

2023

# Certified Professional Guardianship and Conservatorship Board

Annual Report



# Certified Professional Guardianship and Conservatorship Board

## 2023 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 2023 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 (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 certified professional guardians and conservators (CPGCs) are officers of the court. The Supreme Court established a certification, regulation and discipline framework for CPGCs and related agencies by promulgating General Rule (GR) 23. GR 23 created the Board to implement processes to certify, regulate and discipline individuals who choose to become CPGCs.

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 (AOC), instructs the 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 2023, the following five Board Committees were active:

- Applications Committee
- Bylaws 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 monthly to meet timelines under RCW 11.130, otherwise known as the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGA).

## **WASHINGTON 2023 LEGISLATIVE CHANGES IMPACTING GUARDIANSHIP AND CONSERVATORSHIP**

No legislative changes in the 2023 session had significant impact on guardianship and/or conservatorship.

## **APPLICATIONS COMMITTEE: 2023 AT A GLANCE**

GR 23 establishes the standards and criteria for the certification of professional guardians and conservators.<sup>1</sup> Every individual, or agency, desiring to be certified as a certified professional guardian and conservator (CPGC) must submit an online application to the 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 or conservatorship 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.<sup>2</sup>

### **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 or conservatorship services.

### **Background Checks**

After requesting and receiving an applicant's consent, four background checks are conducted: Department of Social and Health Services/Adult Protective Services, Department of Children, Youth, and 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.

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<sup>1</sup> 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.

<sup>2</sup> GR 23 requires "full" years (full time) transferable experience.

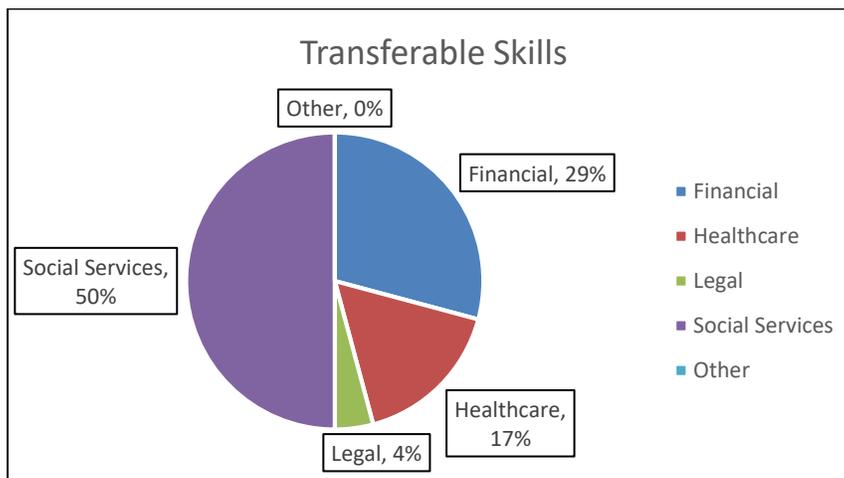
## Financial Responsibility

Applicants are required to demonstrate financial responsibility based on a FICO credit score and a credit report. FICO scores of 700 or higher 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 do not 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 2023.



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

The Board reviews applications at each regularly scheduled meeting. 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 Washington State Supreme Court after successful completion of the required training. Recommendations for denial can be appealed to the Board.

### **2023 Certification Related Information**

- 35 application packets were reviewed by the Board: 12 approvals, 15 conditional approvals, 8 denials
- 16 CPGCs were certified by the Washington Supreme Court<sup>3</sup>
- 19 Individual CPGCs and 1 agency terminated their certifications<sup>4</sup>
- 3 Individual CPGCs and 1 agency were administratively decertified for non-renewal of certification and/or non-compliance related to continuing education

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<sup>3</sup> Of the 16 Court certifications, 10 applicants were approved and 6 applicants, who were previously conditionally approved, successfully completed the training program in 2023.

<sup>4</sup> The primary reason for termination of certification was planned retirement.

