

2021

Certified Professional Guardianship Board



Annual Report

Certified Professional Guardianship Board 2021 Annual Report

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“The judicial branch is responsible for the delivery of justice and those of us who work in the branch are stewards of justice.” - Steven C. González, Chief Justice

INTRODUCTION

We are pleased to present the 2021 Certified Professional Guardianship Board's Annual Report. We make this report publicly available with the goal of increasing awareness of the work of the Certified Professional Guardianship Board and the Administrative Office of the Court's Office of Guardianship and Elder Services.

The Washington State Supreme Court has authority over guardianship practice in the state, as professional guardians are officers of the court. The Supreme Court established a certification, regulation and discipline framework for professional guardians and related agencies by promulgating General Rule (GR) 23. GR 23 created the Certified Professional Guardianship Board (Board) to implement processes to certify, regulate and discipline individuals who choose to become professional guardians. Amendments to GR 23 were adopted by the Supreme Court in anticipation of the January 1, 2022 effective date of most sections of the Uniform Guardianship, Conservatorship and Other Protective Arrangements Act ("UGA"). Going forward, the Board is titled the "Certified Professional Guardianship and Conservatorship Board" to reflect the authority of the Board over the guardianship and conservatorship profession.

GR 23(a) cites the purpose of the rule as:

This rule establishes the standards and criteria for the certification of professional guardians and conservators as defined by RCW 11.130.010 (26) and prescribes the conditions of and limitations on their activities. This rule does not duplicate the statutory process by which the courts supervise guardians and conservators nor is it a mechanism to appeal a court decision regarding the appointment or statutory duties of a professional guardian or conservator.

The Supreme Court retains primary jurisdiction over the Board and its functions, including:

- The Supreme Court retains jurisdiction over all professional guardian and conservators 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 and conservator. GR 23(c)(3)(v).
- The Board may seek Supreme Court enforcement of an order or subpoena that it issued. GR 23(c)(3)(x)(c).
- The Supreme Court approves the Board's expense budget. GR 23(c)(4).
- 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)(9).
- 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)(6).

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

- 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 order to facilitate the discharge of the duties delegated by the Supreme Court, the Board, through its bylaws and regulations, has created several Committees charged with overseeing specific Board duties and providing input and expertise to the Board on these areas. During 2021, the following four Board Committees were active:

- Applications Committee
- Education Committee
- Regulations Committee
- Standards of Practice Committee

The Board took steps in 2021 to create a Diversity, Equity and Inclusion Committee to facilitate the Board's goals in this sphere.

The Office of Guardianship and Elder Services, within the Administrative Office of the Courts, is directed by the Supreme Court, to provide administrative staff support to the Board and its Committees.

The Board implemented a more frequent meeting schedule starting October, 2021. The Board meets every month of the year to enable the Board to meet timelines under the UGA.

WASHINGTON 2021 LEGISLATIVE CHANGES IMPACTING GUARDIANSHIP

Uniform Guardianship, Conservatorship and Other Protective Arrangements Act

The legislature enacted several technical amendments to the Uniform Guardianship, Conservatorship and Other Protective Arrangements Act (“UGA”), primarily to align dates within the law with the effective dates of various sections of the UGA.

Health Care Informed Consent

The health care informed consent statute for individuals unable to provide consent was amended to clarify certain provisions previously revised as part of the 2020 Uniform Guardianship, Conservatorship and Other Protective Arrangements Act amendments.

A person who is of the age of consent to make a health care decision is presumed to have capacity. The presumption of capacity may be overcome if the health care provider reasonably determines the person lacks capacity to make a particular health care decision due to a demonstrated inability to understand and appreciate the nature and consequences of a health care condition or proposed treatment, and the health care provider documents the basis for the determination in the medical record. For the purpose of providing informed consent, terminology referring to persons who are placed under a guardianship and to persons who are competent, or not legally competent, to make health care decisions is replaced with terminology that refers to the individuals as persons who do or do not have the capacity to make health care decisions.

Uniform Electronic Wills Act, Uniform Fiduciary Income and Principal Act, and Uniform Powers of Appointment Act

The legislature enacted Senate Bill 5132 pertaining to electronic wills, fiduciary income and principal, and powers of appointment. The legislation incorporated uniform acts on these three topics.

The Uniform Electronic Wills Act amends Chapter 11.12 RCW and permits testators to execute an electronic will and allows probate courts to give electronic wills legal effect. The act retains core formalities of writing, signature, and attestation, but makes them executable electronically. An electronic will must be: (i) a record that is readable as text at the time of signing; (ii) signed by the testator or another individual in the testator's name, in the testator's physical presence, and at the testator's direction; and (iii) signed by at least two competent witnesses at the testator's direction or request and in the physical or electronic presence of the testator. The act states who may be a qualified custodian of an electronic will and their legal duties to deliver the electronic will and make an affidavit relating to those duties.

The Uniform Fiduciary Income and Principal Act governs fiduciary duties in trusts and estates. A fiduciary shall act in good faith based on what is fair and reasonable to all beneficiaries. A fiduciary may convert an income trust to a unitrust or a unitrust to an income trust. A fiduciary may adjust between income and principal if the fiduciary determines the exercise of the power to adjust is necessary to administer the trust or estate. A governing law section addresses jurisdictional disputes.

