c)(5).

The Board is charged with all the substantive duties of certification:

- Processing applications,
- Implementing standards of practice,
- Establishing a training program,
- Adopting regulations for continuing education,
- Approving or denying certification,
- Investigating grievances and issuing disciplinary sanctions.

In any certification program, a grievance process is requisite to maintaining the standards and integrity of the process. The role of the professional guardian is to protect the incapacitated person. By definition, the incapacitated person may not be able to understand or execute the

¹ The Board is a board of the judicial branch and is therefore exempt from compliance with the Washington Administrative Procedures Act. RCW 34.05.010.

actions needed to protect himself or herself. It is vital to protecting the public that a professional guardian's actions be open to review:

The guardian shall recognize that his or her decisions are open to the scrutiny, criticism, and challenge of others. Subject to orders of the court, the guardian alone is ultimately responsible for decisions made by the guardian on behalf of the incapacitated person. (SOP 402.4)

This report summarizes the Board's efforts to investigate grievances received from the public regarding certified professional guardians or certified professional guardian agencies.

THE GRIEVANCE PROCESS

Purpose and Scope

GR 23(a) recites its purpose and scope as:

This rule establishes the standards and criteria for the certification of professional guardians as defined by RCW 11.88.008 and prescribes the conditions of and limitations upon their activities. This rule does not duplicate the statutory process by which the courts supervise guardians nor is it a mechanism to appeal a court decision regarding the appointment or conduct of a guardian.

GR 23(c)(2) outlines in greater detail the duties assigned to the Board in receiving and reviewing grievances:

(viii) Grievances and Disciplinary Sanctions. The Board shall adopt and implement procedures to review any allegation that a professional guardian has violated an applicable statute, fiduciary duty, standard of practice, rule, regulation, or other requirement governing the conduct of professional guardians. The Board may take disciplinary action and impose disciplinary sanctions based on findings that establish a violation of an applicable statute, duty, standard of practice, rule, regulation or other requirement governing the conduct of professional guardians. Sanctions may include decertification or lesser remedies or actions designed to ensure compliance with duties, standards, and requirements for professional guardians.

Structure and Funding

The Supreme Court delegated primary responsibility to the Board to investigate and sanction professional guardians regarding continued certification. The Supreme Court retains primary jurisdiction over professional guardians practicing in the state of Washington. Any Board recommendation of suspension or decertification resulting from a disciplinary proceeding must be filed with the Supreme Court. The Supreme Court must review such a recommendation after consideration of the transmitted record. By written order, the Court may adopt, modify, or reverse the Board's recommendation.

Funds from application fees, annual recertification fees, and any other revenue are used to defray Board expenses. Board members do not receive any compensation for service. Board members are only reimbursed for actual and necessary expenses incurred in the performance of their duties.

The Supreme Court has instructed the Administrative Office of the Courts (AOC) to provide administrative support to the Board. Staff members who provide support to the Board are AOC employees and receive compensation and benefits according to the human resources policies of AOC at large.

How the Grievance Process Works

Knowing how the Board defines a grievance and a complaint is key to understanding the grievance process. Among the many regulations governing the certified professional guardians are the Disciplinary Regulations 500 et seq. These regulations detail the grounds for disciplinary action and the procedures for investigation, review, settlement and hearing.

A “grievance” is a written document filed by any person with the Board, or filed by the Board itself, for the purpose of commencing a review of the professional guardian’s conduct under the rules and disciplinary regulations applicable to professional guardians.

A “complaint” is the document filed by the Board during a disciplinary proceeding for the purpose of bringing the matter before a hearing officer for a factual hearing on the issue of whether or not the professional guardian’s conduct provides grounds for the imposition of disciplinary sanctions by the Board.

If a grievance is not dismissed or resolved without a formal proceeding, it will become a complaint.

Any person may file a grievance with the Administrative Office of the Courts (AOC) regarding a certified professional guardian or a certified professional guardian agency. Grievances may be completed on-line on the Washington Courts website at www.courts.wa.gov, or by submitting a written grievance to AOC.

AOC staff reviews the grievance and makes an initial determination if the Board has jurisdiction over the issues raised. AOC provides the professional guardian or agency identified with a copy of the grievance and requests a response.

To ensure that the Standards of Practice Committee (SOPC), the committee of Board members responsible for supervising the grievance process, has the information needed to determine if a grievance should be dismissed or action taken, AOC may perform other necessary investigation of the grievance. This may include interviewing the grievant, interviewing the professional guardian, and obtaining relevant records or documentation from any person or entity. AOC then reports the results of its investigation to the Standards of Practice Committee (SOPC).²

The SOPC reviews the report and takes action on the grievance. The SOPC may request further action as designated from AOC staff, dismiss the grievance, request that the Board file a complaint, or request that the Board enter into an Agreement Regarding Discipline.

AOC forwards a grievance involving an active guardianship case that is not dismissed by the Board’s disciplinary committee to the appropriate superior court with a request that the court review the matter, take any action necessary including modification, removal of the guardian, and clarification of rights and duties and report to the Board.

² The Standards of Practice Committee is comprised of at least three (3) members of the Board including at least one judicial officer or attorney and at least one certified professional guardian. DR 502.2.2.

An Agreement Regarding Discipline (ARD) is a conditional settlement agreement negotiated between the SOPC and the certified professional guardian (or agency). Once an agreement has been reached, it is presented to the Board in Executive Session for review. The Board then votes to approve or deny the Agreement in open session. The Board's decision is recorded in the meeting minutes. Approved Agreements are posted on the Washington Courts website for public disclosure.

If a settlement cannot be reached, the SOPC may request that the Board file a complaint regarding disciplinary action against the certified professional guardian. Filing of a complaint commences a hearing process not dissimilar to an administrative hearing. Once filed, the complaint is of public record and is posted on the website. All subsequent proceedings are open to the public.

The Administrative Office of the Courts (AOC) contracts with a hearing officer (administrative law judge) to conduct the remainder of the hearing proceedings. The administrative law judge must prepare a written findings of fact, conclusions of law, and recommendations to the Board regardless of the disposition of the matter. The Board then reviews the findings, conclusions, and recommendation and determines what further action to take.

New Guardianship Complaint Procedure for State Superior Courts

In April, 2015 the Washington State Legislature revised RCW 11.88.120 to establish a guardianship complaint procedure for state superior courts. The law went into effect on July 24, 2015. One of the main goals for the change in the law was to make it easier for the public to file complaints. The Administrative Office of the Courts prepared forms to implement the law, so that a complainant in a guardianship proceeding would have direction on how to submit his or her complaint to a court designee. The statute allows submission of complaints by letter, to make it easier for a pro se individual to submit a complaint.

The statute directs a court designee to have the complaint filed and delivered to the court by the next judicial day after receipt of the complaint. Within fourteen (14) days of being presented with a complaint, the court must enter an order to do one or more of several options. These include evaluation of the complaint for merit where it appears indicated.

The statute also provides for the court to dismiss the complaint without scheduling a hearing if the court feels that the complaint is:

- Without merit on its face,
- Is filed in other than good faith,
- Is filed for an improper purpose,
- Is in regards to issues that have already been adjudicated, or
- Is frivolous.

The statute directs the court to direct the clerk of the court to send a copy of an order entered in any court action which addresses a complaint against a Certified Professional Guardian (CPG) to the Certified Professional Guardianship Board. This gives the Board notice of possible violations of the Standards of Practice by certified professional guardians (CPGs).