## **BYLAWS COMMITTEE: 2023 AT A GLANCE**

The Bylaws Committee (Committee) completed significant revisions to both the Board's Bylaws and the Board's Communications Plan in 2023. The Certified Professional Guardianship and Conservatorship Board (Board) adopted changes to the Bylaws and the Communication Plan at its September 2023 meeting.

The issues addressed by the Committee in its recommendations included a range of topics. The Committee also suggested a number of changes intended to streamline the Bylaws, which include references to specific authority in General Rule 23 and the Board's Regulations.

A substantial number of changes to the Board's Bylaws and Communication Plan were made to bring them into alignment with guardianship law statutory changes and GR 23 amendments, as well as other general updating such as the Board's expanded meeting schedule. Both documents were updated with respect to gender neutral language.

The Committee adopted clarifications to the Bylaws confidentiality provisions. The quorum requirements were clarified and added language expressly acknowledging that meeting attendance may be virtual. A restated conflicts of interest section created a more succinct version.

The Bylaws formally instituted a parliamentarian position for the Board.

The public comment sections in both the Bylaws and the Communications Plan eliminated language considered unnecessary. The time allotted to speakers was increased to ten minutes, subject to change at the Board Chair's discretion.

## EDUCATION COMMITTEE: 2023 AT A GLANCE

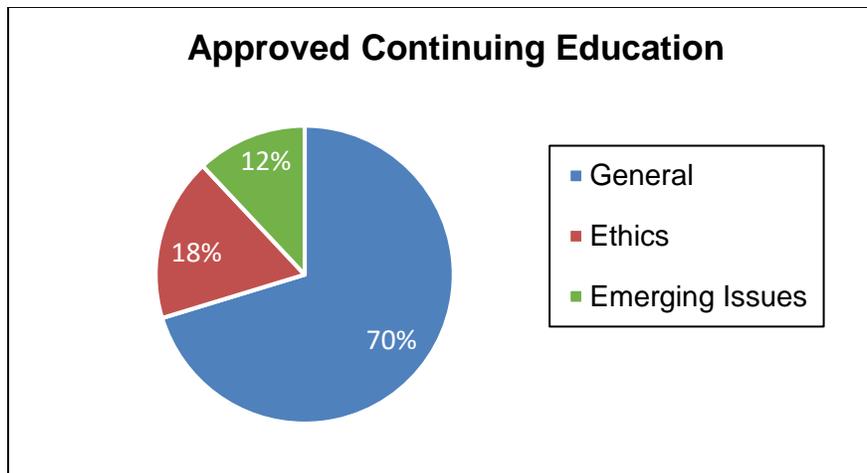
GR 23(c)(2)(vii) grants the Board the authority to adopt and implement regulations concerning continuing education for professional guardians. The Board requires all certified professional guardians and conservators (CPGCs) to complete a minimum of 24 credit hours of approved education during each biennial reporting period.

Of these 24 credit hours, CPGCs must complete at least 4 ethics and 4 emerging issues credits. Failure to comply with the Board's continuing education requirements may result in a professional guardian and conservator being administratively decertified.<sup>5</sup>

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 CPGCs 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 2023, 19 courses were approved by the Education Committee for Continuing Education credits, for a total 157.25 course presentation hours.

Of the total 157.25 course presentation hours, General Education credits accounted for 110.75 hours (70%), 18.75 hours were on Emerging Issues (12%), and 27.75 hours were on Ethics (18%).



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<sup>5</sup> In 2023, one CPGC was administratively decertified for not completing the continuing education credit hours requirement.

## **REGULATIONS COMMITTEE: 2023 AT A GLANCE**

The Regulations Committee concluded its efforts with respect to the regulation governing Board meetings to promote transparency in Board actions. The full Board adopted new Regulation 007 in February of 2023.

The Committee addressed two issues under the continuing education regulations in conjunction with the Education Committee. One was the development of an additional section, Regulation 204.9, that addresses pre-recorded CEU procedures. The second was a clarification of the required credit distribution for newly certified CPGCs. Both were adopted by the full Board.

