

Certified Professional Guardianship Board

Monday, May 8, 2017

Teleconference

8:00 am – 9:00 am

Meeting Minutes

Members Present

Judge James Lawler, Chair
Ms. Rosslyn Bethmann
Dr. Barbara Cochrane
Mr. Jerald Fireman
Judge Gayle Harthcock
Mr. William Jaback
Ms. Victoria Kesala
Commissioner Diana Kiesel
Dr. K. Penney Sanders
Ms. Carol Sloan
Ms. Barbara West
Ms. Amanda Witthauer

Members Absent

Commissioner Rachelle Anderson

Staff

Ms. Shirley Bondon
Ms. Kathy Bowman
Ms. Carla Montejo
Ms. Kim Rood
Ms. Eileen Schock

Online Guests – see list on last page.

1. Meeting Called to Order

Judge Lawler called the meeting to order at 8:05 am.

2. Welcome, Roll Call & Approval of Minutes

Judge Lawler welcomed members of the Board and the public to the teleconference. He next entertained a motion for approval of the April 10, 2017 Certified Professional Guardianship Board meeting minutes. A motion was made and seconded to approve the minutes. No additions or corrections were requested. The motion passed. Ms. West and Ms. Witthauer abstained as they did not attend the April 10, 2017 meeting.

Motion: *A motion was made and seconded to approve the April 10, 2017 minutes. The motion passed. Abstained: Ms. West, Ms. Witthauer.*

3. Updates: Grievance Status Report

Staff reported that at the end of March there were 118 open grievances. Eight of these grievances were resolved when one guardian voluntarily surrendered their certification. In April, the Board received six new grievances, bringing the total number of open grievances to 116. Of these 116 grievances, 85 involved 28 guardians. Fifteen of the guardians with multiple grievances did not complete the UW Guardianship Certificate Program. Staff is currently investigating the conduct of two CPGs with the highest number of grievances.

Staff reported that a contract with the Dispute Resolution Centers to mediate professional guardian grievances was in process.

4. UW Guardianship Certificate Program Contract Renewal

Ms. Carol Sloan, Chair of the Education Committee reported that the Education Committee met and discussed student evaluations of the UW Guardianship Certificate Program. Concerns noted by the students included the need to receive additional help when needed, better use of class time, better instruction for assignments given, and increased clarity of assignments. The Education Committee was concerned that evaluation instruments were not consistent from year to year and that students are not required to complete evaluations. The Committee wanted to know the method instructors use to encourage students to complete evaluations. Education Committee members were also concerned that students complained about errors in materials, that some students felt class time should be better organized and that instructors should more effectively guide class speakers. Student evaluations also indicated a desire for more pragmatic guardianship information. Other suggestions were to provide a glossary of terms (language is full of legalese), and increase the accessibility of instructors and the ability for students to interact with one another.

The Committee reported that it appeared that the UW Program did not timely implement the Board's 2015 recommendations, but that implementation appears to have occurred. Board members agreed to require UW to respond to the Board's new recommendations and requests within three months of signing the new contract and to report on implementation within one year. An Advisory Committee meeting has been tentatively scheduled for the first week in June, when information will be handed off to the new UW Program manager.

Staff will send the revised contract, including recommendations below, to the Board for vote by email next week¹. UW will be asked to:

- Confirm planned use of consistent evaluation tools over time in all classes.
- Advise the Board as to how evaluations are carried out, including steps taken to increase their return.
- Continue to establish and enforce student ground rules for in-class presentation. Instructors should guide and monitor student discussion, and at least one month before a guest speaker is scheduled to present should provide learning objectives for the presentation and prepare each guest speaker to better meet program goals.
- Advise students as to the time commitments involved and develop in-depth factual backgrounds for case problems.

¹ An email vote was taken on May 23, 2017. All 13 Board members voted. Twelve voted to approve, and one voted to reject.

- Provide more information to students about accounting, fiscal management and feasibility, and record-keeping. Describe to the Board what steps are being taken to emphasize practical aspects of guardianship work.
- Advise the Board of steps that have or will be taken to develop a guardianship glossary.
- Notify the Board of its understanding of any problems with the Certificate Program course website organization, and any steps that have or will be taken to address it.
- Explain to the Board the group work assignments that are required, their learning outcomes, rationale for group versus individual work, and steps taken to ensure that evaluations of group work also reflect individual performance.
- Identify procedures to facilitate instructor interactions with students needing assistance. Inform students about the procedures at the beginning of each course.
- Explain to the Board what systems are in place for students to communicate with one another and what additional opportunities will be provided for students to connect.
- Implement all CPG Board recommendations promptly, with sufficient time to allow evaluation of steps taken before the end of the contract period.
- Within three months of signing the contract, provide the CPG Board with a written response to the Board's recommendations and requests.
- Six months prior to termination of the contract, provide the CPG Board resumes for all instructors, syllabus for all courses, and student evaluations of all courses.
- Within one year of signing the contract, provide the Board with a written report on implementation of the Board's recommendations.

5. **Executive Session (closed to public)**

6. **Reconvene and Vote on Executive Session Discussion (open to public)**

On behalf of the Applications Committee, Ms. Witthauer presented two applications for Board approval. Members of the Applications Committee abstained.

Motion: *A motion was made and seconded to conditionally approve Allison Kahn's application for certification. The motion passed.*

Motion: *A motion was made and seconded to deny Renata Rain's application for certification, based on lack of financial responsibility and lack of transferrable skills. The motion passed.*

8. **Wrap Up/Adjourn**

Judge Lawler noted the next CPG Board meeting will be held June 12 at 9:00 am at the Sea-Tac office. The meeting was adjourned at 8:33 am.

Recap of Motions from May 8, 2017 Meeting

Motion Summary	Status
Motion: <i>A motion was made and seconded to approve the minutes of the April 10, 2017 meeting. The motion passed.</i>	<i>Passed</i>
Motion: <i>A motion was made and seconded to conditionally approve Allison Kahn's application for certification. The motion passed.</i>	<i>Passed</i>
Motion: <i>A motion was made and seconded to deny Renate Rain's application for certification. The motion passed.</i>	<i>Passed</i>

Online Guest:

Tom Goldsmith

DRAFT

Correspondence



Mindi R. Blanchard, M. Ed., CPG
President

Date: May 9, 2017
To: Certified Professional Guardian Board
From: Mindi R. Blanchard, M.Ed., CPG
President, Bridge Builders, Ltd.

RE: Supported Decision-Making: a movement for low income incapacitated individuals that has no adequate definition.

There is a movement and attitude that many guardianships can be avoided by using “Supported Decision-Making”, thereby making guardianship unnecessary. I believe that the concept of avoiding a guardianship by using Supported Decision-Making is an effort to slap a simple answer on a very complicated set of issues. By the time an individual is incapacitated to the point of a guardianship petition being filed with the court, they are not or no longer capable of appropriate decision-making. The time for Supported Decision-Making is when the individual still has the capacity to make reasonable decisions for themselves and just need someone to help make those decisions happen.

When an individual ends up with a guardian, at least in Washington State, they have either been financially exploited, abused or have demonstrated over an extended period of time self-neglect (poor judgement) that puts them at imminent risk of serious injury or death. The court investigator (called a Guardian ad Litem) is required to rule out less restrictive alternatives before recommending a guardianship.

Should guardianship clients have as much autonomy as possible? Of course! But to say that Supported Decision-Making can be used in place of guardianship in these cases is unrealistic. Supported Decision-Making can be used within guardianship in a controlled way with the guardian providing appropriate structure and oversight in order to guide the client to work toward the client’s goals and also to improve the client’s quality of life; but here is why it will never replace guardianship:

Cognitive Impairment: Individuals who need a guardian typically have significant cognitive impairment.

- They are unaware when they are making unsafe decisions.
- They are unable to problem-solve; which means being able to analyze why a plan works or, if it doesn’t work, why it doesn’t work, and adjust the plan accordingly.
- They are unable to see the possible consequences, good and bad, of their desires.
- They are unable to think in a logical manner.

P.O. Box 610 • Sequim • WA • 98382
Phone: 360-683-8334 • Fax: 360-683-8358 • www.bridgebldrs.com

Consequently

- They are impulsive
- They make decisions emotionally, not logically, and these decisions can change depending on how they feel at the moment. (see “impulsive”)
- They are manipulative because they do not know how, or have lost the ability, to get their perceived needs met in an appropriate manner.
- They can be paranoid and unable to trust a helper enough to make progress.
- They have a low tolerance for stress and, as a consequence, may act out with negative or inappropriate behaviors.

One of the arguments of this movement is to try to avoid guardianships with a fiduciary, such as a Social Security Representative Payee, and “Supported Decision-Making.” I have found that many low income incapacitated individuals who have Representative Payees are not able to take advantage of discounts and other low-income programs because the Representative Payee doesn’t have the legal authority and the staff in other agencies on which the individuals may rely are not always proactive in ensuring that each of their clients are taking advantage of the low-income programs available.

Because these individuals have cognitive impairment, they need someone with legal authority to act on their behalf; at the very least a power of attorney. If they are too incapacitated to designate a power of attorney, the only other alternative is legal guardianship. If they are low-income and have no friend or family willing to be designated power of attorney, they have a problem as there is no provision in the law for those receiving State services to pay a professional guardian to act under a power of attorney document. If they live on SSI, there is no provision to pay a guardian, either.

Maybe the thinking is that many of the identified individuals who are supposed to be able to thrive with “Supported Decision-Making” already have various agencies involved with them to do this. This is patently false. I have been appointed guardian to individuals who were “in the system” and I can tell you that things fall through the cracks for these individuals if they don’t have someone specifically advocating for them. For example, while my guardianship clients certainly get to make their own medical decisions whenever possible, it is my job as guardian to make sure that they truly understand, on a level that they can understand, what the medical issue is, what the options are and the positive and negative consequences to each option. The medical personnel do not know the client well enough to understand how to explain the medical issues in a way that the client can understand.

It is also important to ensure that the client is taking advantage of services that stretch their limited funds as far as possible, as well as advocating for the client when there are problems; sometimes system problems and sometimes personal problems. Without an advocate, the client’s life lacks needed enrichment and sometimes additional funds.

Often the employees of the agencies that serve the low-income are not properly trained. They don’t understand that sometimes the words that a cognitively impaired person says cannot necessarily be taken at face value. For example, a cognitively impaired individual who is in a skilled nursing facility may say that he/she wants to go home. So, the individual is either discharged to home or the individual signs themselves out against medical advice only to end up cycling through the hospital and skilled nursing again. A trained person would ask the individual questions to determine *why* going “home” is so important. Many times it has nothing to do with the home itself but other things such as a beloved pet (in which case the guardian could then find a facility willing to accept the pet with the client) or the individual may actually be talking about a childhood home, etc. Sometimes, a family member or close

of home and once the “trigger” leaves, it is out-of-sight, out-of-mind. One needs appropriate training to be able to determine the meaning behind the words.

I have yet to hear a description of how “supported decision-making” to avoid guardianships will work in real life for individuals with cognitive impairment. Again, I believe that this is far too simplistic an answer to a very complicated set of issues.

I invite those who think that “Supported Decision-Making” will work to avoid guardianships to clearly define its definition and illustrate how they envision it will work.

Respectfully submitted:

Mindi R. Blanchard

Mindi R. Blanchard, M.Ed., CPG

Monthly Grievance Status Report

CERTIFIED PROFESSIONAL GUARDIAN GRIEVANCES
May 31, 2017

Investigations	2017	2016	2015	2014	2013	Total
Grievances Needing Investigation: 4/30/2017	22	61	20	12	1	116
Resolved w/o ARD or Hearing	[2]	[6]	[1]	[1]		[10]
Resolved w/ARD						
Resolved w/Hearing						
New Grievances (Opened Since Last Report)	12					12
Grievances Needing Investigation: 5/31/2017	32	55	19	11	1	118

Resolutions	2017	2016	2015	2014	2013	Total
Dismissal – No Jurisdiction	2					2
Dismissal – No Actionable Conduct		6	1			7
Dismissal – Administrative						
Voluntary Surrender				1		1
Admonishment						
Reprimand						
Suspension						
Administrative Decertification						
Decertification						
Closed Since Last Report	2	6	1	1	0	10

CPG ID	Year Certified	Grievances	Year(s) Grievances Received	Status
A	2015	5	2016 (3), 2017 (2)	
B	2011	5	2014 (1), 2016 (3), 2017 (1)	
C	2002	3	2014 (1), 2016 (1), 2017 (1)	
D	2010	2	2016 (1), 2017 (1)	
E	2011	2	2015 (1), 2016 (1)	
F	2005	4	2014 (2), 2015 (1), 2016 (1)	
G	2004	2	2015 (1), 2017 (1)	
H	2014	3	2015 (1), 2016 (1), 2017 (1)	
I	2012	4	2016 (3), 2017 (1)	
J	2010	8	2015 (1), 2016 (5), 2017 (2)	Investigation underway
K	2001	3	2014 (1), 2015 (1), 2016 (1)	
L	2011	2	2015 (1), 2016 (1)	
M	2003	2	2015 (2)	
N	2003	3	2015 (1), 2016 (2)	
O	2007	4	2015 (1), 2016 (2), 2017 (1)	
P	2010	3	2014 (1), 2015 (1), 2017 (1)	
Q	2003	2	2016 (2)	
R	2001	2	2016 (2)	
S	2001	9	2015 (1) 2016 (8)	Investigation underway
T	2001	2	2014 (1), 2016 (1)	
U	2007	2	2016 (2)	
V	2014	3	2015 (1), 2016 (1), 2017 (1)	
W	2001	2	2016 (2)	
X	2015	2	2016 (1), 2017 (1)	
Y	2013	2	2016 (1), 2017 (1)	
Z	2010	2	2015 (1), 2016 (1)	

Total 83

	Year Certified	# of Guardians
Before UW Certificate Program 122	2001	5
	2002	1
	2003	3
	2004	1
	2005	1
	2006	
	2007	2
	2008	
	Total	13
UW Certificate Program 147	2009	
	2010	4
	2011	3
	2012	1
	2013	1
	2014	2
	2015	2
	2016	
	Total	13

Year	Grievance by Year
2013	
2014	7
2015	15
2016	46
2017	15

Legislation of Interest

Brief Summary of Engrossed Bills

2SHB 1402

Concerning the rights and obligations associated with incapacitated persons and other vulnerable adults.

1. Provides that incapacitated persons retain certain associational rights.
2. Prohibits guardians from restricting those associational rights, with some exceptions.
3. Defines "isolate" or "isolation" in the laws regarding abuse of vulnerable adults.
4. Adds certain notice requirements to the duties of a guardian.
5. Requires the Office of Public Guardianship to work with the Office of the State Long-Term Care Ombuds to develop certain types of targeted training.

SB 5691

Modifying or terminating a guardianship when a less restrictive alternative is available to provide for the needs of an incapacitated person.

- Requires a court to modify or terminate a guardianship when a less restrictive alternative, such as a power of attorney or a trust, will adequately provide for the needs of an incapacitated person.

ESHB 1153

Concerning crimes against vulnerable persons.

1. Lowers the requisite mental state for the crimes of Criminal Mistreatment in the first and second degree from recklessness to criminal negligence.
2. Creates the crimes of Theft from a Vulnerable Adult in the first degree and second degree, applicable when a person commits theft of property or services from a person the defendant knows or should know is a vulnerable adult.
3. Categorizes Criminal Mistreatment (first and second degree) and Theft from a Vulnerable Adult as crimes against persons.
4. Encourages counties to develop written protocols for handling criminal cases involving vulnerable adults, and outlines requirements for vulnerable adult advocacy teams.

SHB 1988

Implementing a vulnerable youth guardianship program

1. Creates a new legal proceeding, known as a Vulnerable Youth Guardianship, authorizing a court to appoint a guardian for certain immigrant youth between the ages of 18 and 21 who have been abandoned, abused, or neglected.
2. Requires the Washington State Task Force Against the Trafficking of Persons to evaluate whether vulnerable youth guardianships where the guardian is a nonrelative suitable person have the unintended impact of placing youth at greater risk of being trafficked, and if so, research and identify ways to reduce this risk.

WINGS Status Report

Callie T. Dietz
State Court Administrator

Washington WINGS Status Report

Progress on WINGS Priorities May 2017

WA WINGS is a coordinated court-community partnership established to drive change in adult guardianship and alternatives through the collective impact of multiple state entities. By combining the efforts of all stakeholders, WINGS has worked to make recommendations to improve judicial processes, better protect individual rights, encourage less restrictive decision-making options, and promote fiduciary standards and guardian accountability.

A. WINGS accomplished the following general short-term goals:

1. Established a steering committee to govern the group.
2. Held two statewide stakeholder conferences.
3. Identified strengths and weaknesses in the state's current approach to adult guardianship and less restrictive decision-making options and developed recommendations for reform.
4. Engaged, within available resources, in outreach, education, and training, including, for example, training on supported decision-making.
5. Increased communication with stakeholders.

B. WINGS reports achieving the following outcomes:

1. Developed a stakeholder listserv comprised of more than 15,000 members.
2. Stakeholders identified 23 recommendations and began developing proposals to implement.

3. The Board for Judicial Administration, the policy body for Washington courts, adopted a resolution to support WINGS.
4. A stakeholder developed a Facebook page titled "Guardianship Hub -Lay/Family Non-certified." She is posting information, links, news articles and Q&A interactions.
5. Four-hundred and fifty-four stakeholders completed a priority setting survey.
6. Twenty-eight volunteers refined priority recommendations and developed presentations for a statewide stakeholder conference.
7. Two-hundred and five stakeholders attended the first statewide stakeholder conference, and 211 stakeholders attended the second statewide stakeholder conference.
8. Ninety stakeholders volunteered to serve on four workgroups that formed after the first stakeholder conference.
9. Four workgroups held more than 30 one-hour conference calls since the first stakeholder conference held August 7, 2015.
10. Held eleven training sessions.
11. AOC launched a new website – [The Guardianship Portal](#).

C. Highlights of Progress on WINGS Priorities

Recommendation 1: Expand Moderate Means Panels to provide free or reduced post-guardianship legal advice to assist lay guardians with guardianship reporting requirements and petitions for instructions.

Beginning August 1, 2017, the Moderate Means Program will begin providing reduced fee legal services for guardianship reporting to lay guardians who qualify. The Moderate Means Program is a state-wide, reduced fee lawyer referral service formed through a partnership between the Washington State Bar Association (WSBA) and the law schools of Gonzaga University, Seattle University, and the University of Washington. The Program is designed to connect moderate income households with lawyers who offer reduced fee legal assistance.

Recommendation 2: Provide access to conflict resolution/family mediation.

January 9, 2017, the Certified Professional Guardianship Board approved agreed mediation to address grievances about the conduct of a professional guardian that involves allegations about communication concerns, including but not limited to:

- Failure to respect self-determination.

- Failure to cooperate with the IP, the IP's family and friends or other service providers.
- Failure to discuss decisions with the IP, including healthcare and finances.

Recommendation 3: Provide lay guardian training online and in-person

Required Online Lay Guardian Training

The State Justice Institute (SJI) awarded the Administrative Office of the Courts (AOC) a Curriculum Adaptation Training (CAT) grant of \$30,000 to develop and deliver, in partnership with the National Center for State Courts (NCSC) and the Institute for Court Management (ICM), an online curriculum that is optimized for an interactive training program adapted from the Washington Lay Guardian Training materials and a collection of other individual resources for online delivery which will be adapted into an interactive online training program for lay guardians and other members of the public.

Lay Guardian Training Manual

The WINGS Information and Training Committee has focused on creating a statewide lay guardian training manual that covers whether a guardianship is necessary and the duties of a guardian after appointment. The end product will be a manual posted on and printable from the AOC website. The Committee has created a Table of Contents for the manual, reviewed existing county manuals and written five chapters.

Provide county specific mandatory guardianship training before final orders are entered.

No progress to report.

Recommendation 4 - Encourage acceptance of standard guardianship forms statewide.

A WINGS representative joined the Guardianship Pattern Forms Committee and will collaborate with the committee to develop forms needed to assist pro se and provide consistency between jurisdictions, which will help attorneys who practice in more than one county. Standardized forms will also make it possible to provide consistent education for lay guardians.

Recommendation 5: Establish a guardianship resource to provide education and assistance with guardianship questions, which will be provided via the web, the phone, in-person and in written formats.

A subcommittee formed to determine how existing entities might collaborate to improve the delivery of guardianship education and assistance.

Recommendation 6: Obtain and analyze data to determine the need for public guardianship services in Washington State.

In response to a request from Chief Justice Mary Fairhurst, Representative Kilduff submitted a request for the Joint Legislative Audit and Review Committee (JLARC) to perform a study to determine the need for decision-support statewide.

Recommendation 7: Obtain and analyze data to determine the costs and associated benefits of guardianship services in Washington State.

The Administrative Office of the Courts and the DSHS Research and Data Analysis Division will enter into a data sharing agreement to develop and formalize a process to identify, track, and report the costs and benefits of guardianship services (private and public).

Recommendation 8: AOC should be responsible for updating and maintaining the Title 11 Guardian ad litem training curriculum.

Training has been available for GALs under a training program known as the Title 11 RCW Model Guardian ad Litem Training Program (the Training Program) that was developed in 1997 by the Guardian Ad Litem Training Project Advisory Group and the Aging and Adult Services Administration of DSHS. Currently, several counties provide the GAL training. A review of the trainings provided appears to indicate that the Model Training Curriculum is not being followed. Thus, GALs may be receiving training that doesn't meet required standards.

In response to WINGS concerns about GAL training, September 1, 2016, DSHS awarded a \$10,000 contract to the King County Bar Association's Guardianship and Elder Law Section to:

- Conduct and coordinate 4-8 state-wide Advisory Committee meetings to document and address issues related to GAL training
- Compile and consider all edits received from the Advisory Committee in finalizing the training documents
- Submit progress reports as follows
 - Submit an interim progress report with each billing

- Submit a one-year summary progress report to DSHS after one full year from the start date of this contract, no later than the 13th month of the contract period
- Incorporate the recommended changes from the Advisory Committee into a revised version of the training
- Provide a final draft of the training and include an executive summary of the revision process for DSHS approval
- After receiving DSHS approval, produce the final documents and make them available as indicated below
 - Send the final GAL training to all 39 GAL registry managers
 - Distribute the GAL training electronically to attendees and make it available to the public on the King County Bar Association website.

According to DSHS, to-date planning meetings have occurred, and members have been selected. A WINGS representative was selected to serve on the review committee. The next step is to finalize the list of members and schedule the first meeting with all members.

Recommendation 9: Execute the OPG Strategic Plan

Expand OPG's methods of service to include less restrictive alternatives to guardianship.

Bills were submitted in the House and the Senate to allow the Office of Public Guardianship to provide alternatives to guardianship. House Bill 1139 passed the House; however, Senate Bill 5447 did not pass out of Senate Law and Justice.

Develop a plan to fully fund the services of OPG.

No progress to report.

Educate stakeholders about the roles and responsibilities of OPG.

If funded, House Bill 1402, signed by the Governor on May 5, 2017 requires the Office of Public Guardianship, in partnership with the Office of the State Long-Term Care Ombuds, to develop and offer training targeted to the legal community and persons working in long-term care facilities regarding the different kinds of decision-making authority, including guardianship, authority granted under power of attorney, and surrogate health care decision-making authority. The training must include, at a minimum, information regarding: The roles, duties, and responsibilities of different kinds of decision makers; the scope of authority and limitations on authority with respect to different kinds of decision makers; and any relevant remedial measures provided in law for activity that exceeds the scope of decision-making authority.

Recommendation 10: Improve Guardianship Standards of Practice

The WINGS Standards and Practice Committee drafted and submitted five proposed standards of practice to the Certified Professional Guardianship Board. The proposed standards focused on the actual and potential conflicts of interest listed below:

- Self-petitioning by certified professional guardians
- Selection of counsel by a certified professional guardians
- Title 11 Guardian ad litem conflict of interest
- Legal representation of an individual in a guardianship by a guardian who is also an attorney

D. Little progress has been accomplished for the following list of approved WINGS recommendations; however, WINGS will continue to pursue implementation:

Recommendation 11: Change the title “Title 11 Guardian ad litem” to “Court Investigator.”

The term “guardian ad litem” means different things in different legal circumstances, and it has a particular meaning as it applies to guardianship. Under the guardianship statute, the GAL has the duty to investigate and gather reports, inform the alleged incapacitated person of his or her rights, and make recommendations (not decisions) to the court. RCW 11.88.090 (5) describes these duties in some detail. For example, the GAL is charged with gathering medical reports, interviewing those associated with the petition, and making recommendations related to whether alternatives would suffice or a guardianship is needed, whether the person should retain the right to vote, and whether the person nominated would be a fit guardian. A review of the statute and the tasks assigned to the GAL makes it clear that a guardian ad litem is not much like a guardian and very much like a court investigator. The term “court investigator” makes it easier for the lay person to understand the duties of the GAL and they are then less likely to confuse the GAL with the Guardian.

Recommendation 12: Change the statutory reference "incapacitated person" to "individual in a guardianship" and "alleged incapacitated person" to "respondent."

A change is requested to address the concern of many stakeholders that the terms "incapacitated person" and "alleged incapacitated person" are disrespectful and pejorative and reduce an individual to an object.

Recommendation 13: Create a statewide guardianship monitoring program that helps the Superior Courts, and lay and professional guardians appointed to execute the court's authority.

The recommendation combines aspects of volunteer guardianship monitoring, formal auditing, and data collection, and recommends a regional model that considers the differences in county needs resources, and the number of guardianship appointments.

Recommendation 14: Require the filing of a criminal background check (Washington State Patrol and Federal Bureau of Investigation) of the proposed guardian with the guardianship petition or as soon as the identity of the proposed guardian is known.

A criminal background check of the proposed guardian should be filed with the guardianship petition or as soon as the identity of the proposed guardian is known.

RCW 11.88 does not require a criminal background check of the proposed guardian. Some counties have local rules that require a criminal background check before a guardianship is finalized. Although not required, some guardians ad litem request a criminal background check as part of the GAL report.

Recommendation 15: Improve the process used to determine if a guardianship is needed and the Title 11 Guardian ad litem Report.

Assessments should involve other professionals. A medical examination is not adequate. A functional assessment should be required utilizing the services of a geriatrician, psychologist, mental health professional and others, or at a minimum, a GAL should be trained to perform a thorough functional assessment that does not require medical knowledge.