Initially, the Board received very few court orders resolving guardianship complaints. However, by 2016 the Board began to receive a significant number of complaints about the conduct of CPGs that had been filed with the court, in addition to those that were filed directly with the Board. As a result, the total number of grievances filed in 2016 climbed to 104 (one hundred and four) from 65 (sixty-five) grievances filed in 2015, a sixty (60) percent increase. It should be noted that the

increase in cases is unlikely to reflect any decline in professional conduct by the CPGs, but rather stems from improved procedures, both in making it easier for the public to file its complaints, and in communication between the courts and the Board.

Public Records Procedures

General Rule 31.1

GR 31.1, the Supreme Court's rule governing access to administrative records, was adopted with an effective date of January 1, 2016.

Per GR 31.1, standards for public access to records of the Certified Professional Guardianship Board have been revised to allow for greater access to records concerning grievances filed against certified professional guardians.

A grievance is now open to public access, along with any response to the grievance submitted by the professional guardian or agency, once the investigation into the grievance has been completed or once a decision has been made that no investigation will be conducted. The name of the professional guardian or agency shall not be redacted from the grievance.

New Posting Rule

The Board adopted the following rule for posting grievances and complaints. According to the proposal, dismissed grievances will not be posted. However, these grievances are available by public records request.

For a grievance or complaint that results in discipline to a professional guardian, the grievance or complaint, any response submitted by the professional guardian, the agreement or order imposing discipline, and any order on appeal by the professional guardian, shall be posted for public access on the website for the Administrative Office of the Court.

New CPGB Disciplinary Regulations

The Board significantly revised and reorganized Disciplinary Regulation 500, which documents the Board's process to address alleged violations of statutes, fiduciary duties, standards of practice, rules, and regulations. The regulation review, revision and reorganization should result in a clearer, more comprehensive regulation. The revisions include the following: 1) significant reorganization to achieve a logical order and flow, 2) additional section headings, 3) additional definitions, 4) comprehensive explanation of roles and responsibilities, 5) expanded explanation of procedural rules, 6) expanded explanation of the investigative process, and 7) thoroughly defined grievance/complaint resolutions and sanctions. It should be noted that the types of sanctions were simplified, and the term "Disciplinary Committee" is now used for what has been called "The Standards and Practice Committee".

Washington Legislative Changes Impacting Guardianship

There were no Legislative changes impacting guardianship in 2018. Numerous Legislative changes made in 2017 continue to impact guardianship:

Uniform Power of Attorney Act

The Washington Legislature adopted the Uniform Power of Attorney Act, RCW 11.125. This creates a comprehensive new chapter in Title 11 RCW. Addresses the execution, acknowledgment, termination, revocation, acceptance, and application of powers of attorney, and the designation, reimbursement, compensation, liability, and actions of agents (attorneys-in-fact). Details the authority of agents with respect to real property, tangible real property, stocks, bonds, and financial instruments; banks and other financial institutions, operation of businesses; personal and family maintenance; benefits from governmental programs; retirement plans; taxes; gifts; health care matters; and care of minor children.

A durable power of attorney can be used as a method of avoiding the filing of guardianship. A person concerned about a potential incapacity can sign a durable power of attorney which can be used by the designated agent to manage the above described types of property on behalf of the signor. A guardianship proceeding can be expensive and complicated, and does not provide for designation of the guardian by the person who is subject to the guardianship. The person subject to the guardianship no longer retains control over decision-making regarding his/her property and person, unlike the situation involving the durable power of attorney.

Guardianship Alternatives

The Legislature added a provision requiring the guardianship court to modify or terminate a guardianship when a less restrictive alternative, such as a power of attorney or a trust, will adequately provide for the needs of the incapacitated person. See RCW 11.88.120 (amended). This provision became effective July 23, 2017.

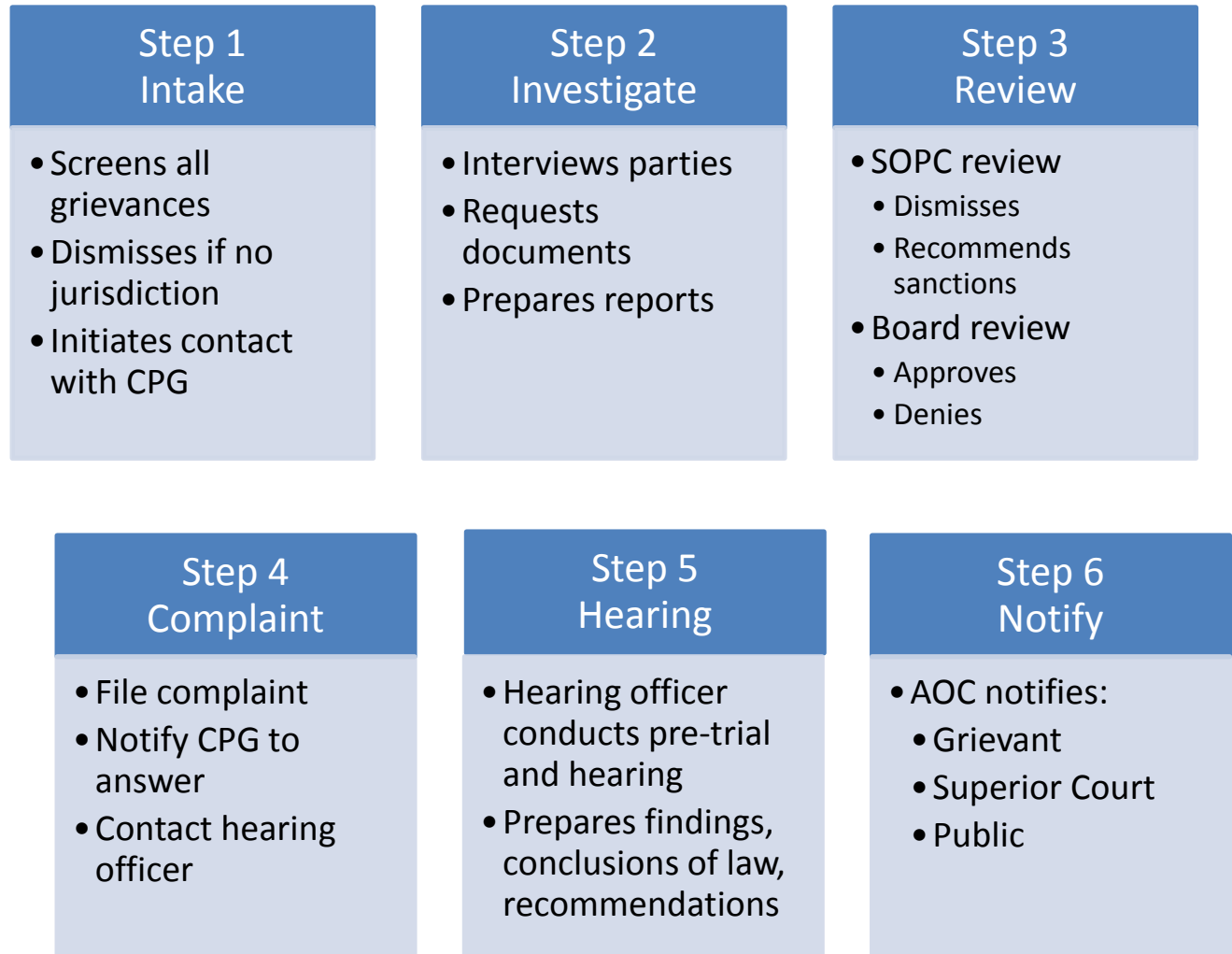
Right of Incapacitated Persons to Associate

Guardians are prohibited from restricting an incapacitated person or other vulnerable adult from exercising their right to communicate, visit, interact, or otherwise associate with persons of the incapacitated person's or vulnerable adult's choosing. RCW 11.92.195 (new section), RCW 74.34.020 (amended).