The Committee made final recommendations on a revised Regulation 708 (formerly Voluntary Surrender) which were adopted by the full Board. The change in the regulation acknowledges the most common reason for ending professional certification, retirement, and references the termination of certification. The draft regulation was published for notice and comment on two occasions. Stakeholder comments were considered in an effort to attain a clear and efficient process to end certification while preserving necessary protections for individuals subject to guardianship and conservatorship, and maintaining the orderly transition of cases in court.

The Committee recommended reversal of the informal practice of Board vote abstention by members of the committee of origin. The Bylaws Committee incorporated the recommendation in its proposed Bylaws changes adopted by the Board in September 2023.

The Regulations Committee also requested that the full Board receive a refresher training on the Board's Recusal Policy. AOC staff provided a training on the applicable provisions of GR 23, the Bylaws, the Regulations and the Board's Recusal Policy at the Board's June 2023 meeting.

## **STANDARDS OF PRACTICE COMMITTEE: 2023 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 (SOP) and to ensure that CPGCs 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 CPGCs:

(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 (SOPC) performs functions under the Board's Disciplinary Regulations 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 Regulation 400, is drawn from the National Guardianship Association's Standards of Practice and incorporates language from RCW 11.130.

### **Initial Grievance Receipt and Review Process**

Grievances may be submitted online on the Washington Courts website at [www.courts.wa.gov](http://www.courts.wa.gov), or by submitting a written grievance to the Administrative Office of the Courts (AOC). If a grievant is unable to communicate in writing, they may communicate their grievance to AOC staff orally.

AOC staff prepare grievance material packets for the Board's Standards of Practice Committee (SOPC) to review. The UGA outlines specific criteria for determining whether a grievance is complete or not. As of January 1, 2022, and per RCW 11.130.670, the grievance *must* include a description of the CPGC's conduct which the grievant alleges violates a statute, fiduciary duty, court order, standard of practice, rule, regulation, or other authority applicable to CPGCs, including the approximate date(s) of the conduct.

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

If the grievance is forwarded to Superior Court, the SOPC reviews any findings or orders and makes recommendations to the Board on how to resolve the grievance. RCW 11.130.670(1)(b) states that the board must accept any findings of fact contained in the order. The Board must act consistently with any findings of fact issued in that order.

An investigation typically includes a review of materials submitted by both the grievant and the CPGC. It may also include other relevant documents, and interviews with individuals who may have knowledge of the issues alleged in the grievance, including the person subject to 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 or disposition. A grievance may also be dismissed subsequent to an investigation if it is determined the CPGC'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.

### **Resolution Without Complaint**

Grievances not dismissed, which support disciplinary action, can be resolved without the filing of a complaint (formal document filed by the Board with the AOC), 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 their 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 Washington Courts 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:

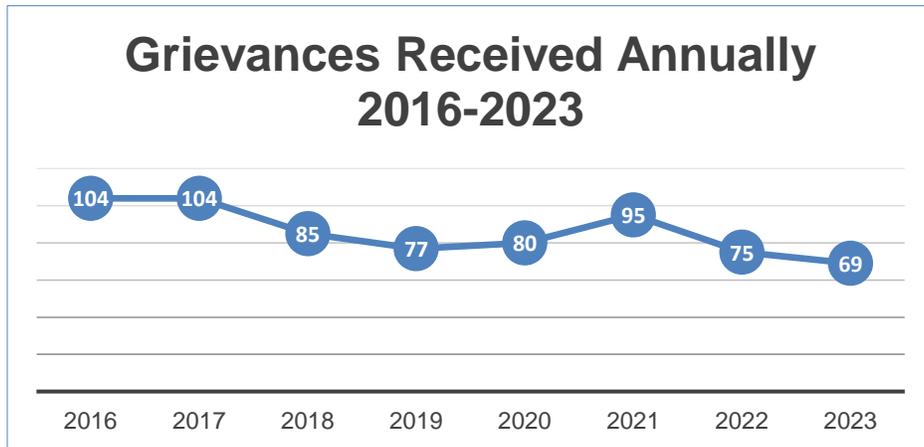
- Letter of Reprimand
- Probation
- Restitution
- Prohibition on Taking New Cases
- Other Disciplinary Sanctions:

The Board may implement various remedies for the purpose of ensuring the CPGC complies with all duties, standards, and requirements. 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 REPORT - 2023



The UGA took effect in 2022, resulting in changes to the grievance process.