Most GALs are attorneys who do not have specific educational background and training in conditions affecting capacity, such as dementia, developmental disabilities, mental illness and traumatic brain injury. To correct these deficits, other professionals who have the requisite educational background and training should be consulted and GALs should be trained to perform a functional assessment that doesn't require specific medical training, to provide evidence of a demonstrated inability to adequately provide for nutrition, health, housing, or physical safety or manage property or financial affairs

Recommendation 16: The Administrative Office of the Courts (AOC) should manage the credentialing process for all Title 11 Guardians ad litem.

The current system places responsibility for credentialing with each Superior Court. Although similar, the credentialing process from court to court varies, these inconsistencies increase exposure of vulnerable members of society to potential abuse, neglect, and exploitation.

Recommendation 17: If the Title 11 Guardian ad Litem (GAL) has an apparent conflict of interest, the GAL shall file a Motion for Order to Show Cause within five days of knowledge of the potential conflict.

The August 7, 2015, WINGS Conference recommended consideration as to whether it was appropriate for a GAL who is also an attorney to propose a professional guardian who the attorney represents as the guardian's attorney. There was a concern by some attending the conference that the public, including the parties to a guardianship, perceived an apparent conflict of interest when a GAL proposed a client to be a guardian for an alleged incapacitated person. By statute, RCW 11.88.090(3)(b), a guardian ad litem is to notify the court within five days of receipt of notice of appointment and serve each party with a statement which discloses whether he or she has an apparent conflict of interest. Then, within three days, any party may set a hearing and serve a motion for an order to show cause as to whether the guardian ad litem should be removed for an apparent conflict of interest. However, some at the conference felt that this did not adequately safeguard the incapacitated person's interests, as it put the burden on one of the parties to explore the extent of any conflict by requesting a hearing.

Recommendation 18: Promote the use of less restrictive alternatives.

- Require Title 11 GALs to explicitly address alternatives in the GAL Report.
- Create a Pattern Form GAL Report that requires explicitly addressing alternatives
- Develop and distribute a brochure describing alternatives to guardianship.
- Provide planning workshops to those who may be considering guardianship.

The WINGS Steering Committee decided that the following recommendations require additional research and discussion.

Recommendation 19: Provide a court-appointed attorney to the person in a guardianship.

A WINGS Subcommittee considered the following questions:

- Should additional protections in the form of legal representation be provided by the court to every person who is subject to a guardianship petition?
- Should representation be made available to both alleged and adjudicated incapacitated persons?

The subcommittee developed the following three options for WINGS Steering Committee consideration. However, the Steering Committee did not agree on a final solution but requested additional information.

- Option One – Maintain existing law governing the availability of counsel to represent “Alleged Incapacitated Persons” (AIPs).
- Option Two – Ensure counsel is provided to represent all individuals who are the subject of a petition for guardianship.
- Option Three – Provide additional protections to ensure that counsel is available to those AIPs who would benefit from representation.

Recommendation 20: Give the court more discretion to determine whether a person who has committed a felony or a misdemeanor involving moral turpitude should serve as a court- appointed guardian.

There should be further review of the standards for disqualification for guardians. Perhaps a rule that the decision whether a person who has committed a felony or misdemeanor with an absence of any criminal record for a period (10 years) should be disqualified would be in the discretion of the court. Giving a broader discretion to the court would allow many otherwise disqualified family members with a provable clean record to become guardians for their relatives.

Recommendation 21: Establish additional minimum qualifications for Guardians ad litem.

The educational requirements to serve as a GAL are too vague and limited. A higher level of education is needed to act effectively as GAL than RCW 11.88 currently provides. The current standard requires an unspecified "level of formal education."

There is currently no requirement that the GAL have any expertise in or experience with aging issues. Given the duties required of a person responsible for assessing the capacity and needs of the AIP, the GAL should have some experience with aging issues.

The WINGS Long Range Planning Committee recommends considering the following:

- Amend RCW 11.88 to require that the minimum education requirement for a GAL should be a Bachelor's degree (any discipline).
- Amend RCW 11.92 to require that GALs have verifiable experience (work history, references, education) with aging issues.
- Have increased and better training of GALs on the RCW 11.92 requirement that GALs look for less restrictive alternatives to Guardianship.

Recommendation 22: Title 11 Guardians ad litem should not act as emergency or temporary guardians or perform guardian tasks affecting an individual he or she has been appointed to investigate.

In the past, some GALs have exceeded their statutory investigative authority by asserting decision-making authority concerning the personal welfare or financial estate of guardianship petition respondents. Some GALs have asserted that their appointment supplants powers of attorney, trusts, or other arrangements that a respondent previously may have made. There is no statutory basis for such assertions. WINGS is forming a subcommittee to develop recommendations.

Recommendation 23: GALs should ensure appropriate individuals receive notice of the right to request special notice.

When appropriate provide notice to service providers. WINGS will also develop a process for the court to determine if an individual should not receive notice of right to receive special notice.

For more information contact:

Shirley Bondon, WINGS Coordinator

Office of Guardianship and Elder Services

Management Services Division | Washington State Administrative Office of the Courts
(Voice) 360.705.5302 | (Fax) 360.956.5700 | (E-mail) shirley.bondon@courts.wa.gov

Disciplinary Regulation 500

Proposed Rules Published for Comment

[April 2017 - Guardian Program Proposed Rules Published for Comment](#)

Published for Comment:

The Certified Professional Guardianship Board (Board) is significantly revising and reorganizing Disciplinary Regulation 500, which documents the Board's process to address alleged violations of statutes, fiduciary duties, standards of practice, rules, and regulations. The regulation review, revision and reorganization should result in a clearer, more comprehensive regulation.

The proposed revisions include the following:

1. Significant reorganization to achieve a logical order and flow.
2. Additional section headings.
3. Additional definitions.
4. Comprehensive explanation of roles and responsibilities.
5. Expanded explanation of procedural rules.
6. Expanded explanation of the investigative process.
7. Thoroughly defined grievance/complaint resolutions and sanctions.

The Board's Regulations Committee began reviewing the regulation more than five years ago. Initially, the Board planned an incremental review that included posting for comment proposed revisions in what was believed to be manageable segments. Part I was completed and approved for public comment June 10, 2013. It had a comment period that expired July 26, 2013. After hearing concerns regarding posting proposed revisions in parts, the Committee decided to honor a request from the Washington Association of Professional Guardians (WAPG) and complete a total review before seeking further comments. The total review is now complete.

Special Note

Significant revision, reorganization and renumbering, has made providing a document with the changes highlighted or underlined impossible. Such a document would not be readable. You are encouraged to proceed as though this were a new regulation. A side-by-side comparison of the current and proposed regulation is provided.

- [500 - Disciplinary Regulations/Current](#)
- [500 - Disciplinary Regulations/Proposed](#)
- [500 - Disciplinary Regulations/Proposed/Side by Side Comparison](#)
- [500 - Certified Professional Guardianship Board meeting, Call In instructions](#)

The Board plans to review, discuss and consider adopting proposed revisions in manageable segments over several board meetings. The Board's review schedule is provided below:

Review Schedule

- June 12, 2017, 9 a.m. Sections 501.2 -503
SeaTac Office Facility, 18000 International Blvd., Suite 1106, SeaTac, WA.
- August 14, 2017, 8 a.m. Sections 504.1 thru 506.3
Teleconference (see online meeting instructions below)
- September 11, 2017, 8 a.m. Sections 507 thru 508.11
Teleconference (see online meeting instructions below)
- October 16, 2017 9 a.m. Sections 509.1 thru 509.13
SeaTac Office Facility, 18000 International Blvd., Suite 1106, SeaTac, WA.
- November 13, 2017, 8 a.m. Sections 510.1 thru 515
Teleconference (see online meeting instructions below)

Adopt

- January 8, 2018, 9 a.m. to 3 p.m.
SeaTac Office Facility, 18000 International Blvd., Suite 1106, SeaTac, WA.

Comments will be accepted any time between the date this document is posted and the close of business November 1, 2017; however comments received according to the schedule below will be reviewed by the Board at the next board meeting scheduled after the comment receipt date.

Comment Receipt Schedule

- May 31, 2017; Sections 501.1 thru 503
- August 2, 2017; Sections 504.1 thru 506.3
- August 30, 2017; Sections 507 thru 508.11
- October 4, 2017; Sections 509.1 thru 509.13
- November 1, 2017; Sections 510.1 thru 515

Please send comments to one of the following addresses:

E-mail comments to guardianshipprogram@courts.wa.gov

Or send via U.S. Mail to

Kim Rood

Guardian Program

Administrative Office of the Courts

PO Box 41170

Olympia, WA 98504-1170

360.705.5314

Disciplinary Regulation Public Comments

From: Weigelt, David B
To: [AOC DL - Guardianship Program](#)
Cc: dontsayuncle1@yahoo.com
Subject: Comment on 501
Date: Monday, May 01, 2017 9:40:22 AM

501.3

#2. The wording of this violation has been changed from the original wording and as a result is now inconsistent with other sections of the regulations including; 509.3.1 (e) and (f), 509.5.2. As re-written the commission of "any" felony no longer qualifies for disciplinary action. Suggest reverting back to old language "503.2 Commission of a felony or of a misdemeanor or gross misdemeanor involving moral turpitude, whether or not a conviction results."

#8) Typo in the paragraph

-

David Weigelt, CPA
Enterprise Financial Reporting
Payroll Audit Compliance
425-234-9176

Notice: This communication may contain confidential information. If you are not the intended recipient or believe that you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use the information. Also, please indicate to the sender that you have received the e-mail in error, and delete the copy you received. Thank you.

-

Current Disciplinary Regulation 500

Guardianship Program Rules

500 Disciplinary Regulations

Contents

- 501 Standards of Practice Relationship to Disciplinary Regulations
- 502 Purpose of Disciplinary Regulations
- 503 Grounds for Disciplinary Action
- 504 Grievances
- 505 Standards of Practice Committee (SOPC)
- 506 Standards of Practice Committee Action on Grievances
- 507 Conflicts Review Committee
- 508 Duties of the Certified Professional Guardian in a Disciplinary Proceeding
- 509 General Provisions
- 510 Hearing Procedures
- 511 Hearings
- 512 Board Review
- 513 Supreme Court Review
- 514 Agreements Regarding Discipline
- 515 Sanctions and Remedies
- 516 Costs
- 517 Reinstatement after Decertification or Suspension
- 518 Conviction of Felony
- 519 Suspension Pending Disciplinary Proceedings
- 520 Review of Superior Court Case Filings
- 521 Request for Disciplinary Record
- 522 Administrative Decertification

Guardianship Program Rules

501 Standards of Practice Relationship to Disciplinary Regulations

The Standards of Practice are designed to assist professional guardians in performing their duties and to protect the public interest. The standards constitute a system for determining sanctions, permitting flexibility and creativity in assigning sanctions in particular cases of professional guardian misconduct. The standards are designed to promote:

Consideration of all factors relevant to imposing the appropriate level of sanction in an individual case;

Consideration of the appropriate weight of such factors in light of the stated goals of guardian discipline; and

Consistency in the imposition of disciplinary sanctions for the same or similar offenses.

The weight given any violation of a standard of practice is set out in the disciplinary regulations.

Guardianship Program Rules

502 Purpose of Disciplinary Regulations

502.1 To assure that Certified Professional Guardians meet and maintain minimum professional standards of practice, which are adopted as regulations under General Rule 23 – Rule for Certifying Professional Guardians.

502.2 To establish a process for the Certified Professional Guardian Board (Board) to review grievances of alleged violations of statutes, fiduciary duties, standards of practice, rules, regulations, and any other authority applicable to professional guardians. The disciplinary procedures for failure to pay dues or failure to complete continuing education requirements are included in the Application and Continuing Education Regulations.

502.3 To set out the due process protections and other procedures that allow the professional guardian and the public to be protected.

Guardianship Program Rules

503 Grounds for Disciplinary Action

A professional guardian may be subject to disciplinary action for any of the following:

503.1 Violation of or noncompliance with applicable statutes, court orders, court rules, or other authority.

503.2 Commission of a felony or of a misdemeanor or gross misdemeanor involving moral turpitude, whether or not a conviction results.

503.3 Failure to perform any duty one is obligated to perform as a professional guardian.

503.4 Violation of the oath, duties, or standards of practice of a professional guardian.

503.5 Permitting a professional guardian's name to be used by an uncertified person or agency.

503.6 Misrepresentation or concealment of a material fact made in the application for certification.

503.7 Suspension, decertification, or other disciplinary sanction by competent authority in any state, federal, or foreign jurisdiction when such action was taken in connection with a professional guardianship or interaction with an incapacitated or vulnerable person.

503.8 Hiring, maintaining an office with, having on a Certified Agency's Board of Directors, or working for or together with any person who has been decertified or suspended and who is not eligible for re-certification, if the professional guardian has knowledge of such decertification or suspension. The Board upon application and approval may waive this provision. The Board may set conditions on a waiver.

503.9 Willful disregard of a subpoena or order of a court, review panel, Board committee or the Board.

503.10 Making a false statement under oath.

503.11 Conduct demonstrating unfitness to work as a professional guardian, including but not limited to persistent or repeated violations of rules, standards of practice or regulations, or disciplinary actions.

503.12 Working as a professional guardian while on inactive status.

503.13 Failing to cooperate during the course of an investigation as required by the Board's regulations.

Guardianship Program Rules

504 Grievances

504.1 Any person or entity may file a grievance with the Administrative Office of the Courts (AOC) regarding a professional guardian. The Board may file a grievance in its name if alleged or apparent misconduct comes to the Board's attention without a grievance being filed by a third person.

504.2 Grievances may be filed by completing the grievance form located on the Washington Courts website at http://www.courts.wa.gov/programs_orgs/forms/ and submitting the grievance form to the Board through the AOC.

504.3 The AOC will review each complaint and may follow up in writing or through other means to obtain all necessary information for the grievance to proceed. This follow-up may include the AOC returning incomplete or unclear grievances to the submitting person or body with an explanation of why the grievance is incomplete and what additional information is necessary.

504.4 Unless the Standards of Practice Committee (SOPC) has dismissed the grievance, the AOC shall send a grievance regarding an active guardianship case to the appropriate superior court with a request that the court review the grievance, take any action the court deems necessary, and report back to the AOC.

504.5 Unless the SOPC has dismissed the grievance, AOC will send a copy of the grievance to the professional guardian, provide information to the professional guardian about the website location of the Board's disciplinary regulations and request that the professional guardian respond to the grievance in writing.

504.6 AOC may perform other necessary investigation of the grievance, which may include any of the following: interviewing the grievant, interviewing the professional guardian and obtaining relevant records or documentation from any person or entity.

504.7 AOC will report the results of its investigation to the SOPC unless the grievance is against a Board member, in which case the AOC will report the results of its investigation to the Conflicts Review Committee (CRC) which shall act on the grievance in accord with these regulations.

Guardianship Program Rules

505 Standards of Practice Committee (SOPC)

505.1 The SOPC shall have three members appointed by the Board Chair. At least one member must be a certified professional guardian and at least one member must be an attorney or judicial officer. The Board Chair shall designate one member as the chair of the committee. All committee members will serve a term of one year. The Board Chair shall also appoint at least three alternate members of the SOPC to assist the SOPC in the performance of its duties as requested by the Chair of the SOPC. At least one alternate member shall be a certified professional guardian and one alternate member shall be a judicial officer or attorney.

505.2 Members of the SOPC shall perform tasks related to the disciplinary process as set forth in these regulations or as assigned by the Board.

Guardianship Program Rules

506 Standards of Practice Committee Action on Grievances

506.1 The SOPC shall review reports prepared by AOC, if any, and take one of the following actions on each grievance: request further information from AOC, dismiss, request that the Board file a formal complaint, request that the Board enter into an Agreement Regarding Discipline, or direct that AOC contact the professional guardian to discuss an issue of minor significance and of a nature not potentially harmful to clients of the professional guardian or other persons. The SOPC may also refer the grievance to other regulatory agencies or to law enforcement. If the SOPC requests Board action, the request shall be accompanied by a written report setting forth the reasons for the request.

506.1.1 The SOPC may direct AOC to obtain the statement of any person believed to have information relevant to the grievance, obtain opinions from expert witnesses, or any other information the SOPC determines may be relevant to the grievance.

506.1.2 Where there is reasonable cause to believe that testimony should be perpetuated, AOC may depose any witness upon reasonable notice to the professional guardian being investigated. An AOC staff attorney or an attorney appointed by the Board Chair shall conduct the deposition. The deposition shall be taken under oath before a Notary Public or other officer authorized by the law of the jurisdiction where the deposition is taken. The deposition may be transcribed by any party for use in further proceedings.

506.1.3 AOC may issue a subpoena to compel attendance of witnesses or to compel production of documents at a deposition. The subpoena shall be issued in the name of the Board and subscribed by the signature of the Board's attorney. Subpoenas shall be served in the same manner as in civil cases in superior court. Failure to attend or produce documents pursuant to a properly issued subpoena shall be considered contempt of the Supreme Court. A motion to quash or modify the subpoena, on the grounds of unreasonableness or oppression, shall be decided by the Board Chair.

506.2 The SOPC will dismiss the grievance if it determines that the Board has no jurisdiction over the grievance or if the allegations and other information available to the SOPC, do not provide grounds for disciplinary action by the Board. The AOC will notify the grievant in writing that the grievance has been dismissed and the reason for the dismissal.

506.3 The SOPC may request that a complaint be filed if the Board has jurisdiction over the grievance and the grievance and other information available to the SOPC provide grounds for disciplinary action by the Board.

506.4 The SOPC may direct AOC to contact a professional guardian directly to discuss a grievance regarding an issue of minor significance or of a nature not potentially

harmful to clients of the professional guardian or other persons. The SOPC may direct the professional guardian to take corrective measures. If the professional guardian takes the action requested by the SOPC, the SOPC will report the professional guardian's compliance to the Board. If the Board approves of this resolution, then the matter will be closed. This resolution does not constitute a finding of misconduct by the Board, is not a sanction, is not disciplinary action, and is not public information. The grievant shall be informed that the matter is closed with no disciplinary action taken by the Board. If the professional guardian refuses to take action as directed by the SOPC, or the Board does not approve the resolution, the matter shall be reviewed by the SOPC for further action.

506.5 The SOPC may conditionally settle and dispose of grievances without a hearing, provided a complete report of the conditional disposition of each grievance shall go to the Board for approval. Upon review of the SOPC report, the Board shall take action and make a record of the Board's decision which shall appear in the meeting minutes.

506.6 The Board may defer processing any grievance involving material allegations that are substantially similar to the material allegations of pending criminal or civil litigation. In such event, the professional guardian shall make all reasonable efforts to obtain a prompt disposition of such pending litigation. Acquittal of the professional guardian of criminal charges or a verdict or a judgment favoring in the professional guardian in civil litigation involving substantially similar material allegations shall not require abatement of any Board disciplinary investigation predicated upon the same material allegations.

Guardianship Program Rules

507 Conflicts Review Committee

507.1 The Conflicts Review Committee (CRC) shall have three members appointed by the Board Chair, who shall also designate the committee chair. CRC members may not be current members of the Board. CRC members shall be familiar with guardianship practice in the state of Washington.

507.2 The AOC shall transmit any grievance against a Board member to the CRC. The CRC shall perform the duties that would otherwise be performed by the SOPC under these regulations and AOC shall report to the CRC on any such grievance.

507.3 The CRC may also recommend to the Board Chair that the Board member under investigation be placed on a leave of absence from the Board during its investigation. The CRC will consider the nature of the allegations against the Board member, the available evidence regarding those allegations and the importance of maintaining public trust and confidence in the Board in making its recommendation to the Board Chair. The CRC may make such a recommendation at any time during its investigation and review of the grievance. Except as otherwise set forth in these regulations, the Board Chair shall have the sole discretion to decide whether the Board member should take a leave of absence from the Board and when the Board member may return to the Board.

507.4 If the Board files a complaint against a Board member, the Board member shall take a leave of absence from the Board until the conclusion of the disciplinary proceeding.

507.5 Consistent with the Office of Financial Management rules, CRC members shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

Guardianship Program Rules

508 Duties of the Certified Professional Guardian in a Disciplinary Proceeding

508.1 It shall be the duty and the obligation of a professional guardian or agency subject to a disciplinary investigation to cooperate with the SOPC, Board, or the AOC staff as requested, subject only to the proper exercise of the professional guardian's privilege against self-incrimination.

508.2 Upon request, the professional guardian shall provide the following within the time specified:

508.2.1 Documents, including allowing AOC to inspect and copy business records, files, and accounts.

508.2.2 A full and complete explanation covering the matters contained in the grievance.

508.2.3 Written releases or authorizations where needed to obtain access to documents or information in the possession of third parties.

508.3 The professional guardian may be required to report to and seek instruction from the appointing court.

Guardianship Program Rules

509 General Provisions

509.1 Representation of the Professional Guardian

509.1.1 A professional guardian may be represented by counsel at the professional guardian's expense at any stage of any investigation or proceeding under the Board's regulations.

509.1.2 Should the professional guardian seek reimbursement or imposition of fees and costs from a guardianship estate during the pendency of any Board or AOC investigation, the matter must be addressed by the superior court with jurisdiction over the case.

509.1.3 A former member of the Board who is also a licensed attorney in Washington shall not represent a professional guardian in proceedings under the Board's regulations until after two (2) years have elapsed following expiration of the Board member's term of office.

Guardianship Program Rules

510 Hearing Procedures

510.1 Complaint

510.1.1 Upon the SOPC's request that a complaint be filed, and upon approval of the Board, the AOC shall sign such a complaint that shall set forth the allegations regarding particular acts or omissions of the professional guardian in such detail as to enable the professional guardian to be informed of the allegations. The complaint shall be filed with the AOC.

510.1.2 Prior Board disciplinary action against the professional guardian may be set forth in a separate count of the complaint. Prior Board disciplinary action is a factor to be considered in determining any sanction imposed in a disciplinary action.

510.2 Hearing Officer: In the absence of a hearing officer hired by the AOC, the Board Chair shall appoint a Hearing Officer, but may fulfill the obligations of a Hearing Officer in the absence of such appointment. Any Board member may be appointed as the Hearing Officer, except for any member of the Standards of Practice Committee that investigated the grievance.

510.3 Commencement of Proceedings: A disciplinary action shall become public when the complaint has been filed with the AOC by counsel representing the Board. The complaint and all subsequent pleadings filed in the disciplinary action shall be open to public access.

510.4 Notice

510.4.1 A copy of the complaint with notice to answer, notice of the location of the Board's disciplinary regulations on the AOC website, and any pleadings, notices, or other documents shall be served on the professional guardian by registered or certified mail at the address on file with the AOC.

510.4.2 By applying to be certified, all professional guardians agree to accept personal service by registered or certified mail at the address provided by the professional guardian.

510.4.3 Service on the Board of any pleadings, notices, or other documents may be made by delivery or mailing to the Administrative Office of the Courts, 1112 Quince St SE, PO Box 41170, Olympia WA 98504-1170 during regular business hours. A copy of any document served on the Board shall be served by mail or personal delivery on the Board's attorney of record in the disciplinary proceeding.

510.4.4 Proof of service by affidavit or certificate of service, or mailing, sheriff's return of service, or a signed acknowledgment of service, shall be filed in the office of the AOC.

510.4.5 Electronic filing or service of documents upon the Board or the AOC is not permitted without the express written authorization of the Board or the AOC. Electronic service upon a party is not permitted without the express written authorization of the party. Electronic filing and service includes transmission by electronic mail and electronic facsimile transmission.

510.5 Response: The professional guardian may file a response to the complaint. Failure to timely respond or to keep the AOC advised of the professional guardian's current address for service during the pendency of the disciplinary hearing procedures may lead to an adverse decision as defined below.

510.6 Time to Respond: The professional guardian shall be allowed thirty (30) days from the date of service, exclusive of the date of service, to respond to the complaint.

510.7 Amendment and Extensions of Time: The Hearing Officer may at any time allow or require amendments to the complaint or to the answer. The Hearing Officer may extend the time for filing any pleading for good cause.

510.8 Procedural Irregularity: No technical or procedural irregularity shall affect the validity of a complaint or of any related proceedings.

Guardianship Program Rules

511 Hearing

511.1 Board Representation: AOC staff or other person, including counsel appointed by the Chair, shall represent the Board.

511.2 Where Held: All disciplinary hearings shall be held within the State of Washington at such place and time as may be directed by the Hearing Officer. Hearings may take place by telephone or other electronic means, in the discretion of the Hearing Officer.

511.3 Date of Hearing: The Hearing Officer shall ensure that the parties receive notice of the time and place of the hearing at least thirty (30) days before the hearing.

511.4 Postponements/Continuances: The Hearing Officer may grant a postponement or continuance of any hearing. An application for a continuance or postponement by a party shall be supported by affidavit and shall be served and filed at least seven (7) days prior to the scheduled hearing, unless such time is shortened by the Hearing Officer.

511.5 Entry of Default

511.5.1 Timing: If a certified professional guardian (guardian), after being served with a notice to answer as provided in Reg. 510.4, fails to file an answer to a formal complaint or to an amendment to a formal complaint within the time provided by these rules, the Board's attorney of record in the disciplinary proceeding may serve the guardian with a written motion for an order of default.

511.5.2 Motion: The Board's attorney of record must serve the guardian with a written motion for an order of default and a copy of this regulation at least five (5) days before entry of the order of default. The motion for an order of default must include the following:

- a) The dates of filing and service of the notice to answer, formal complaint, and any amendments to the complaint; and
- b) The Board's attorney of record statement that the guardian has not timely filed an answer as required by Reg. 510.4 and that the Board's attorney of record seeks an order of default under this regulation.

511.5.3 Entry of Order of Default: If the guardian fails to file a written answer with the Administrative Office of the Courts (AOC) within twenty (20) days of service of the motion for entry of an order of default, the hearing officer, or if no hearing officer has been assigned, the chair of the Standard of Practice Committee, on proof of proper service of the motion, enters an order finding the guardian in default.

511.5.4 Effect of Order of Default: Upon entry of an order of default, the allegations and violations in the formal complaint and any amendments to the complaint are deemed admitted and established for the purpose of imposing discipline and the guardian may not participate further in the proceedings unless the order of default is vacated under this regulation.

511.6 Proceedings After Entry of an Order of Default.

511.6.1 Service: The AOC serves the order of default and a copy of this rule under regulation 510.4.2.

511.6.2 No Further Notices: After entry of an order of default, no further notices must be served on the guardian except for copies of the decisions of the hearing officer or the Board.