Notice to be Given of Changes in an Incapacitated Person's Circumstances

A guardian is required to inform certain persons within five business days after the incapacitated person; 1) makes a change in residence; 2) has been admitted to a medical facility for acute care; 3) has been treated in an emergency room setting or kept for hospital observations; or 4) dies.

Flow Chart of Grievance Process



Disciplinary Actions/Sanctions

Any disciplinary sanction against a certified professional guardian or agency is undertaken with only the utmost gravity. A sanction is only appropriate upon a finding of a preponderance of the evidence that the guardian has engaged in professional conduct in violation of an applicable statute, duty, standard of practice, rule, regulation or other requirement governing the conduct of professional guardians, and that conduct caused, or potentially could cause, harm to the incapacitated person, the public, or a legal proceeding. Alternatively, any conduct that adversely reflects on the guardian's fitness to serve as a guardian, such as criminal activities or deceit, may result in disciplinary action or sanctions regardless of actual or potential harm.

Disciplinary Regulations (DR) 509 Disciplinary Sanctions authorize seven types of sanctions to be issued against a certified professional guardian:

- Revocation of certification
- Suspension of certification
- Prohibition against taking new cases
- Reprimand
- Probation
- Other Disciplinary Sanctions as described in DR 509.11
- Restitution

All seven sanctions constitute disciplinary action and are open to public disclosure. If the Board approves of a sanction against a certified public guardian, an announcement of disciplinary action is sent to all superior courts in Washington. The disciplinary action is maintained in the guardian's file and posted on the Washington Courts website at:
http://www.courts.wa.gov/programs_orgs/guardian/

Decertification

Revocation of certification is the most severe sanction. If a professional guardian is decertified, RCW 11.88.008 limits the number of guardianship cases for which a guardian may accept compensation to two (2).

The Disciplinary Regulations describe factors to be considered for revocation of certification:

DR 509.3.1 Revocation may be imposed when a professional guardian:

- 509.3.1.a. Fails to comply with the duties, requirements or prohibitions in the Standards of Practice, or Guardianship Program rules or regulations, or Washington statutes, or the guardian's fiduciary duty; and was previously disciplined with a sanction, remedy or other remedial action by the Board, a court, or a judicial officer; or
- 509.3.1.b. Engages in any act of dishonesty, fraud, deception, conflict of interest, selfishness or misrepresentation that adversely reflects on the guardian's fitness to practice; or
- 509.3.1.c. Engages in gross incompetence, including but not limited to, case tracking, a pattern of late filings, accounting errors, delinquent or late payments of an incapacitated person's or estate's financial obligations; or
- 509.3.1.d. Engages in conduct or misconduct that adversely impacts an incapacitated person in a highly significant manner; or

- 509.3.1.e. Engages in conduct that constitutes any Washington felony that occurs either while performing duties as a guardian or outside those duties; or
- 509.3.1.f. Engages in conduct that constitutes a misdemeanor or gross misdemeanor involving moral turpitude that occurs either while performing duties as a guardian or outside those duties.

To warrant the sanction of decertification, the guardian's actions must have intentionally violated one or more Standards of Practice or other specified regulation. As a fiduciary, a guardian has the duty to act primarily for another's benefit, selflessly, and with undivided loyalty. Conduct intended to benefit his/herself or involving dishonesty, fraud, deceit or misrepresentation may result in revocation of certification.

The new Disciplinary regulations clarify that a guardian may be decertified for gross incompetence. DR 509.3(1)(c). The certification process is to establish a baseline of competency among professional guardians. Professional conduct that falls below such a baseline may be deemed "gross incompetence." In considering whether actions constitute gross incompetence, the Board may apply a "reasonableness" standard.

The regulations also now clarify that a guardian who has demonstrated a pattern and practice of a particular behavior that falls below the Standards of Practice (SOP) may also be decertified for gross incompetence. DR 509.3(1)(c). DR 507.1 authorizes the Disciplinary Committee (Committee) to direct a guardian to take corrective actions where an issue is of minor significance or of a nature not potentially harmful to clients or other persons. However, repeated failure to meet a SOP may rise to the level of gross incompetence.

For example, a guardian may not file an annual report on time. A few instances are likely correctible and unlikely to cause a client harm. The Committee may request that the guardian participate in additional training, audit the guardian's cases on a frequent basis, or set up monitoring by an independent third party for a period of time.

However, if the guardian's conduct persists despite these or other attempts to correct the behavior, the pattern and practice of late filing may arise to the level of gross incompetence and warrant decertification.

Administrative Decertification

Guardians are required to renew their certification annually and complete 24 credit hours of continuing education biennially.

Once the renewal deadline has passed, the Administrative Office of the Courts (AOC) provides a notice to the guardian to comply. In addition to completing the renewal process, the guardian may be required to pay a late fee. Failure to timely complete these actions and file the appropriate applications and disclosures with AOC is a basis for disciplinary action against a guardian for noncompliance. If the guardian fails to comply, the guardian may be decertified upon approval of the Board.

DR 515 Administrative Decertification

If the Board decertifies a professional guardian for an administrative reason, including but not limited to the professional guardian's failure to: pay required fees, satisfy the continuing education requirements, provide proof of insurance or waiver of insurance, or file required information with the Board, any pending disciplinary grievance against the professional guardian may be terminated. Information that a grievance was pending at the time of administrative decertification shall be placed in the guardian's licensing records and shall be available to the public.

Prohibition on Taking New Cases/Suspension

In some cases, an appropriate sanction may be to place limits on the professional guardian's on-going practice. These limitations may be temporary pending a change in the guardian's circumstances or an ongoing limitation or suspension of the guardian's practice.

DR 509.4 Prohibition against taking new cases or suspension for a period of time, or both, is generally appropriate when a professional guardian:

- 509.4.a. Fails to comply with the duties, requirements or prohibitions in the Standards of Practice, or Guardianship Program rules or regulations, or Washington statutes, or the guardian's fiduciary duty; or
- 509.4.b. Engages in conduct that occurs either while performing duties as a guardian or outside those duties, that meets the statutory elements of any Washington gross misdemeanor or misdemeanor, and which adversely reflects on the professional guardian's fitness to practice; or
- 509.4.c. Engages in ordinary negligence in the performance of their duties as a guardian. "Ordinary negligence" is defined in this context as a guardian's failure to exercise reasonable care in the performance of their professional duties; or
- 509.4.d. Engages in conduct or misconduct that adversely impacts an incapacitated person in a manner that is not "highly significant" as defined above.
- 509.4.e. Suspension may be imposed for conduct or misconduct that does not rise to the level of Revocation.

Reprimand

A reprimand typically does not disrupt a guardian's practice; however, it indicates a serious error in a guardian's conduct. Repeated actions that warrant multiple reprimands may rise to the level of gross incompetence and subject the guardian to decertification.

DR 509.9 A letter of reprimand may be imposed when a professional guardian:

- 509.9.a. Fails to comply with the duties, requirements or prohibitions in the Standards of Practice, or Guardianship Program rules or regulations, or Washington statutes, or the guardian's fiduciary duty; or
- 509.9.b. The guardian engages in conduct which does not rise to the level of a Revocation, Suspension or Prohibition Against Taking New Cases.

Probation

Probation is a remedy that will be imposed for a period of time that is not less than six months or more than one year in duration when a professional guardian fails to comply with the duties, requirements or prohibitions in the Standards of Practice, or guardian's fiduciary duty. Probation shall consist primarily of a monitoring function that seeks to ensure the guardian fully complies with any sanctions, remedies or other actions imposed by the Board, a court or a judicial officer, and fully complies with the duties, requirements or prohibitions in the Standards of Practice, Guardianship Program Rules and Regulations, Washington statutes, and the guardian's fiduciary duty.