### Grievances Received in 2023

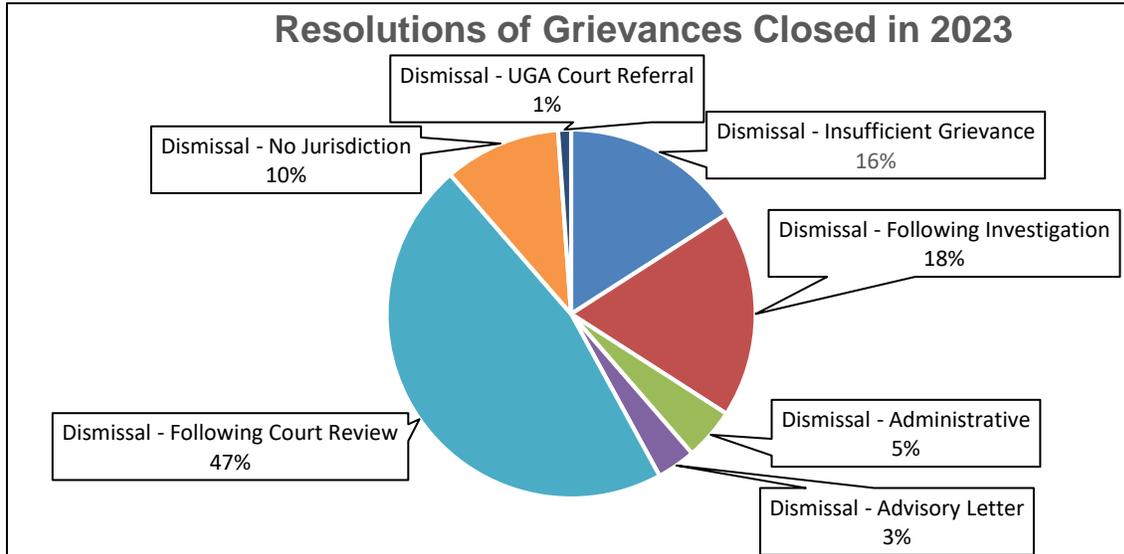
The Board opened 69 grievances in 2023. Forty-six of these were closed by the end of the year. Of the 46 grievances closed, 13 were dismissed as incomplete or because they provided insufficient information to open a grievance, and eight were dismissed for no jurisdiction. A total 41 grievances were referred to Superior Court in 2023. Twenty-four of those referred grievances were dismissed following the Board's review of the court's decision. After investigation, one grievance was dismissed for no actionable conduct.

Of the 69 grievances opened in 2023, 20 remain open pending resolution.



## All Grievances Resolved in 2023

A total of 88 grievances were resolved by the Board in 2023, which includes outstanding grievances received between 2016 through 2023. Sixteen grievances were dismissed for no actionable conduct. Nine grievances were dismissed for no jurisdiction, and 14 were dismissed as incomplete or because there was insufficient information provided to open a grievance. Forty-one grievances were dismissed following a court decision.