511.6.3 Disciplinary Proceeding: Within 60 days of the filing of the order of default, the hearing officer or the Board must conduct a disciplinary proceeding to recommend disciplinary action based on the allegations and violations established under section (a). At the discretion of the hearing officer or Board, these proceedings may be conducted by formal hearing, written submissions, telephone hearing, or other electronic means. The attorney of record for the Board may present additional evidence including, but not limited to, requests for admission under regulation 511.10.0 and depositions, affidavits, and declarations regardless of the witness's availability.

511.7 Setting Aside Default

511.7.1 Motion To Vacate Order of Default: A guardian may move to vacate the order of default and any decision of the hearing officer or Board arising from the default on the following grounds:

- a) mistake, inadvertence, surprise, excusable neglect, or irregularity in obtaining the default;
- b) erroneous proceedings against a guardian, who was, at the time of the default, incapable of conducting a defense;
- c) newly discovered evidence that by due diligence could not have been previously discovered;
- d) fraud, misrepresentation, or other misconduct of an adverse party;
- e) the order of default is void;
- f) unavoidable casualty or misfortune preventing the guardian from defending; or

g) any other reason justifying relief from the operation of the default.

511.7.2 Time: The motion must be made within a reasonable time and for grounds (A) and (C) within one year after entry of the default. If the guardian's motion is based on allegations of incapability of conducting a defense, the motion must be made within one year after the disability ceases.

511.7.3 Burden of Proof: The guardian bears the burden of proving the grounds for setting aside the default. If the guardian proves that the default was entered as a result of a disability which made the guardian incapable of conducting a defense, the default must be set aside.

511.7.4 Service and Contents of Motion: The motion must be filed and served under regulation 510.4.3 and 510.4.4 and be accompanied by a copy of guardian's proposed answer to each formal complaint for which an order of default has been entered. The proposed answer must state with specificity the guardian's asserted defenses and any facts that guardian asserts as mitigation. The motion to vacate the order of default must be supported by an affidavit showing:

- a) the date on which the guardian first learned of the entry of the order of default;
- b) the grounds for setting aside the order of default; and
- c) an offer of proof of the facts that the guardian expects to establish if the order of default is vacated.

511.7.5 Response to Motion: Within ten days of filing and service of the motion to vacate, the attorney of record for the Board may file and serve a written response.

511.7.6 Decision: The hearing officer decides a motion to vacate the order of default on the written record without oral argument. If the proceedings have been concluded, the chair of the Board assigns a hearing officer to decide the motion. Pending a ruling on the motion, the hearing officer may order a stay of proceedings not to exceed 30 days. In granting a motion to vacate an order of default, the hearing officer has discretion to order appropriate conditions.

511.7.7 Appeal of Denial of Motion: A guardian may appeal to the Chair a denial of a motion to vacate an order of default by filing and serving a written notice of appeal stating the arguments against the hearing officer's decision. The guardian must file the notice of appeal within ten days of service on the guardian of the order denying the motion. The appeal is decided on the written record without oral argument. Pending a ruling on the appeal, the Chair may order a stay of

proceedings not to exceed 30 days. In granting a motion to vacate an order of default, the Chair has discretion to order appropriate conditions.

511.7.8 Decision To Vacate Is Not Subject to Interim Review: An order setting aside an order of default is not subject to interim review.

511.8 Protective Orders: To protect a compelling privacy or safety interest of a grievant, witness, third party, or professional guardian, the Hearing Officer may, upon motion and finding that such privacy or safety interests outweigh the public interest in access to the record, issue a protective order prohibiting the public disclosure of specific information, documents, or pleadings, and direct that the proceedings be conducted so as to implement the order. Said order shall state with particularity the information prohibited from disclosure. Agreement of the parties alone does not constitute a sufficient basis for granting a protective order. The hearing on a motion for a protective order shall occur as soon as possible in order to not delay the proceedings.

511.9 Subpoenas: Any party may issue a subpoena to compel the attendance of witnesses or to produce documents at a hearings or deposition. The subpoena shall be issued in the name of the Board and shall be signed and subscribed to by the party or the party's attorney of record. Subpoenas shall be served in the same manner as in civil cases in superior court. A failure to attend or produce as required by the subpoena shall be considered contempt of the Supreme Court. A motion to quash or modify the subpoena, on the grounds of unreasonableness or oppression, shall be decided by the Hearing Officer.

511.10 Discovery: The parties shall have the following discovery rights, limited only to the extent the Hearing Officer deems just:

511.10.1 Admissions from a party under Superior Court Civil Rule (CR) 36.

511.10.2 Depositions of another party or witness under Superior Court Civil Rule (CR) 30.

511.10.3 Other discovery under the Superior Court Civil Rules, only on motion and under terms and limitations the Hearing Officer deems just or on the parties' stipulation.

511.11 Testimony: Testimony may be live or taken electronically via telephone, video, or other means at the discretion of the Hearing Officer. Hearings shall be electronically recorded and testimony may be presented through depositions. Witnesses shall testify under oath administered by the Hearing Officer.

511.12 Exchange of Materials: The parties shall exchange witness lists and exhibits prior to the hearing, as directed by the Hearing Officer. Failure to comply with the case scheduling requirements as directed by the Hearing Officer may result in the exclusion of witnesses and evidence not timely identified.

511.13 Cooperation: It shall be the duty of the professional guardian and the Board's counsel to timely respond to all requests or directions of the Hearing Officer. Upon a party's failure to do so, the Hearing Officer may recommend to the Board that the professional guardian be decertified for non-compliance with the disciplinary process. Such failure may constitute a separate violation of these regulations. The Hearing Officer may dismiss the complaint with prejudice upon failure of the Board's counsel to timely respond to requests or directions of the Hearing Officer.

511.14 Standard of Proof: The Board bears the burden of establishing misconduct warranting disciplinary action by a preponderance of the evidence in all cases. (Adopted 11-14-11)

511.15 Rules of Evidence: The rules of evidence shall be those set forth in chapter 34.05 RCW, the Administrative Procedure Act.

511.16 Civil Rules as Reference: The Civil Rules of the Superior Court shall be referred to as a guide in any matter not covered by these regulations. The Hearing Officer shall determine the applicability and shall decide the procedure to be used.

511.17 Witness Fees: Witnesses shall be paid the same fees and allowances, in the same manner and under the same conditions, as provided for witnesses in the courts of this state by RCW 2.40 and RCW 5.56.010, except that the AOC shall have the power to fix the allowance for meals and lodging in like manner as is provided in RCW 5.56.010 as to courts. The party issuing a subpoena shall pay the fees, allowances, and cost of producing records required to be produced by subpoena.

511.18 Findings, Conclusions, and Recommendation: Within twenty (20) days after the hearing, the Hearing Officer shall file with the AOC written findings of fact, conclusions of law, and recommendations to the Board for action. The AOC shall mail copies to the parties.

Guardianship Program Rules

512 Board Review

512.1 Transcript of the Hearing: The Board shall prepare the transcript of the evidentiary hearing held before the Hearing Officer and shall mail a copy to each party.

512.2 Statement in Opposition and Rebuttal: Any statement in opposition to the decision of the Hearing Officer, alleging errors of fact, law, or any other pertinent matter shall be filed within twenty (20) days from receipt of the hearing transcript. Said statement shall be filed with the Board and served on each party. Each party shall have ten (10) days from the date of mailing of a statement in opposition of any party to file a rebuttal to said statement. Receipt of any mailed materials shall be deemed complete three days after the postmarked date on the materials.

512.3 Board Review: The Board shall review the Hearing Officer's findings of fact, conclusions of law and recommendations. In addition, the Board shall review any statements in support or opposition to such findings, conclusions, and recommendation, and any portion of the record deemed necessary to resolve the matter.

512.4 Board Action

512.4.1 Board Decision: The Board shall adopt, modify or reverse the findings, conclusions, and recommendation of the Hearing Officer by written decision, a copy of which shall be served upon the parties.

512.4.2 Dissent: If any Board member or members dissent from the findings, conclusions, and recommendation of the majority, the member or members shall state in writing the reasons for the dissent. Dissents shall be made a part of the record.

512.4.3 Retention of Records: The record of any disciplinary proceeding shall be retained in accordance with records retention schedules for the judicial branch and the AOC.

512.4.4 Disposition Requiring Supreme Court Action: If the Board's recommendation is that the professional guardian be decertified or suspended, that recommendation, along with the record, shall be transmitted to the Supreme Court.

512.4.5 Disqualification: The Hearing Officer and all Board members who served on the SOPC are disqualified from participating in the Board's review of the Hearing Officer's decision and from participating in the Board's vote on the matter.

512.4.6 Quorum: A quorum for determination of the Board's decision on review of the Hearing Officer's decision shall consist of a majority of the Board members who are not disqualified as above.

512.4.7 Information to Grievant: The Board shall advise the grievant in all cases of the final disposition of the grievance.

Guardianship Program Rules

513 Supreme Court Review

513.1 Notification of Filing: Upon the filing of the Board's recommendation of suspension or decertification and of the record, the Supreme Court Clerk shall mail written notice to the professional guardian and counsel.

513.2 Review on the Record: The Supreme Court shall review any Board recommendation for suspension or decertification after consideration of the transmitted record. No oral argument or evidence will be heard by the Supreme Court. The Supreme Court may adopt, modify, or reverse the Board's recommendation by written order. The AOC shall mail a copy of the Supreme Court's order to all parties, counsel, and the Board. Costs, if any, of transcription and preparation of the record for Supreme Court review shall be paid by the Board.

513.3 Finality: The court's order in a disciplinary proceeding is final when filed unless the court specifically provides otherwise.

513.4 Decertified or Suspended Professional Guardians

513.4.1 Referral to Court: The Supreme Court's order decertifying or suspending a professional guardian shall include provisions providing for the immediate referral of the matter to the superior court of each county.

513.4.2 Agencies: If the Board has recommended decertification or suspension of a professional guardian to the Supreme Court, the employer agency, if any, shall, upon notice of the Board's recommendation, promptly appear before the Board to determine how the decertification or suspension shall affect continuation of the agency's certification. Continuing certification of an agency affected by the suspension or decertification of a professional guardian shall be determined by the Board. The Board's primary concern shall be the best interests of the incapacitated persons. This provision does not supplant the exclusive jurisdiction of the superior court of each county over guardianship cases.

513.4.3 Notice to Interested Parties: Within ten (10) days of decertification or suspension, the professional guardian shall notify all parties entitled to notice in any active or pending guardianship matters of the professional guardian's decertification or suspension and the anticipated effect on the incapacitated person.

513.4.4 Immediate Cessation of Professional Guardian Status: After entry of the order of decertification or suspension, the decertified or suspended professional guardian shall not accept any new appointments or engage in work as a professional guardian in any matter, except to assist in the orderly transfer of cases.

513.4.5 Affidavit of Compliance: Within ten (10) days of the effective date of the decertification or suspension order, the decertified or suspended professional guardian shall file with the AOC:

- a) An affidavit attesting to full compliance with the provisions of the order, and with these regulations, including current mailing address.
- b) A copy of the notification letter sent to all parties entitled to notice, together with a list of the names and addresses of all persons to whom the notice was sent.

513.4.6 Records Maintained: Proof of compliance with these regulations shall be a condition precedent to any petition for reinstatement.

Guardianship Program Rules

514 Agreements Regarding Discipline

514.1 Requirements: Any disciplinary matter may be resolved by an Agreement Regarding Discipline entered into at any time by the professional guardian and by the Board.

514.2 An Agreement Regarding Discipline shall:

514.2.1 State the material facts relating to the particular acts or omissions of the professional guardian.

514.2.2 Set forth the guardian's prior record of discipline or any absence of such record.

514.2.3 State that the Agreement Regarding Discipline is binding as a statement of all known facts relating to the conduct of the professional guardian, but that any additional existing acts may be proven in any subsequent disciplinary proceedings.

514.2.4 Fix any costs, restitution, and expenses to be paid by any party.

514.3 Notice

514.3.1 The Agreement Regarding Discipline shall be retained by the AOC in the professional guardian's disciplinary file.

514.3.2 The Agreement Regarding Discipline shall be open to public access and disclosure. Notice of the discipline imposed in such Agreements shall be sent to all superior courts.

514.4 Failure to Comply: Failure of a professional guardian to comply with the terms of an Agreement Regarding Discipline may constitute additional grounds for discipline.

Guardianship Program Rules

515 Sanctions and Remedies

515.1 Following a determination that a professional guardian has violated a provision of the Standards of Practice, sanctions may be appropriate. Any sanction or remedy imposed by the Board or the Supreme Court on a professional guardian or agency, whether or not agreed to by the professional guardian, is a disciplinary sanction. Sanctions may include decertification, suspension, prohibition against taking new cases, letter of reprimand, or letter of admonishment. Factors to be considered in imposing sanctions include:

515.1.1 The duty violated.

515.1.2 The professional guardian's mental state.

515.1.3 The potential or actual injury caused by the professional guardian's misconduct.

515.1.4 The existence of aggravating or mitigating factors.

515.1.4.1 Aggravating factors include prior disciplinary action by the Board against the same professional guardian, dishonest or selfish motives, a pattern of misconduct, multiple offenses, failure to cooperate during the disciplinary proceeding, refusal to acknowledge the wrongful nature of the conduct, vulnerability of the victim, indifference to making restitution, and illegal conduct.

515.1.4.2 Mitigating factors include the absence of a prior disciplinary record, timely good faith to make restitution or to rectify consequences of misconduct, cooperation with the disciplinary proceedings, and temporary circumstances outside the professional guardian's control.

515.2 Imposition of Sanctions: Generally, the following sanctions are available.

515.2.1 Decertification is generally appropriate when a professional guardian engages in:

515.2.1.1 Professional misconduct incompatible with the Standards of Practice with the intent to benefit the professional guardian or another; or deceive the court; or cause serious or potentially serious injury to a party, the public, or the legal system or causes serious or potentially serious interference with a legal proceeding;

515.2.1.2 Felonious criminal conduct,

515.2.1.3 Any other intentional misconduct involving dishonesty, fraud, deceit, or misrepresentation that seriously, adversely reflects on the professional guardian's fitness to practice, or

515.2.1.4 Gross incompetence as demonstrated by a pattern or practice of late filings, accounting errors, case tracking, or other violations of the same Standards of Practice, and where the guardian has not corrected the behavior despite previous attempts by the courts or the Board to correct the behavior. (Adopted 1-9-12)

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

515.2.2.1 Professional conduct incompatible with the Standards of Practice and causes injury or potential injury to a party, the public, or the legal system, or causes interference or potential interference with a legal proceeding, or

515.2.2.2 Criminal conduct that seriously adversely reflects on the professional guardian's fitness to serve.

515.2.3 A letter of reprimand is generally appropriate when a professional guardian engages in:

515.2.3.1 Professional misconduct incompatible with the Standards of Practice and causes injury to a party, the public, or the legal system, or causes interference with a legal proceeding, or

515.2.3.2 Any other misconduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the professional guardian's fitness to practice.

515.2.4 A letter of admonishment is generally appropriate when a professional guardian engages in professional misconduct incompatible with the standards of practice and not rising to the level justifying a reprimand.

515.3 Remedies are designed to ensure compliance with duties, standards, and requirements for a professional guardian. Remedies may include, but are not limited to, changes in methods of practice, probation, restitution, additional training for guardian or staff, requirement that the professional guardian obtain expert consultation, mentoring, or an audit.

Guardianship Program Rules

516 Costs

The Board may order a professional guardian to pay costs including cost of the discipline process and any other directly provable expense, including attorney fees as part of the sanctions imposed. A Hearing Officer may recommend the payment of costs. Failure of a professional guardian to pay costs or to pay restitution when ordered to do so, or failure to comply with the terms entered, may constitute additional grounds for discipline. (Amended 2-11-08).

Guardianship Program Rules

517 Reinstatement after Decertification or Suspension

517.1 No decertified or suspended professional guardian shall resume working as a professional guardian until they have complied with all orders for sanctions and have received written confirmation of such compliance from the Board.

517.2 No petition for reinstatement shall be allowed until five (5) years after decertification.

Guardianship Program Rules

518 Conviction of Felony

518.1 The Board shall decertify a professional guardian upon the conviction of a felony, or a misdemeanor or gross misdemeanor involving moral turpitude, under either state or federal law, whether such conviction is after a plea of guilty, nolo contendere, not guilty, or otherwise, and regardless of the pendency of an appeal. The decertification shall be effective upon the filing of a certified copy of such conviction with the Board. The Board shall file the certified copy of the conviction with other Board records pertaining to the professional guardian's certification. The Board shall provide written notice of the decertification to the professional guardian by certified mail, directed to the guardian's last known address maintained by the AOC. The notice shall advise the professional guardian of the decertification and the reason(s) for the decertification. The notice shall further advise that if the professional guardian should not have been decertified by the Board, the professional guardian may file a petition requesting an administrative hearing. The petition shall set forth in detail the facts supporting the professional guardian's claim that an administrative error has occurred and that the professional guardian has not been convicted of a felony, or a misdemeanor or gross misdemeanor involving moral turpitude. The petition must be signed by the professional guardian under penalty of perjury. The professional guardian must file the petition within 15 days of the date of mailing of the Board's notice of decertification. Any petition not filed within 15 days shall be dismissed by the Board.

518.2 If a timely petition is filed by the professional guardian, the Board Chair shall appoint a three-person Review Panel to conduct a hearing on the petition. The sole issue before the Review Panel shall be to determine whether the professional guardian has been convicted of a felony, or of a misdemeanor or gross misdemeanor involving moral turpitude. In the sole discretion of the Review Panel, the hearing may be held by telephone. The Review Panel shall make written findings and a recommendation about whether the petition should be granted. The findings and recommendation of the Review Panel shall be filed with the Board and served by first-class mail on the professional guardian.

518.3 The Board shall review the decision of the Review Panel and shall make a decision approving or denying the petition. If the petition is approved, then the professional guardian shall be eligible for recertification, if the professional guardian shows proof of compliance with all other requirements for certification. The members of the Review Panel shall not participate in the decision of the Board. A copy of the Board's order shall be sent by first-class mail to the professional guardian. Any such order shall be final.

Guardianship Program Rules

519 Suspension Pending Disciplinary Proceedings

519.1 Board may Suspend a Professional Guardian Pending Disciplinary Proceedings: After institution of a disciplinary proceeding where it appears that a continuation of certification by a professional guardian will result in substantial risk of injury to the public, or where the professional guardian has refused to cooperate in the disciplinary procedures, the SOPC may request that the Board suspend the professional guardian during the pendency of the disciplinary proceedings.

519.2 Petition and Notice to Answer: At the request of the SOPC, an attorney appointed by the Board Chair shall file a petition with the Board requesting that the Board suspend the professional guardian during the pendency of disciplinary proceedings. The petition to the Board under this rule shall set forth grounds for such suspension pending disciplinary proceedings. A copy of the complaint shall be attached to the petition. Documents or affidavits may support the petition. The Board shall issue an order to show cause requiring the professional guardian to appear before the Board on a date certain to show cause why the request for Suspension Pending Disciplinary Proceedings should not be granted.

519.3 Answer to Petition: The professional guardian's answer may contain facts relating only to the issue of substantial risk of injury to the public, shall be verified by the professional guardian, and may be supported by declarations, affidavits, and other documentary evidence.

519.4 Service of Answer: A copy of the answer shall be served on the Board's attorney at least five days before the scheduled show cause hearing. For good cause shown, the time for answer may be extended.

519.5 Costs: No costs shall be assessed for a hearing on a petition to suspend a professional guardian pending disciplinary proceedings.

519.6 Show Cause Hearing: The Board shall base its decision on all pleadings and other documents, affidavits and declarations filed by the parties, as well as oral argument of the parties. The Board shall issue an order suspending the certification of the professional guardian during the pendency of the disciplinary proceedings if it is persuaded by a preponderance of the evidence that the continued certification of the professional guardian presents a substantial risk of injury to the public or that the professional guardian has failed to cooperate in disciplinary proceedings.

519.7 Supreme Court Review: Either party may request review of the Board's order by the Supreme Court. The Supreme Court shall review the Board's order and the pleadings, documents, affidavits and declarations filed by the parties before the Board. The Supreme Court shall determine whether oral argument is granted. The Supreme

Court may adopt, modify or reverse the order of the Board. The AOC shall mail a copy of the Supreme Court's order to all parties.

Guardianship Program Rules

520 Review of Superior Court Case Filings

To periodically audit guardians' compliance with standards of practice and statutory court filing requirements, the Board directs AOC to select certified professional guardians at least monthly and review the guardians' cases on SCOMIS or other available case information sources. AOC may open a grievance and conduct an investigation pursuant to these Disciplinary Regulations.

Guardianship Program Rules

521 Request for Disciplinary Record

When an official licensing or disciplinary body of any state with a pending application, investigation or disciplinary action involving a professional guardian in Washington requests disciplinary information from the Board or the AOC, the AOC will certify and transmit the disciplinary record of the professional guardian involved. Notice of the request and the transmitted materials shall be provided to the last known address of the professional guardian.

Guardianship Program Rules

522 Administrative Decertification

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

Proposed Revised Disciplinary Regulation 500

Contents

500	DISCIPLINARY REGULATIONS FOR CERTIFIED PROFESSIONAL GUARDIANS	4
501	SCOPE, JURISDICTION, AND DEFINITIONS	4
501.1	PURPOSE OF DISCIPLINARY REGULATIONS.....	4
501.2	JURISDICTION	4
501.3	GROUND FOR DISCIPLINARY ACTION	4
501.4	DEFINITIONS.....	5
501.5	NO STATUTE OF LIMITATION.....	9
502	ORGANIZATION AND STRUCTURE.....	9
502.1	CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD (CPGB)	9
502.2	DISCIPLINARY COMMITTEE.....	10
502.3	CONFLICTS REVIEW COMMITTEE.....	11
502.5	RESPONDENT CERTIFIED PROFESSIONAL GUARDIAN	12
503	RELEASE OF INFORMATION.....	13
504	GENERAL PROCEDURAL RULES	13
504.1	SERVICE OF PAPERS.....	13
504.2	FILING; ORDERS	14
504.3	PAPERS.....	14
504.4	COMPUTATION OF TIME.....	14
504.5	STIPULATION TO EXTENSION OR REDUCTION OF TIME	15
504.6	ENFORCEMENT OF SUBPOENAS.....	15
505	GRIEVANCE INVESTIGATION.....	15
505.1	GRIEVANTS.....	15
505.2	INVESTIGATION OF GRIEVANCE	16
505.3	PRIVILEGES.....	18
506	REVIEW BY DISCIPLINARY COMMITTEE	18
506.1	REVIEW OF GRIEVANCE	18
506.2	DISMISSAL OF GRIEVANCE BY DISCIPLINARY COMMITTEE	19
506.3	RESPONSE TO GRIEVANCE.....	19
507	RESOLUTION WITHOUT COMPLAINT.....	20

507.1	ADVISORY LETTER	20
507.2	SETTLEMENT AGREEMENTS.....	20
507.3	VOLUNTARY RESIGNATION (SURRENDER), IN LIEU of FURTHER DISCIPLINARY PROCEEDINGS.....	21
508	RESOLUTION WITH COMPLAINT.....	22
508.1	GENERAL PROCEDURE.....	22
508.2	COMMENCEMENT OF PROCEEDINGS.....	23
508.3	NOTICE TO ANSWER.....	23
508.4	ANSWER.....	25
508.5	ENTRY OF DEFAULT	25
508.6	SCHEDULING	27
508.7	MOTIONS.....	28
508.8	DISCOVERY AND PREHEARING PROCEDURES.....	28
508.9	PARTICIPATION AT DISCIPLINARY HEARING	28
508.10	HEARINGS	29
508.11	DECISION OF HEARING OFFICER	29
509	DISCIPLINARY SANCTIONS	29
509.1	GUIDELINES FOR IMPOSING DISCIPLINARY SANCTIONS:	29
509.2	TYPES OF DISCIPLINE	30
509.3	REVOCAION OF CERTIFICATION.....	31
509.4	SUSPENSION	31
509.5	INTERIM SUSPENSION FOR CONVICTION OF A CRIME.....	32
509.6	INTERIM SUSPENSION IN OTHER CIRCUMSTANCES.....	35
509.8	PROHIBITION AGAINST TAKING NEW APPOINTMENTS.....	37
509.9	LETTER OF REPRIMAND	37
509.10	PROBATION.....	38
509.11	OTHER DISCIPLINARY SANCTIONS	38
H.	Other requirements consistent with the purposes of discipline;.....	39
509.12	RESTITUTION.....	39
509.13	COSTS AND FEES	39
510	BOARD'S REVIEW.....	41
510.1	DECISION.....	41

510.2 TRANSCRIPT OF HEARING 41

510.3 RECORD ON REVIEW 41

510.4 BRIEFS 42

510.5 DECISION OF BOARD 42

510.7 CHAIR MAY MODIFY REQUIREMENTS 43

512 DISCIPLINE FROM OTHER JURISDICTIONS; DUTY TO SELF-REPORT 45

513 REVIEW OF SUPERIOR COURT CASE FILINGS 46

514 REQUEST FOR DISCIPLINARY RECORD 46

515 ADMINISTRATIVE DECERTIFICATION 46

DRAFT

500 DISCIPLINARY REGULATIONS FOR CERTIFIED PROFESSIONAL GUARDIANS

501 SCOPE, JURISDICTION, AND DEFINITIONS

501.1 PURPOSE OF DISCIPLINARY REGULATIONS

1. To assure that Certified Professional Guardians (CPG) meet and maintain minimum professional standards of practice, which are adopted as regulations under General Rule 23 – Rule for Certifying Professional Guardians.
2. To establish a process for the Certified Professional Guardianship Board (Board) to review grievances of alleged violations of statutes, fiduciary duties, standards of practice, rules, regulations, any requirement governing the conduct of professional guardians and any other authority applicable to professional guardians. The disciplinary procedures for failure to comply with certification requirements are included in the Certification Maintenance and Continuing Education Regulations.
3. To set out the due process protections and other procedures that allow the professional guardian and the public to be protected.
4. To ensure meaningful access to justice services and promote public trust and confidence in the courts.

501.2 JURISDICTION

Any certified professional guardian (CPG) permitted to engage in the provision of guardianship services in this state is subject to these Disciplinary Regulations. Jurisdiction exists regardless of the CPG's residency.

