

2022

Certified Professional Guardianship and Conservatorship Board



Annual Report

**Certified Professional Guardianship
and Conservatorship Board
2022 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 2022 Certified Professional Guardianship and Conservatorship Board's Annual Report. We make this report publicly available with the goal of increasing awareness of the work of the Certified Professional Guardianship and Conservatorship 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 and conservators are officers of the court. The Supreme Court established a certification, regulation and discipline framework for professional guardians/conservators and related agencies by promulgating General Rule (GR) 23. GR 23 created the Certified Professional Guardianship and Conservatorship Board (Board) to implement processes to certify, regulate and discipline individuals who choose to become professional guardians/conservators. 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").

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 guardians 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 2022, the following six Board Committees were active:

- Applications Committee
- Bylaws Committee
- Diversity, Equity, and Inclusion Committee
- Education Committee
- Regulations Committee
- Standards of Practice Committee

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 meets every month of the year to enable the Board to meet timelines under the UGA.

WASHINGTON 2022 LEGISLATIVE CHANGES IMPACTING GUARDIANSHIP

Uniform Guardianship, Conservatorship and Other Protective Arrangements Act Amendments

The legislature enacted a number of amendments to the Uniform Guardianship, Conservatorship and Other Protective Arrangements Act (“UGA”) relating to minor guardianships in Senate Bill 5788.

The legislation allows the appointment of an emergency guardian upon a motion in regular (non-emergency) minor guardianship cases. The notice requirements for such motions are aligned to the requirements in emergency guardianship cases. The required findings for emergency guardian appointment were revised to address the ability of a parent to prevent substantial harm to the minor's health, safety, or welfare.

A small revision was made to the definition of “Guardian ad Litem” under 11.130 to mean a person appointed to inform the court about or to represent, the needs and best interests of a minor.

Other UGA minor guardianship amendments include requiring petitioners and other parties to file a confidential information form. Courts are authorized to direct DCYF to release information on all proposed guardians and adult members of proposed guardians’ households prior to issuing a final custody order. Petitioners are required to provide criminal background checks on the proposed guardian and all adult household members of the proposed guardian’s household. A provision was added to clarify that the parties are responsible for accuracy of disclosed information, not the courts.

The legislation clarified the formality of documentation required for a will or other record of a parent nominating a guardian.

Senate Bill 5788 also amended the juvenile court jurisdiction statute to give concurrent original jurisdiction to juvenile court with the family or probate court over RCW 11.130 minor guardianship proceedings.

Juvenile Court Act Amendments

The legislature enacted Substitute House Bill 1747 pertaining to dependency actions and minor guardianships under RCW 11.130. The legislation requires courts and DCYF to consider RCW 11.130 minor guardianship prior to parental termination. Petitioners in parental right terminations must demonstrate that a guardianship is not sufficient to protect the health, safety, and welfare of the child. DCYF is tasked with rulemaking to qualify for federal funds and relative subsidies for minor guardianships.

Uniform Unregulated Child Custody Transfer Act

The legislature enacted Substitute House Bill 1747 pertaining to child custody. This legislation adds a new chapter to RCW Title 26 called the Uniform Unregulated Child Custody Transfer Act. The statute prevents a parent or guardian from informally transferring custody of a child to another with the intent to abandon rights and responsibilities relating to the child except through certain channels: adoption, guardianship, judicial award of custody, via a child placement agency, through other tribal or judicial action, or when transferring a newborn to a qualified person. This legislation does not apply to transfers to a parent, stepparent, an individual with whom the child has a strong existing relationship, a blood relative of the child, an Indian custodian, a member of a tribal customary family unit, or a designee under the Uniform Guardianship Act, RCW 11.130.145.

Assisted outpatient treatment for persons with behavioral health disorders.

The legislature enacted Substitute House Bill 1773. This legislation consolidates all assisted outpatient treatment (AOT) procedures under one subsection. The legislation removes conservators as someone who can file a Joel's Law petition.

Civil Protection Orders

Substitute House Bill 1901 contains numerous clarifying amendments to the Civil Protection Orders legislation passed in 2021, primarily with respect to procedural issues.