| <b>Resolutions of Grievances Closed in 2023</b> | <b>2016</b> | <b>2019</b> | <b>2020</b> | <b>2021</b> | <b>2022</b> | <b>2023</b> | <b>Totals</b> |
|---|-------------|-------------|-------------|-------------|-------------|-------------|---------------|
| Dismissal - Insufficient Grievance              | 0           | 0           | 0           | 0           | 1           | 13          | <b>14</b>     |
| Dismissal - Following Investigation             | 0           | 0           | 0           | 12          | 3           | 1           | <b>16</b>     |
| Dismissal - Administrative                      | 0           | 2           | 1           | 1           | 0           | 0           | <b>4</b>      |
| Dismissal - Advisory Letter                     | 0           | 0           | 0           | 3           | 0           | 0           | <b>3</b>      |
| Dismissal - Following Court Review              | 0           | 0           | 0           | 0           | 17          | 24          | <b>41</b>     |
| Dismissal - No Jurisdiction                     | 0           | 0           | 0           | 0           | 1           | 8           | <b>9</b>      |
| Dismissal - UGA Court Referral                  | 1           | 0           | 0           | 0           | 0           | 0           | <b>1</b>      |
| <b>Total Grievances Resolved in 2023</b>        | <b>1</b>    | <b>2</b>    | <b>1</b>    | <b>16</b>   | <b>22</b>   | <b>46</b>   | <b>88</b>     |

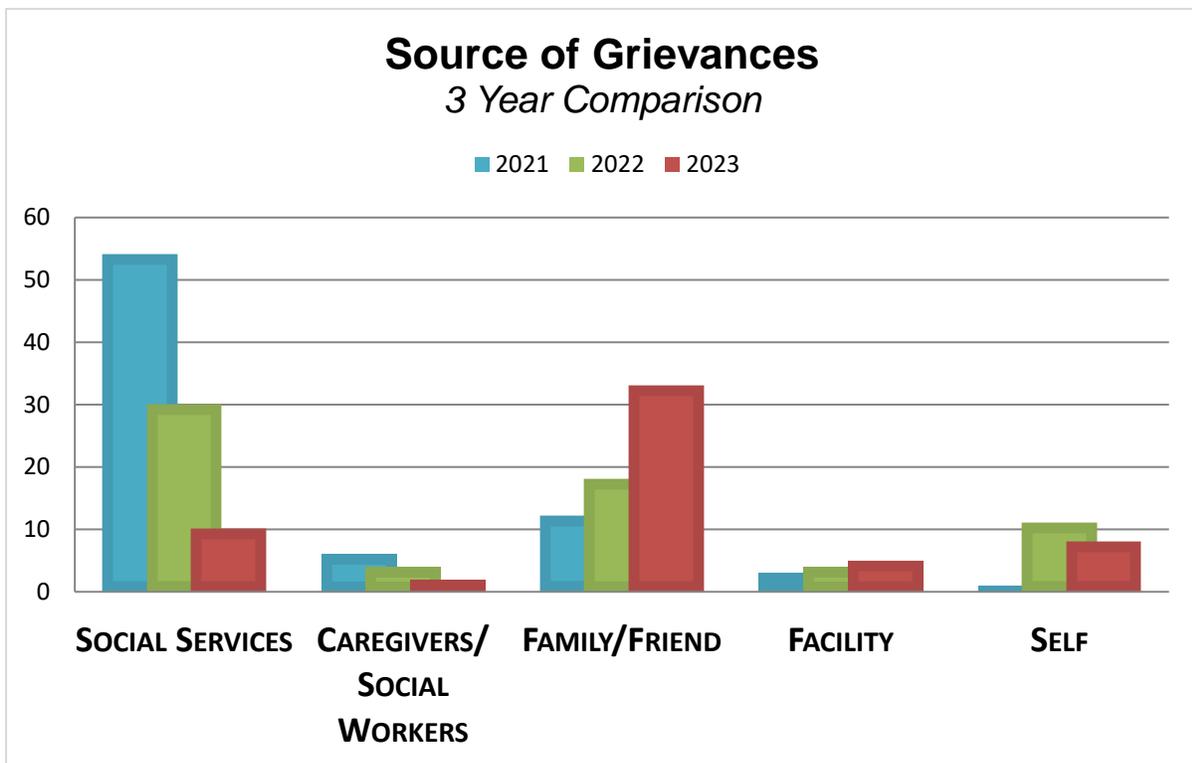
|   | <b>2021</b> | <b>2022</b> | <b>2023</b> | <b>Total</b> |
|---|-------------|-------------|-------------|--------------|
| <b>Open Grievances at Year-End 2023</b> | 1           | 1           | 20          | 22           |

## Sources of Grievances

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

In 2023, 65% of all grievances were submitted by family members and friends of individuals subject to guardianship.