501.3 GROUNDS FOR DISCIPLINARY ACTION

These rules govern the procedure by which a certified professional guardian may be subjected to disciplinary sanctions or actions for violation of the Certified Professional Guardian Standards of Practice or other regulations adopted by the Board.

A professional guardian may be subject to disciplinary action for any of the following:

1. Violation of or noncompliance with applicable violations of statutes, fiduciary duties, standards of practice, rules, regulations, any requirement governing the conduct of professional guardians and any other authority applicable to professional guardians.
2. Commission of any act that constitutes a felony, a misdemeanor or gross misdemeanor involving moral turpitude, whether or not a conviction results.
3. Failure to perform any duty one is obligated to perform as a professional guardian.
4. Violation of the oath, duties, or standards of practice of a professional guardian.

5. Permitting a professional guardian's name to be used by an uncertified person or agency.
6. Misrepresentation or concealment of a material fact made in the application for certification.
7. Suspension, decertification, or other disciplinary sanction taken by competent authority in any state, federal, or foreign jurisdiction when such action was taken in connection with a professional guardianship or interaction with an incapacitated or vulnerable person.
8. Hiring, maintaining an office with, having on a Certified Agency's Board of Directors, or working for or together with any person who has been certification has been revoked or suspended as a disciplinary sanction, if the professional guardian has knowledge of such revocation or suspension. The Board upon application and approval may waive this provision. The Board may set conditions on a waiver.
9. Willful disregard of a subpoena or order of a court, review panel, Board committee or the Board.
10. Making a false statement under oath.
11. Conduct demonstrating unfitness to work as a professional guardian, including but not limited to persistent or repeated violations of rules, standards of practice or regulations, or disciplinary actions.
12. Working as a professional guardian while on inactive status.
13. Failing to cooperate during the course of an investigation as required by the Board's regulations.
14. Incompetence in the performance of the duties of a guardian.
15. Failure to appear for a scheduled court proceeding without good cause.
16. Failure to comply with the terms of a signed Agreement Regarding Discipline.

501.4 DEFINITIONS

Unless the context clearly indicates otherwise, terms used in these rules have the following meanings:

1. "Advisory Letter" is a non-disciplinary letter to notify a professional that:
 - A. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against a respondent certified professional

guardian; or

- B. The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action; or
 - C. While a certified professional guardian has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the Disciplinary Committee believes that repetition of the activities that led to the investigation may result in further Disciplinary Committee action against a CPG.
2. "Agreement Regarding Discipline" (Settlement Agreement) is a written settlement agreement approved by the professional guardian and the Board of a disciplinary matter against a professional guardian. The final agreement, approved by the parties, is a finding of misconduct, is a sanction and is subject to public disclosure.
 3. "AOC" means staff of the Administrative Office of the Courts.
 4. "Board" means the Certified Professional Guardianship Board.
 5. "Chair" when used alone means the Chair of the Certified Professional Guardianship Board.
 6. "Contempt of Court" means:
 - A. Disorderly, contemptuous, or insolent behavior toward a Hearing Officer while conducting a hearing or other proceeding, tending to impair its authority, or to interrupt the due course of a trial or other judicial proceedings;
 - B. Disobedience of any lawful judgment, decree, order, or process of the court or tribunal;
 - C. Refusal as a witness to appear, be sworn, or, without lawful authority, to answer a question; or
 - D. Refusal, without lawful authority, to produce a record, document, or other object.
 7. "Complaint" means the formal document, as described in DR 508.2, filed by the Board with the AOC to initiate a contested hearing before a Hearing Officer for a factual hearing on the issue of whether the professional guardian's conduct provides grounds for the imposition of disciplinary sanctions by the Board. In a complaint, the Board describes how the professional guardian allegedly violated an applicable statute, fiduciary duty, standard of practice, rule, regulation, or other authority. The Board must approve the filing of a complaint.
 8. "Court" unless otherwise specified, means the Supreme Court of Washington.

9. "CPG or CPGA" when used alone means a Certified Professional Guardian or Certified Professional Guardian Agency.
10. "Decertification" of a professional guardian or agency occurs when the Board or the Supreme Court revokes the certification of a professional guardian or agency for any reason.
11. "Deliberative Records" are records that contain preliminary or draft opinions or recommendations as part of a deliberative process.
12. "Designated CPG" means the certified professional guardian working for an agency who has the final decision-making authority for incapacitated persons or their estate on behalf of the agency. The designated CPG is responsible for the actions of the agency(ies) for which they serve as designated CPG.
13. "Disciplinary Records" are the records maintained by the Washington State Administrative Office of the Courts (AOC) of any disciplinary review, sanction, or other action imposed by the Board on the professional guardian, which shall include the reason for the Board's action. The AOC shall maintain such records as defined by records retention schedules of the judicial branch and the AOC.
14. "Disciplinary Action" encompasses the process described by these disciplinary regulations.
15. "Disciplinary Counsel" The Office of the Attorney General serves as disciplinary counsel for complaints, or when otherwise requested by AOC or the Board.
16. "Grievance" is a written document filed by any person with the Board, or filed by the Board itself, for the purpose of commencing a review of the professional guardian's conduct under the statutes, fiduciary duties, standards of practice, rules, regulations, any requirement governing the conduct of professional guardians and any other authority applicable to professional guardians. The grievance must include a description of the conduct of the professional guardian that the grievant alleges violates a statute, fiduciary duty, standard of practice, rule, regulation, or other authority applicable to professional guardians, including the approximate date(s) of the conduct. 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.
17. "Grievant" means the person or entity who files a grievance against a CPG.
18. "Hearing Officer" means the person appointed by the Board to conduct a disciplinary hearing and render a decision.
19. "Incompetent" means an individual is incapable, inefficient and without the qualities needed to discharge their obligations and duties.

20. "Investigative Records" are records related to an investigation pursuant to GR 23 and these disciplinary regulations, into the conduct of the professional guardian, prior to the imposition of any disciplinary sanction or dismissal.
21. "Motion" means a written request to the Disciplinary Committee, Board, Hearing Officer or Supreme Court to issue a ruling or order.
22. "No Contest" means the accused will not contest the facts on which the charge is based. It is not an admission of guilt. It is comparable to a guilty plea in authorizing a court to punish the accused.
23. "Party" means respondent CPG and the Board.
24. "Punitive Sanction" means a sanction imposed to punish.
25. "Remedial Sanction" means a sanction imposed for the purpose of assurance performance when a failure to perform consists of the omission or refusal to perform an act that is in the person's power to perform.
26. "Resignation" is the act or instance of resigning something, surrendering; the formal notification of resigning.
27. "Respondent" means a CPG or CPG agency and a designated CPG against whom a grievance is filed.
28. "Revoked" or "Revocation" means a professional guardian's certification is cancelled by the Board or the Washington State Supreme Court pursuant to the procedures set forth in these disciplinary regulations or any other regulations of the Board, as a result of the professional guardian's failure to comply with any statutes, fiduciary duties, standards of practice, rules, regulations, any requirement governing the conduct of professional guardians and any other authority applicable to professional guardians. The Board must specify whether the CPG is eligible to apply for certification with the AOC guardian program at a future date.
29. "Standard of Practice" means a model of established practice that is commonly accepted as correct.
30. "Summary Judgment" is a judgment rendered by the court or Hearing Officer prior to a verdict because no material issue of fact exists and one party or the other is entitled to a judgment ascertained through the use of statutes, rules, court decisions, and interpretation of legal principles.
31. "Suspension" of a professional guardian occurs when the Board or the Supreme Court orders that the certification of a professional guardian or agency be temporarily cancelled for a specified period of time. A suspended professional guardian or agency may not act as a certified professional guardian for any person

during the period of suspension.

32. "To File" means submitting a written document, exhibit, or other information to the AOC regarding a grievance which will be included in the disciplinary record.
33. "Words of Authority"
 - A. "May" means "has discretion to," "has a right to," or "is permitted to".
 - B. "Must" and "shall" mean "is required to".
 - C. "Should" means recommended but not required.
34. "Voluntary Resign (Surrender)" means a process where a certified professional guardian voluntarily decides to discontinue practice in the profession and surrenders his or her certification pursuant to regulations adopted by the Board.
35. "Voluntary Resign (Surrender) in Lieu of Discipline" means a process where a certified professional guardian surrenders certification with a statement of charges for dismissal.

501.5 NO STATUTE OF LIMITATION

No statute of limitation or other time limitation restricts filing a grievance or bringing a proceeding under these rules, but the passage of time since an act of misconduct occurred may be considered in determining what if any action or sanction is warranted.

502 ORGANIZATION AND STRUCTURE

502.1 CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD (CPGB)

The Washington State Certified Professional Guardianship Board has responsibility in the state to administer CPG discipline and has inherent power to maintain appropriate standards of practice and to conduct and to dispose of individual cases of CPG discipline. Persons carrying out the functions set forth in these rules act under the Certified Professional Guardianship Board's authority.

1. Function. The Board:

- A. Supervises the general functioning of the Disciplinary Committee.
- B. Makes appointments, removes those appointed, and fills vacancies as provided in these rules.
- C. Performs other functions and takes other actions provided in these rules, delegated by the Supreme Court in General Rule 23, or as necessary and proper to carry out its duties.

- D. Is responsible for hearing appeals of Disciplinary Committee decisions that are made appealable pursuant to these rules.
2. Restriction on Representing Respondents. A former member of the Board shall not represent a certified professional guardian in proceedings under the Board's regulations for at least three (3) years following expiration of the Board member's term of office. Former AOC staff shall not represent a certified professional guardian in proceeding under the Board's regulations for at least three (3) years after separation from AOC. Former members of the Board are also subject to the restrictions on representing respondents in rule 502.2(6).

502.2 DISCIPLINARY COMMITTEE

1. Function. The Disciplinary Committee performs the functions provided under these rules, delegated by the Board or the Chair, or as necessary and proper to carry out its duties. These functions include, but are not limited to investigation, review, making preliminary findings, approving settlement agreements, officiating over hearings, and imposing disciplinary sanctions. Members should respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the disciplinary system. Members should not allow family, social, business or other relationships to influence their conduct or judgment.
2. Membership. The Chair appoints a Disciplinary Committee of three to four members from among the Board members. At least one of the members must have substantial experience in guardianships. The Chair may change the appointment of members to the Disciplinary Committee as necessary for equitable distribution of work or for other reasons. The Chair does not serve on the Disciplinary Committee.
3. Terms of Office. A board member may serve as a Disciplinary Committee member as long as the member is on the Board or for other shorter terms as determined to be appropriate by the Chair of the Board.
4. Disciplinary Committee Chair. The Chair of the Board designates one member of the Disciplinary Committee to act as its Chair. The Chair should have experience serving in a judicial or quasi-judicial capacity.
5. Meetings. The Disciplinary Committee meets at times and places determined by the Disciplinary Committee Chair. At the Disciplinary Committee Chair's discretion, the Committee may meet and act through electronic, telephonic, written, or other means of communication.
6. Disqualification of Disciplinary Committee Members. A Disciplinary Committee member should disqualify him or herself from a particular matter in which the member's impartiality might reasonably be questioned, including but not limited to instances in which:
 - A. The appearance of impropriety is or could reasonably be great or have the appearance of a conflict;

- B. The member has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the matter;
- C. The member previously served as a lawyer, CPG, or was a material witness in the matter in controversy;
- D. A lawyer or CPG with whom the member works, serves or has previously served as a lawyer or CPG concerning the matter, or such lawyer or CPG is or has been a material witness concerning the matter;
- E. The member has a pending grievance;
- F. The member or relative person residing in the member's household has an economic interest in the subject matter in controversy or is a party to the matter, or has any other interest that could be substantially affected by the outcome of the matter.

502.3 CONFLICTS REVIEW COMMITTEE

1. **Function.** The Conflicts Review Committee (CRC) performs the functions provided under these rules, delegated by the Board or the Chair, or as necessary and proper to carry out its duties. These functions include but are not limited to investigation, review, making preliminary findings, approving settlement agreements, officiating over hearings, and imposing disciplinary sanctions involving a Board member. Members should respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the disciplinary system. Members should not allow family, social, business, or other relationships to influence their conduct or judgment.
2. **Membership.** The Board Chair shall appoint three members who shall not be current members of the Board. CRC members shall be familiar with guardianship practice in the state of Washington.
3. **Chair.** The Board Chair shall designate one member of the CRC to serve as Chair. The Chair should have experience serving in a judicial or quasi-judicial capacity.
4. **Confidentiality Agreement.** All proposed members of a CRC are required to sign a confidentiality agreement prior to serving.
5. **CRC Duties.** The AOC shall transmit any grievance against a Board member to the CRC. The CRC shall perform the duties that would otherwise be performed by the Disciplinary Committee under these regulations and AOC shall support the CRC in any such grievance.

The CRC may recommend to the Board Chair that the Board member under investigation be placed on a leave of absence from the Board during its investigation. The CRC will consider the nature of the allegations against the Board

member, the available evidence regarding those allegations and the importance of maintaining public trust and confidence in the Board in making its recommendation to the Board Chair. The CRC may make such a recommendation at any time during its investigation and review of the grievance. Except as otherwise set forth in these regulations, the Board Chair shall have the sole discretion to decide whether the Board member should take a leave of absence from the Board and when the Board member may return to the Board.

6. Reimbursement. Consistent with the AOC policy, CRC members shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.
7. Access to Disciplinary Information. CRC Members have access to any otherwise confidential disciplinary information necessary to perform the duties required by these rules. CRC Members shall return original files to the AOC promptly upon completion of the duties required by these rules and shall not retain copies.
8. Independence. CRC Members act independently of disciplinary counsel and the Board.
9. Board Member Responsibility. If the Board files a complaint against a Board member, the Board member shall take a leave of absence from the Board until the conclusion of the disciplinary proceeding.

502.4 DISCIPLINARY COUNSEL

The Attorney General's Office will serve as disciplinary counsel on the Board's behalf when a complaint has been filed or when requested by the Board or AOC and performs other duties as required by these rules.

502.5 RESPONDENT CERTIFIED PROFESSIONAL GUARDIAN

1. Right to Representation. A CPG may be represented by counsel at the CPG's own expense during any stage of an investigation or proceeding under these rules.
2. Restrictions on Representation of Respondent. A former Board member cannot represent a respondent CPG in any proceeding under these rules until three (3) years after leaving the Board. A former CRC member cannot represent a respondent CPG in any proceeding under these rules until one (1) year after the CRC has completed its work. A former AOC staff person shall not represent a respondent CPG in any proceeding under these rules for at least three (3) years after the date of separation from AOC.
3. Restriction on Charging Fee To Respond to Grievance. A respondent CPG may not seek to charge a grievant or an incapacitated person's estate a fee or recover costs from a grievant or incapacitated person's estate for responding to a grievance.
4. Medical and Psychological Records. A respondent CPG must furnish written

releases or authorizations to permit access to medical, psychiatric, or psychological records of the certified professional guardian and the incapacitated person as may be relevant to the investigation or proceeding.

503 RELEASE OF INFORMATION

General Rule (GR) 31.1 controls release of information.

504 GENERAL PROCEDURAL RULES

504.1 SERVICE OF PAPERS

1. **Service Required.** Every pleading, every paper relating to discovery, every written motion other than one that may be heard ex parte, and every similar paper or document issued by the Board, disciplinary counsel, the AOC, or the respondent CPG under these rules must be served on the opposing party. If a hearing is pending, the party also must serve a copy on the Disciplinary Committee by serving the AOC at:

Administrative Office of the Courts
1112 Quince St. SE
PO Box 41170
Olympia, WA 98504-1170

2. **Methods of Service.**

- A. **Service by Mail.**

- i. All certified professional guardians agree to accept personal service by registered or certified mail at the address provided by the guardian. If properly made, service by mail is deemed accomplished on the date of mailing and is effective regardless of whether the person to whom it is addressed actually receives it.
- ii. Except as provided below, service by mail must be by certified or registered mail, return receipt requested. Service may be made by first class mail if:
 - a. The parties so agree;
 - b. The document is a notice of dismissal, deferral or a request for review of dismissal or deferral;
 - c. One or more properly made certified mailings are returned as unclaimed;

d. Service is on the AOC on behalf of the Disciplinary Committee or Board.

iii. The address for service by mail is as follows:

a. For the respondent, or his or her attorney of record, the address in the answer, a notice of appearance, or any subsequent document filed by the respondent or his or her attorney; or, in the absence of an answer, the respondent's address on file with the AOC;

b. For disciplinary counsel, at the address of the AOC or other address that disciplinary counsel requests.

B. Service by Delivery. If service by mail is permitted, service may instead be accomplished by leaving the document at the address for service by mail.

3. Proof of Service. If personal service is used pursuant to DR 504.1.2, proof of service may be made by affidavit of service, or a signed acknowledgment of service. Proof of service must be filed, but need not be served on the opposing party.

504.2 FILING; ORDERS

1. Filing Originals. The original of any pleading, motion, or other paper authorized by these rules, other than discovery, must be filed with the AOC.
2. Filing and Service of Orders. Any written order, decision or ruling must be filed with the AOC, and the AOC serves it on the respondent lawyer and disciplinary counsel.
3. Electronic filing or service of documents upon the Board or the AOC is permitted with authorization of the Board or the AOC. Electronic service upon a party is not permitted without authorization of the party. Electronic filing and service includes transmission by electronic mail and electronic facsimile transmission.

504.3 PAPERS

All pleadings or other papers must be word processed or printed, double spaced, on 8½ by 11-inch pages. The use of letter-size copies of exhibits is encouraged if it does not impair legibility.

504.4 COMPUTATION OF TIME

1. Computation. In computing any period of time prescribed or allowed by these rules the day of the act from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday nor a legal holiday. Legal holidays are prescribed in RCW 1.16.050. When the period of time prescribed or

allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

2. Additional Time After Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or document upon him and the notice or document is served upon him by mail, three (3) days shall be added to the prescribed period.

504.5 STIPULATION TO EXTENSION OR REDUCTION OF TIME

Except for notices of appeal or matters pending before the Supreme Court, the respondent certified professional guardian, the AOC, and disciplinary counsel may stipulate in any proceeding to extension or reduction of the time requirements.

504.6 ENFORCEMENT OF SUBPOENAS

Any party may issue a subpoena to compel the attendance of witnesses or to produce documents at a hearing or deposition. The subpoena shall be issued in the name of the Board and shall be signed and subscribed to by the party or the party's attorney of record. Subpoenas shall be served in the same manner as in civil cases in superior court. A failure to attend or produce as required by the subpoena shall be considered contempt of the Supreme Court. A motion to quash or modify the subpoena, on the grounds of unreasonableness or oppression, shall be decided by the Disciplinary Committee Chair or Hearing Officer.

505 GRIEVANCE INVESTIGATION

505.1 GRIEVANTS

1. Filing of Grievance.
 - A. Any person or entity may file a grievance, as defined in section 501.4.16 against a certified professional guardian.
 - B. The Disciplinary Committee Chair may open a grievance based on any information obtained by the AOC or the Board.
 - C. Consent to Disclosure. By filing a grievance, the grievant consents to disclosure of his or her identity, the nature of the allegations of the grievance to the respondent CPG or to any other person contacted during the investigation.
 - i. The identity of the person bringing the grievance is disclosed unless the person submits a written request for confidentiality that explains his or her reasons for not wanting his or her identity disclosed, and which the Disciplinary Committee approves. At the discretion of the Disciplinary Committee Chair, the grievant's identity may be revealed for good cause.

- ii. If the matter goes to a hearing and the grievant's testimony is required, the grievant's identity as a witness is not confidential, the fact that he/she brought the grievance may remain confidential.

2. Grievant Rights. A grievant has the following rights:

- A. To be advised promptly of the receipt of the grievance, and of the name, address, and office phone number of the person assigned to its investigation if such an assignment is made;
- B. To have a reasonable opportunity to speak with the person assigned to the grievance, by telephone or in person, about the substance of the grievance or its status;
- C. To submit additional supplemental written information or documentation at any time;
- D. To attend any hearing conducted into the grievance;
- E. To provide testimony at any hearing conducted into the grievance, if such testimony is determined by AOC to be appropriate and relevant to the proceeding;
- F. To be advised of the disposition of the grievance;
- G. To be advised when his or her identity will no longer be confidential; and
- H. After supplying additional information in reference to the grievance, to request reconsideration of a dismissal of the grievance as provided in DR 506.2.

3. Grievant Duties. A grievant has the duty to do the following:

- A. At the time of filing the grievance or when requested, give the person assigned to the grievance documents or other evidence in his or her possession, and witnesses' names and addresses;
- B. Assist in securing relevant evidence, which may include signing releases of information; and
- C. Appear and testify at any hearing resulting from the grievance when such testimony is requested by AOC, through disciplinary counsel.

If the grievant fails to do any of the duties above, a grievance may be dismissed.

505.2 INVESTIGATION OF GRIEVANCE

1. Review and Investigation. The AOC must review any alleged or apparent

misconduct by a CPG. AOC shall conduct an initial investigation to ensure that any grievances received are complete, meet jurisdictional requirements as defined in DR 501.3, and provide sufficient factual information to warrant further consideration. When appropriate the initial investigation should include the following:

- A. Provide a copy of the grievance to the respondent certified professional guardian and request a response pursuant to DR 506.3.
 - B. Provide a copy of the respondent certified professional guardian's response to the grievant and request a response.
 - C. Interview persons believed to possess relevant information or documents.
 - D. Request and review relevant documents.
2. Initial Dismissal. AOC may dismiss a grievance that fails to provide sufficient factual information, fails to meet jurisdictional requirements, or fails to identify an action which would result in sanctions. AOC is not required to seek the approval of the Disciplinary Committee or the Board for such dismissals.
3. Dismissal of Grievance Not Required. None of the following alone requires dismissal of a grievance:
- A. The unwillingness of a grievant to continue the grievance;
 - B. The withdrawal of the grievance, a compromise between the grievant and the respondent; or
 - C. Restitution by the respondent.
4. Deferral.
- A. An investigation into alleged acts of misconduct by a CPG may be deferred by the Chair of the Disciplinary Committee or AOC staff with the approval of the Disciplinary Chair, if it appears that the deferral will not endanger the public, and;
 - i. The allegations are related to pending civil or criminal litigation;
 - ii. The respondent CPG is physically or mentally unable to respond to the investigation; or
 - iii. For other good cause shown.
 - B. The AOC must inform the grievant and respondent of a decision to defer or a denial of a request to defer and of the procedure for requesting review. A grievant or respondent may request review of a decision on deferral. If review

is requested, the AOC refers the matter to the Disciplinary Committee for reconsideration of the decision on deferral. To request review, the grievant or respondent must deliver or deposit in the mail a request for review to the Board no later than thirty (30) days after the AOC mails the notice regarding deferral.

5. Duty To Furnish Prompt Response. The respondent CPG must promptly respond to any inquiry or request made under these rules for information relevant to grievances or matters under investigation. Upon inquiry or request, the respondent CPG must:
 - A. Furnish in writing, or orally if requested, a full and complete response to inquiries and questions;
 - B. Permit inspection and copying of the CPG's business records, files, and accounts;
 - C. Furnish copies of requested records, files, and accounts; and
 - D. Furnish written releases or authorizations if needed to obtain documents or information from third parties.
6. Failure To Cooperate.
 - A. Interim Suspension. If a CPG has not complied with any request made under DR 505.2.5 for more than thirty (30) days, the AOC may notify the CPG that failure to comply within ten (10) days may subject the CPG to interim suspension under rule 509.5.
 - B. Grounds for Discipline. A CPG's failure to cooperate fully and promptly with an investigation as required by DR 505.2.5 is also grounds for discipline.

505.3 PRIVILEGES

1. Privilege Against Self-Incrimination. A CPG's duty to cooperate is subject to the CPG's privilege against self-incrimination, where applicable.
2. Confidential Information. A CPG may not assert confidentiality under the Standards of Professional Conduct or other prohibitions on revealing client confidences or secrets as a basis for refusing to provide information during the course of an investigation, but information obtained during an investigation involving client confidences or secrets must be kept confidential to the extent possible under these rules unless the client otherwise consents.

506 REVIEW BY DISCIPLINARY COMMITTEE

506.1 REVIEW OF GRIEVANCE

Within one hundred twenty (120) days of the AOC receiving the written grievance, the

Disciplinary Committee shall attempt to review all initial investigations not dismissed pursuant to DR 505.2.2. If the Disciplinary Committee feels that there is insufficient information, it may request the AOC to conduct further investigation. The AOC shall attempt to complete its investigation and to present the investigation's results to the committee for its review within two hundred ten (210) days after receiving the written grievance. Once the Disciplinary Committee has determined that it has sufficient information regarding the allegation, it must either dismiss the grievance pursuant to DR 506.2 or proceed under DR 507 or DR 508.

Due to existing resources, the deadlines set out in Regulation 506.1 are aspirational, rather than mandatory. Although the deadlines in Regulation 506.1 are aspirational, the Disciplinary Committee and AOC will attempt to comply with those deadlines to the extent that existing resources allow for compliance.

506.2 DISMISSAL OF GRIEVANCE BY DISCIPLINARY COMMITTEE

1. Dismissal. The Chair of the Disciplinary Committee or AOC (pursuant to DR 505.2) may dismiss grievances. On dismissal by either the Chair of the Disciplinary Committee or AOC, AOC must notify:
 - A. The respondent of the allegations and dismissal of the grievance; and
 - B. The grievant of the outcome and the procedure for review in this rule.
2. Review of Dismissal. A grievant may request review of dismissal of the grievance, if additional evidence has been obtained since the filing of the grievance. The request for review and the additional evidence to the AOC must be received by AOC no later than thirty (30) days after the date of the dismissal of the grievance. If review is requested, the Chair of the Disciplinary Committee may either reopen the matter on his/her authority for investigation or refer it to the Disciplinary Committee for a decision regarding re-opening.
3. Authority on Review. In reviewing a request to re-open a grievance under this rule, the Disciplinary Committee may:
 - A. Affirm the dismissal;
 - B. Order further investigation as appropriate.

506.3 RESPONSE TO GRIEVANCE

The certified professional guardian shall have thirty (30) days to respond to the allegations and provide any mitigating information. This response and information shall be sent to the AOC. Should the CPG require more time to adequately respond, the CPG shall make a request in writing to AOC stating the reasons for such an extension of time. The Disciplinary Committee Chair or AOC shall make a determination regarding whether to grant the request for extension within five (5) days of receiving the request.

507 RESOLUTION WITHOUT COMPLAINT

Grievances not dismissed can be resolved without the filing of a complaint, through the following non-exhaustive methods: An advisory letter (DR 507.1), a Settlement Agreement (DR 507.2), or voluntary resignation (surrender) in lieu of discipline (DR 507.3).