APPLICATIONS COMMITTEE: 2022 AT A GLANCE

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

Individual CPGC 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 or conservator 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.

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.²

Transferable Experience

In addition to possessing the requisite number of full years of work or volunteer experience transferable to providing guardianship or conservator 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 CPGC Agency certification is not included in this summary because regulations direct that AOC staff approve CPGC Agency applications. Information regarding CPGC Agency certification requirements can be found in GR 23 (d)(2) and Board Regulation 100.

² GR 23 requires "full" years (full time) transferable experience.

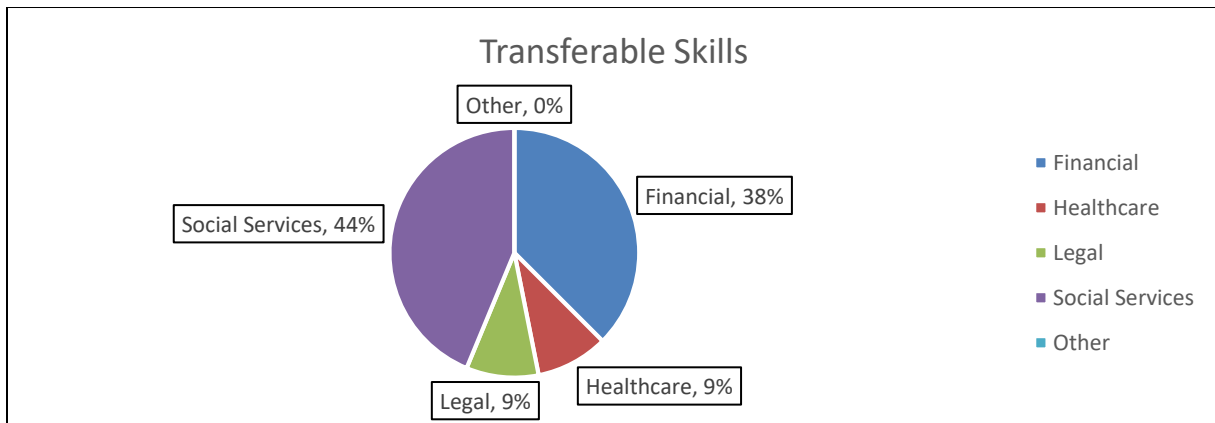
Financial Responsibility

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: legal, financial, social services, healthcare, and other. The chart below shows the percentage of transferable skills applicable to applicants reviewed by the Board in 2022.



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.

The Board reviews applications at each regularly scheduled meeting³. Recommendations for approval are sent to the Washington State Supreme Court for approval, entry of an Order of Certification, and issuance of a CPGC 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.

2022 Certification Related information

- 30 application packets were reviewed by the Board: 10 approvals, 12 conditional approvals, 8 denials
- 25 CPGCs were certified by the Washington Supreme Court⁴
- 19 individual CPGCs voluntarily surrendered certification⁵
- 14 individual CPGCs were administratively decertified for non-renewal of certification and/or non-compliance related to continuing education

³ The Board met monthly (twice in both February and September), for a total 14 meetings in 2022.

⁴ Of the 25 Court certifications, 10 applicants were approved and 15 applicants, who were previously conditionally approved, successfully completed the training program in 2022.

⁵ The primary reason for voluntary surrenders was planned retirement.