Other Disciplinary Sanctions as described in DR 509.11

The Board may implement various remedies for the purpose of ensuring the guardian complies with the duties, standards, and requirements of a professional guardian. For example, the Board may prohibit the guardian from taking new cases, or require the guardian complete additional training, attend behavior modification classes or undergo alcohol or drug treatment. The Board may also require monitoring on a periodic basis or mentoring with regular reports back. Finally, the Board may review a guardian's caseload through internal audit.

Restitution

Restitution is the payment of the victim's out-of-pocket expenses directly related to the respondent's misconduct. After a finding of misconduct, a respondent Certified Professional Guardian may be ordered to make restitution to persons financially injured by the respondent's misconduct.

Dismissal

All grievances received by the Administrative Office of the Courts (AOC) are investigated as appropriate. AOC may dismiss grievances in limited circumstances: administratively and for lack of jurisdiction.

AOC may dismiss a grievance for administrative reasons. The most common administrative dismissal occurs because the grievant decides not to pursue the grievance. The withdrawal of a grievance does not mandate administrative dismissal; however, circumstances may indicate that dismissal is appropriate.

Second, the Board's jurisdiction is limited to certified professional guardians or agencies acting in the capacity of a guardian.³ For example, grievances may be filed regarding a guardian ad litem investigation and report. Some certified professional guardians also act as trustees for clients for whom they do not also serve as a guardian. The Board has no jurisdiction to investigate a grievance in these circumstances. If the Board clearly has no jurisdiction, AOC will promptly dismiss the grievance and may notify the entity with jurisdiction.

The most common basis for dismissal is that the guardian's conduct does not rise to the level of a violation of a Standard of Practice. Following AOC's investigation and report, the Committee may dismiss any grievance and is not required to obtain Board approval. However, the Committee may

³ The limited exception is if the guardian's conduct indicates a lack of fitness to be a guardian, such as criminal actions or fraud unrelated to their guardian duties.

present a grievance to the Board if there has not been a clear consensus on dismissal, or the SOPC believes that the Board should be consulted for other reasons.

In some grievances, the Committee determines that a guardian's conduct may not clearly violate a Standard of Practice; however, the guardian's conduct or practice may be improved with additional training, counseling, or other remedial steps. If the guardian complies with the Committee's direction, the matter is then reported to the Board for approval of the correction. If the Board approves of the Committee's actions, the grievance may be dismissed with no sanction reported on the guardian's file.

Alternatively, if the guardian does not comply with the Committee's recommendation, the Committee may reconsider the grievance, request additional investigation, and the noncompliance may constitute an additional factor in whether to proceed to the level of a sanction.

Termination

Termination of a grievance is distinguished from dismissal. Termination is not based on an investigation and determination on the merits of a grievance. A termination of an open grievance serves primarily to conserve the Board's efforts when a CPG is no longer acting as a professional guardian and there is no longer a substantial risk of harm to the public.

A CPG may be decertified for either violation of a Standard of Practice or noncompliance with certification maintenance requirements, including annual certification fee and disclosure, continuing education, or Errors and Omissions insurance requirements.

A CPG may request to be placed on inactive status or to voluntarily surrender his/her certification. The CPG must comply with all statutory and court-ordered requirements for discharge as a guardian prior to completing transition to inactive status or surrender of certification. If a CPG has opted to be on inactive status, or has voluntarily surrendered her or his certification, s/he may not accept any new clients or engage in work as a CPG.

A former CPG may petition for reinstatement or return to active status. At that time, AOC may reinitiate investigation in any Terminated grievance pursuant to DR 504.1.

Grievances at a Glance 2018

In 2018 the Board opened eighty-five (85) grievances. Twenty-three (23) of these cases were dismissed for lack of jurisdiction. Ten (10) cases involved lay guardians and six (6) cases were complaints about a Guardian Ad Litem. Three (3) cases were dismissed because the complaint involved out of state court matters, two (2) cases failed to provide sufficient factual information, and in two (2) cases the Board was unable to determine that a guardianship existed. None of the cases dismissed for lack of jurisdiction involved a Certified Professional Guardian (CPG).

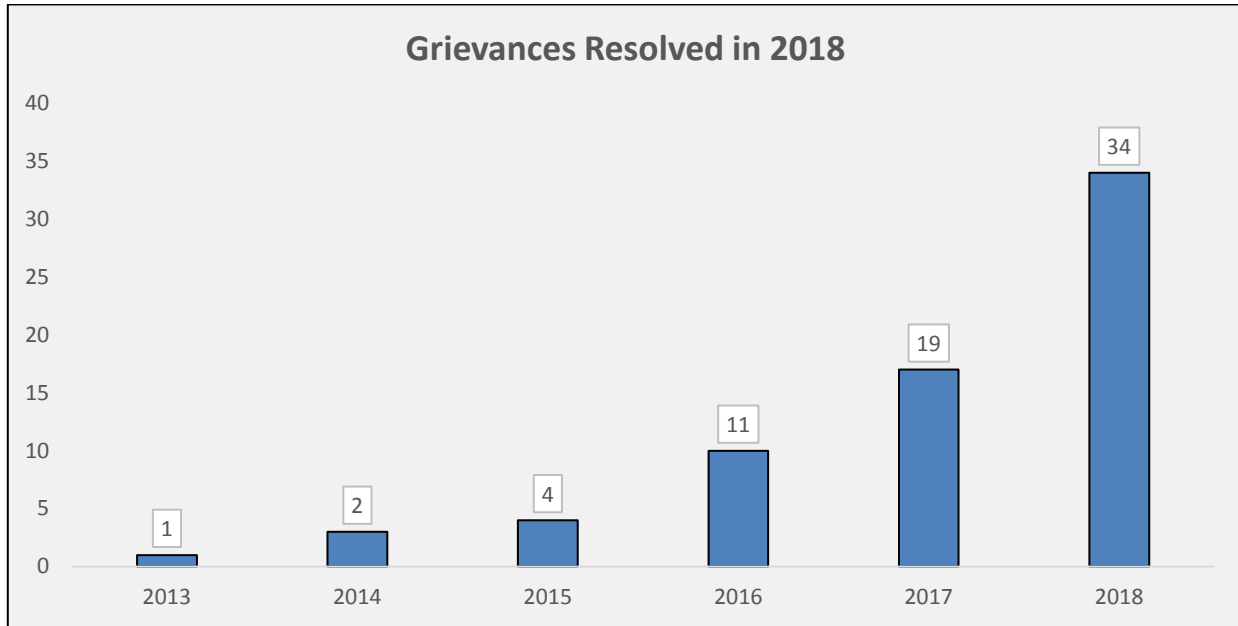
In addition to the cases closed for lack of jurisdiction discussed above, eleven (11) cases were investigated and closed by the end of the year for no actionable conduct. A total of thirty-four (34) grievances opened in 2018 were closed by the end of the year. Fifty-one (51) grievances remain requiring resolution. In 2018 there were two hundred forty-nine (249) active professional guardians in Washington State. Grievances received in 2018 involved thirty-five (35) guardians or guardianship agencies, approximately 14% of the professional guardians in Washington State. Several guardians with multiple grievances in 2018 had additional grievances in other years. ⁴

2018 CERTIFIED PROFESSIONAL GUARDIAN GRIEVANCES

Grievances	2018
Total Opened	85
Total Closed	34
Total Terminated	0
Pending Voluntary Surrender	0
Sanction	0
Total Needing Investigation	51

⁴ A chart showing guardians/guardianship agencies with more than one grievance out of the Board's total pending grievances for 2018 is attached at Appendix B on Page 26.