507.1 ADVISORY LETTER

An advisory letter may be issued when a complaint is not warranted, but it is appropriate to caution a respondent CPG concerning his or her conduct. An advisory letter is not confidential and does not constitute a finding of misconduct, is not a sanction, and is not a disciplinary action. An advisory letter may be issued to notify a certified professional guardian that:

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

507.2 SETTLEMENT AGREEMENTS

1. Requirements. Any disciplinary matter or proceeding may be resolved by a Settlement Agreement (Agreement Regarding Discipline) at any time. The Settlement Agreement must be signed by the respondent CPG and AOC, and approved by the Disciplinary Committee and the Board. A Settlement Agreement is a finding of misconduct, is a sanction and is subject to public disclosure.
2. Form. A Settlement Agreement:
 - A. Must provide sufficient detail regarding the particular acts or omissions of the respondent to permit the Disciplinary Committee to form an opinion as to the propriety of the proposed resolution, including aggravating and mitigating factors considered, so as to make the Settlement Agreement useful in any subsequent disciplinary proceeding against the respondent CPG;
 - B. Must set forth the respondent's prior disciplinary record;
 - C. Must state that the Settlement Agreement is not binding on the Disciplinary Committee as a final statement of facts about the respondent's conduct, and

- that additional facts may be proved in a subsequent disciplinary proceeding;
- D. Must fix the amount of costs and expenses, if any, to be paid by the respondent;
 - E. May impose terms and conditions and any other appropriate provisions.
3. Conditional Approval. The Disciplinary Committee's approval is conditional, as all Settlement Agreements must be submitted to the Board for their final approval. The Board's decision on whether to approve a Settlement Agreement shall be reflected in board minutes.
 4. Response. Upon receipt of a proposed Settlement Agreement, the respondent CPG must respond in writing within thirty (30) days to the proposed Settlement Agreement. The CPG may:
 - A. Agree to and sign the Settlement Agreement;
 - B. Propose changes to the Settlement Agreement;
 - C. Reject the Settlement Agreement and request a hearing;
 - D. Voluntarily resign in lieu of further disciplinary proceedings.

507.3 VOLUNTARY RESIGNATION (SURRENDER), IN LIEU of FURTHER DISCIPLINARY PROCEEDINGS

1. Grounds. A respondent CPG who desires not to contest or defend against allegations of misconduct may, at any time, voluntarily resign his or her certification as a CPG in lieu of further disciplinary proceedings.
2. Process. The respondent first notifies the AOC that the respondent intends to submit a voluntary resignation request and asks AOC, to prepare a statement of alleged misconduct and a declaration of costs. After receiving the statement and the declaration of costs, if any, the respondent may resign by submitting to AOC a signed voluntary resignation, sworn to or affirmed under oath and notarized. The signed voluntary resignation must include the following to be accepted for filing:
 - A. AOC's statement of the alleged misconduct, and either: 1) an admission of that misconduct; or 2) a statement that while not admitting the misconduct the respondent agrees not to contest the facts on which the misconduct is based;
 - B. An acknowledgement that the voluntary resignation may be permanent, including the statement, "I understand that my voluntary resignation may be permanent and that any future application by me for reinstatement as a CPG will consider the circumstances around the voluntary resignation including resolution of the pending disciplinary action.";

- C. A list of all guardian and standby guardian appointments;
 - D. A statement that when applying for any employment as a fiduciary, the respondent agrees to disclose the voluntary resignation in response to any question regarding disciplinary action or the status of the respondent's certification;
 - E. A statement that the respondent agrees to pay any restitution or additional costs and expenses as may be requested by the Disciplinary Committee, and attaches payment for costs as described in DR 507.3.5; and
 - F. A statement that when the voluntary resignation becomes effective, the respondent will be subject to all restrictions that apply to a CPG whose certification has been revoked.
3. Public Filing. Upon receipt of a voluntary resignation in lieu of discipline meeting the requirements set forth above, AOC shall file it as a public record of the Disciplinary Committee. AOC will also notify the superior courts and all other agencies from which the CPG receives appointments of the voluntary resignation.
4. Effect. A voluntary resignation in lieu of discipline meeting the requirements set forth above, under this rule is effective upon its filing with the AOC. All disciplinary proceedings against the respondent terminate, except the AOC has the discretion to continue any investigations deemed appropriate under the circumstances to create a sufficient record of the respondent's actions for consideration in the event the respondent seeks certification at a later time.
5. Costs and Expenses.
- A. With the voluntary resignation, the respondent must pay all actual costs for which AOC provides documentation.
 - B. If additional proceedings are pending at the time respondent serves the notice of intent to voluntarily resign, AOC, through disciplinary counsel, may also file a claim under DR 509.13 for costs and expenses for that proceeding.
6. Review of Costs, Expenses. Any claims for costs and expenses not resolved by agreement between the AOC and the respondent may be submitted at any time including after the voluntary resignation, to the Disciplinary Committee in writing, for the determination of appropriate costs and expenses.

508 RESOLUTION WITH COMPLAINT

508.1 GENERAL PROCEDURE

1. Applicability of Civil Rules. The civil rules for the superior courts of the State of Washington serve as guidance in proceedings under this title and, where indicated,

apply directly.

508.2 COMMENCEMENT OF PROCEEDINGS

1. Complaint.

- A. **Filing.** After a preliminary finding of misconduct by the Disciplinary Committee pursuant to DR 506, a Complaint may be filed by the Board with AOC.
 - B. **Service.** After the Complaint is filed, AOC must serve the Complaint, with a Notice to Answer, on the respondent CPG.
 - C. **Content.** The Complaint must state the respondent CPG's acts or omissions in sufficient detail to inform the respondent of the nature of the allegations of misconduct and the sanction sought. AOC must sign the Complaint.
 - D. **Prior Discipline.** Prior disciplinary action against the respondent may be described in the Complaint.
 - E. **Amendment of Complaint.** AOC may amend a Complaint at any time to add facts or charges. AOC shall serve an Amended Complaint on the respondent as provided in DR 508.3.1(B) with a Notice to Answer. A Respondent must answer the amendments to the complaint as described in DR 508.4.
2. **Joinder.** The Disciplinary Committee may, in its discretion, consolidate alleged violations relating to two or more grievances against the same respondent in one Complaint, or may consolidate alleged violations against two or more respondents in one Complaint that relate to the same grievance or grievances.

508.3 NOTICE TO ANSWER

1. **Content.** The Notice to Answer must be substantially in the following form:

BEFORE THE DISCIPLINARY COMMITTEE OF THE
CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD

In Re)	NOTICE TO ANSWER
)	
)	
)	
)	

To: The above named CPG:

AND TO: Respondent Attorney

1. You are hereby notified that a Complaint Regarding Disciplinary Action (hereinafter, "Complaint") has been filed against you with the Administrative Office of the Courts, a copy of which is served upon you with this Notice. Pursuant to DR 504.1, service is made by registered or certified mail to your address on file with the Administrative Office of the Courts. Service shall be deemed complete on the third day after mailing in accordance with Civil Rule 5(b)(2).

2. You must deliver or mail an original and one copy of your Answer to the Disciplinary Action **within 30 days of service (exclusive of the date of service)** to the Certified Professional Guardianship Board, Administrative Office of the Courts, P.O. Box 41170, Olympia, WA 98504-1170. Electronic service or filing is not accepted without prior agreement.

3. Upon receipt of your Answer to Disciplinary Action, a Hearing Officer will be appointed to conduct all further proceedings. The Hearing Officer shall ensure that the parties receive notice of the time and place of the hearing at least thirty (30) days before the hearing.

4. All disciplinary hearings shall be held within the State of Washington at such place and time as may be directed by the Hearing Officer. Hearings may take place by telephone or other electronic means, at the discretion of the Hearing Officer.

5. If you fail to answer within 30 days of the date of service of this Complaint, the Board may proceed to obtain an order of default against you pursuant to DR 508.5. Upon entry of an order of default, the allegations and violations in the formal complaint and any amendments to the complaint are deemed admitted and established for the purpose of imposing discipline and you may not participate further in the proceedings unless the order of default is vacated under this regulation.

6. The Certified Professional Guardianship Board Disciplinary Regulations govern all proceedings and may be found on the Washington Courts website at: http://www.courts.wa.gov/programs_orgs/Guardian/?fa=guardian.display&fileName=regindex&Reg=500.

Dated this _____ day of _____, 20__.

Certified Professional Guardianship Board

By _____

508.4 ANSWER

1. **Time to Answer.** Within thirty (30) days of service of the Complaint and Notice to Answer, the respondent CPG must file and serve an Answer. Failure to file an Answer as required may result in the respondent forfeiting his or her opportunity to present a defense or engage in pre-hearing discovery.
2. **Content.** The Answer must contain:
 - A. A specific denial or admission of each fact or claim asserted in the Complaint;
 - B. A statement of any matter or facts constituting a defense, affirmative defense, or justification, in ordinary and concise language without repetition;
 - C. Any mitigating factors as described in DR 509.1.3.(B); and
 - D. An address at which all further pleadings, notices, and other documents in the proceeding may be served on the respondent.
3. **Filing and Service.** The Answer must be mailed to AOC.

508.5 ENTRY OF DEFAULT

1. **Timing:** If a certified professional guardian (CPG), after being served with a notice to answer as provided in DR 508.4, fails to file an answer to a formal complaint or to an amendment to a formal complaint within the time provided by these rules, the Board's attorney of record in the disciplinary proceeding may serve the CPG with a written motion for an order of default.
2. **Motion:** The Board's attorney of record must serve the CPG with a written motion for an order of default and a copy of this regulation at least five (5) days before entry of the order of default. The motion for an order of default must include the following:
 - A. The dates of filing and service of the notice to answer, formal complaint and any amendments to the complaint; and
 - B. The Board's attorney of record statement that the CPG has not timely filed an answer as required by DR 508.4 and that the Board's attorney of record seeks an order of default under this regulation.
3. **Entry of Order of Default:** If the CPG fails to file a written answer with the Administrative Office of the Courts (AOC) within twenty (20) days of service of the motion for entry of an order of default, the Hearing Officer, or if no Hearing Officer has been assigned, the chair of the Standard of Practice Committee, on proof of proper service of the motion, enters an order finding the CPG in default.
4. **Effect of Order of Default:** Upon entry of an order of default, the allegations and violations in the formal complaint and any amendments to the complaint are deemed

admitted and established for the purpose of imposing discipline and the CPG may not participate further in the proceedings unless the order of default is vacated under this regulation. The Board may proceed to resolve the case without further notice to, or hearing for the benefit of the CPG.

5. Proceedings After Entry of an Order of Default.
6. Service: The AOC serves the order of default and a copy of this rule under DR 504.1.
7. Disciplinary Proceeding: Within sixty (60) days of the filing of the order of default, the Board must conduct a disciplinary proceeding to impose disciplinary action based on the allegations and violations established under DR 508.2.1. At the discretion of the Board, these proceedings may be conducted by formal hearing, written submissions, telephone hearing, or other electronic means. The attorney of record for the Board may present additional evidence including, but not limited to, requests for admission under DR 508.8 and depositions, affidavits, and declarations regardless of the witness's availability.
8. Motion To Vacate Order of Default: Within thirty (30) days after service of a default order, the CPG may file a written motion requesting that the order be vacated, on the following grounds:
 - A. Mistake, inadvertence, surprise, excusable neglect, or irregularity in obtaining the default;
 - B. Erroneous proceedings against a CPG, who was, at the time of the default, incapable of conducting a defense;
 - C. Newly discovered evidence that by due diligence could not have been previously discovered;
 - D. Fraud, misrepresentation, or other misconduct of an adverse party;
 - E. The order of default is void;
 - F. Unavoidable casualty or misfortune preventing the CPG from defending;
 - G. Any other reason justifying relief from the operation of the default.
9. Burden of Proof: The CPG bears the burden of proving the grounds for setting aside the default. If the CPG proves that the default was entered as a result of a disability which made the CPG incapable of conducting a defense, the default must be set aside.
10. Service and Contents of Motion: The motion must be filed and served under DR 504 and be accompanied by a copy of CPG's proposed answer to each formal complaint

for which an order of default has been entered. The proposed answer must state with specificity the CPG's asserted defenses and any facts the CPG asserts as mitigation. The motion to vacate the order of default must be supported by an affidavit showing:

- A. The date on which the CPG first learned of the entry of the order of default;
- B. The grounds for setting aside the order of default; and
- C. An offer of proof of the facts that the CPG expects to establish if the order of default is vacated.

11. Response to Motion: Within ten (10) days of filing and service of the motion to vacate, the attorney of record for the Board may file and serve a written response.
12. Decision: The Hearing Officer decides a motion to vacate the order of default on the written record without oral argument. Pending a ruling on the motion, the Hearing Officer may order a stay of proceedings not to exceed thirty (30) days. In granting a motion to vacate an order of default, the Hearing Officer has discretion to order appropriate conditions.
13. Appeal of Denial of Motion: A CPG may appeal to the Chair a denial of a motion to vacate an order of default by filing and serving a written notice of appeal stating the arguments against the Hearing Officer's decision. The CPG must file the notice of appeal within ten (10) days of service on the CPG of the order denying the motion. The appeal is decided on the written record without oral argument. Pending a ruling on the appeal, the Chair may order a stay of proceedings not to exceed thirty (30) days. In granting a motion to vacate an order of default, the Chair has discretion to order appropriate conditions.
14. Decision To Vacate Is Not Subject to Interim Review: An order setting aside an order of default is not subject to interim review by the Board.

508.6 SCHEDULING

1. All disciplinary hearings must be held in Washington State at such time and place as may be directed by the Hearing Officer. Hearings may take place by telephone or other electronic means, in the discretion of the Hearing Officer. If possible, the parties should arrange a date, time, and place for the hearing by agreement among themselves and the Hearing Officer.
2. Scheduling Order. The Hearing Officer must enter an order setting the dates and places of hearings. This order will include any prehearing deadlines the Hearing Officer deems required by the complexity of the case, which may include witness lists, discovery dates, motions, and exhibits. The AOC shall ensure that all parties receive notice of the time and place of the hearing at least thirty (30) days before the hearing, unless this time requirement is waived by all parties

3. Continuance. Either party may move for a continuance of the hearing date. The Hearing Officer has discretion to grant the motion for good cause shown.

508.7 MOTIONS

Motions must be in writing and served on the opposing party. The Hearing Officer shall determine whether a response and reply is called for and the timing of any such response or reply. The Hearing Officer should promptly rule on the motion, with or without argument as may appear appropriate. Argument on a motion may be heard by telephone or other electronic means at the discretion of the Hearing Officer. A ruling on a written motion must be in writing and filed with the AOC.

508.8 DISCOVERY AND PREHEARING PROCEDURES

1. General. The parties should cooperate in mutual informal exchange of relevant non-privileged information to facilitate expeditious, economical, and fair resolution of the case.
2. Requests for Admission. After a Complaint is filed, the parties may request admissions under Civil Rule 36.
3. Other Discovery. After a Complaint is filed, the parties may obtain other discovery under the Superior Court Civil Rules only on motion and under terms and limitations the Hearing Officer deems just or on the parties' Settlement Agreement.

508.9 PARTICIPATION AT DISCIPLINARY HEARING

1. Respondent CPG Must Attend. A respondent CPG given notice of a hearing must attend the hearing. If, after proper notice, the respondent fails to attend the hearing, the Hearing Officer:
 - A. May draw an adverse inference from the respondent's failure to attend as to any questions that might have been asked the respondent at the hearing; and
 - B. Must admit testimony by deposition regardless of the deponent's availability. An affidavit or declaration is also admissible, if:
 - i. The facts stated are within the witness's personal knowledge;
 - ii. The facts are set forth with particularity; and
 - iii. It shows affirmatively that the witness could testify competently to the stated facts.
2. Witnesses. Witnesses must testify under oath. Testimony may also be submitted by deposition as permitted by Civil Rule 32. Testimony must be recorded by a court reporter or, if allowed by the Disciplinary Committee, by digital or tape recording. The parties have the right to cross-examine witnesses who testify and to submit rebuttal evidence.

3. Subpoenas. Any party may issue a subpoena to compel the attendance of witnesses or to produce documents at a hearing or deposition. The subpoena shall be issued in the name of the Board and shall be signed and subscribed to by the party or the party's attorney of record. Subpoenas shall be served in the same manner as in civil cases in superior court. A failure to attend or produce as required by the subpoena shall be considered contempt of the Supreme Court. A motion to quash or modify the subpoena, on the grounds of unreasonableness or oppression, shall be decided by the Hearing Officer.

508.10 HEARINGS

1. Scope of the Hearings. To limit the scope of hearings, parties may stipulate to specific facts, whether misconduct occurred, and/or disciplinary sanctions. The Hearing Officer may determine whether both facts surrounding the alleged misconduct and disciplinary sanctions shall be litigated at the same hearing, or whether they shall be addressed at separate hearings.
2. Upon agreement by both parties, and approval by the Hearing Officer, hearings may be limited to the disciplinary sanction only.
3. Burden of Proof. The Board has the burden of establishing an act of misconduct by a preponderance of the evidence.
4. Proceeding Based on Criminal Conviction. If a Complaint charges a respondent CPG with an act of misconduct for which the respondent has been convicted in a criminal proceeding, the court record of the conviction is conclusive evidence at the disciplinary hearing of the respondent's guilt of the crime and violation of the statute on which the conviction was based.
5. Rules of Evidence. The rules of evidence shall be those set forth in Chapter 34.05 RCW, the Administrative Procedures Act.
6. Prior Disciplinary Record. The respondent's record of prior disciplinary action, or the fact that the respondent has no prior disciplinary action, must be made a part of the hearing record before the Hearing Officer files a decision.

508.11 DECISION OF HEARING OFFICER

Within ninety (90) days after the proceedings are concluded, unless extended by agreement, the Hearing Officer should file with the parties a Decision in the form of findings of fact, conclusions of law, and order recommending disciplinary sanction.

509 DISCIPLINARY SANCTIONS

509.1 GUIDELINES FOR IMPOSING DISCIPLINARY SANCTIONS:

Following a determination that a CPG has engaged in misconduct, disciplinary sanctions may be appropriate. Factors to be considered in imposing disciplinary

sanctions, include:

1. Nature of the misconduct;
2. Potential or actual injury caused by the CPG's misconduct;
3. The existence of aggravating or mitigating factors:
 - A. Aggravating factors include prior disciplinary action by the Board against the same CPG, substantial experience as a CPG, intentional, premeditated, knowing, grossly incompetent or grossly negligent act, bad faith or obstruction, dishonest or selfish motives, a pattern of misconduct, multiple offenses, failure to cooperate during the disciplinary proceeding, refusal to acknowledge the wrongful nature of the conduct, vulnerability of the victim, indifference to making restitution, and illegal conduct.
 - B. Mitigating factors include the absence of a prior disciplinary record, isolated incident not likely to recur, remoteness of misconduct, inexperience as a CPG, implementation of remedial measures to mitigate harm or risk of harm, self-reported and voluntary admission of violation, timely good faith efforts to make restitution or rectify consequences of misconduct, and temporary circumstances outside of the CPG's control.

509.2 TYPES OF DISCIPLINE

Upon a finding that a CPG 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, the Board may impose one or more of the following:

1. Revocation of certification;
2. Suspension of certification;
3. Prohibition Against Taking New Cases;
4. Reprimand;
5. Probation;
6. Other Disciplinary Sanctions as described in DR 509.7
7. Restitution.

509.3 REVOCATION OF CERTIFICATION

1. Applicability of Revocation: Revocation may be imposed when a professional guardian:

- 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
- 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
- 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
- d. Engages in conduct or misconduct that adversely impacts an incapacitated person in a highly significant manner. "Highly significant" in this context, means, but is not limited to, a financial loss to an incapacitated person or their estate that is greater than \$ 750.00, or results in any kind of direct physical harm, infirmity or adverse medical condition to an incapacitated person; or
 - e. Engages in conduct that constitutes any Washington felony that occurs either while performing duties as a guardian or outside those duties. Revocation of certification may occur even if such conduct did not result in a criminal conviction.
- 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. Revocation of certification may occur even if such conduct did not result in a criminal conviction.

2. Duties of CPG upon revocation of certification. Upon receipt of the Supreme Court's order revoking the CPG's certification, the CPG will submit a complete list of all active guardianships in which the CPG serves as the court-appointed guardian or standby guardian to AOC, and must immediately notify the superior court with authority over any of the CPG's cases of the revocation. The CPG shall ensure the timely transfer of any active guardianship cases to a new CPG and cooperate with the court in this process. The CPG shall turn over all client records and provide access to client accounts in a timely manner to the newly appointed CPG. The CPG shall immediately cease holding him or herself out to the public as a professional CPG. If requirements aren't met the Board may file a motion for contempt of court with the Supreme Court.

509.4 SUSPENSION

1. Applicability of Suspension: A suspension for a period of time from performing as a professional guardian may be imposed when a professional guardian:

- 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
- 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
- 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.
- d. Engages in conduct or misconduct that adversely impacts an incapacitated person in a manner that is not "highly significant" as defined above.
- e. Suspension may be imposed for conduct or misconduct that does not rise to the level of Revocation.

2. Term of Suspension. A suspension must be for a fixed period of time and must specifically state what requirements, if any, be completed prior to the respondent's reinstatement. Suspension does not affect the requirement to comply with other program policies, such as reporting of continuing education, and Errors & Omissions Insurance, payment of dues, filing of declarations, etc.

3. Reinstatement. The respondent shall submit to the AOC a request for written reinstatement before the conclusion of the suspension period. The request shall include a statement verifying that the conditions of the suspension have been met. With approval of the Disciplinary Committee Chair, the AOC shall reinstate the CPG.

4. Duties of CPG upon suspension. The CPG will submit a complete list of all active guardianships in which he or she serves as the court-appointed guardian or the standby guardian and must immediately notify the superior court with authority over any of the CPG's cases of the suspension. The CPG shall ensure the timely transfer of any active guardianship cases to a new guardian and cooperate with the court in this process. The CPG shall turn over all client records and provide access to client accounts in a timely manner to the newly appointed CPG. The CPG shall immediately cease holding him or herself out to the public as a professional guardian.

509.5 INTERIM SUSPENSION FOR CONVICTION OF A CRIME

1. Definitions.

- A. "Conviction" for the purposes of this rule occurs upon entry of a plea of guilty, or a verdict of guilty, unless the defendant affirmatively shows that the guilty plea or verdict was not accepted or was withdrawn, or upon entry of a finding or verdict of guilty, unless the defendant affirmatively shows that judgment

was arrested or a new trial granted. Conviction does not include findings or verdicts that were disclosed at the time of application.

B. "Serious Crime" includes any:

- i. Felony;
- ii. Crime, a necessary element of which, as determined by its statutory or common law definition, includes any of the following:
 - a. Commission of an act of violence;
 - b. Interference with the administration of justice;
 - c. Perjury;
 - d. Fraudulent misrepresentation;
 - e. Bribery;
 - f. Extortion;
 - g. Misappropriation;
 - h. Theft.
- iii. Attempt, or a conspiracy, or solicitation of another, to commit a "serious crime".

2. Procedure upon Conviction.

If a CPG is convicted of a felony or other serious crime, or, is convicted of a misdemeanor or gross misdemeanor involving moral turpitude, AOC must file with the Board a certified copy of the judgment and sentence that sets out such conviction. The Board shall decertify a professional guardian upon the conviction of a felony or a misdemeanor or gross misdemeanor involving moral turpitude, under either state or federal law, regardless whether such conviction is after a plea of guilty, nolo contendere, not guilty, or otherwise, and regardless of the pendency of any appeal. AOC must also petition the Disciplinary Committee Chair for an order suspending the respondent CPG during the pendency of disciplinary proceedings.

The decertification shall be effective upon the filing of a certified copy of such conviction with the Board. The Board shall file the certified copy of the conviction with other Board records pertaining to the professional guardian's certification. The Board shall provide written notice of the decertification to the professional guardian by certified mail, directed to the guardian's last known address maintained by the AOC. The notice shall advise the professional guardian of the decertification and the reason(s) for the

decertification. The notice shall further advise that if the professional guardian should not have been decertified by the Board, the professional guardian may file a petition requesting an administrative hearing. The petition shall set forth in detail the facts supporting the professional guardian's claim that an administrative error has occurred and that the professional guardian has not been convicted of a felony, or a misdemeanor or gross misdemeanor involving moral turpitude. The petition must be signed by the professional guardian under penalty of perjury. The professional guardian must file the petition within 15 days of the date of mailing of the Board's notice of decertification. Any petition not filed within 15 days shall be dismissed by the Board.

If a timely petition is filed by the professional guardian, the Board Chair shall appoint a three-person Review Panel to conduct a hearing on the petition. The sole issue before the Review Panel shall be to determine whether the professional guardian has been convicted of a felony, or of a misdemeanor or gross misdemeanor involving moral turpitude. In the sole discretion of the Review Panel, the hearing may be held by telephone. The Review Panel shall make written findings and a recommendation about whether the petition should be granted. The findings and recommendation of the Review Panel shall be filed with the Board and served by first-class mail on the professional guardian.

The Board shall review the decision of the Review Panel and shall make a decision approving or denying the petition. If the petition is approved, then the professional guardian shall be eligible for recertification, if the professional guardian shows proof of compliance with all other requirements for certification. The members of the Review Panel shall not participate in the decision of the Board. A copy of the Board's order shall be sent by first-class mail to the professional guardian. Any such order shall be final

- A. If a CPG is convicted of a crime that is not a felony, a serious crime, or a misdemeanor or gross misdemeanor involving moral turpitude, the Disciplinary Committee considers a report of the conviction in the same manner as any other report of possible misconduct by a CPG.
3. Petition. A petition to the Disciplinary Committee for suspension under this rule must include a copy of any available document establishing the fact of conviction. AOC may also include additional facts, statements, arguments, affidavits, and documents in the petition. AOC must serve a copy of the petition on the respondent, and proof of service filed with the AOC.
 4. Immediate Interim Suspension. If the crime of conviction is a felony or other serious crime or a misdemeanor or gross misdemeanor involving moral turpitude, the Disciplinary Committee must enter an order immediately suspending the respondent's CPG certification.
 - A. If suspended, the respondent must comply with DR 509.4.4.