The second most common group to submit grievances were the individuals subject to guardianship. This group submitted 15% of the grievances received. The third largest group to submit grievances were residential care facilities, which accounted for 10% of the grievances received in 2023.



## Grievances by Standards of Practice

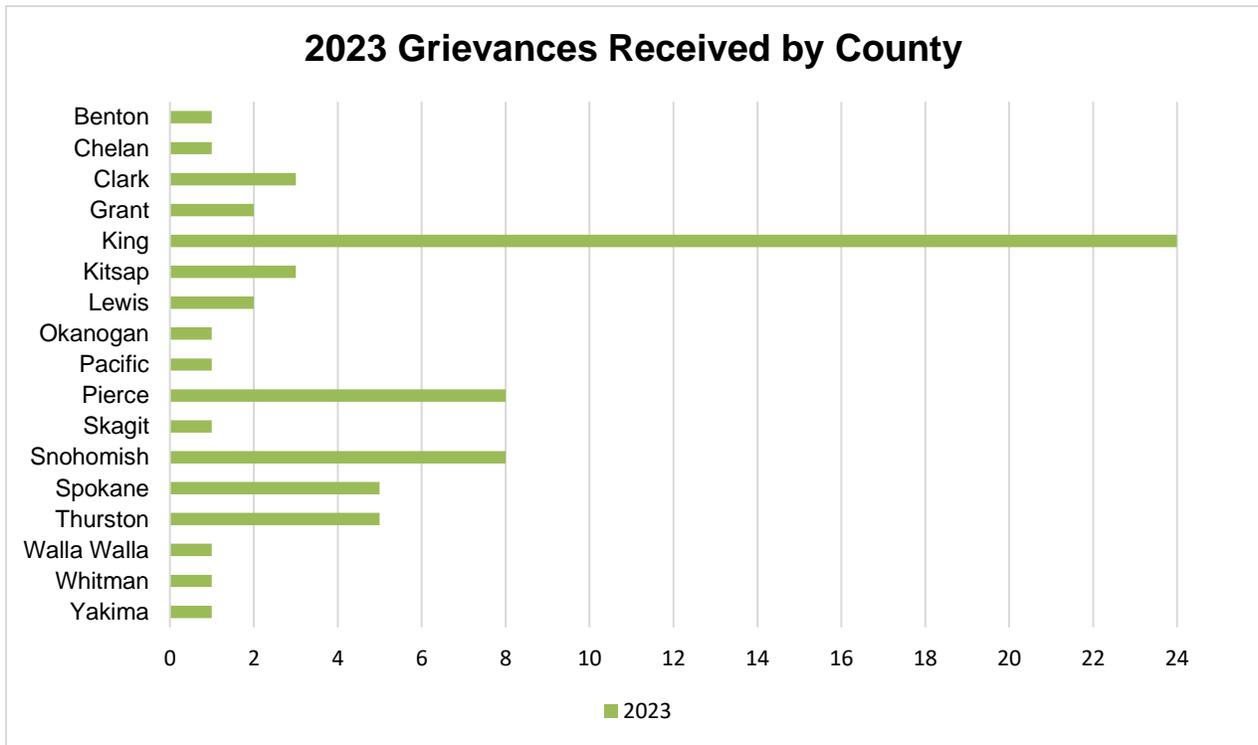
The Standards of Practice (SOPs) are standards of conduct promulgated by the Board which apply to all CPGCs, and CPGC agencies. The SOPs cover a broad range of responsibilities.



### 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 2023, the Board received 69 grievances from 17 of Washington State’s 39 counties. The largest number of grievances was received from King County, with 24 grievances. The second largest number of grievances was received from Pierce and Snohomish Counties, where eight grievances were submitted.