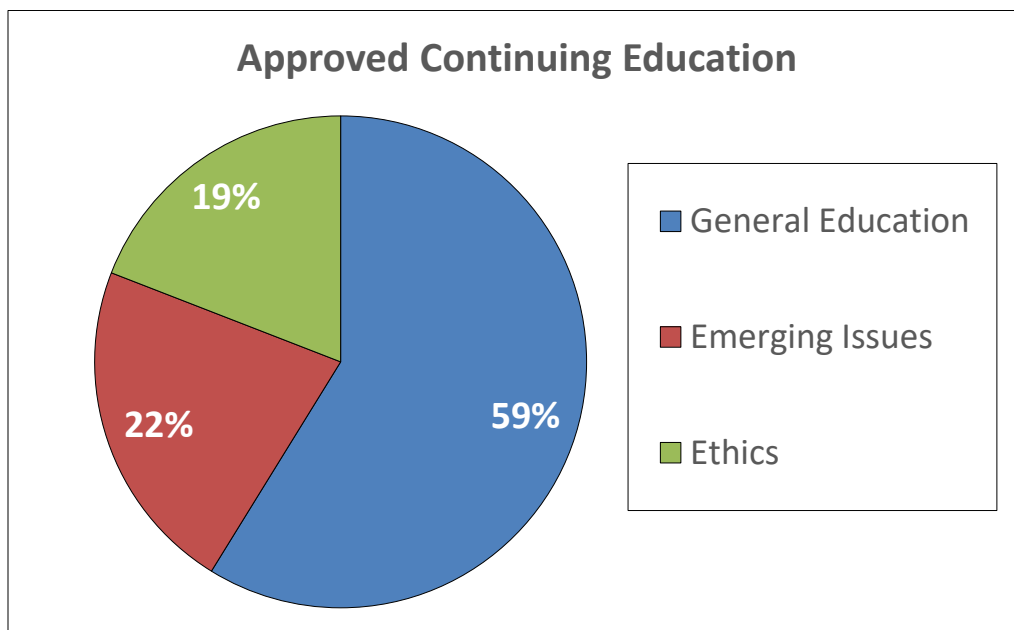
EDUCATION COMMITTEE: 2022 AT A GLANCE

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 decertified⁶.

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 2022, twenty-eight (28) courses were approved by the Education Committee for Continuing Education credits, for a total 118.5 course presentation hours.

Of the total 118.5 course presentation hours, General Education credits accounted for 74 hours, 29.25 hours were on Emerging Issues, and 15.25 hours were on Ethics.



⁶ In 2022, three certified professional guardians/conservators were administratively decertified for not completing the continuing education credit hours requirement.

REGULATIONS COMMITTEE: 2022 AT A GLANCE

The Regulations Committee focused much of its efforts in 2022 on developing regulations to govern Board meetings to promote transparency in Board actions. The Committee requested the Board set aside a dedicated thirty (30) minute public comment period at the October Board meeting. The Committee wished to provide all interested stakeholders an opportunity to directly address the Board to inform the development of the regulations. The Committee also suggested the Board appoint an assigned parliamentarian to ensure compliance with the regulations as ultimately adopted. The Committee prepared suggested regulations for the full Board's consideration regarding: meeting notice requirements, public and executive session, meeting protocol, etc.

The Regulations Committee developed suggested changes to the regulations governing applications to the CPGC profession about the required documentation evidencing completion of high school or obtaining a GED. The Committee also undertook discussion of the Voluntary Surrender of Certification regulations, with the goal of tailoring the regulation to acknowledge professional retirement, as well as other potential licensing surrender situations.

BYLAWS COMMITTEE: 2022 AT A GLANCE

The Board formed a Bylaws Committee in the last quarter of 2022. The Bylaws Committee was activated to consider issues related to confidentiality provisions in the Board's bylaws, and other issues as required.

STANDARDS OF PRACTICE COMMITTEE: 2022 AT A GLANCE

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 and conservators comply with all applicable statutes, fiduciary duties, standards of practice, rules, and regulations. GR 23(c)(3) sets out the duties and responsibilities of the Board in receiving, reviewing and taking disciplinary action related to grievances against professional guardians/conservators:

(viii) Grievances and Disciplinary Sanctions. The Board shall adopt and implement procedures to review any allegation that a professional guardian and conservator has violated an applicable statute, fiduciary duty, court order, standard of practice, rule, regulation, or other requirement governing the conduct of professional guardians and conservators. 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 and conservators.

The Standards of Practice Committee performs functions under the Board's Disciplinary Regulations (DR) 500 as delegated by the Board or the Chair; these include, but are not limited to: grievance review, investigation, making preliminary findings, approving Agreements Regarding Discipline, officiating over hearings, and imposing disciplinary sanctions.