- B. Suspension under this rule occurs:
- i. Whether the conviction was under a law of this state, any other state, or the United States;
 - ii. Whether the conviction was after a plea of guilty, nolo contendere, not guilty, or otherwise; and
 - iii. Regardless of the pendency of an appeal of the underlying conviction.
5. Duration of Interim Suspension. An interim suspension under this rule must terminate when the disciplinary proceedings in response to the complaint are fully completed or after appeal of the Disciplinary Committee's decision.
6. Termination of Suspension.
- A. Petition and Response. A respondent may at any time petition the Disciplinary Committee to recommend termination of an interim suspension. AOC, through disciplinary counsel, may file a response to the petition.
 - B. Disciplinary Committee Recommendation. If either party requests, the Disciplinary Committee must hear oral arguments on the petition at a time and place and under terms as the Disciplinary Committee Chair directs. The Disciplinary Committee may recommend termination of a suspension only if the Committee makes an affirmative finding of good cause to do so. There is no right of appeal from a Disciplinary Committee's decision regarding interim suspension.

509.6 INTERIM SUSPENSION IN OTHER CIRCUMSTANCES

1. Types of Interim Suspension.
- A. Disciplinary Committee Finding of Risk to Public. AOC may petition the Disciplinary Committee for an order suspending the respondent CPG during the pendency of any proceeding under these rules if: it appears that a respondent's continued practice as a CPG poses a substantial threat of serious harm to the public.
 - B. Disciplinary Committee Recommendation for Decertification. When the recommended sanction in a Complaint is decertification, AOC may file a petition for the respondent's suspension during the remainder of the proceedings.
 - C. Failure To Cooperate with Investigation. When any CPG fails without good cause to comply with a request under DR 505.2.5 for information or documents, or with a subpoena issued under DR 504.6, AOC may petition the Disciplinary Committee for an order suspending the CPG pending compliance

with the request or subpoena. If the CPG complies with the request or subpoena, the Disciplinary Committee may lift the suspension on terms the Disciplinary Committee deems appropriate.

2. Procedure.

- A. **Petition.** A Petition to the Disciplinary Committee under this rule must set forth the acts of the CPG constituting grounds for interim suspension. The Petition may be supported by documents or affidavits. The AOC must serve the Petition on the Disciplinary Committee and respondent CPG.
- B. **Show Cause Order.** Upon filing of the Petition, the Disciplinary Committee Chair orders the CPG to appear in person or telephonically before the Disciplinary Committee to show cause why the Petition for interim suspension should not be granted. This Show Cause Hearing cannot occur less than ten (10) days after service on the respondent of the Show Cause Order.
- C. **Answer to Petition.** The CPG may answer the Petition. An Answer may be supported by documents or affidavits. Failure to answer does not result in default or waive the right to appear at the Show Cause Hearing.
- D. **Filing of Answer.** Any Answer must be filed with the AOC within ten (10) days of receipt of the Show Cause Order.
- E. **Settlement Agreement.** At any time a respondent CPG and Disciplinary Committee may stipulate that the respondent be suspended during the pendency of any investigation or proceeding because of conviction of a serious crime or a substantial threat of serious harm to the public. Settlement Agreements under this rule are public upon filing with the AOC, but the Disciplinary Committee may order that supporting materials are confidential. The respondent may petition the Disciplinary Committee to terminate the interim suspension, and on a showing that the cause for the interim suspension no longer exists, the Disciplinary Committee may terminate the interim suspension.
- F. **Show Cause Hearing.** The respondent may appear before the Disciplinary Committee at the hearing to show cause why the Petition for interim suspension should not be granted.
- G. **Application of Other Rules.** If the Disciplinary Committee enters an interim order suspending the CPG, the rules relating to suspended CPGs, including DR 509.4, apply.

509.7 NOTIFICATION OF INTERIM SUSPENSION

Upon entry of an order for interim suspension, the AOC shall notify all presiding judges and court administrators of the interim suspension. The AOC shall also remove the

respondent CPG's name from all public AOC Web site lists of certified professional guardians.

509.8 PROHIBITION AGAINST TAKING NEW APPOINTMENTS

1. Applicability of Prohibition Against Taking New Appointments. A prohibition against taking new appointments may be imposed when a professional guardian:

- 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
- b. Engages in conduct or misconduct that occurs while performing duties as a guardian that adversely reflects on the professional guardian's fitness to practice.

3. Prohibition Against Taking New Appointments may be imposed for conduct or misconduct that does not rise to the level of Revocation.

2. Term of Prohibition Against Taking New Appointments. A prohibition against taking new appointments must be for a fixed period of time and must specifically state what requirements, if any, be completed prior to the respondent's reinstatement. A prohibition against taking new appointments does not affect the requirement to comply with other program policies, such as reporting of continuing education, and Errors & Omissions Insurance, payment of dues, filing of declarations, etc.

3. Reinstatement. The respondent shall submit to the AOC a request for written reinstatement before the conclusion of the prohibition against taking new appointment period. The request shall include a statement verifying that the conditions of the prohibition against taking new appointment have been met. With approval of the Disciplinary Committee Chair, the AOC shall reinstate the CPG.

4. Duties of CPG upon being prohibited from accepting new appointment. The CPG will submit a complete list of all active guardianships in which he or she serves as the court-appointed guardian or the standby guardian and must immediately notify the superior court with authority over any of the CPG's cases of the prohibition.

509.9 LETTER OF REPRIMAND

1. A letter of reprimand may be imposed when a professional guardian:

- 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
- B. The guardian engages in conduct which does not rise to the level of a Revocation, Suspension or Prohibition Against Taking New Cases.

509.10 PROBATION

1. Probation is a remedy that will be imposed for a period of time that is not less than six months in duration when 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. Probation shall consist primarily of a monitoring function that seeks to ensure the guardian:

- A. Fully complies with any sanctions, remedies or other actions imposed by the Board, a court or a judicial officer; and
- B. Fully complies with the duties, requirements or prohibitions in the Standards of Practice, Guardianship Program rules and regulations, Washington statutes, and guardian's fiduciary duty.

2. The Disciplinary Committee Chair may appoint a suitable person to monitor the conditions of the probation are being met. Cooperation with a person so appointed is a condition of the probation. The guardian will be responsible for compensating the appointed monitor.

3. Failure to comply with a condition of probation may be grounds for discipline and any sanction imposed must take into account the misconduct leading to the probation.

4. Probation may be imposed in conjunction with any disciplinary action except Revocation.

509.11 OTHER DISCIPLINARY SANCTIONS

1. Upon a finding that a CPG 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, the Board may impose one or more of the following:

- A. Limitation on practice;
- B. Requirement that the CPG attend specific education courses or training, including the initial mandatory training;
- C. Alcohol or drug treatment;
- D. Behavior modification classes;
- E. Professional office practice or management advice and support to help the CPG correct deficiencies and make decisions.
- F. Periodic audits or reports;

G. Requirement that the CPG work with a mentor, who is a practicing or retired CPG or that the CPG's work be supervised;

H. Other requirements consistent with the purposes of discipline;

2. The Board must specify the terms and requirements in writing.
3. Failure to comply with the terms and requirements may be grounds for discipline and any sanction imposed must take into account the misconduct leading to the discipline.

509.12 RESTITUTION

1. Restitution defined: Restitution is the payment of the victim's out-of-pocket expenses directly related to the respondent's misconduct.
2. Restitution May Be Required. After a finding of misconduct, a respondent CPG may be ordered to make restitution to persons financially injured by the respondent's conduct.
3. Payment of Restitution.
 - A. A respondent ordered to make restitution must do so within thirty (30) days of the date on which the decision requiring restitution becomes final, unless the decision provides otherwise, the respondent enters into a periodic payment plan with the AOC, or the restitution is stayed pending appeal.
 - B. The AOC may enter into an agreement with a respondent for a reasonable periodic payment plan if:
 - i. The respondent demonstrates in writing present inability to pay restitution; and
 - ii. The AOC consults with the persons owed restitution.
4. Failure To Comply. A respondent's failure to make restitution when ordered to do so, or to comply with the terms of a periodic payment plan may be grounds for discipline.

509.13 COSTS AND FEES

1. Assessment. The Board's costs and fees may be assessed as provided in this rule against any respondent CPG who is disciplined.
2. Costs Defined. The term "costs" for the purposes of this rule includes all monetary obligations, except fees as defined below, reasonably and necessarily incurred by the Board in the complete performance of its duties under these rules, whether incurred before or after the filing of a Complaint. Costs include, by way of illustration

and not limitation:

- A. Court reporter charges for attending and transcribing depositions or hearings;
 - B. Necessary travel expenses of the Hearing Officer, disciplinary counsel, AOC staff or witnesses;
 - C. Witness charges;
 - D. Costs of conducting an examination of books and records or an audit;
 - E. Costs incurred in supervising probation imposed under rule 509.5;
 - F. Telephone toll charges;
 - G. Costs for court records;
 - H. Costs for AOC staff professional services;
 - I. Costs of copying materials.
3. Fees defined. Fees assessed under this rule may be equal to the actual fees incurred by the AOC.
 4. Statement of Costs and Fees.
 - A. Content. A statement of costs and fees must state with particularity the nature and amount of the costs claimed and also state the fees requested. An appropriate AOC staff member must sign the statement, and this signature constitutes a certification that all reasonable attempts have been made to insure the statement's accuracy.
 - B. Service. The AOC serves a copy of the statement on the respondent.
 5. Assessment Discretionary. Assessment of any or all costs and fees may be denied if it appears in the interests of justice to do so.
 6. Payment of Costs and Fees.
 - A. A respondent ordered to pay costs and fees must do so within thirty (30) days of the date on which the assessment becomes final, unless the order provides otherwise, the respondent enters into a periodic payment plan with the AOC, or the restitution is stayed pending appeal.
 - B. The AOC may enter into an agreement with a respondent for a reasonable periodic payment plan if the respondent demonstrates in writing present inability to pay assessed costs and fees.

7. Failure To Comply. A respondent's failure to pay costs and fees when ordered to do so or to comply with the terms of a periodic payment plan may be grounds for discipline.

510 BOARD'S REVIEW

510.1 DECISION

1. Decision. For purposes of this title, "Decision" means the Hearing Officer's findings of fact, conclusions of law, and order recommending disciplinary sanction,.
2. Review of Decision. The Board reviews all Hearing Officer Decisions. Either party may file a written Notice of Review within thirty (30) days of the final Decision. The Disciplinary Committee members shall recuse themselves from all review proceedings. All Board members shall disqualify themselves as necessary according to the standards set out in DR 502.2.6.
3. Notice of Review. The Notice of Review must include the following:
 - A. A statement that review being requested;
 - B. The portion of the Hearing Officer's decision to be challenged;
 - C. The general basis for the review; and
 - D. Whether a full or partial transcript should be ordered pursuant to 510.3.

510.2 TRANSCRIPT OF HEARING

1. Ordering Transcript. AOC must order the entire transcript unless the parties agree that no transcript or only a partial transcript is necessary for review.
2. Filing and Service. The original of the transcript is filed with the AOC and AOC must serve it on the respondent except if the respondent ordered the transcript.

510.3 RECORD ON REVIEW

1. Generally. The record on review consists of:
 - A. Any hearing transcript or partial transcript; and
 - B. Documents and exhibits admitted into the evidentiary record by the Hearing Officer.
2. References to the Record. Briefs filed must specifically refer to the record if available, using the designations TR for transcript of hearing, EX for exhibits and documents.

3. No Additional Evidence. Evidence not presented to the Hearing Officer must not be presented to the Board.
4. The AOC shall prepare and distribute the record on review to the Board.

510.4 BRIEFS

1. When seeking review by the Board, the respondent has the right to file a brief, which shall include a statement in opposition to the Decision of the Hearing Officer, alleging errors of fact, law, or other pertinent matter.
2. Time for Filing Briefs. Briefs, if any, must be filed within twenty (20) days of service on the respondent CPG of a copy of the hearing transcript unless no transcript was requested. If no transcript was requested, briefs must be filed within twenty (20) days of the filing of the Notice of Review.
3. Disciplinary counsel must file a brief within fifteen (15) days of service on disciplinary counsel of the respondent's brief, or, if no brief is filed by the respondent, within fifteen (15) days of the expiration of the period for the respondent to file a brief.
4. The respondent may file a reply to disciplinary counsel's brief within ten (10) days of service of that brief on the respondent, unless respondent failed to file an initial brief.

510.5 DECISION OF BOARD

1. Basis for Review. Board review is based on the Hearing Officer's Decision, the parties' briefs, and the record on review.
2. Action by Board. The Chair, by virtue of that office, is not disqualified from participating in the review before the Board or from participating in the Board's vote on a matter. On review, the Board may adopt, modify, or reverse the findings, conclusions, or recommendation of the Hearing Officer.
3. Board Order. The Board must issue a written Order within ninety (90) days of the hearing on the appeal. If the Board amends, modifies, or reverses any finding, conclusion, or recommendation of the Hearing Officer, the Board must state the reasons for its decision in a written Order. A Board member agreeing with the majority's Order may file separate concurring reasons. A Board member dissenting from the majority's Order may set forth in writing the reasons for that dissent. The Order should be prepared as expeditiously as possible and consists of the majority's decision together with any written dissent. A copy of the complete Order is served by the AOC on the parties.
4. Board's Order is Final. The Board's Order is final unless the Board is recommending suspension or decertification, in which case the Supreme Court shall review the Board's Decision. The Board will file its decision and the complete record

with the Supreme Court.

510.7 CHAIR MAY MODIFY REQUIREMENTS

Upon written motion and for good cause shown, the Chair may modify the time periods in CR 10, and make other orders as appear appropriate to assure fair and orderly Board review.

511 SUPREME COURT REVIEW

511.1 Notification of Filing: Upon the filing of the Board's recommendation of suspension or decertification and of the record, the Supreme Court Clerk shall mail written notice to the professional guardian and counsel.

511.2 Review on the Record: The Supreme Court shall review any Board recommendation for suspension or decertification after consideration of the transmitted record. No oral argument or evidence will be heard by the Supreme Court. The Supreme Court may adopt, modify, or reverse the Board's recommendation by written order. The AOC shall mail a copy of the Supreme Court's order to all parties, counsel, and the Board. Costs, if any, of transcription and preparation of the record for Supreme Court review shall be paid by the Board.

511.3 Finality: The court's order in a disciplinary proceeding is final when filed unless the court specifically provides otherwise.

511.4 Decertified or Suspended Professional Guardians

511.4.1 Referral to Court: The Supreme Court's order decertifying or suspending a professional guardian shall include provisions providing for the immediate referral of the matter to the superior court of each county.

511.4.2 Agencies: If the Board has recommended decertification or suspension of a professional guardian to the Supreme Court, the employer agency, if any, shall, upon notice of the Board's recommendation, promptly appear before the Board to determine how the decertification or suspension shall affect continuation of the agency's certification. Continuing certification of an agency affected by the suspension or decertification of a professional guardian shall be determined by the Board. The Board's primary concern shall be the best interests of the incapacitated persons. This provision does not supplant the exclusive jurisdiction of the superior court of each county over guardianship cases.

511.4.3 Notice to Interested Parties: Within ten (10) days of decertification or suspension, the professional guardian shall notify all parties entitled to notice in any active or pending guardianship matters of the professional guardian's decertification or suspension and the anticipated effect on the incapacitated person.

511.4.4 Immediate Cessation of Professional Guardian Status: After entry of the order of decertification or suspension, the decertified or suspended professional guardian shall not accept any new appointments or engage in work as a professional guardian in any matter, except to assist in the orderly transfer of cases.

511.4.5 Affidavit of Compliance: Within ten (10) days of the effective date of the decertification or suspension order, the decertified or suspended professional guardian shall file with the AOC:

- a) An affidavit attesting to full compliance with the provisions of the order, and with these regulations, including current mailing address.
- b) A copy of the notification letter sent to all parties entitled to notice, together with a list of the names and addresses of all persons to whom the notice was sent.

511.4.6 Records Maintained: Proof of compliance with these regulations shall be a condition precedent to any petition for reinstatement.

511.5 DECERTIFIED OR SUSPENDED PROFESSIONAL GUARDIANS

1. Referral to Superior Court: Upon receipt of the Supreme Court's order decertifying or suspending a professional guardian, the AOC shall notify each superior court.
2. Agencies: If the Board has recommended decertification or suspension of a professional guardian to the Supreme Court, the employer agency, if any, shall, upon notice of the Supreme Court order contact AOC to determine how the decertification or suspension shall affect continuation of the agency's certification. Continuing certification of an agency affected by the suspension or decertification of a professional guardian shall be determined by the Board. The Board's primary concern shall be the best interests of the incapacitated persons.
3. Notice to Interested Parties: Within ten (10) days of decertification or suspension, the professional guardian shall notify all parties entitled to notice in any active or pending guardianship matters of the professional guardian's decertification or suspension and the anticipated effect on the incapacitated person.
4. Immediate Cessation of Professional Guardian Status: After entry of the order of decertification or suspension, the decertified or suspended professional guardian shall not accept any new appointments or engage in work as a professional guardian in any matter, except to assist in the orderly transfer of cases.

512 DISCIPLINE FROM OTHER JURISDICTIONS; DUTY TO SELF-REPORT

1. **Duty To Self-Report Discipline.** Within thirty (30) days of being disciplined in another jurisdiction as a certified professional guardian or conservator, whatever term may be appropriate in that other jurisdiction, a CPG must inform the AOC of the discipline.
2. **Obtaining Order.** Upon notification from any source that a CPG certified in this state was disciplined in another jurisdiction, the AOC must obtain a copy of the Order and file it with the Disciplinary Committee.
3. **Disciplinary Committee Action.** Upon receipt of information demonstrating that a CPG certified in this state has been disciplined in another jurisdiction, the Disciplinary Committee may order the respondent CPG to show cause within thirty (30) days of service of the show cause order why it should not impose the identical discipline. The AOC must serve this Order by certified mail, and a copy of the Order from the other jurisdiction, on the respondent.
4. **Deferral.** If the other jurisdiction has stayed the discipline, any reciprocal discipline in this state is deferred until the stay expires.
5. **Discipline to Be Imposed.**
 - A. Thirty (30) days after service of the Order under Section (3), the Disciplinary Committee may impose the identical discipline unless the CPG demonstrates or the Disciplinary Committee finds, that it clearly appears on the face of the record on which the discipline is based, that:
 - i. The procedure so lacked notice or opportunity to be heard that it denied due process;
 - ii. The proof of misconduct was so weak that the Disciplinary Committee is clearly convinced that it cannot, consistent with its duty, accept the finding of misconduct or disability;
 - iii. The imposition of the same discipline would result in grave injustice;
 - iv. The established misconduct warrants substantially different discipline in this state; or
 - v. Appropriate discipline has already been imposed in this jurisdiction for the misconduct.
 - B. If the Disciplinary Committee determines that any of the factors in subsection (A) exist, it enters an appropriate order. The burden is on the party seeking different discipline in this jurisdiction to demonstrate that imposing the same discipline is not appropriate.

6. **Conclusive Effect.** Except as this rule otherwise provides, a final adjudication in another jurisdiction that a CPG has engaged in misconduct conclusively establishes the misconduct for purposes of a disciplinary proceeding in this state.
7. **Affidavit of Compliance.** Within ten (10) days of the effective date of the decertification or suspension order, the decertified or suspended professional guardian shall file with the AOC:
 - A. An affidavit attesting to full compliance with the provisions of the order, and with these regulations, including current mailing address.
 - B. A copy of the notification letter sent to all parties entitled to notice, together with a list of the names and addresses of all persons to whom the notice was sent.
8. **Records Maintained.** Proof of compliance with these regulations shall be a condition precedent to any petition for reinstatement.

513 REVIEW OF SUPERIOR COURT CASE FILINGS

To periodically audit CPGs' compliance with standards of practice and statutory court filing requirements, the Board directs AOC to select certified professional guardians at least monthly and review the guardians' cases on SCOMIS or other available case information sources. AOC may open a grievance and conduct an investigation pursuant to these Disciplinary Regulations.

514 REQUEST FOR DISCIPLINARY RECORD

When an official licensing or disciplinary body of any state with a pending application, investigation or disciplinary action involving a certified professional guardian in Washington requests disciplinary information from the Board or the AOC, the AOC will certify and transmit the disciplinary record of the certified professional guardian involved. Notice of the request and the transmitted materials shall be provided to the last known address of the certified professional guardian.

515 ADMINISTRATIVE DECERTIFICATION

If the Board decertifies a CPG for an administrative reason, including but not limited to the certified professional guardian's failure to: pay required fees satisfy the continuing education requirements, provide proof of insurance or waiver of insurance or file required information with the Board, any pending disciplinary grievance against the CPG may be dismissed. If the grievance is within the jurisdiction of the Disciplinary Committee, it may dismiss the grievance. If the Disciplinary Committee has already sent the grievance to the Board with a recommendation of action, the Board may dismiss the grievance. Information that a grievance was pending at the time of administrative decertification shall be placed in the CPG's licensing records and shall be available to the public.

Comparison of Current and Proposed Disciplinary Regulation 500

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
Purpose	
<p>501.1 PURPOSE OF DISCIPLINARY REGULATIONS To assure that Certified Professional Guardians (CPG) meet and maintain minimum professional standards of practice, which are adopted as regulations under General Rule 23 – Rule for Certifying Professional Guardians.</p> <p>To establish a process for the Certified Professional Guardianship Board (Board) to review grievances of alleged violations of statutes, fiduciary duties, standards of practice, rules, regulations, any requirement governing the conduct of professional guardians and any other authority applicable to professional guardians. The disciplinary procedures for failure to comply with certification requirements are included in the Certification Maintenance and Continuing Education Regulations.</p> <p>To set out the due process protections and other procedures that allow the professional guardian and the public to be protected.</p> <p>To ensure meaningful access to justice services and promote public trust and confidence in the courts.</p>	<p>501 The Standards of Practice are designed to assist professional guardians in performing their duties and to protect the public interest. The standards constitute a system for determining sanctions, permitting flexibility and creativity in assigning sanctions in particular cases of professional guardian misconduct. The standards are designed to promote:</p> <p>Consideration of all factors relevant to imposing the appropriate level of sanction in an individual case;</p> <p>Consideration of the appropriate weight of such factors in light of the stated goals of guardian discipline; and</p> <p>Consistency in the imposition of disciplinary sanctions for the same or similar offenses.</p> <p>The weight given any violation of a standard of practice is set out in the disciplinary regulations.</p> <p>502.1 To assure that Certified Professional Guardians meet and maintain minimum professional standards of practice, which are adopted as regulations under General Rule 23 – Rule for Certifying Professional Guardians.</p> <p>502.2 To establish a process for the Certified Professional Guardian Board (Board) to review grievances of alleged violations of statutes, fiduciary duties, standards of practice, rules, regulations, and any other authority applicable to professional guardians. The disciplinary procedures for failure to pay dues or failure to complete continuing education requirements are included in the Application and Continuing Education Regulations.</p> <p>502.3 To set out the due process protections and other procedures that allow the professional guardian and the public to be protected.</p>

<p>Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation</p>	
Proposed	Current
Jurisdiction	
<p>501.2 JURISDICTION Any certified professional guardian (CPG) permitted to engage in the provision of guardianship services in this state is subject to these Disciplinary Regulations. Jurisdiction exists regardless of the CPG’s residency.</p>	<p>No Equivalent Regulation</p>
Grounds for Disciplinary Action	
<p>501.3 GROUNDS FOR DISCIPLINARY ACTION These rules govern the procedure by which a certified professional guardian may be subjected to disciplinary sanctions or actions for violation of the Certified Professional Guardian Standards of Practice or other regulations adopted by the Board.</p> <p>A professional guardian may be subject to disciplinary action for any of the following:</p> <p>Violation of or noncompliance with applicable violations of statutes, fiduciary duties, standards of practice, rules, regulations, any requirement governing the conduct of professional guardians and any other authority applicable to professional guardians.</p> <p>Commission of any act that constitutes a felony, a misdemeanor or gross misdemeanor involving moral turpitude, whether or not a conviction results.</p> <p>Failure to perform any duty one is obligated to perform as a professional guardian.</p> <p>Violation of the oath, duties, or standards of practice of a professional guardian.</p>	<p>503 Grounds for Disciplinary Action</p> <p>A professional guardian may be subject to disciplinary action for any of the following:</p> <p>503.1 Violation of or noncompliance with applicable statutes, court orders, court rules, or other authority.</p> <p>503.2 Commission of a felony or of a misdemeanor or gross misdemeanor involving moral turpitude, whether or not a conviction results.</p> <p>503.3 Failure to perform any duty one is obligated to perform as a professional guardian.</p> <p>503.4 Violation of the oath, duties, or standards of practice of a professional guardian.</p> <p>503.5 Permitting a professional guardian's name to be used by an uncertified person or agency.</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>Permitting a professional guardian's name to be used by an uncertified person or agency.</p> <p>Misrepresentation or concealment of a material fact made in the application for certification.</p> <p>Suspension, decertification, or other disciplinary sanction taken by competent authority in any state, federal, or foreign jurisdiction when such action was taken in connection with a professional guardianship or interaction with an incapacitated or vulnerable person.</p> <p>Hiring, maintaining an office with, having on a Certified Agency's Board of Directors, or working for or together with any person who has been certification has been revoked or suspended as a disciplinary sanction, if the professional guardian has knowledge of such revocation or suspension. The Board upon application and approval may waive this provision. The Board may set conditions on a waiver.</p> <p>Willful disregard of a subpoena or order of a court, review panel, Board committee or the Board.</p> <p>Making a false statement under oath.</p> <p>Conduct demonstrating unfitness to work as a professional guardian, including but not limited to persistent or repeated violations of rules, standards of practice or regulations, or disciplinary actions.</p> <p>Working as a professional guardian while on inactive status.</p> <p>Failing to cooperate during the course of an investigation as required by the Board's regulations.</p>	<p>503.6 Misrepresentation or concealment of a material fact made in the application for certification.</p> <p>503.7 Suspension, decertification, or other disciplinary sanction by competent authority in any state, federal, or foreign jurisdiction when such action was taken in connection with a professional guardianship or interaction with an incapacitated or vulnerable person.</p> <p>503.8 Hiring, maintaining an office with, having on a Certified Agency's Board of Directors, or working for or together with any person who has been decertified or suspended and who is not eligible for re-certification, if the professional guardian has knowledge of such decertification or suspension. The Board upon application and approval may waive this provision. The Board may set conditions on a waiver.</p> <p>503.9 Willful disregard of a subpoena or order of a court, review panel, Board committee or the Board.</p> <p>503.10 Making a false statement under oath.</p> <p>503.11 Conduct demonstrating unfitness to work as a professional guardian, including but not limited to persistent or repeated violations of rules, standards of practice or regulations, or disciplinary actions.</p> <p>503.12 Working as a professional guardian while on inactive status.</p> <p>503.13 Failing to cooperate during the course of an investigation as required by the Board's regulations.</p>