The Uniform Powers of Appointment Act defines donor, powerholder, and power of appointment. A power of appointment means a power that enables a powerholder acting in a non-fiduciary capacity to designate a recipient of an ownership interest in, or another power of appointment over, the appointive property. The term does not include a power of attorney. Statutory authority for the creation, revocation, and use of powers of appointment is provided. The exercise of powers by the powerholder and the distribution of property is outlined. It also addresses the release of those powers and the rights of creditors.

Civil Protection Orders

The legislature passed Engrossed Second Substitute House Bill 1320 regarding Civil Protection Orders. This law consolidates all six civil protection order case types under a single chapter (domestic violence, sexual assault, stalking, anti-harassment, vulnerable adult and extreme risk protection orders). It provides general uniformity in rules and procedures across protection order types, modernizes processes and provides for the creation of a single petition that may be used to file for any type of protection order. It also authorizes hearings to be conducted in person or by telephone, video or other electronic or remote means. It adds provisions governing electronic submission of petitions and case tracking by parties. It allows service by electronic means in certain circumstance. Vulnerable adult protection orders will be subject to this uniform civil protection order process starting July 1, 2022.

APPLICATIONS COMMITTEE: 2021 AT A GLANCE

GR 23 establishes the standards and criteria for the certification of professional guardians.¹ Every individual, or agency, desiring to be certified as a CPG must submit an online application to the Certified Professional Guardianship Board (Board) and must satisfy all requirements set out in the Board Application Regulations.

Individual CPG Requirements

GR 23 and Board certification requirements for individual certification include having a high school degree or GED equivalent, possessing a requisite number of years of experience transferable to the work of a guardian including decision-making for the benefit of others; passing background checks; demonstrating financial responsibility and successfully completing a training program approved by the Board. Additionally, applicants must also meet the qualifications set out in RCW 11.130.²

Education

Applicants are required to have a minimum high school degree or GED equivalent. The level of the degree determines the minimum number of full years of experience, transferable to providing guardianship services, required for certification: High School or GED equivalent five years, AA four years, BA/BS two years, Masters, J.D. Ph.D. or equivalent, one year.³

Transferable Experience

In addition to possessing the requisite number of full years of work or volunteer experience transferable to providing guardianship services, a component of the experience must include decision-making for the benefit of others in the area of legal, financial, social services, healthcare or other disciplines pertinent to the provision of guardianship services.

Background Checks

After requesting and receiving an applicant's consent, four background checks are conducted: Adult Protective Services, Department of Children, Youth & Families, Washington State Patrol, and FBI. In reviewing the background checks, the Board has discretion to consider an applicant's explanation concerning circumstances related to history reported in the background checks.

¹ CPG Agency certification is not included in this summary because regulations direct that AOC staff approves CPG Agency applications. Information regarding CPG Agency certification requirements can be found in GR 23 (d)(2) and Board Regulation 100.

² In addition to the requirements set out in GR 23 and the Board Application Regulations, RCW 11.130 requires that an individual applying for CPG certification be at least 21 years of age, be of sound mind and have no convictions of a crime relevant to the functions the individual would assume as a guardian or conservator.

³ GR 23 requires "full" years (full time) transferable experience.

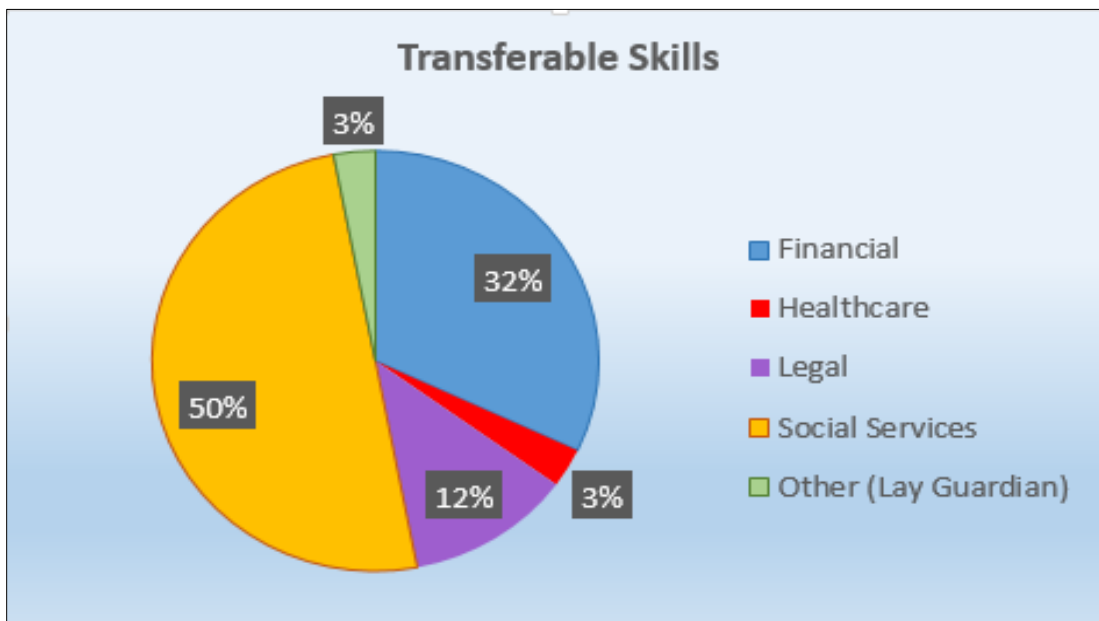
Financial Responsibility

Applicants are required to demonstrate financial responsibility based on a FICO credit score and a credit report. FICO scores of 700 or higher are deemed to meet the financial responsibility requirement.