The Board's Standards of Practice (SOP) 400, is drawn from the National Guardianship Association Standards of Practice and incorporates language from RCW 11.130 Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act. Two additional standards took effect as of January 1, 2022:

414 Delegation
415 Record-Keeping

The Board has taken steps to ensure new grievance procedures are met as required by the UGA. A Standards of Practice Sub-Committee has been formed and monthly Board meetings are held to review grievances within thirty (30) days of receipt. Date tracking occurs to meet the 180-day deadline to resolve grievances and investigations (not including tolled periods or 90-day extensions). Additionally, the Standards of Practice Committee is now overseen by a Chair and Co-Chair.

Initial Grievance Receipt and Review Process

Grievances may be submitted online on the Washington Courts website at www.courts.wa.gov, or by submitting a written grievance to AOC. If the grievant is unable to submit a grievance in written form due to a disability or inability to communicate in written language, it may be communicated orally to AOC staff.

AOC staff prepares a grievance materials packet for the Board's Standards of Practice Committee to review. The UGA outlines specific criteria deeming whether a grievance is considered complete or not. As of January 1, 2022, and per RCW 11.130.670, the grievance *must* include a description of the conduct of the professional guardian and conservator that the

grievant alleges violates a statute, fiduciary duty, court order, standard of practice, rule, regulation, or other authority applicable to professional guardian and conservators, including the approximate date(s) of the conduct.

The SOPC and Board reviews each grievance received to determine jurisdictional authority and completeness. The Board votes to dismiss, forward the grievance to Superior Court or commence an investigation.

If the grievance was forwarded to Superior Court, the SOPC will review any findings or orders made as a result and make recommendations to the Board on how to resolve the grievance. RCW 11.130.670(1)(b) states that the board must accept as facts any finding of fact contained in the order. The certified professional guardianship board must act consistently with any with any finding of fact issued in that order.

An investigation typically includes a review of materials by both the grievant and the professional guardian and/or conservator. It may also include other relevant documents, and interviews with other individuals who may have knowledge of the issues alleged in the grievance, including the person under guardianship.

Types of Grievance and Investigation Resolutions

Dismissal:

A grievance may be dismissed if it does not meet jurisdictional requirements or following a review of the court order. A grievance may also be dismissed subsequent to an investigation if it is determined that the guardian and/or conservators 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.

Resolution Without Complaint:

Grievances not dismissed, which support disciplinary action, can be resolved without the filing of a complaint, through the following non-exhaustive methods:

Advisory Letter:

An advisory letter may be issued when discipline is not warranted but it is appropriate to caution a professional guardian about their conduct such as a minor technical violation.

Agreement Regarding Discipline:

An Agreement Regarding Discipline (ARD) is a conditional settlement agreement, containing sanctions, negotiated between the Standards of Practice Committee and respondent in lieu of initiating the complaint process. Once an agreement has been reached, it is presented to the Board for approval and posted on the Washington Courts website for public disclosure.

Voluntary Surrender, In Lieu Of Further Disciplinary Proceedings:

A CPGC who desires not to contest or defend against allegations of misconduct may, at any time, voluntarily surrender his or her certification in lieu of further disciplinary proceedings.

Resolution With Complaint:

The Standards of Practice Committee may request that the Board file a complaint regarding disciplinary action. Filing a complaint commences a hearing process which is governed by the Board's Disciplinary Regulations. Once filed, the complaint is of public record and is posted on the AOC website.

Types of Disciplinary Sanctions:

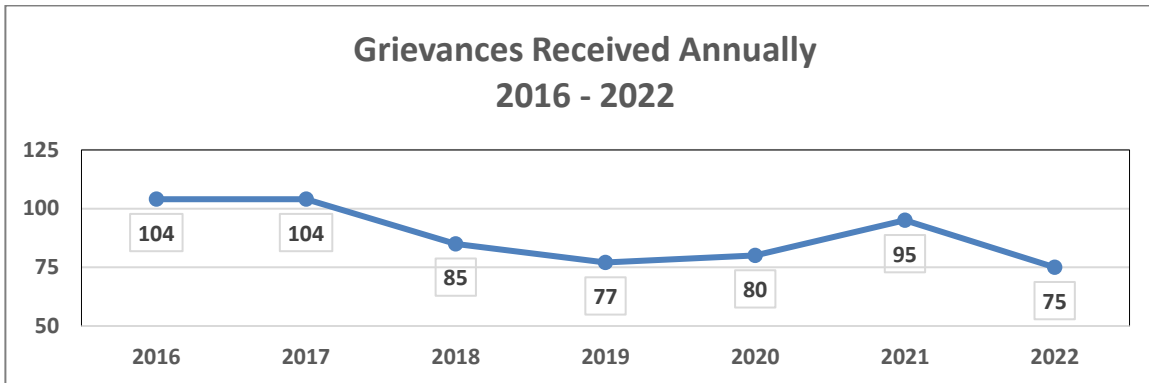
Following a determination that a CPGC has engaged in misconduct, disciplinary sanctions may be appropriate and may include one or more of the following:

- **Letter of Reprimand**
- **Probation**
- **Restitution**
- **Prohibition on Taking New Cases**
- **Other Disciplinary Sanctions:**

The Board may implement various remedies for the purpose of ensuring the CPGC complies with the duties, standards, and requirements of a professional guardian and/or conservator. This may include, but is not limited to, requiring the CPGC to attend additional training or education courses, undergo drug or alcohol treatment or work with a mentor.

- **Suspension of Certification / Interim Suspension of Certification / Decertification:**
Decertification is the Board's most severe sanction. Any Board recommendation of suspension or decertification resulting from a disciplinary proceeding must be filed with the Supreme Court. The Court may adopt, modify, or reverse the Board's recommendation.

GRIEVANCE STATUS - 2022



2022 Grievances

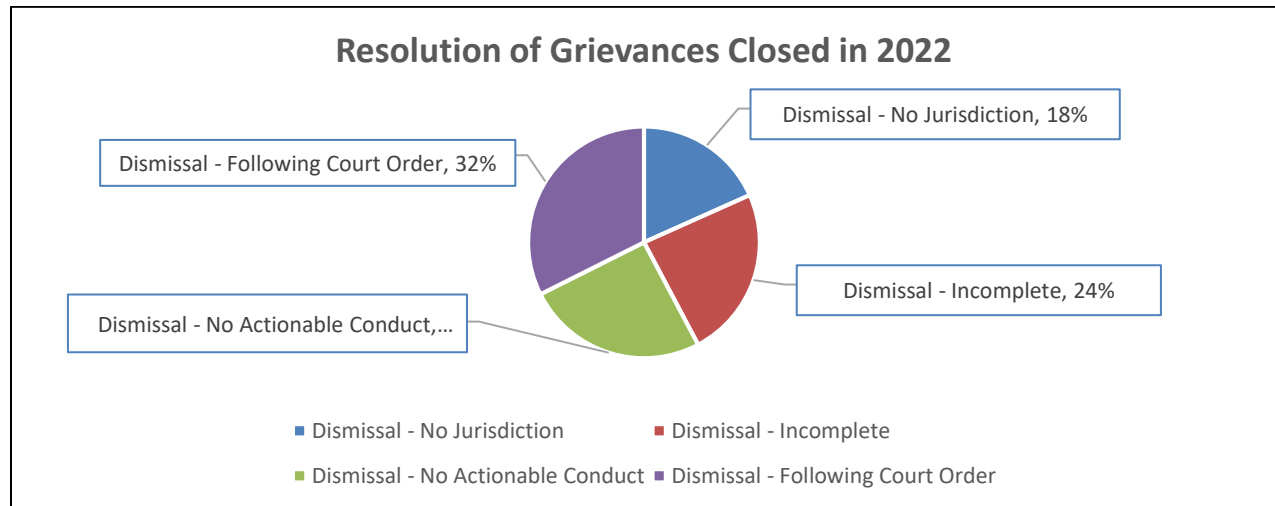
The Board opened seventy-five (75) grievances in 2022. Fifty-two (52) grievances opened in 2022 were closed by the end of the year. Of the fifty-two (52) grievances that were closed, fifteen (15) grievances were dismissed as incomplete or because they provided insufficient information to open a grievance, and thirteen (13) were dismissed for no jurisdiction. A total thirty-six (36) grievances were referred to the Superior Court in 2022, and twenty-two (22) of those referred grievances were dismissed following the Board's review of the court's decision. Two (2) investigated grievances were dismissed for no actionable conduct.