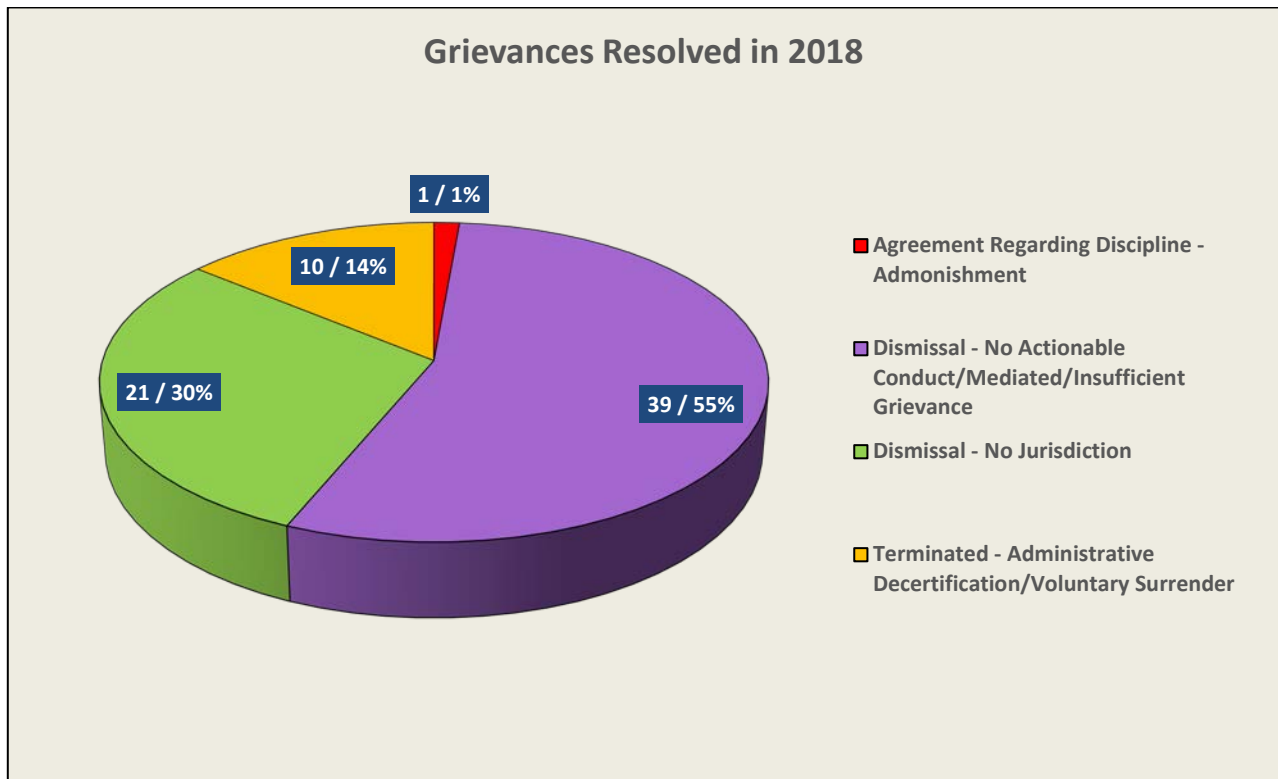
The chart below shows the total number of grievances closed in 2018 by the year opened. Grievances that proceed to hearing require substantially more time to resolve.



Resolution

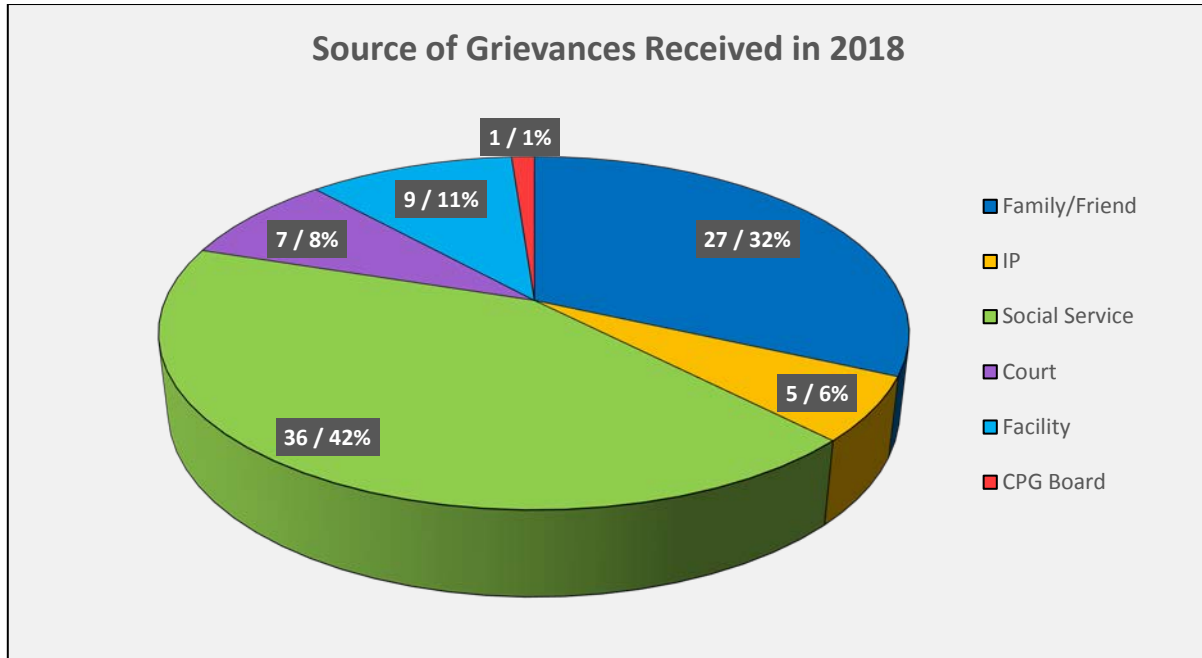
Seventy-one (71) grievances received between 2013 and 2018 were closed in 2018. Sixty (60) of the grievances closed were dismissed; thirty-five (35) for no actionable conduct, twenty-one (21) for lack of jurisdiction, and three (3) were dismissed for failure of the grievant to provide sufficient factual information. One (1) case was dismissed following successful Mediation between the grievant and the guardian. Nine (9) cases were terminated after four CPGs agreed to voluntarily surrender their certifications. One (1) case was terminated when the guardian entered into an Agreement Regarding Discipline with a letter of Admonishment. One (1) case was terminated when the guardian was Administratively Decertified.

Resolution	2013	2014	2015	2016	2017	2018	Total
Dismissal – No Jurisdiction						21	21
Dismissal – No Actionable Conduct		1	2	8	13	11	35
Dismissal – Insufficient Grievance				1		2	3
Dismissal – Mediation			1				1
Agreement Regarding Discipline: Letter of Admonition/Reprimand			1				1
Terminated - Voluntary Surrender	1	1		2	5		9
Terminated - Administrative Decertification					1		1
Total Closed	1	2	4	11	19	34	71



Sources of Grievances.

Any person may file a grievance regarding the conduct of a certified professional guardian. The Board may on its own authority file a grievance against a guardian either as a result of a random audit or concerns that have been brought to the Board's attention.



In 2018, 42% of all grievances were submitted by social services personnel or agencies. This group includes Adult Protective Services (APS), social workers, and medical personnel. The Board refers matters raising the possibility of abuse, neglect or exploitation to APS, which has its own intake and investigation process. Although both APS and the Board are concerned about the protection of vulnerable individuals, their purposes and remedies are different.