FICO scores between 650 and 699 require Board review of an applicant's full credit report and an applicant's explanation regarding circumstances concerning their credit and negative report indicators. If a score falls into the 650-699 range, the Board has discretion to determine whether or not the financial responsibility requirement is met. Scores below 650 are deemed not to meet the requirement.

Individual Certification Process

The Applications Committee meets monthly to review completed applications and make recommendations to the Board to approve, conditionally approve or deny applications. Committee recommendations also identify the transferable skills category (or categories) applicable to each applicant. GR 23 provides the following list of transferable skills categories: social services, financial, legal, healthcare and other. The chart below shows the percentage of transferable skills applicable to applicants reviewed by the Board in 2021.⁴



The Committee recommends Board approval of an application when all certification requirements have been satisfied, including successful completion of the training program required by the Board. Conditional approval is recommended when all certification requirements have been satisfied with the exception of successful completion of the required training. If denial is recommended, denial must be based on specific findings.

⁴ Social Services 50%, Financial 32%, Legal 12%, Healthcare 3%, Other (Lay Guardian) 3%.

The Board reviews applications at each regularly scheduled meeting⁵. Recommendations for approval are sent to the Washington State Supreme Court for approval, entry of an Order of Certification, and issuance of a CPG Certificate. Recommendations for conditional approval are forwarded to the Court after successful completion of the required training. Recommendations for denial are appealable to the Board.

In 2020, the University of Washington placed the Certificate in Guardianship Program on hiatus for one year. The Program was paused in order to update the curriculum, including incorporating Uniform Guardianship, Conservatorship and Other Protective Arrangements Act (UGA) changes and transitioning the Program to an on-line training available statewide.

On June 8, 2020, the Certified Professional Guardianship Board voted to allow individuals applying to become Certified Professional Guardians the opportunity to meet the GR 23 training requirement by either completing an Alternate Training process during the hiatus, or deferring training until the UW Program resumed in September 2021. The Alternate Training process was an option for applicants applying between June 8, 2020 and December 31, 2020. In addition to completing the Alternate Training process, applicants were required to meet all GR 23 qualifications and CPGB regulation requirements for certification.

The Alternate Training process required applicants to: (1) successfully pass the Center for Guardianship Certification (CGC) National Certification test by June 30, 2021, and (2) attend a two-day training focused on WA State guardianship law with curriculum oversight by the Board's Education Committee.

Twenty-six (26) applicants pursued the Alternate Training process and attended the two day training focused on Washington State guardianship law. Sixteen (16) applicants successfully completed both required components. Four (4) eligible applicants opted not to pursue the Alternate Training process and wait until the UW Program resumed in September 2021.

2021 Certification Related information

- 48 application packets were reviewed by the Board: 8 approvals, 35 conditional approvals, 5 denials
- 25 CPGs were certified by the Washington Supreme Court⁶
- 17 individual CPGs and 1 CPG Agency voluntarily surrendered certification⁷
- 7 individual CPGs were administratively decertified for non-renewal of certification and/or non-compliance related to continuing education

⁵ The Board met a total 11 times in 2021. It did not meet in February or July, but met twice in December.

⁶ Although the Board only approved 8 applications in 2021, the Washington Supreme Court certified 25 new CPGs. Of the 25 Court certifications, 1 applicant was conditionally approved in 2019, 7 were conditionally approved in 2020 and 9 were conditionally approved in 2021, conditional on the completion of mandatory training in 2021.

⁷ The primary reasons for voluntary surrenders were planned retirement and serious health issues.