<p>Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation</p>	
Proposed	Current
<p>Incompetence in the performance of the duties of a guardian.</p> <p>Failure to appear for a scheduled court proceeding without good cause.</p> <p>Failure to comply with the terms of a signed Agreement Regarding Discipline.</p>	
<p>Definitions</p>	
<p>501.4 DEFINITIONS</p> <p>Unless the context clearly indicates otherwise, terms used in these rules have the following meanings:</p> <p>“Advisory Letter” is a non-disciplinary letter to notify a professional that:</p> <p>While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against a respondent certified professional guardian; or</p> <p>The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action; or</p> <p>While a certified professional guardian has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the Disciplinary Committee believes that repetition of the activities that led to the investigation may result in further Disciplinary Committee action against a CPG.</p> <p>“Agreement Regarding Discipline” (Settlement Agreement) is a written settlement agreement approved by the professional guardian and the Board of a disciplinary matter against a professional guardian. The final agreement, approved by the parties, is a finding of misconduct, is a sanction and is subject</p>	<p>No Equivalent Regulation</p>

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>to public disclosure.</p> <p>“AOC” means staff of the Administrative Office of the Courts.</p> <p>“Board” means the Certified Professional Guardianship Board.</p> <p>“Chair” when used alone means the Chair of the Certified Professional Guardianship Board.</p> <p>"Contempt of Court" means:</p> <p>Disorderly, contemptuous, or insolent behavior toward a Hearing Officer while conducting a hearing or other proceeding, tending to impair its authority, or to interrupt the due course of a trial or other judicial proceedings;</p> <p>Disobedience of any lawful judgment, decree, order, or process of the court or tribunal;</p> <p>Refusal as a witness to appear, be sworn, or, without lawful authority, to answer a question; or</p> <p>Refusal, without lawful authority, to produce a record, document, or other object.</p> <p>“Complaint” means the formal document, as described in DR 508.2, filed by the Board with the AOC to initiate a contested hearing before a Hearing Officer for a factual hearing on the issue of whether the professional guardian’s conduct provides grounds for the imposition of disciplinary sanctions by the Board. In a complaint, the Board describes how the professional guardian allegedly violated an applicable statute, fiduciary duty, standard of practice, rule, regulation, or other authority. The Board must approve the filing of a complaint.</p>	

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>“Court” unless otherwise specified, means the Supreme Court of Washington.</p> <p>“CPG or CPGA” when used alone means a Certified Professional Guardian or Certified Professional Guardian Agency.</p> <p>“Decertification” of a professional guardian or agency occurs when the Board or the Supreme Court revokes the certification of a professional guardian or agency for any reason.</p> <p>“Deliberative Records” are records that contain preliminary or draft opinions or recommendations as part of a deliberative process.</p> <p>“Designated CPG” means the certified professional guardian working for an agency who has the final decision-making authority for incapacitated persons or their estate on behalf of the agency. The designated CPG is responsible for the actions of the agency(ies) for which they serve as designated CPG.</p> <p>“Disciplinary Records” are the records maintained by the Washington State Administrative Office of the Courts (AOC) of any disciplinary review, sanction, or other action imposed by the Board on the professional guardian, which shall include the reason for the Board’s action. The AOC shall maintain such records as defined by records retention schedules of the judicial branch and the AOC.</p> <p>“Disciplinary Action” encompasses the process described by these disciplinary regulations.</p> <p>“Disciplinary Counsel” the Office of the Attorney General serves as disciplinary counsel for complaints, or when otherwise requested by AOC or the Board.</p> <p>“Grievance” is a written document filed by any person with the Board, or filed by the Board itself, for the purpose of commencing a review of the professional guardian’s conduct under the statutes, fiduciary duties, standards of practice, rules, regulations, any requirement governing the conduct of professional</p>	

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>guardians and any other authority applicable to professional guardians. The grievance must include a description of the conduct of the professional guardian that the grievant alleges violates a statute, fiduciary duty, standard of practice, rule, regulation, or other authority applicable to professional guardians, including the approximate date(s) of the conduct. 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.</p> <p>“Grievant” means the person or entity who files a grievance against a CPG.</p> <p>“Hearing Officer” means the person appointed by the Board to conduct a disciplinary hearing and render a decision.</p> <p>“Incompetent” means an individual is incapable, inefficient and without the qualities needed to discharge their obligations and duties.</p> <p>“Investigative Records” are records related to an investigation pursuant to GR 23 and these disciplinary regulations, into the conduct of the professional guardian, prior to the imposition of any disciplinary sanction or dismissal.</p> <p>“Motion” means a written request to the Disciplinary Committee, Board, Hearing Officer or Supreme Court to issue a ruling or order.</p> <p>“No Contest” means the accused will not contest the facts on which the charge is based. It is not an admission of guilt. It is comparable to a guilty plea in authorizing a court to punish the accused.</p> <p>“Party” means respondent CPG and the Board.</p> <p>"Punitive Sanction" means a sanction imposed to punish.</p> <p>"Remedial Sanction" means a sanction imposed for the purpose of assurance performance when a failure to perform consists of the omission or refusal to</p>	

Certified Professional Guardianship Board

Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>perform an act that is in the person's power to perform.</p> <p>“Resignation” is the act or instance of resigning something, surrendering; the formal notification of resigning.</p> <p>“Respondent” means a CPG or CPG agency and a designated CPG against whom a grievance is filed.</p> <p>“Revoked” or “Revocation” means a professional guardian’s certification is cancelled by the Board or the Washington State Supreme Court pursuant to the procedures set forth in these disciplinary regulations or any other regulations of the Board, as a result of the professional guardian’s failure to comply with any statutes, fiduciary duties, standards of practice, rules, regulations, any requirement governing the conduct of professional guardians and any other authority applicable to professional guardians. The Board must specify whether the CPG is eligible to apply for certification with the AOC guardian program at a future date.</p> <p>“Standard of Practice” means a model of established practice that is commonly accepted as correct.</p> <p>“Summary Judgment” is a judgment rendered by the court or Hearing Officer prior to a verdict because no material issue of fact exists and one party or the other is entitled to a judgment ascertained through the use of statutes, rules, court decisions, and interpretation of legal principles.</p> <p>“Suspension” of a professional guardian occurs when the Board or the Supreme Court orders that the certification of a professional guardian or agency be temporarily cancelled for a specified period of time. A suspended professional guardian or agency may not act as a certified professional guardian for any person during the period of suspension.</p>	

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>“To File” means submitting a written document, exhibit, or other information to the AOC regarding a grievance which will be included in the disciplinary record.</p> <p>“Words of Authority”</p> <p>“May” means “has discretion to,” “has a right to,” or “is permitted to”.</p> <p>“Must” and “shall” mean “is required to”.</p> <p>“Should” means recommended but not required.</p> <p>“Voluntary Resign (Surrender)” means a process where a certified professional guardian voluntarily decides to discontinue practice in the profession and surrenders his or her certification pursuant to regulations adopted by the Board.</p> <p>“Voluntary Resign (Surrender) in Lieu of Discipline” means a process where a certified professional guardian surrenders certification with a statement of charges for dismissal.</p>	
Statute of Limitations	
<p>501.5 NO STATUTE OF LIMITATION</p> <p>No statute of limitation or other time limitation restricts filing a grievance or bringing a proceeding under these rules, but the passage of time since an act of misconduct occurred may be considered in determining what if any action or sanction is warranted.</p>	<p>No Equivalent Regulation</p>

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
Organization and Structure	
<p>502.1 CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD (CPGB) The Washington State Certified Professional Guardianship Board has responsibility in the state to administer CPG discipline and has inherent power to maintain appropriate standards of practice and to conduct and to dispose of individual cases of CPG discipline. Persons carrying out the functions set forth in these rules act under the Certified Professional Guardianship Board’s authority.</p> <p>Function. The Board:</p> <p>Supervises the general functioning of the Disciplinary Committee.</p> <p>Makes appointments, removes those appointed, and fills vacancies as provided in these rules.</p> <p>Performs other functions and takes other actions provided in these rules, delegated by the Supreme Court in General Rule 23, or as necessary and proper to carry out its duties.</p> <p>Is responsible for hearing appeals of Disciplinary Committee decisions that are made appealable pursuant to these rules.</p> <p>Restriction on Representing Respondents. A former member of the Board shall not represent a certified professional guardian in proceedings under the Board’s regulations for at least three (3) years following expiration of the Board member’s term of office. Former AOC staff shall not represent a certified professional guardian in proceeding under the Board’s regulations for at least three (3) years after separation from AOC. Former members of the Board are also subject to the restrictions on representing respondents in rule 502.2(6).</p>	<p>509.1.3 A former member of the Board who is also a licensed attorney in Washington shall not represent a professional guardian in proceedings under the Board’s regulations until after two (2) years have elapsed following expiration of the Board member's term of office.</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>502.2 DISCIPLINARY COMMITTEE</p> <p>Function. The Disciplinary Committee performs the functions provided under these rules, delegated by the Board or the Chair, or as necessary and proper to carry out its duties. These functions include, but are not limited to investigation, review, making preliminary findings, approving settlement agreements, officiating over hearings, and imposing disciplinary sanctions. Members should respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the disciplinary system. Members should not allow family, social, business or other relationships to influence their conduct or judgment.</p> <p>Membership. The Chair appoints a Disciplinary Committee of three to four members from among the Board members. At least one of the members must have substantial experience in guardianships. The Chair may change the appointment of members to the Disciplinary Committee as necessary for equitable distribution of work or for other reasons. The Chair does not serve on the Disciplinary Committee.</p> <p>Terms of Office. A board member may serve as a Disciplinary Committee member as long as the member is on the Board or for other shorter terms as determined to be appropriate by the Chair of the Board.</p> <p>Disciplinary Committee Chair. The Chair of the Board designates one member of the Disciplinary Committee to act as its Chair. The Chair should have experience serving in a judicial or quasi-judicial capacity.</p> <p>Meetings. The Disciplinary Committee meets at times and places determined by the Disciplinary Committee Chair. At the Disciplinary Committee Chair’s discretion, the Committee may meet and act through electronic, telephonic, written, or other means of communication.</p> <p>Disqualification of Disciplinary Committee Members. A Disciplinary Committee member should disqualify him or herself from a particular matter in which the</p>	<p>505 Standards of Practice Committee (SOPC)</p> <p>505.1 The SOPC shall have three members appointed by the Board Chair. At least one member must be a certified professional guardian and at least one member must be an attorney or judicial officer. The Board Chair shall designate one member as the chair of the committee. All committee members will serve a term of one year. The Board Chair shall also appoint at least three alternate members of the SOPC to assist the SOPC in the performance of its duties as requested by the Chair of the SOPC. At least one alternate member shall be a certified professional guardian and one alternate member shall be a judicial officer or attorney.</p> <p>505.2 Members of the SOPC shall perform tasks related to the disciplinary process as set forth in these regulations or as assigned by the Board.</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>member’s impartiality might reasonably be questioned, including but not limited to instances in which:</p> <p>The appearance of impropriety is or could reasonably be great or have the appearance of a conflict;</p> <p>The member has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the matter;</p> <p>The member previously served as a lawyer, CPG, or was a material witness in the matter in controversy;</p> <p>A lawyer or CPG with whom the member works, serves or has previously served as a lawyer or CPG concerning the matter, or such lawyer or CPG is or has been a material witness concerning the matter;</p> <p>The member has a pending grievance;</p> <p>The member or relative person residing in the member’s household has an economic interest in the subject matter in controversy or is a party to the matter, or has any other interest that could be substantially affected by the outcome of the matter.</p>	
<p>502.3 CONFLICTS REVIEW COMMITTEE Function. The Conflicts Review Committee (CRC) performs the functions provided under these rules, delegated by the Board or the Chair, or as necessary and proper to carry out its duties. These functions include but are not limited to investigation, review, making preliminary findings, approving settlement agreements, officiating over hearings, and imposing disciplinary sanctions involving a Board member. Members should respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the disciplinary system. Members should not</p>	<p>507 Conflicts Review Committee 507.1 The Conflicts Review Committee (CRC) shall have three members appointed by the Board Chair, who shall also designate the committee chair. CRC members may not be current members of the Board. CRC members shall be familiar with guardianship practice in the state of Washington. 507.2 The AOC shall transmit any grievance against a Board member to the CRC. The CRC shall perform the duties that would otherwise be</p>

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>allow family, social, business, or other relationships to influence their conduct or judgment.</p> <p>Membership. The Board Chair shall appoint three members who shall not be current members of the Board. CRC members shall be familiar with guardianship practice in the state of Washington.</p> <p>Chair. The Board Chair shall designate one member of the CRC to serve as Chair. The Chair should have experience serving in a judicial or quasi-judicial capacity.</p> <p>Confidentiality Agreement. All proposed members of a CRC are required to sign a confidentiality agreement prior to serving.</p> <p>CRC Duties. The AOC shall transmit any grievance against a Board member to the CRC. The CRC shall perform the duties that would otherwise be performed by the Disciplinary Committee under these regulations and AOC shall support the CRC in any such grievance.</p> <p>The CRC may recommend to the Board Chair that the Board member under investigation be placed on a leave of absence from the Board during its investigation. The CRC will consider the nature of the allegations against the Board member, the available evidence regarding those allegations and the importance of maintaining public trust and confidence in the Board in making its recommendation to the Board Chair. The CRC may make such a recommendation at any time during its investigation and review of the grievance. Except as otherwise set forth in these regulations, the Board Chair shall have the sole discretion to decide whether the Board member should take a leave of absence from the Board and when the Board member may return to the Board.</p>	<p>performed by the SOPC under these regulations and AOC shall report to the CRC on any such grievance.</p> <p>507.3 The CRC may also recommend to the Board Chair that the Board member under investigation be placed on a leave of absence from the Board during its investigation. The CRC will consider the nature of the allegations against the Board member, the available evidence regarding those allegations and the importance of maintaining public trust and confidence in the Board in making its recommendation to the Board Chair. The CRC may make such a recommendation at any time during its investigation and review of the grievance. Except as otherwise set forth in these regulations, the Board Chair shall have the sole discretion to decide whether the Board member should take a leave of absence from the Board and when the Board member may return to the Board.</p> <p>507.4 If the Board files a complaint against a Board member, the Board member shall take a leave of absence from the Board until the conclusion of the disciplinary proceeding.</p> <p>507.5 Consistent with the Office of Financial Management rules, CRC members shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>Reimbursement. Consistent with the AOC policy, CRC members shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.</p> <p>Access to Disciplinary Information. CRC Members have access to any otherwise confidential disciplinary information necessary to perform the duties required by these rules. CRC Members shall return original files to the AOC promptly upon completion of the duties required by these rules and shall not retain copies.</p> <p>Independence. CRC Members act independently of disciplinary counsel and the Board.</p> <p>Board Member Responsibility. If the Board files a complaint against a Board member, the Board member shall take a leave of absence from the Board until the conclusion of the disciplinary proceeding.</p>	
<p>502.4 DISCIPLINARY COUNSEL The Attorney General’s Office will serve as disciplinary counsel on the Board’s behalf when a complaint has been filed or when requested by the Board or AOC and performs other duties as required by these rules.</p>	<p>510.1 Complaint 510.1.1 Upon the SOPC’s request that a complaint be filed, and upon approval of the Board, the AOC shall sign such a complaint that shall set forth the allegations regarding particular acts or omissions of the professional guardian in such detail as to enable the professional guardian to be informed of the allegations. The complaint shall be filed with the AOC.</p> <p>510.1.2 Prior Board disciplinary action against the professional guardian may be set forth in a separate count of the complaint. Prior Board disciplinary action is a factor to be considered in determining any sanction imposed in a disciplinary action.</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>502.5 RESPONDENT CERTIFIED PROFESSIONAL GUARDIAN Right to Representation. A CPG may be represented by counsel at the CPG's own expense during any stage of an investigation or proceeding under these rules.</p> <p>Restrictions on Representation of Respondent. A former Board member cannot represent a respondent CPG in any proceeding under these rules until three (3) years after leaving the Board. A former CRC member cannot represent a respondent CPG in any proceeding under these rules until one (1) year after the CRC has completed its work. A former AOC staff person shall not represent a respondent CPG in any proceeding under these rules for at least three (3) years after the date of separation from AOC.</p> <p>Restriction on Charging Fee To Respond to Grievance. A respondent CPG may not seek to charge a grievant or an incapacitated person's estate a fee or recover costs from a grievant or incapacitated person's estate for responding to a grievance.</p> <p>Medical and Psychological Records. A respondent CPG must furnish written releases or authorizations to permit access to medical, psychiatric, or psychological records of the certified professional guardian and the incapacitated person as may be relevant to the investigation or proceeding.</p>	<p>509.1.1 A professional guardian may be represented by counsel at the professional guardian's expense at any stage of any investigation or proceeding under the Board's regulations.</p> <p>509.1.2 Should the professional guardian seek reimbursement or imposition of fees and costs from a guardianship estate during the pendency of any Board or AOC investigation, the matter must be addressed by the superior court with jurisdiction over the case.</p> <p>509.1.3 A former member of the Board who is also a licensed attorney in Washington shall not represent a professional guardian in proceedings under the Board's regulations until after two (2) years have elapsed following expiration of the Board member's term of office.</p>
Release of Information	
<p>503 RELEASE OF INFORMATION General Rule (GR) 31.1 controls release of information.</p>	<p>510.3 Commencement of Proceedings: A disciplinary action shall become public when the complaint has been filed with the AOC by counsel representing the Board. The complaint and all subsequent pleadings filed in the disciplinary action shall be open to public access.</p>
General Procedural Rules	
<p>504.1 SERVICE OF PAPERS Service Required. Every pleading, every paper relating to discovery, every written motion other than one that may be heard ex parte, and</p>	<p>510.4 Notice</p>

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>every similar paper or document issued by the Board, disciplinary counsel, the AOC, or the respondent CPG under these rules must be served on the opposing party. If a hearing is pending, the party also must serve a copy on the Disciplinary Committee by serving the AOC at:</p> <p>Administrative Office of the Courts 1112 Quince St. SE PO Box 41170 Olympia, WA 98504-1170 Methods of Service.</p> <p>Service by Mail.</p> <p>All certified professional guardians agree to accept personal service by registered or certified mail at the address provided by the guardian. If properly made, service by mail is deemed accomplished on the date of mailing and is effective regardless of whether the person to whom it is addressed actually receives it.</p> <p>Except as provided below, service by mail must be by certified or registered mail, return receipt requested. Service may be made by first class mail if:</p> <p>The parties so agree;</p> <p>The document is a notice of dismissal, deferral or a request for review of dismissal or deferral;</p>	<p>510.4.1 A copy of the complaint with notice to answer, notice of the location of the Board’s disciplinary regulations on the AOC website, and any pleadings, notices, or other documents shall be served on the professional guardian by registered or certified mail at the address on file with the AOC.</p> <p>510.4.2 By applying to be certified, all professional guardians agree to accept personal service by registered or certified mail at the address provided by the professional guardian.</p> <p>510.4.3 Service on the Board of any pleadings, notices, or other documents may be made by delivery or mailing to the Administrative Office of the Courts, 1112 Quince St SE, PO Box 41170, Olympia WA 98504-1170 during regular business hours. A copy of any document served on the Board shall be served by mail or personal delivery on the Board’s attorney of record in the disciplinary proceeding.</p> <p>510.4.4 Proof of service by affidavit or certificate of service, or mailing, sheriff’s return of service, or a signed acknowledgment of service, shall be filed in the office of the AOC.</p>

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>One or more properly made certified mailings are returned as unclaimed;</p> <p>Service is on the AOC on behalf of the Disciplinary Committee or Board.</p> <p>The address for service by mail is as follows:</p> <p>For the respondent, or his or her attorney of record, the address in the answer, a notice of appearance, or any subsequent document filed by the respondent or his or her attorney; or, in the absence of an answer, the respondent's address on file with the AOC;</p> <p>For disciplinary counsel, at the address of the AOC or other address that disciplinary counsel requests.</p> <p>Service by Delivery. If service by mail is permitted, service may instead be accomplished by leaving the document at the address for service by mail.</p> <p>3. Proof of Service. If personal service is used pursuant to DR 504.1.2, proof of service may be made by affidavit of service, or a signed acknowledgment of service. Proof of service must be filed, but need not be served on the opposing party.</p>	
<p>504.2 FILING; ORDERS</p> <p>Filing Originals. The original of any pleading, motion, or other paper authorized by these rules, other than discovery, must be filed with the AOC.</p>	<p>510.4.5 Electronic filing or service of documents upon the Board or the AOC is not permitted without the express written authorization of the Board or the AOC. Electronic service upon a party is not permitted without the express written authorization of the party. Electronic filing and service includes transmission by electronic mail and electronic facsimile transmission</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>Filing and Service of Orders. Any written order, decision or ruling must be filed with the AOC, and the AOC serves it on the respondent lawyer and disciplinary counsel.</p> <p>Electronic filing or service of documents upon the Board or the AOC is permitted with authorization of the Board or the AOC. Electronic service upon a party is not permitted without authorization of the party. Electronic filing and service includes transmission by electronic mail and electronic facsimile transmission.</p>	
<p>504.3 PAPERS All pleadings or other papers must be word processed or printed, double spaced, on 8½ by 11-inch pages. The use of letter-size copies of exhibits is encouraged if it does not impair legibility.</p>	No Equivalent Regulation
<p>504.4 COMPUTATION OF TIME Computation. In computing any period of time prescribed or allowed by these rules the day of the act from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday nor a legal holiday. Legal holidays are prescribed in RCW 1.16.050. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.</p> <p>Additional Time After Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed</p>	No Equivalent Regulation

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
period after the service of a notice or document upon him and the notice or document is served upon him by mail, three (3) days shall be added to the prescribed period.	
504.5 STIPULATION TO EXTENSION OR REDUCTION OF TIME Except for notices of appeal or matters pending before the Supreme Court, the respondent certified professional guardian, the AOC, and disciplinary counsel may stipulate in any proceeding to extension or reduction of the time requirements.	510.7 Amendment and Extensions of Time: The Hearing Officer may at any time allow or require amendments to the complaint or to the answer. The Hearing Officer may extend the time for filing any pleading for good cause.
504.6 ENFORCEMENT OF SUBPOENAS Any party may issue a subpoena to compel the attendance of witnesses or to produce documents at a hearings or deposition. The subpoena shall be issued in the name of the Board and shall be signed and subscribed to by the party or the party’s attorney of record. Subpoenas shall be served in the same manner as in civil cases in superior court. A failure to attend or produce as required by the subpoena shall be considered contempt of the Supreme Court. A motion to quash or modify the subpoena, on the grounds of unreasonableness or oppression, shall be decided by the Disciplinary Committee Chair or Hearing Officer.	511.9 Subpoenas: Any party may issue a subpoena to compel the attendance of witnesses or to produce documents at a hearings or deposition. The subpoena shall be issued in the name of the Board and shall be signed and subscribed to by the party or the party’s attorney of record. Subpoenas shall be served in the same manner as in civil cases in superior court. A failure to attend or produce as required by the subpoena shall be considered contempt of the Supreme Court. A motion to quash or modify the subpoena, on the grounds of unreasonableness or oppression, shall be decided by the Hearing Officer.
Grievance Investigation	
505.1 GRIEVANTS Filing of Grievance. Any person or entity may file a grievance, as defined in section 501.4.16 against a certified professional guardian.	504 Grievances 504.1 Any person or entity may file a grievance with the Administrative Office of the Courts (AOC) regarding a professional guardian. The Board may file a grievance in its name if alleged or apparent misconduct comes to the Board’s attention without a grievance being filed by a third person.