One (1) grievance remains open for Investigation. One (1) grievance is pending Conflict Review Committee review and resolution. Eighteen (18) grievances referred to the Superior Court remain open, pending a decision of the court.



Grievance Resolutions

A total of seventy-one (71) grievances were resolved by the Board in 2022. Eighteen (18) grievances were dismissed for no actionable conduct. Thirteen (13) grievances were dismissed for no jurisdiction, and seventeen (17) were dismissed as incomplete or because there was insufficient information provided to open a grievance. Twenty-three (23) grievances were dismissed following a court decision.



Resolution of Grievances in 2022	Year Grievance Received			Total Resolved
	2020	2021	2022	
Dismissal – Incomplete/Insufficient Grievance		2	15	17
Dismissal – Investigated: No Actionable Conduct	1	15	2	18
Dismissal – Following Court Decision	1		22	23
Dismissal – No Jurisdiction			13	13
Total Grievances Resolved in 2022	2	17	52	71

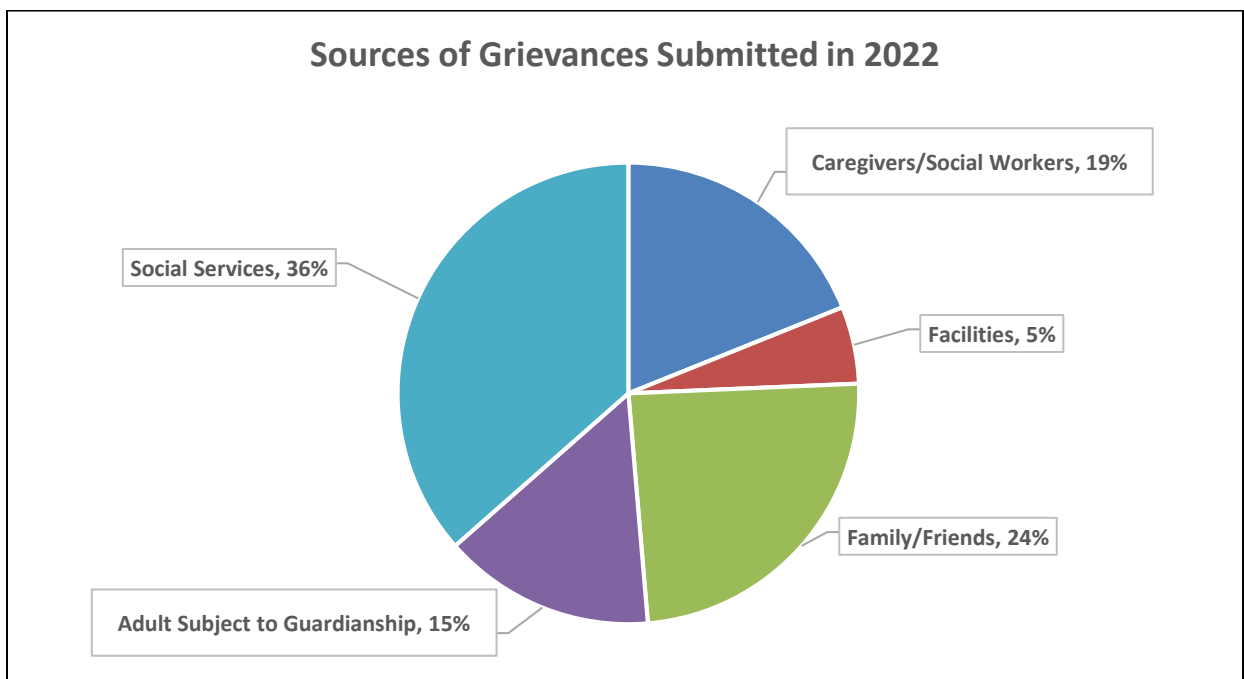
	2016	2017	2018	2019	2020	2021	2022	Total
Open Grievances at Year-End 2022	1	0	0	2	1	22	20	46