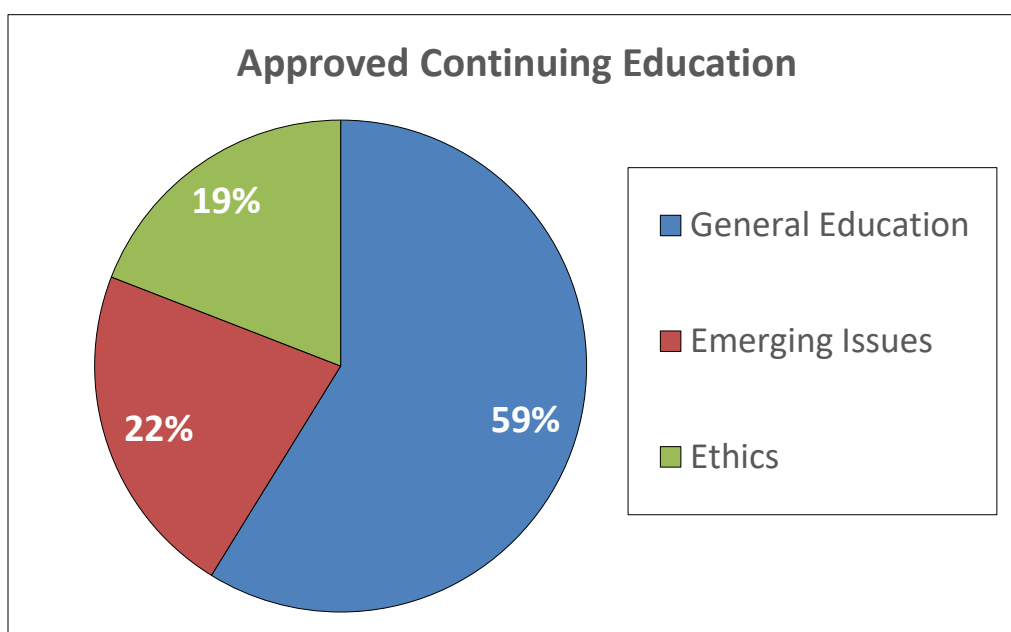
EDUCATION COMMITTEE: 2021 AT A GLANCE

GR 23(c)(2)(vii) grants the Board the authority to adopt and implement regulations concerning continuing education for professional guardians. The Board requires all professional guardians to complete a minimum of twenty-four (24) credit hours of approved education during each biennial reporting period. Of these twenty-four credit hours, there are at least four (4) ethics and four (4) emerging issues credits. Failure to comply with the Board's continuing education requirements may result in a professional guardian being administratively decertified⁸.

The Board's Education Committee is tasked with overseeing the Board's continuing education regulations and requirements. This includes approving continuing education courses and ensuring that professional guardians comply with the Board's continuing education reporting requirements. The Education Committee also has the authority to modify or waive any of the Board's continuing education requirements for undue hardship, infirmity, or other good cause.

In 2021, twenty-nine (29) courses were approved by the Education Committee for Continuing Education credits, for a total 150.5 course presentation hours.

Of the total 150.5 course presentation hours, General Education credits accounted for 88.5 hours, 33.25 hours were on Emerging Issues, and 28.75 hours were on Ethics.



⁸ In 2021, two certified professional guardians were administratively decertified for not completing the continuing education credit hours requirement.

REGULATIONS COMMITTEE: 2021 AT A GLANCE

The Regulations Committee met forty-six (46) times in 2021 as it undertook the considerable task of updating all of the Board's regulations ahead of January 1, 2022, the effective date of the UGA's provisions on adult guardianship and conservatorship. The Committee's work was assisted by input from Standards of Practice Committee members.

The Committee proposed drafts to the full Board amending every series of Board regulations, including: Administrative, Applications, Continuing Education, Standards of Practice, Disciplinary Regulations, Procedure for Adoption, Amendment and Repeal of Regulations, and Certification Maintenance. The Committee incorporated many stakeholder comments to the proposed regulations upon remand from the Board's notice and comment process. Due to the magnitude of UGA impacts, particularly with respect to the Standards of Practice Regulations, Disciplinary Regulations and Applications Regulations, the scope of the Committee's work was broad and complex.

STANDARDS OF PRACTICE COMMITTEE - GRIEVANCE PROCESS

One of the key duties delegated by the Supreme Court to the Board is the duty to promulgate and enforce standards of practice and to ensure that certified professional guardians comply with all applicable statutes, fiduciary duties, standards of practice, rules, and regulations. GR 23(c)(2) sets out the duties of the Board in receiving and reviewing grievances against professional guardians:

(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.

Although the Supreme Court, through GR 23, has delegated primary responsibility to the Board to receive, investigate, and discipline professional guardians for violations of applicable statutes, fiduciary duties, standards of practice, rules, or regulations, the Supreme Court retains primary jurisdiction over all 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.

Disciplinary Regulation 500 (DR 500) et seq. contains the Board's rules and procedures relating to the investigation, review, and resolution of grievances against professional guardians.

Opening a Grievance

A "grievance" is a written document filed by any person with the Board, or filed by the Board, Standards of Practice Committee, or the AOC itself, for the purpose of commencing a review of the professional guardian's conduct under the rules and disciplinary regulations applicable to professional guardians. Grievances may be submitted online on the Washington Courts website at www.courts.wa.gov, or by submitting a written grievance to AOC.

Within one week of receiving a grievance, AOC investigation staff conducts an initial review of the grievance to determine whether the Board has jurisdiction and if the grievance alleges facts that, if proven true, could constitute a violation of a law, regulation, rule, or standard that applies to the conduct of a professional guardian or guardianship agency. If AOC staff determine that the grievance alleges a possible violation, and that the Board has proper jurisdiction over the grievance, AOC staff then provides the professional guardian or agency identified in the grievance with a copy of the grievance and an opportunity to respond to the allegations. Generally, a professional guardian or agency will have at least one month to provide a response to a grievance.

Grievance Investigations

Following the initial determination that a grievance meets the Board's jurisdictional requirements, AOC staff investigates the grievance and provides the Board's Standards of Practice Committee with the evidentiary information obtained. AOC staff then presents it to the Committee to determine how it should be resolved.

Investigative activities typically include a review of materials provided to the Board by both the grievant and the professional guardian. It may also include a review of other relevant documents, and interviews with other individuals who may have knowledge of the issues alleged in the grievance, including the incapacitated person.

A professional guardian has a duty to cooperate with a Board investigation into the professional guardian's conduct as well as a duty to promptly furnish information requested by the Board.

Standards of Practice Committee Review

After the completion of the investigation into a grievance, the Standards of Practice Committee reviews the information collected during the investigation and determines whether there has been a violation of the Board's Standard of Practice or an applicable law, rule, regulation, or duty related to the conduct of a professional guardian. If the Committee finds that no violations have occurred, the Committee will dismiss the grievance. However, if the Standards of Practice Committee finds, by a preponderance of the evidence, that a violation has occurred, the Committee will then determine what action should be taken to resolve the grievance. The Committee may recommend the Board file a complaint against the professional guardian or agency, recommend the Board enter into an agreement regarding discipline with the professional guardian or agency, or issue an advisory letter.