The second most common group to submit grievances were family members. A third significant source for grievances is the residential facility in which the Incapacitated Person resides. It is not surprising that the three most common sources with the most frequent and the closest contact with the Incapacitated Person are most likely to see conduct that causes them concern.

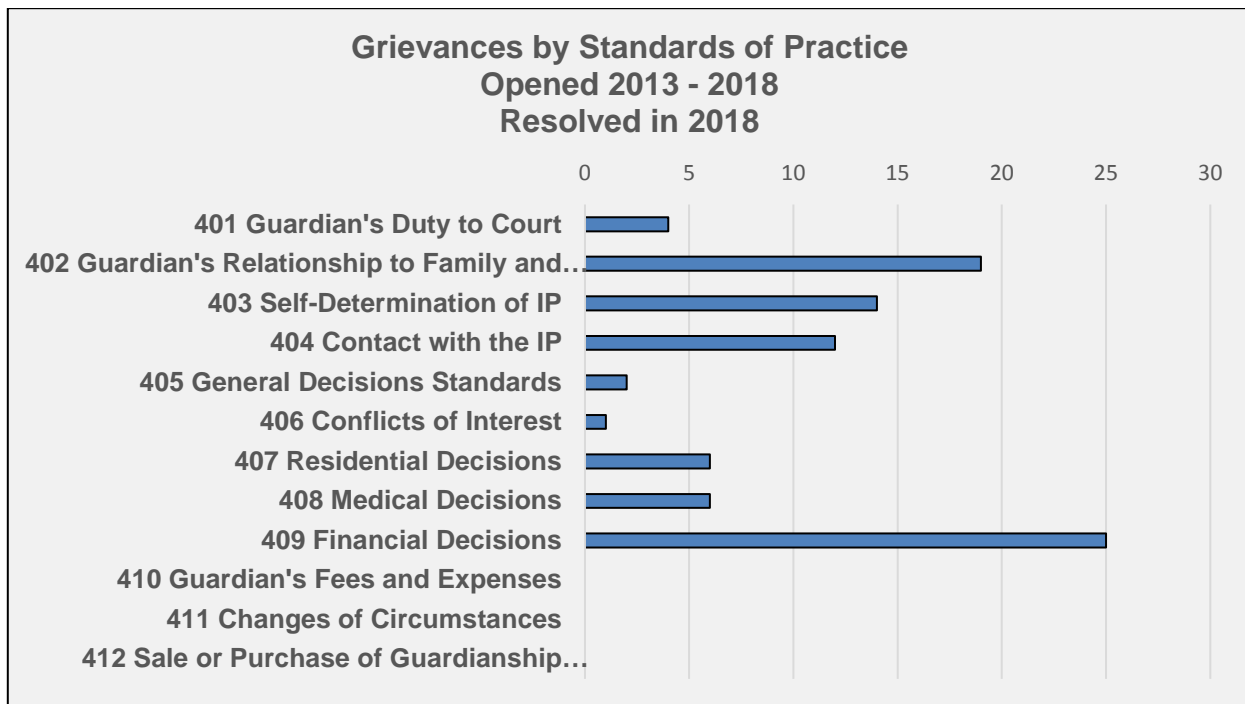
Grievances by Standards of Practice

Grievances are evaluated against the Standards of Practice, which are fairly comprehensive statements of the professional conduct expected from professional guardians. The Standards of Practice may be found in their entirety at:

http://www.courts.wa.gov/content/publicUpload/CPG/20131014_SOP_Regulations.pdf

The Standards of Practice cover the broad range of a professional guardian's responsibilities. In 2018 the two largest number of grievance violations involved either the failure to manage the Incapacitated Person's financial affairs, or for the guardian to work cooperatively with family and friends.

Generally, grievances about financial matters fall into one or more of these subcategories: 1) Mismanagement of the estate; 2) Failure to timely pay bills; or 3) Failure to apply for public benefits. The other significant category of violations arose from the guardian's failure to perform duties and discharge obligations in accordance with applicable Washington and federal law and the requirements of the court. A guardian's duty to the court includes timely filing of all required annual reports to the court, maintaining current letters of guardianship, and timely filing of a designation of stand-by guardian.



Grievance Case Summaries

Pending Disciplinary Action

CPGB 2016-014, 2016-068, 2016-071 and 2017-019. Board is working with the CPG on resolution of four grievances. Allegations of violation of SOP 402.1, 402.2, 402.6, 403.2, 408.4 and 409.1.

Hearings – Pending

Four grievances remain in Pending Hearing status. A hearing officer heard the matter and made recommendations to the CPGB. The CPGB may accept or reject those findings. The CPG has the option of accepting the CPGB's findings, or appealing to the State Supreme Court. The pending matter is discussed below.

CPGB 2012-034, 2013-006, 2015-036, and CPGB 2015-053, [Snohomish County], alleged failure to timely file mandatory reports, file a mandatory Designation of Standby Guardian, to competently manage the property of the IP, to actively promote the health of the IP, to work with previous guardians and family, and to comply with signed Agreement Regarding Discipline. One guardian has been Administratively Decertified, but the other CPGs and the Agency continue their appeal. SOP 401.1, 401.6, 409.1, 402.1 and DR 514.4

Grievances Resolved in 2018

Below are brief summaries of the grievances investigated and closed by the Certified Professional Guardianship Board in 2018.

Agreements Regarding Discipline (sanctions) are of public record and posted on the Washington Courts website at: http://www.courts.wa.gov/program_orgs/guardian/. Although dismissals are subject to public disclosure, they are summarized below without the identity of the guardian.

Administrative Decertification

CPGB 2013-034, 2013-006, 2015-036, 2015-053 [King County], decertified administratively for noncompliance with certification maintenance regulations.

CPGB 2017 038 [Kitsap County], decertified administratively for noncompliance with certification maintenance regulations.

Admonishment/Reprimand

CPGB No. 2015 048 [Whatcom County], reprimanded for failure to give notice to potential notice parties of their right to request special notice, and for failure to timely file a Designation of Standby Guardian. SOP 401.1 and 401.6.

Dismissal

CPGB No. 2014 045 [Kitsap County], alleged failure to respect the IP's residential preferences, to properly manage the IP's medical insurance benefits, and to respect the IP's personal property; dismissed for no actionable conduct. SOP 409.1.

CPGB No. 2015 017 [Pierce County], alleged failure to respect IP's wishes about residency; failure to tell the court about the hearing date; failure to truthfully represent the IP's capacity to the court; and failure to properly manage the IP's money; dismissed for no actionable conduct. SOP 402.1, and 407.

CPGB No. 2015 042 [Clark County], alleged that the CPG had inappropriately used a hospital as a holding ground for an IP without hospital needs, that the CPG had been aware that the IP needed in-home care but did not ensure it, and that the CPG had not promptly pursued Medicaid coverage; dismissed for no actionable conduct. SOP 404.1.4, 407.1 and 409.1.

CPGB No. 2015 063 [Kitsap County], alleged failure to manage finances, including failure to pay bills and respond to Internal Revenue correspondence regarding back taxes; dismissed for no actionable conduct. SOP 409.1.

CPGB No. 2016 007 [Snohomish County], alleged mismanagement of the IP's funds, failure to check on his medical condition and to assist with rehabilitation; dismissed for no actionable conduct. SOP 409.1, 408.4.

CPGB No. 2016 025 [Spokane County], alleged failure to pay for the IP's necessities, including medication and cost of care; dismissed for no actionable conduct. SOP 409.1.

CPGB No. 2016 041 [Clark County], alleged that the CPG had yelled and made pejorative statements to the IP in the hallway; dismissed for no actionable conduct. SOP 402.1 and 403.2.

CPGB No. 2016 043 [Clark County], alleged failure to address IP's medical condition, to pursue public benefits and to pay for the IP's room and board while he was out of state; dismissed for no actionable conduct. SOP 409.1, 408.1.