Sources of Grievances

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

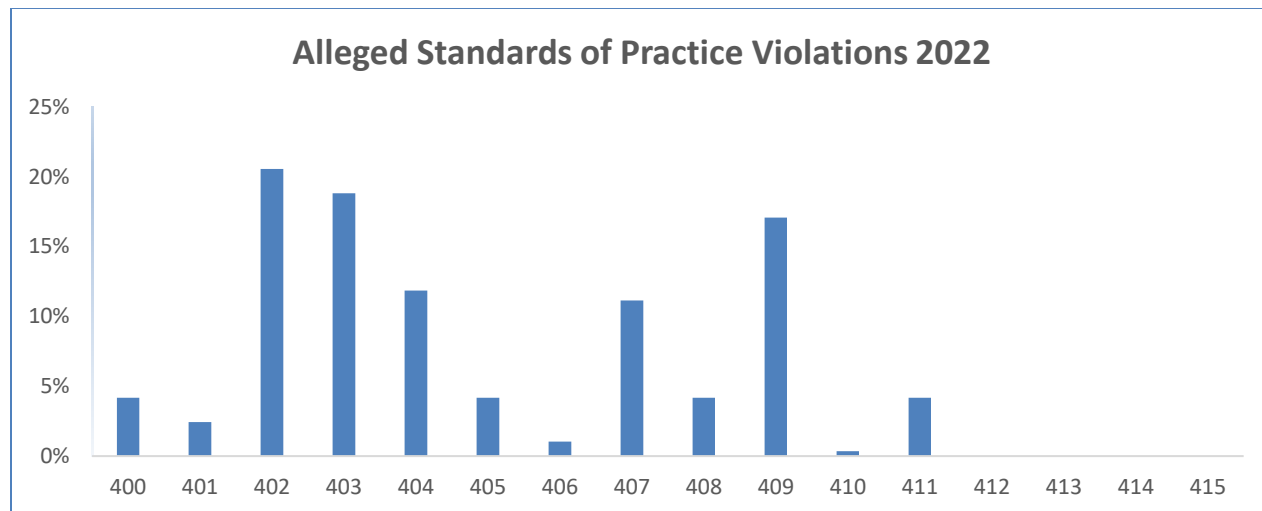
In 2022, 36% of all grievances were submitted by social service personnel or agencies. This group includes Adult Protective Services (APS), Department of Social and Health Services (DSHS), Residential Care Services, and Law Enforcement Officers.

The second most common group to submit grievances were family members and friends of individuals subject to guardianship. This group submitted 24% of the grievances received. The third largest group to submit grievances were social workers and caregivers, which accounted for 19% of the grievances received in 2022.



Grievances by Standards of Practice

The Standards of Practice are standards of conduct promulgated by the Board that apply to all certified professional guardians, conservators and certified professional guardianship/conservatorship agencies. The Standards of Practice cover the broad range of responsibilities.



Standards of Practice Regulation 400

- 400 General
- 401 Guardian and Conservator's Duty to Court
- 402 Relationship to Family and Friends of Individual and to Other Professionals
- 403 Self Determination of Individual
- 404 Contact with the Individual Subject to Guardianship and/or Conservatorship
- 405 General Decision Standards
- 406 Conflict of Interest
- 407 Residential Decisions
- 408 Medical Decisions
- 409 Financial Management
- 410 Guardian and Conservator Fees and Expenses
- 411 Changes of Circumstances/Modification/Termination
- 412 Sale or Purchase of Guardianship and/or Conservatorship Practice
- 413 Responsibilities of Certified Professional Guardian and Conservator Agencies
- 414 Delegation
- 415 Record Keeping

Grievances Received by County

During 2022, the Board received seventy-five (75) grievances from fifteen (15) of Washington State's thirty-nine (39) counties. The largest number of grievances was received from King County, with eighteen (18) grievances. The second largest number of grievances was received from Clark County where nine (9) grievances were submitted.