Complaint Process

In order to resolve a grievance, the Standards of Practice Committee may request that the Board file a complaint regarding disciplinary action against the certified professional guardian or agency. Filing a complaint commences a hearing process similar to an administrative hearing. However, a Board disciplinary hearing is governed by the Board's Disciplinary Regulations and not the Administrative Proceedings Act, which governs administrative hearings related to executive branch agencies. 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 contracts with a hearing officer to conduct the remainder of the hearing proceedings. The hearing officer presides over the case, hears and decides upon motions from both the Board and the Respondent guardian, and presides over any evidentiary hearings that take place. Following the conclusion of the disciplinary hearing, the hearing officer must prepare a written findings of fact, conclusions of law, and recommendations to the Board regarding the disposition of the matter. The Board then reviews the findings, conclusions, and recommendations of the hearing officer and determines what further action to take.

If the Board suspends or decertifies a professional guardian, that decision is reviewed by the Supreme Court.

Types of Grievance Resolutions

Dismissal

The Board has delegated authority to AOC staff to dismiss grievances which the Board does not have the jurisdiction to investigate or that fail to allege facts that, if proven true, could constitute a violation of the Board's Standards of Practice or other applicable laws, rules, regulations, standards, or duties related to the conduct of a guardian.

Besides dismissal for insufficient grievance or no jurisdiction, the Standards of Practice Committee may also dismiss a grievance for no actionable conduct if the Committee determines that the professional guardian's conduct did not violate the Board's Standards of Practice or other applicable laws, rules, regulations, standards, or duties related to the conduct of a guardian.

Decertification

Decertification is the Board's 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).

DR 509.3.1 sets out that the Board may decertify a professional guardian if the 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.

Administrative Decertification

Guardians are required to renew their certification annually and complete 24 credit hours of continuing education biennially. If a professional guardian fails to meet either the annual certification or biennial education requirements, that professional guardian may be decertified by the Board for failure to comply with program requirements.

If a professional guardian who is administratively decertified has open pending grievances against them, those grievances are closed. However, if the professional guardian re-applies to be certified by the Board, those grievances will be re-opened and resolved as part of the application process.

Voluntary Surrender

At any time, a professional guardian may choose to voluntarily surrender their guardianship certification. If a professional guardian voluntarily surrenders their certification, any open grievances against the professional guardian are closed. However, if the professional guardian re-applies to be certified by the Board, those grievances will be re-opened and resolved as part of the application process.

Prohibition on Taking New Cases

The Board may prohibit a professional guardian from accepting new guardianship cases for a fixed period of time if the Board finds that the professional guardian has failed 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 that the professional guardian has engaged in conduct that adversely reflects on the professional guardian's fitness to practice. A prohibition on taking new cases may be imposed for conduct or misconduct which does not rise to the level of decertification.

Suspension

If a professional guardian engages in conduct or misconduct that does not rise to the level of decertification, the Board may suspend the professional guardian from the practice of guardianship for a fixed period of time if the 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.

Reprimand

The Board may issue a letter of reprimand where a professional guardian 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 but the misconduct does not rise to the level of decertification, suspension, or prohibition on taking new cases.

Probation

Probation is a resolution that will be imposed for at least six months and no more than one year. 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. Failure to comply with a condition of probation may be grounds for additional discipline.

Restitution

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

Other Disciplinary Sanctions - 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. This may include, but is not limited to, requiring the guardian to attend additional training or education courses, undergo drug or alcohol treatment or behavioral modification classes, be subject to periodic reporting and audit requirements by the Board, or work with a mentor.

Agreement Regarding Discipline (ARD)

An Agreement Regarding Discipline (ARD) is a conditional settlement agreement negotiated between the Standards of Practice Committee and a professional guardian in lieu of initiating the complaint process to resolve a grievance with a substantiated violation. Once an agreement has been reached, it is presented to the Board for approval. Approved agreements are posted on the Washington Courts website for public disclosure. An ARD may contain any of the above mentioned sanctions, including but not limited to, a letter of reprimand, probation, prohibition on taking new cases, restitution, or other disciplinary sanctions as provided by DR 509.11.

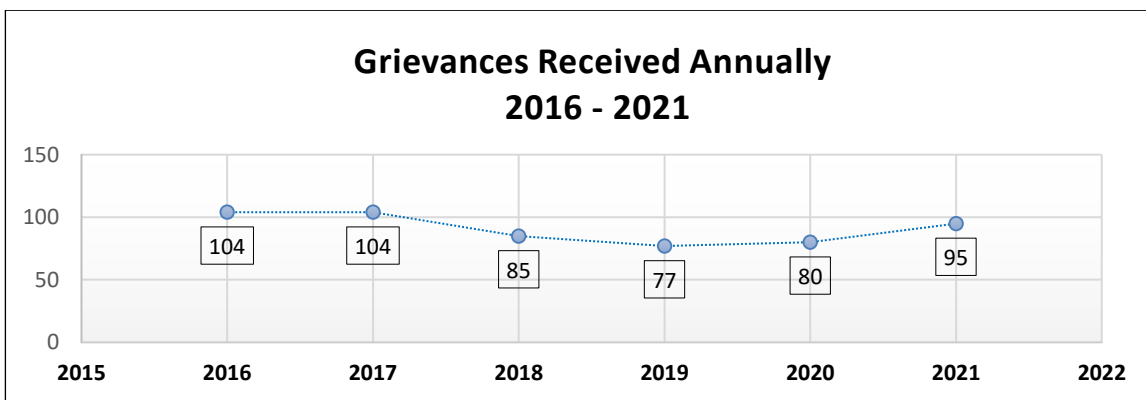
Advisory Letter

An advisory letter may be issued by the Standards of Practice Committee when discipline is not warranted but it is appropriate to caution a professional guardian about their conduct. DR 507.4 sets out that an advisory letter may be appropriate where:

- While there is insufficient evidence to support disciplinary action, the Standards of Practice Committee believes that continuation of the activities that led to the investigation may result in further Board action against a respondent certified professional guardian;
- The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action; or
- While a certified professional guardian has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the Standards of Practice Committee believes that repetition of the activities that led to the investigation may result in further Standards of Practice Committee action against a CPG.

An advisory letter is not discipline or a sanction and is not posted to the public website. However, an advisory letter may be subject to a public disclosure request.

GRIEVANCE STATUS AT A GLANCE - 2021



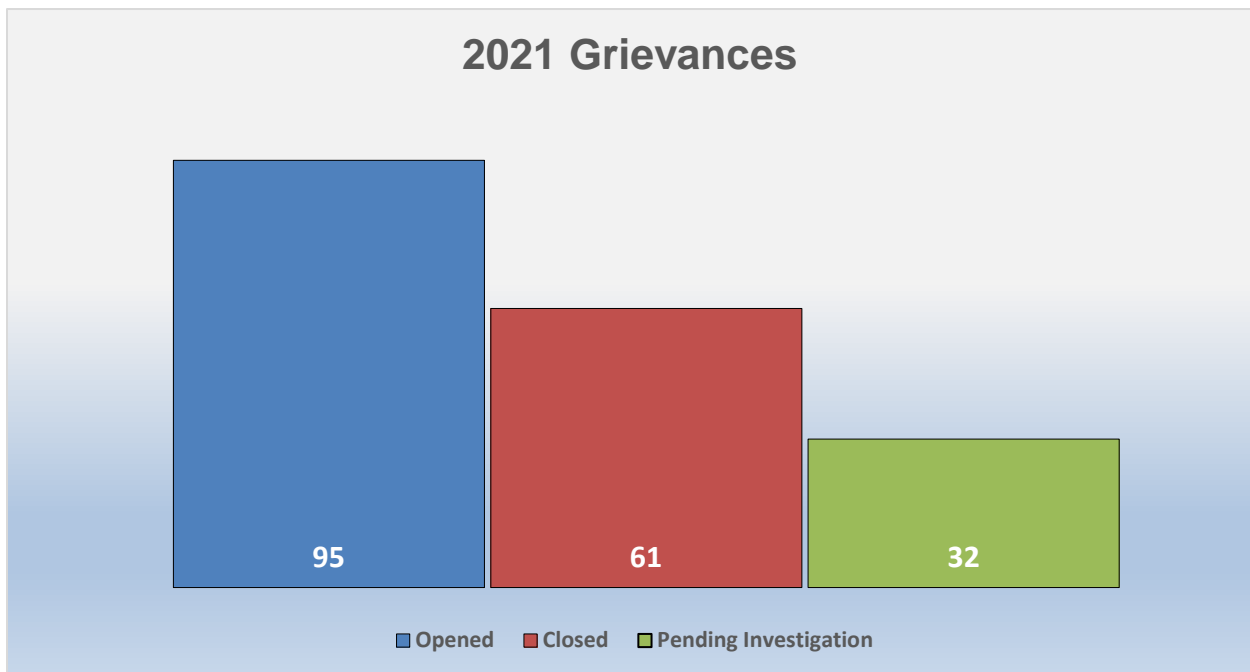
The Board received ninety-five (95) new grievances and resolved a total of ninety-three (93) grievances in 2021.

	Grievances Resolved in 2021	Grievances Remaining
2016		1
2017	2	0
2018	3	1
2019	9	5
2020	18	8
2021	61	32 ⁹

⁹ Two (2) grievances received in 2021 are pending Conflicts Review Committee review and resolution.