CPGB No. 2016 053 [Clark County], alleged failure to disburse spending money to IP; failure to return IP's calls; dismissed for no actionable conduct. SOP 402.1.

CPGB No. 2016 070 [Clark County], alleged failure to manage the IP's finances, including allowing occurrence of thousands of dollars in overdraft charges; dismissed for no actionable conduct. SOP 409.1.

CPGB No. 2016 073 [King County], alleged failure to timely comply with mandatory reporting requirements; dismissed for no actionable conduct. SOP 401.1.

CPGB No. 2016 074 [Thurston County], alleged failure for CPG to move the IP out of a hospital into a more appropriate residential setting; dismissed for no actionable conduct. SOP 407.1.

CPGB No. 2016 090 [Thurston County], alleged failure of CPG to give the IP enough expense money for a trip; dismissed for no actionable conduct. SOP 409.1.

CPGB No. 2016 077 [Thurston County], alleged failure of the Limited Guardian of the Estate to provide adequate care for the care of the IP; dismissed for insufficient facts. SOP 401.1.

CPGB No. 2017 011 [Thurston County], alleged failure of the Guardian to provide the IP with requested information regarding her finances; dismissed for no actionable conduct. SOP 403.2.

CPGB No. 2017 015 [Clark County], alleged failure to give hospital advance notice of referral of IP and inappropriate referral of an individual without medical complaints; dismissed for no actionable conduct. SOP 402.1, 407.1, and 408.1.

CPGB No. 2017 026 [Clark County], alleged failure to pay the IP her personal allotment and to pay bills; dismissed for no actionable conduct. SOP 409.1 and 409.4.

CPGB No. 2017 033 [Lewis County], alleged failure to attempt to place the IP in her preferred residential type of facility and to put guardian fees ahead of the interests of the IP; dismissed for no actionable conduct. SOP 406.1 and 407.3.

CPGB No. 2017 034 [Adams County], alleged failure to give the IP her spending money, and to maintain contact with her; dismissed for no actionable conduct. SOP 404.1.1 and 409.1.

CPGB No. 2017 050 [Pierce County], alleged that CPG had misappropriated the IP's \$5000.00 plus tax refund and her cell phone; dismissed for no actionable conduct. SOP 409.1.

CPGB No. 2017 053 [King County], alleged failure to make medical decisions in a timely manner; dismissed for no actionable conduct. SOP 408.1.

CPGB No. 2017 054 [King County], alleged failure to respond to medical concerns for client in end of life situation; dismissed for no actionable conduct. SOP 408.1.

CPGB No. 2017 055 [King County], alleged failure to place the IP in an appropriate residential/treatment facility; dismissed for no actionable conduct. SOP 407.1, 402.1.

CPGB No. 2017 060 [Clark County], alleged that the CPG had stolen a \$9000.00 check from a hiding place in the IP's room and failed to use it for the IP's needs; dismissed for no actionable conduct. SOP 409.1.

CPGB No. 2017 063 [Clark County], alleged that the CPG failed to return the IP's phone calls, did not help him obtain ID, phone service, or move in or closer to his wife; dismissed for no actionable conduct. SOP 402.1, 404.1.2, 404.1.3, 404.1.5, 409.4, and 407.3.

CPGB No. 2017 067 [Clark County], alleged that the CPG was neglecting the IP by not going to medical appointments with her, directing the facility to change administration of prescribed medication doses, and insisting on placing the IP in an inappropriate facility; dismissed for no actionable conduct. SOP 401.1, 402.1, 407.1, 408.1.

CPGB No. 2017 077 [Clark County], alleged that the CPG was not doing everything she could to assist the IP, such as going with him to needed medical appointments, ensuring that he was taking his medications, and helping him retain his possessions and helping him obtain appropriate residential placement; dismissed for no actionable conduct. SOP 402.1, 407.1.

CPGB No. 2017 094 [Clark County], alleged that the CPG did not give IP advance notice before moving him from his residence and did not involve him in residential placement decision-making, and that CPG did not monitor medical condition and ensure that medical information got to providers; dismissed for no actionable conduct. SOP 402.1, 403.2, 407.3, 408.1.

CPGB No. 2018 003 [Skagit County], alleged failure of GAL to fully investigate situation of dependent children in child custody matter; dismissed for no jurisdiction. SOP 401.1.

CPGB No. 2018 004 [Clark County], alleged failure of CPG to allow the IP to see his family members and to pay his bills and provide him with spending allowance; dismissed for actionable conduct. SOP 403.1, 409.1.

CPGB No. 2018 005 [not applicable], alleged failure of a Michigan guardian to respect the IP's preferences in regards to interaction with family and friends; dismissed for no jurisdiction. SOP 403.1.

CPGB No. 2018 006 [King County], alleged failure of the Lay Guardian to pay the IP's bills; dismissed for no jurisdiction. SOP 409.1

CPGB No. 2018 007 [Clark County], alleged failure of CPG to pay bills, provide money for basic needs, and return the family's calls; dismissed for no actionable conduct. SOP 403.1, 409.1.

CPGB No. 2018 009 [Clark County], alleged failure of CPG to provided medical provider with needed information and to treat provider employees with respect; dismissed for no actionable conduct. SOP 402.1.

CPGB No. 2018 014 (Mason County), alleged failure of the Lay Guardian to pay the IP's bills, including participation at the residential facility; dismissed for no jurisdiction. SOP 409.1.

CPGB No. 2018 015 [not applicable], alleged failure of the guardian in an out of state guardianship to note that the guardianship should be terminated due to capacity of the person under guardianship; dismissed for no jurisdiction. SOP 411.1.

CPGB No. 2018 017 [Clark County], alleged failure of CPG to use proper billing and accounting procedures; dismissed for no actionable conduct. SOP 409.1. 410.1.

CPGB No. 2018 021 [Pierce County], alleged failure of GAL to return calls and provide for the IP's needs; dismissed for no jurisdiction. SOP 402.1 and 404.1.

CPGB No. 2018 022 [Snohomish County] alleged failure of GAL to complete a thorough investigation regarding child custody matter; dismissed for no jurisdiction. SOP 401.1.

CPGB No. 2018 025 [Snohomish County], alleged failure of Certified Professional Guardian to return calls of the family; dismissed for no jurisdiction as no guardian had yet been appointed. SOP 401.1.

CPGB No. 2018 026 [Clark County], alleged failure of Lay Guardian to contact the family, and to ensure proper health care; dismissed for no jurisdiction. SOP 402.1, and 408.1.

CPGB No. 2018 028 [Clark County], alleged failure of CPG to notify the family regarding the IP's medical condition, including hospitalizations; dismissed for no actionable conduct. SOP 402.1.

CPGB 2018 032 [Clark County], alleged failure of the CPG to respond to the facility regarding the IP's increased level of care and nonpayment of the care bill; dismissed for no actionable conduct. SOP 402.1, 409.1.

CPGB No. 2018 035 [Clark County], alleged that CPG interfered with the IP's visitation with his family and with his outings with AFH staff and directed the AFH to administer medication contrary to the physician's instructions; dismissed for no actionable conduct. SOP 402.1, 402.6 and 403.1,

CPGB No. 2018 036 [Pierce County], alleged failure of Lay Guardian to apply for public benefits for the IP, and to properly manage IP's finances; dismissed for no jurisdiction. SOP 409.1.

CPGB No. 2018 037 [Clark County], alleged lay guardian gave grievant a notice to terminate tenancy breaching a contract, lay guardian has grievant's ex-husband's phone number and intends to call her ex-husband, lay guardian does not respect family dynamics; dismissed for no jurisdiction. SOP 400, 402.2 and 405.1.

CPGB No. 2018 039 [Clark County], alleged that the CPG had not returned needed forms to apply for benefits for the IP despite several requests, that the CPG had proposed moving the IP with Alzheimer's to another facility which would have been very disorienting for her, and that the facilities were giving notice to the CPG first regarding medical events; dismissed for no actionable conduct. SOP 402.1, 409.7, and 407.6.

CPGB 2018-040 [Whatcom County] alleged failure of GAL to communicate, charging for meeting that did not occur, failure to visit; dismissed for no jurisdiction. SOP 400, 402.2 and 404.1.

CPGB 2018-043 [Whatcom County] alleged failure of a Guardian ad Litem to return calls and emails from facility to arrange moving the IP to a more appropriate facility; dismissed for no jurisdiction. SOP 407.1 and 402.1.

CPGB 2018-047 [Clark County] alleged failure of a CPG to pay the IP's bills; dismissed for no actionable conduct. SOP 409.1.

CPGB 2018 054 [Marin County, NM], alleged failure of a guardian to allow a parent access to their child; dismissed for no jurisdiction. SOP 403.1

CPGB 2018-055 [Clark County] alleged failure of CPG to apply for food stamps with due diligence, and to pay for better eyeglasses for the IP; dismissed for no actionable conduct. SOP 409.7 and 409.1.

CPGB 2018 060 [Cowlitz County] alleged failure of the Lay Guardian to complete mandatory guardianship paperwork or attend to the IP's basic needs; dismissed for no jurisdiction. SOP 401.1.

CPGB 2018-061 [Pierce County] alleged failure of Lay Guardian to respond to service providers or comply with requests related to residence and medical need; dismissed for no jurisdiction. SOP 401.1 and 402.1.

CPGB 2018 062 [King County], alleged that the Lay Guardian was making false complaints that the staff in the facility were harming the IP; dismissed for no jurisdiction. SOP 402.1.

CPGB 2018 065 [Pierce County], Parent in custody matter complained that the Guardian ad Litem was telling him one thing and then changing her mind and recommending another, and that she was making her recommendations based on bias rather than facts; dismissed for no jurisdiction. SOP 401.2.

CPGB 2018 068 [Snohomish County], alleged that the CPG was not complying with her duties; dismissed for insufficient facts. SOP 401.1.

CPGB 2018 072 [King County], alleged that the CPG agency was acting in a guardianship after being replaced by a Successor Guardian, that the agency was improperly doing business both as a profit and non-profit business and was not accurately registered with the Department of Licensing; dismissed for insufficient facts. SOP 401.1.

CPGB 2018 075 [Clark County], alleged that the CPG cancelled the IP's medical appointments and refused to explain the IP's finances to her; dismissed for no actionable conduct. SOP 403.2.

CPGB 2018 077 [King County], alleged that the GAL failed to treat the IP with respect, and had falsely advised him that he was not representing him when he was an attorney of record with the court; dismissed for no jurisdiction. SOP 403.2.

CPGB 2018 083 [Grant County], alleged that a lay guardian was not providing a child with proper care due to alcoholism; dismissed for no jurisdiction. SOP 401.1.

CPGB 2018 085 [Clark County], alleged that the lay guardian had improperly refused to honor a family's arrangements to bury the IP with her deceased daughter and was not informing the family regarding actions taken; dismissed for no jurisdiction. SOP 402.1.

Dismissal (Mediation)

CPGB 2015-044 [Whitman] Alleged failure of Guardian to assist with moving IP closer to sister (grievant). SOP 402.2, 403.3.

Voluntary Surrender Terminations

CPGB 2013 029 [Stevens County], terminated following voluntary surrender by the Certified Professional Guardian.

CPGB 2014-007 [Spokane County], terminated following voluntary surrender by the Certified Professional Guardian and Guardianship Agency.

CPGB 2016 015 [Spokane County], terminated following voluntary surrender by the Certified Professional Guardian.

CPGB 2016-056 [Spokane County], terminated following voluntary surrender by the Certified Professional Guardian and Guardianship Agency.

CPGB 2017-031 [Snohomish County], terminated following voluntary surrender by the Certified Professional Guardian.

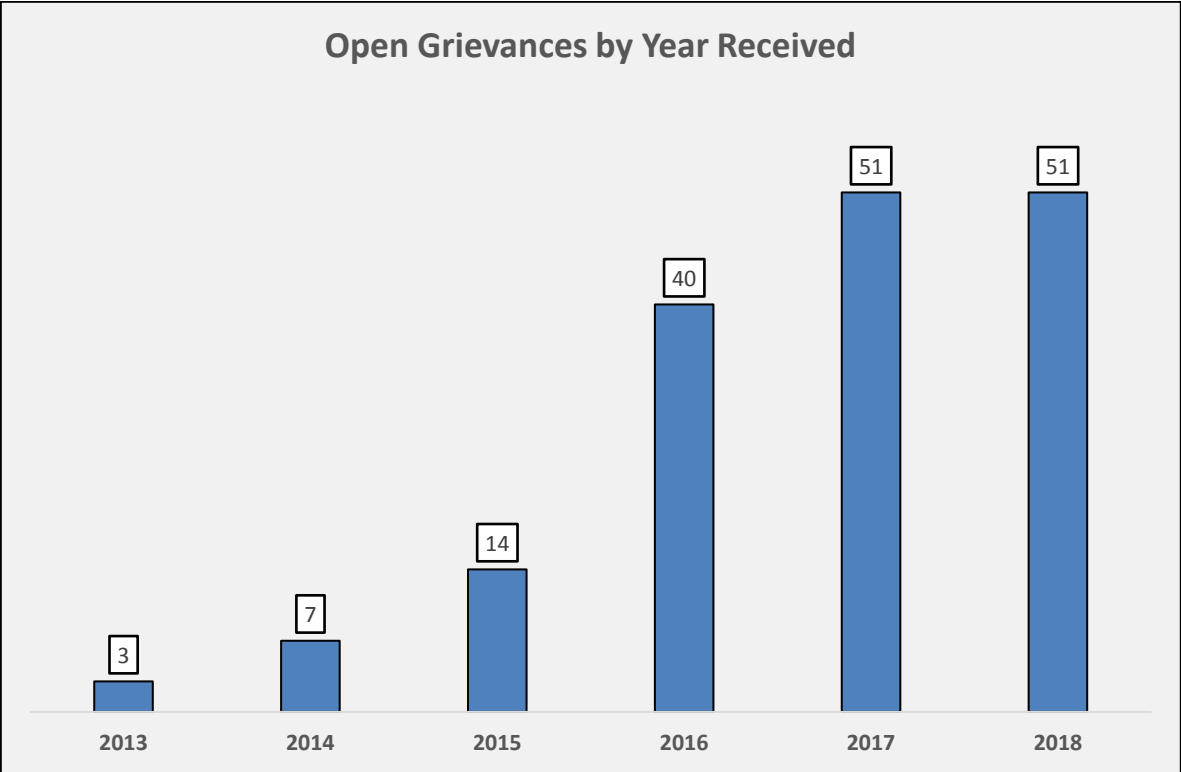
CPGB 2017 043 [Spokane County], terminated following voluntary surrender by the Certified Professional Guardian.

CPGB 2017-046 [Spokane County], terminated following voluntary surrender by the Certified Professional Guardian and Guardianship Agency.

CPGB 2017-048 [Spokane County], terminated following voluntary surrender by the Certified Professional Guardian and Guardianship Agency.

CPGB 2017 097 [Benton County], terminated following voluntary surrender by the Certified Professional Guardian.

Appendix A



Appendix B