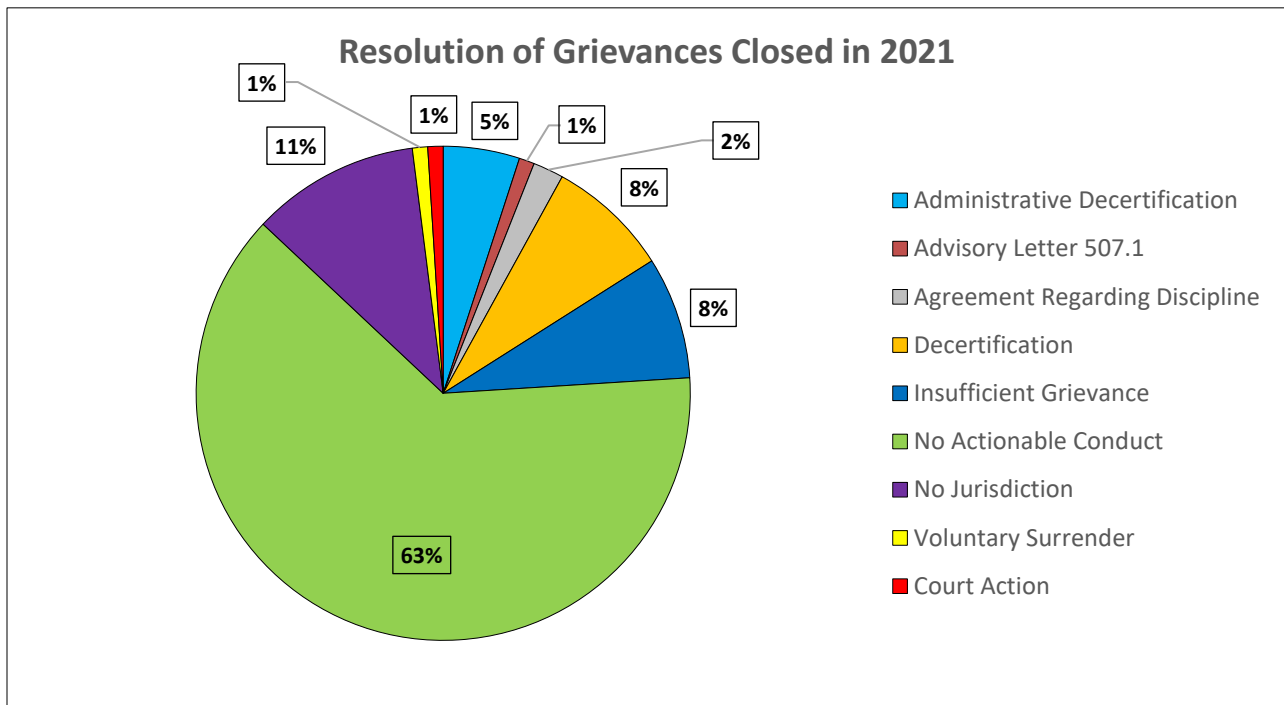
2021 Grievances

The Board opened ninety-five (95) grievances in 2021. Sixty-one (61) of the grievances opened in 2021 were closed by the end of the year. Of the sixty-one (61) 2021 grievances that were closed, nine (9) were dismissed for no jurisdiction, five (5) were dismissed for insufficient grievance, forty-three (43) were dismissed for no actionable conduct, and four (4) grievances were dismissed when the CPG was administratively decertified for non-renewal of certification and/or non-compliance related to continuing education. Two (2) grievances are pending Conflict Review Committee review and resolution. The grievances pending Conflict Review Committee resolution are not counted in the total number currently under investigation. Thirty-two (32) grievances received in 2021 remain open, requiring investigation or resolution.



Grievance Resolutions

A total of ninety-three (93) grievances were resolved by the Board in 2021. Fifty-nine (59) grievances were dismissed for no actionable conduct. Ten (10) grievances were dismissed for no jurisdiction, and seven (7) were dismissed for insufficient grievance. Two (2) grievances were resolved with an Agreement Regarding Discipline – Letter of Reprimand (ARD). One (1) grievance was resolved through a DR 507.1 Advisory Letter. Five (5) grievances were closed due to administrative decertification for non-renewal of certification and/or non-compliance related to continuing education. Seven (7) grievances were closed when the CPG was decertified. One (1) grievance was closed upon the matter’s decision by the court. One (1) grievance was closed due to voluntary surrender of certification.



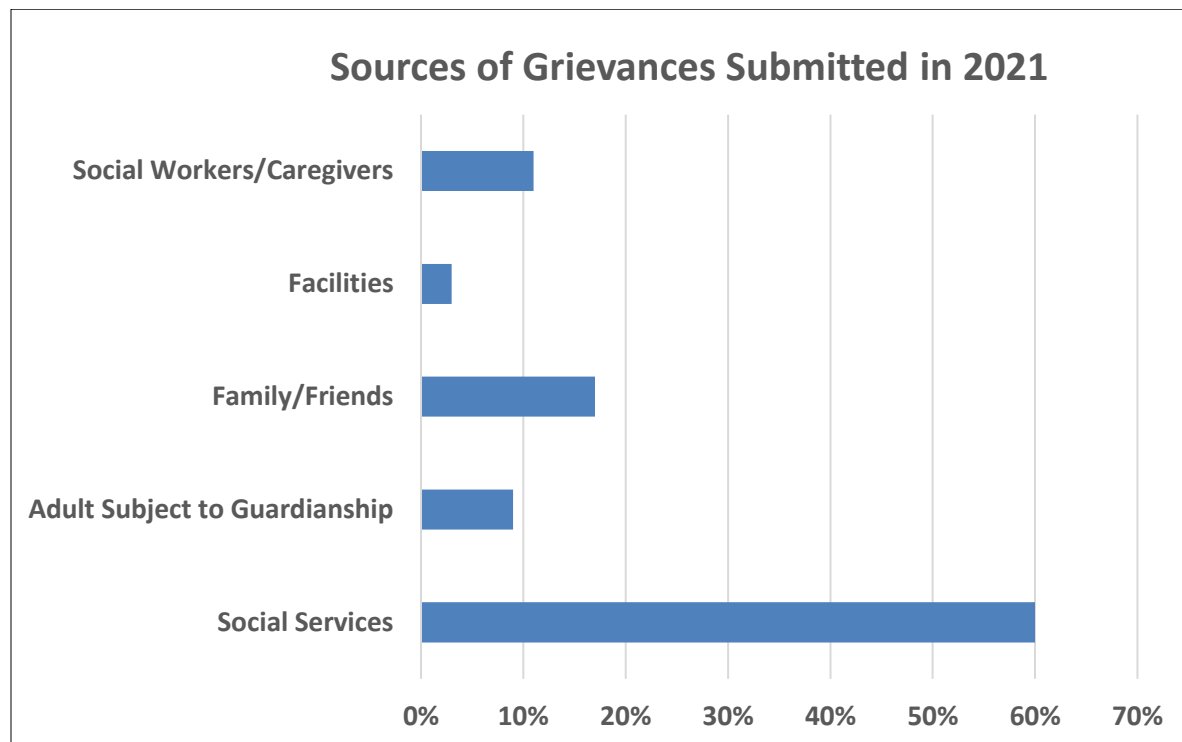
Resolution of Grievances in 2021	Year Grievance Was Received					Total
	2017	2018	2019	2020	2021	
Administrative Decertification				1	4	5
Advisory Letter or ARD - Letter of Reprimand		1		2		3
Decertification	1	1	5			7
Dismissal - Insufficient Grievance				2	5	7
Dismissal - No Actionable Conduct	1	1	3	11	43	59
Dismissal - No Jurisdiction				1	9	10
Voluntary Surrender			1			1
Court Action				1		1
Total Grievances Resolved in 2021	2	3	9	18	61	93

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.

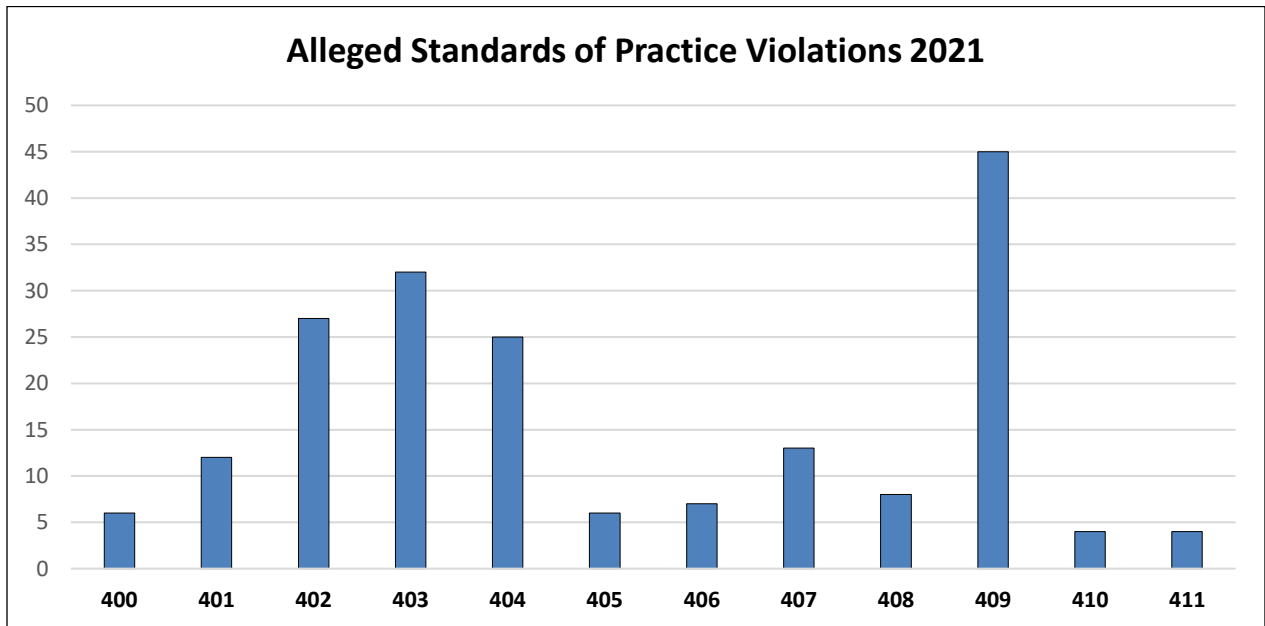
In 2021, 60% of all grievances were submitted by social service personnel or agencies. This group includes Adult Protective Services (APS), DSHS, and Residential Care Services. The Board refers matters raising the possibility of abuse, neglect or exploitation to APS, which has its own intake and investigation process. Although both APS and the Board are concerned about the protection of vulnerable individuals, their purposes, scope, and remedies are different.

The second most common group to submit grievances were family members and friends of individuals subject to guardianship. This group submitted 17% of the grievances received. The third largest group to submit grievances were social workers and caregivers, which accounted for 11% of the grievances received in 2021.



Grievances by Standards of Practice

The Standards of Practice are standards of conduct promulgated by the Board that apply to all certified professional guardians and certified professional guardianship agencies. The Standards of Practice cover the broad range of a professional guardian's responsibilities.



Standards of Practice Regulation 400

- 400 General
- 401 Guardian's Duty to Court
- 402 Guardian's Relationship to Family
- 403 Self Determination of Incapacitated Person
- 404 Contact with the Incapacitated Person
- 405 General Decision Standards
- 406 Conflict of Interest
- 407 Residential Decisions
- 408 Medical Decisions
- 409 Financial Management
- 410 Guardian Fees and Expenses
- 411 Changes of Circumstances/Limitation/Termination

Grievances Received by County

During 2021, the Board received ninety-five (95) grievances from fifteen (15) of Washington State's thirty-nine (39) counties. The largest number of grievances was received from King County, with twenty-five (25) grievances. The second largest number of grievances was received from Clark County where twenty-one (21) grievances were submitted.