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>The Disciplinary Committee Chair may open a grievance based on any information obtained by the AOC or the Board.</p> <p>Consent to Disclosure. By filing a grievance, the grievant consents to disclosure of his or her identity, the nature of the allegations of the grievance to the respondent CPG or to any other person contacted during the investigation.</p> <p>The identity of the person bringing the grievance is disclosed unless the person submits a written request for confidentiality that explains his or her reasons for not wanting his or her identity disclosed, and which the Disciplinary Committee approves. At the discretion of the Disciplinary Committee Chair, the grievant's identity may be revealed for good cause.</p> <p>If the matter goes to a hearing and the grievant's testimony is required, the grievant's identity as a witness is not confidential, the fact that he/she brought the grievance may remain confidential.</p> <p>Grievant Rights. A grievant has the following rights:</p> <p>To be advised promptly of the receipt of the grievance, and of the name, address, and office phone number of the person assigned to its investigation if such an assignment is made;</p> <p>To have a reasonable opportunity to speak with the person assigned to the grievance, by telephone or in person, about the substance of the grievance or its status;</p>	

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>To submit additional supplemental written information or documentation at any time;</p> <p>To attend any hearing conducted into the grievance;</p> <p>To provide testimony at any hearing conducted into the grievance, if such testimony is determined by AOC to be appropriate and relevant to the proceeding;</p> <p>To be advised of the disposition of the grievance;</p> <p>To be advised when his or her identity will no longer be confidential; and after supplying additional information in reference to the grievance, to request reconsideration of a dismissal of the grievance as provided in DR 506.2.</p> <p>Grievant Duties. A grievant has the duty to do the following:</p> <p>At the time of filing the grievance or when requested, give the person assigned to the grievance documents or other evidence in his or her possession, and witnesses' names and addresses;</p> <p>Assist in securing relevant evidence, which may include signing releases of information; and</p> <p>Appear and testify at any hearing resulting from the grievance when such testimony is requested by AOC, through disciplinary counsel.</p> <p>If the grievant fails to do any of the duties above, a grievance may be dismissed.</p>	

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>505.2 INVESTIGATION OF GRIEVANCE Review and Investigation. The AOC must review any alleged or apparent misconduct by a CPG. AOC shall conduct an initial investigation to ensure that any grievances received are complete, meet jurisdictional requirements as defined in DR 501.3, and provide sufficient factual information to warrant further consideration. When appropriate the initial investigation should include the following:</p> <p>Provide a copy of the grievance to the respondent certified professional guardian and request a response pursuant to DR 506.3.</p> <p>Provide a copy of the respondent certified professional guardian’s response to the grievant and request a response.</p> <p>Interview persons believed to possess relevant information or documents.</p> <p>Request and review relevant documents.</p> <p>Initial Dismissal. AOC may dismiss a grievance that fails to provide sufficient factual information, fails to meet jurisdictional requirements, or fails to identify an action which would result in sanctions. AOC is not required to seek the approval of the Disciplinary Committee or the Board for such dismissals.</p> <p>Dismissal of Grievance Not Required. None of the following alone requires dismissal of a grievance:</p> <p>The unwillingness of a grievant to continue the grievance;</p> <p>The withdrawal of the grievance, a compromise between the grievant and the respondent; or</p> <p>Restitution by the respondent.</p>	<p>504.3 The AOC will review each complaint and may follow up in writing or through other means to obtain all necessary information for the grievance to proceed. This follow-up may include the AOC returning incomplete or unclear grievances to the submitting person or body with an explanation of why the grievance is incomplete and what additional information is necessary.</p> <p>504.4 Unless the Standards of Practice Committee (SOPC) has dismissed the grievance, the AOC shall send a grievance regarding an active guardianship case to the appropriate superior court with a request that the court review the grievance, take any action the court deems necessary, and report back to the AOC.</p> <p>504.5 Unless the SOPC has dismissed the grievance, AOC will send a copy of the grievance to the professional guardian, provide information to the professional guardian about the website location of the Board’s disciplinary regulations and request that the professional guardian respond to the grievance in writing.</p> <p>504.6 AOC may perform other necessary investigation of the grievance, which may include any of the following: interviewing the grievant, interviewing the professional guardian and obtaining relevant records or documentation from any person or entity.</p> <p>504.7 AOC will report the results of its investigation to the SOPC unless the grievance is against a Board member, in which case the AOC will report the results of its investigation to the Conflicts Review Committee (CRC) which shall act on the grievance in accord with these regulations.</p>

Certified Professional Guardianship Board

Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>Deferral.</p> <p>An investigation into alleged acts of misconduct by a CPG may be deferred by the Chair of the Disciplinary Committee or AOC staff with the approval of the Disciplinary Chair, if it appears that the deferral will not endanger the public, and;</p> <p>The allegations are related to pending civil or criminal litigation; The respondent CPG is physically or mentally unable to respond to the investigation; or</p> <p>For other good cause shown.</p> <p>The AOC must inform the grievant and respondent of a decision to defer or a denial of a request to defer and of the procedure for requesting review. A grievant or respondent may request review of a decision on deferral. If review is requested, the AOC refers the matter to the Disciplinary Committee for reconsideration of the decision on deferral. To request review, the grievant or respondent must deliver or deposit in the mail a request for review to the Board no later than thirty (30) days after the AOC mails the notice regarding deferral.</p> <p>Duty To Furnish Prompt Response. The respondent CPG must promptly respond to any inquiry or request made under these rules for information relevant to grievances or matters under investigation. Upon inquiry or request, the respondent CPG must:</p> <p>Furnish in writing, or orally if requested, a full and complete response to inquiries and questions;</p> <p>Permit inspection and copying of the CPG's business records, files, and accounts;</p>	<p>506.6 The Board may defer processing any grievance involving material allegations that are substantially similar to the material allegations of pending criminal or civil litigation. In such event, the professional guardian shall make all reasonable efforts to obtain a prompt disposition of such pending litigation. Acquittal of the professional guardian of criminal charges or a verdict or a judgment favoring in the professional guardian in civil litigation involving substantially similar material allegations shall not require abatement of any Board disciplinary investigation predicated upon the same material allegations.</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>Furnish copies of requested records, files, and accounts; and</p> <p>Furnish written releases or authorizations if needed to obtain documents or information from third parties.</p> <p>Failure To Cooperate.</p> <p>Interim Suspension. If a CPG has not complied with any request made under DR 505.2.5 for more than thirty (30) days, the AOC may notify the CPG that failure to comply within ten (10) days may subject the CPG to interim suspension under rule 509.5.</p> <p>Grounds for Discipline. A CPG’s failure to cooperate fully and promptly with an investigation as required by DR 505.2.5 is also grounds for discipline.</p>	<p>508.1 It shall be the duty and the obligation of a professional guardian or agency subject to a disciplinary investigation to cooperate with the SOPC, Board, or the AOC staff as requested, subject only to the proper exercise of the professional guardian's privilege against self-incrimination.</p> <p>508.2 Upon request, the professional guardian shall provide the following within the time specified:</p> <p>508.2.1 Documents, including allowing AOC to inspect and copy business records, files, and accounts.</p> <p>508.2.2 A full and complete explanation covering the matters contained in the grievance.</p> <p>508.2.3 Written releases or authorizations where needed to obtain access to documents or information in the possession of third parties.</p>
<p>505.3 PRIVILEGES</p> <p>Privilege Against Self-Incrimination. A CPG’s duty to cooperate is subject to the CPG’s privilege against self-incrimination, where applicable.</p> <p>Confidential Information. A CPG may not assert confidentiality under the Standards of Professional Conduct or other prohibitions on revealing client confidences or secrets as a basis for refusing to provide information during the course of an investigation, but information obtained during an investigation involving client confidences or secrets must be kept confidential to the extent possible under these rules unless the client otherwise consents.</p>	<p>508.1 It shall be the duty and the obligation of a professional guardian or agency subject to a disciplinary investigation to cooperate with the SOPC, Board, or the AOC staff as requested, subject only to the proper exercise of the professional guardian's privilege against self-incrimination.</p>

Review by Disciplinary Committee

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>506.1 REVIEW OF GRIEVANCE Within one hundred twenty (120) days of the AOC receiving the written grievance, the Disciplinary Committee shall attempt to review all initial investigations not dismissed pursuant to DR 505.2.2. If the Disciplinary Committee feels that there is insufficient information, it may request the AOC to conduct further investigation. The AOC shall attempt to complete its investigation and to present the investigation’s results to the committee for its review within two hundred ten (210) days after receiving the written grievance. Once the Disciplinary Committee has determined that it has sufficient information regarding the allegation, it must either dismiss the grievance pursuant to DR 506.2 or proceed under DR 507 or DR 508.</p> <p>Due to existing resources, the deadlines set out in Regulation 506.1 are aspirational, rather than mandatory. Although the deadlines in Regulation 506.1 are aspirational, the Disciplinary Committee and AOC will attempt to comply with those deadlines to the extent that existing resources allow for compliance.</p>	<p>506.1 The SOPC shall review reports prepared by AOC, if any, and take one of the following actions on each grievance: request further information from AOC, dismiss, request that the Board file a formal complaint, request that the Board enter into an Agreement Regarding Discipline, or direct that AOC contact the professional guardian to discuss an issue of minor significance and of a nature not potentially harmful to clients of the professional guardian or other persons. The SOPC may also refer the grievance to other regulatory agencies or to law enforcement. If the SOPC requests Board action, the request shall be accompanied by a written report setting forth the reasons for the request.</p>
<p>506.2 DISMISSAL OF GRIEVANCE BY DISCIPLINARY COMMITTEE Dismissal. The Chair of the Disciplinary Committee or AOC (pursuant to DR 505.2) may dismiss grievances. On dismissal by either the Chair of the Disciplinary Committee or AOC, AOC must notify:</p> <p>The respondent of the allegations and dismissal of the grievance; and</p> <p>The grievant of the outcome and the procedure for review in this rule.</p> <p>Review of Dismissal. A grievant may request review of dismissal of the grievance, if additional evidence has been obtained since the filing of the grievance. The request for review and the additional evidence to the AOC must be received by AOC no later than thirty (30) days after the date of the dismissal</p>	<p>506.2 The SOPC will dismiss the grievance if it determines that the Board has no jurisdiction over the grievance or if the allegations and other information available to the SOPC, do not provide grounds for disciplinary action by the Board. The AOC will notify the grievant in writing that the grievance has been dismissed and the reason for the dismissal.</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>of the grievance. If review is requested, the Chair of the Disciplinary Committee may either reopen the matter on his/her authority for investigation or refer it to the Disciplinary Committee for a decision regarding re-opening.</p> <p>Authority on Review. In reviewing a request to re-open a grievance under this rule, the Disciplinary Committee may:</p> <p>Affirm the dismissal;</p> <p>Order further investigation as appropriate.</p>	
<p>506.3 RESPONSE TO GRIEVANCE The certified professional guardian shall have thirty (30) days to respond to the allegations and provide any mitigating information. This response and information shall be sent to the AOC. Should the CPG require more time to adequately respond, the CPG shall make a request in writing to AOC stating the reasons for such an extension of time. The Disciplinary Committee Chair or AOC shall make a determination regarding whether to grant the request for extension within five (5) days of receiving the request</p>	<p>510.6 Time to Respond: The professional guardian shall be allowed thirty (30) days from the date of service, exclusive of the date of service, to respond to the complaint.</p>
Resolution Without Complaint	
<p>507 RESOLUTION WITHOUT COMPLAINT Grievances not dismissed can be resolved without the filing of a complaint, through the following non-exhaustive methods: An advisory letter (DR 507.1), a Settlement Agreement (DR 507.2), or voluntary resignation (surrender) in lieu of discipline (DR 507.3).</p>	<p>506.5 The SOPC may conditionally settle and dispose of grievances without a hearing, provided a complete report of the conditional disposition of each grievance shall go to the Board for approval. Upon review of the SOPC report, the Board shall take action and make a record of the Board's decision which shall appear in the meeting minutes.</p>
<p>507.1 ADVISORY LETTER An advisory letter may be issued when a complaint is not warranted, but it is appropriate to caution a respondent CPG concerning his or her conduct. An advisory letter is not confidential and does not constitute a finding of</p>	<p>506.4 The SOPC may direct AOC to contact a professional guardian directly to discuss a grievance regarding an issue of minor significance or of a nature not potentially harmful to clients of the professional guardian or other persons. The SOPC may direct the professional</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>misconduct, is not a sanction, and is not a disciplinary action. An advisory letter may be issued to notify a certified professional guardian that:</p> <p>While there is insufficient evidence to support disciplinary action, the Disciplinary Committee believes that continuation of the activities that led to the investigation may result in further Board action against a respondent certified professional guardian;</p> <p>The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action; or</p> <p>While a certified professional guardian has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the Disciplinary Committee believes that repetition of the activities that led to the investigation may result in further Disciplinary Committee action against a CPG.</p>	<p>guardian to take corrective measures. If the professional guardian takes the action requested by the SOPC, the SOPC will report the professional guardian's compliance to the Board. If the Board approves of this resolution, then the matter will be closed. This resolution does not constitute a finding of misconduct by the Board, is not a sanction, is not disciplinary action, and is not public information. The grievant shall be informed that the matter is closed with no disciplinary action taken by the Board. If the professional guardian refuses to take action as directed by the SOPC, or the Board does not approve the resolution, the matter shall be reviewed by the SOPC for further action.</p>
<p>507.2 SETTLEMENT AGREEMENTS</p> <p>Requirements. Any disciplinary matter or proceeding may be resolved by a Settlement Agreement (Agreement Regarding Discipline) at any time. The Settlement Agreement must be signed by the respondent CPG and AOC, and approved by the Disciplinary Committee and the Board. A Settlement Agreement is a finding of misconduct, is a sanction and is subject to public disclosure.</p> <p>Form. A Settlement Agreement:</p> <p>Must provide sufficient detail regarding the particular acts or omissions of the respondent to permit the Disciplinary Committee to form an opinion as to the propriety of the proposed resolution, including aggravating and mitigating factors considered, so as to make the Settlement Agreement useful in any</p>	<p>514 Agreements Regarding Discipline</p> <p>514.1 Requirements: Any disciplinary matter may be resolved by an Agreement Regarding Discipline entered into at any time by the professional guardian and by the Board.</p> <p>514.2 An Agreement Regarding Discipline shall:</p> <p>514.2.1 State the material facts relating to the particular acts or omissions of the professional guardian.</p> <p>514.2.2 Set forth the guardian's prior record of discipline or any absence of such record.</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>subsequent disciplinary proceeding against the respondent CPG;</p> <p>Must set forth the respondent’s prior disciplinary record;</p> <p>Must state that the Settlement Agreement is not binding on the Disciplinary Committee as a final statement of facts about the respondent’s conduct, and that additional facts may be proved in a subsequent disciplinary proceeding;</p> <p>Must fix the amount of costs and expenses, if any, to be paid by the respondent;</p> <p>May impose terms and conditions and any other appropriate provisions.</p> <p>Conditional Approval. The Disciplinary Committee’s approval is conditional, as all Settlement Agreements must be submitted to the Board for their final approval. The Board’s decision on whether to approve a Settlement Agreement shall be reflected in board minutes.</p> <p>Response. Upon receipt of a proposed Settlement Agreement, the respondent CPG must respond in writing within thirty (30) days to the proposed Settlement Agreement. The CPG may:</p> <p>Agree to and sign the Settlement Agreement;</p> <p>Propose changes to the Settlement Agreement;</p> <p>Reject the Settlement Agreement and request a hearing;</p> <p>Voluntarily resign in lieu of further disciplinary proceedings.</p>	<p>514.2.3 State that the Agreement Regarding Discipline is binding as a statement of all known facts relating to the conduct of the professional guardian, but that any additional existing acts may be proven in any subsequent disciplinary proceedings.</p> <p>514.2.4 Fix any costs, restitution, and expenses to be paid by any party.</p> <p>514.3 Notice</p> <p>514.3.1 The Agreement Regarding Discipline shall be retained by the AOC in the professional guardian's disciplinary file.</p> <p>514.3.2 The Agreement Regarding Discipline shall be open to public access and disclosure. Notice of the discipline imposed in such Agreements shall be sent to all superior courts.</p> <p>514.4 Failure to Comply: Failure of a professional guardian to comply with the terms of an Agreement Regarding Discipline may constitute additional grounds for discipline</p>
507.3 VOLUNTARY RESIGNATION (SURRENDER), IN LIEU of FURTHER DISCIPLINARY PROCEEDINGS	No Equivalent Regulation

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>Grounds. A respondent CPG who desires not to contest or defend against allegations of misconduct may, at any time, voluntarily resign his or her certification as a CPG in lieu of further disciplinary proceedings.</p> <p>Process. The respondent first notifies the AOC that the respondent intends to submit a voluntary resignation request and asks AOC, to prepare a statement of alleged misconduct and a declaration of costs. After receiving the statement and the declaration of costs, if any, the respondent may resign by submitting to AOC a signed voluntary resignation, sworn to or affirmed under oath and notarized. The signed voluntary resignation must include the following to be accepted for filing:</p> <p>AOC’s statement of the alleged misconduct, and either: 1) an admission of that misconduct; or 2) a statement that while not admitting the misconduct the respondent agrees not to contest the facts on which the misconduct is based;</p> <p>An acknowledgement that the voluntary resignation may be permanent, including the statement, “I understand that my voluntary resignation may be permanent and that any future application by me for reinstatement as a CPG will consider the circumstances around the voluntary resignation including resolution of the pending disciplinary action.”;</p> <p>A list of all guardian and standby guardian appointments;</p> <p>A statement that when applying for any employment as a fiduciary, the respondent agrees to disclose the voluntary resignation in response to any question regarding disciplinary action or the status of the respondent’s certification;</p> <p>A statement that the respondent agrees to pay any restitution or additional costs and expenses as may be requested by the Disciplinary Committee, and attaches payment for costs as described in DR 507.3.5; and</p>	

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>A statement that when the voluntary resignation becomes effective, the respondent will be subject to all restrictions that apply to a CPG whose certification has been revoked.</p> <p>Public Filing. Upon receipt of a voluntary resignation in lieu of discipline meeting the requirements set forth above, AOC shall file it as a public record of the Disciplinary Committee. AOC will also notify the superior courts and all other agencies from which the CPG receives appointments of the voluntary resignation.</p> <p>Effect. A voluntary resignation in lieu of discipline meeting the requirements set forth above, under this rule is effective upon its filing with the AOC. All disciplinary proceedings against the respondent terminate, except the AOC has the discretion to continue any investigations deemed appropriate under the circumstances to create a sufficient record of the respondent's actions for consideration in the event the respondent seeks certification at a later time.</p> <p>Costs and Expenses.</p> <ul style="list-style-type: none">A. With the voluntary resignation, the respondent must pay all actual costs for which AOC provides documentation.B. If additional proceedings are pending at the time respondent serves the notice of intent to voluntarily resign, AOC, through disciplinary counsel, may also file a claim under DR 509.13 for costs and expenses for that proceeding. <p>Review of Costs, Expenses. Any claims for costs and expenses not resolved by agreement between the AOC and the respondent may be submitted at any time including after the voluntary resignation, to the Disciplinary Committee in writing, for the determination of appropriate costs and expenses.</p>	

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
Resolution with Complaint	
<p>508.1 GENERAL PROCEDURE Applicability of Civil Rules. The civil rules for the superior courts of the State of Washington serve as guidance in proceedings under this title and, where indicated, apply directly.</p>	<p>511.16 Civil Rules as Reference: The Civil Rules of the Superior Court shall be referred to as a guide in any matter not covered by these regulations. The Hearing Officer shall determine the applicability and shall decide the procedure to be used.</p>
<p>508.2 COMMENCEMENT OF PROCEEDINGS Complaint.</p> <p>Filing. After a preliminary finding of misconduct by the Disciplinary Committee pursuant to DR 506, a Complaint may be filed by the Board with AOC.</p> <p>Service. After the Complaint is filed, AOC must serve the Complaint, with a Notice to Answer, on the respondent CPG.</p> <p>Content. The Complaint must state the respondent CPG's acts or omissions in sufficient detail to inform the respondent of the nature of the allegations of misconduct and the sanction sought. AOC must sign the Complaint.</p> <p>Prior Discipline. Prior disciplinary action against the respondent may be described in the Complaint.</p> <p>Amendment of Complaint. AOC may amend a Complaint at any time to add facts or charges. AOC shall serve an Amended Complaint on the respondent as provided in DR 508.3.1(B) with a Notice to Answer. A Respondent must answer the amendments to the complaint as described in DR 508.4.</p> <p>Joinder. The Disciplinary Committee may, in its discretion, consolidate alleged violations relating to two or more grievances against the same respondent in one Complaint, or may consolidate alleged violations against two or more respondents in one Complaint that relate to the same grievance or grievances.</p>	<p>506.3 The SOPC may request that a complaint be filed if the Board has jurisdiction over the grievance and the grievance and other information available to the SOPC provide grounds for disciplinary action by the Board.</p> <p>510.1 Complaint</p> <p>510.1.1 Upon the SOPC's request that a complaint be filed, and upon approval of the Board, the AOC shall sign such a complaint that shall set forth the allegations regarding particular acts or omissions of the professional guardian in such detail as to enable the professional guardian to be informed of the allegations. The complaint shall be filed with the AOC.</p> <p>510.1.2 Prior Board disciplinary action against the professional guardian may be set forth in a separate count of the complaint. Prior Board disciplinary action is a factor to be considered in determining any sanction imposed in a disciplinary action.</p>
508.3 NOTICE TO ANSWER	510.4 Notice

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>1. Content. The Notice to Answer must be substantially in the following form:</p> <p>BEFORE THE DISCIPLINARY COMMITTEE OF THE CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD</p> <p>In Re)) NOTICE TO ANSWER)))</p>	<p>510.4.1 A copy of the complaint with notice to answer, notice of the location of the Board’s disciplinary regulations on the AOC website, and any pleadings, notices, or other documents shall be served on the professional guardian by registered or certified mail at the address on file with the AOC.</p> <p>510.4.2 By applying to be certified, all professional guardians agree to accept personal service by registered or certified mail at the address provided by the professional guardian.</p> <p>510.4.3 Service on the Board of any pleadings, notices, or other documents may be made by delivery or mailing to the Administrative Office of the Courts, 1112 Quince St SE, PO Box 41170, Olympia WA 98504-1170 during regular business hours. A copy of any document served on the Board shall be served by mail or personal delivery on the Board’s attorney of record in the disciplinary proceeding.</p> <p>510.4.4 Proof of service by affidavit or certificate of service, or mailing, sheriff’s return of service, or a signed acknowledgment of service, shall be filed in the office of the AOC</p>
<p>To: The above named CPG:</p> <p>AND TO: Respondent Attorney</p> <p>1. You are hereby notified that a Complaint Regarding Disciplinary Action (hereinafter, “Complaint”) has been filed against you with the Administrative Office of the Courts, a copy of which is served upon you with this Notice. Pursuant to DR 504.1, service is made by registered or certified mail to your address on file with the Administrative Office of the Courts. Service shall be deemed complete on the third day after mailing in accordance with Civil Rule 5(b)(2).</p> <p>2. You must deliver or mail an original and one copy of your Answer to the Disciplinary Action within 30 days of service (exclusive of the date of service) to the Certified Professional Guardianship Board, Administrative Office of the Courts, P.O. Box 41170, Olympia, WA 98504-1170. Electronic service or filing is not accepted without prior agreement.</p>	

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>3. Upon receipt of your Answer to Disciplinary Action, a Hearing Officer will be appointed to conduct all further proceedings. The Hearing Officer shall ensure that the parties receive notice of the time and place of the hearing at least thirty (30) days before the hearing.</p> <p>4. All disciplinary hearings shall be held within the State of Washington at such place and time as may be directed by the Hearing Officer. Hearings may take place by telephone or other electronic means, at the discretion of the Hearing Officer.</p> <p>5. If you fail to answer within 30 days of the date of service of this Complaint, the Board may proceed to obtain an order of default against you pursuant to DR 508.5. Upon entry of an order of default, the allegations and violations in the formal complaint and any amendments to the complaint are deemed admitted and established for the purpose of imposing discipline and you may not participate further in the proceedings unless the order of default is vacated under this regulation.</p> <p>6. The Certified Professional Guardianship Board Disciplinary Regulations govern all proceedings and may be found on the Washington Courts website at: http://www.courts.wa.gov/programs_orgs/Guardian/?fa=guardian.display&fileNa me=regindex&Reg=500.</p> <p>Dated this _____ day of _____, 20____.</p> <p>Certified Professional Guardianship Board</p>	

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>By _____</p>	
<p>508.4 ANSWER Time to Answer. Within thirty (30) days of service of the Complaint and Notice to Answer, the respondent CPG must file and serve an Answer. Failure to file an Answer as required may result in the respondent forfeiting his or her opportunity to present a defense or engage in pre-hearing discovery.</p> <p>Content. The Answer must contain:</p> <p>A specific denial or admission of each fact or claim asserted in the Complaint;</p> <p>A statement of any matter or facts constituting a defense, affirmative defense, or justification, in ordinary and concise language without repetition;</p> <p>Any mitigating factors as described in DR 509.1.3.(B); and</p> <p>An address at which all further pleadings, notices, and other documents in the proceeding may be served on the respondent.</p> <p>Filing and Service. The Answer must be mailed to AOC.</p>	<p>510.5 Response: The professional guardian may file a response to the complaint. Failure to timely respond or to keep the AOC advised of the professional guardian's current address for service during the pendency of the disciplinary hearing procedures may lead to an adverse decision as defined below.</p> <p>510.6 Time to Respond: The professional guardian shall be allowed thirty (30) days from the date of service, exclusive of the date of service, to respond to the complaint.</p> <p>510.4.3 Service on the Board of any pleadings, notices, or other documents may be made by delivery or mailing to the Administrative Office of the Courts, 1112 Quince St SE, PO Box 41170, Olympia WA 98504-1170 during regular business hours. A copy of any document served on the Board shall be served by mail or personal delivery on the Board's attorney of record in the disciplinary proceeding</p>
<p>508.5 ENTRY OF DEFAULT Timing: If a certified professional guardian (CPG), after being served with a notice to answer as provided in DR 508.4, fails to file an answer to a formal complaint or to an amendment to a formal complaint within the time provided by these rules, the Board's attorney of record in the disciplinary proceeding may serve the CPG with a written motion for an order of default.</p>	<p>511.5 Entry of Default</p> <p>511.5.1 Timing: If a certified professional guardian (guardian), after being served with a notice to answer as provided in Reg.</p> <p>510.4, fails to file an answer to a formal complaint or to an amendment to a formal complaint within the time provided by these rules, the</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>Motion: The Board’s attorney of record must serve the CPG with a written motion for an order of default and a copy of this regulation at least five (5) days before entry of the order of default. The motion for an order of default must include the following:</p> <p>The dates of filing and service of the notice to answer, formal complaint and any amendments to the complaint; and</p> <p>The Board’s attorney of record statement that the CPG has not timely filed an answer as required by DR 508.4 and that the Board’s attorney of record seeks an order of default under this regulation.</p> <p>Entry of Order of Default: If the CPG fails to file a written answer with the Administrative Office of the Courts (AOC) within twenty (20) days of service of the motion for entry of an order of default, the Hearing Officer, or if no Hearing Officer has been assigned, the chair of the Standard of Practice Committee, on proof of proper service of the motion, enters an order finding the CPG in default.</p> <p>Effect of Order of Default: Upon entry of an order of default, the allegations and violations in the formal complaint and any amendments to the complaint are deemed admitted and established for the purpose of imposing discipline and the CPG may not participate further in the proceedings unless the order of default is vacated under this regulation. The Board may proceed to resolve the case without further notice to, or hearing for the benefit of the CPG.</p> <p>Proceedings After Entry of an Order of Default. Service: The AOC serves the order of default and a copy of this rule under DR 504.1.</p>	<p>Board’s attorney of record in the disciplinary proceeding may serve the guardian with a written motion for an order of default.</p> <p>511.5.2 Motion: The Board’s attorney of record must serve the guardian with a written motion for an order of default and a copy of this regulation at least five (5) days before entry of the order of default. The motion for an order of default must include the following:</p> <p>a) The dates of filing and service of the notice to answer, formal complaint, and any amendments to the complaint; and</p> <p>b) The Board’s attorney of record statement that the guardian has not timely filed an answer as required by Reg. 510.4 and that the Board’s attorney of record seeks an order of default under this regulation.</p> <p>511.5.3 Entry of Order of Default: If the guardian fails to file a written answer with the Administrative Office of the Courts (AOC) within twenty (20) days of service of the motion for entry of an order of default, the hearing officer, or if no hearing officer has been assigned, the chair of the Standard of Practice Committee, on proof of proper service of the motion, enters an order finding the guardian in default.</p> <p>511.5.4 Effect of Order of Default: Upon entry of an order of default, the allegations and violations in the formal complaint and any amendments to the complaint are deemed admitted and established for the purpose of imposing discipline and the guardian may not participate further in the proceedings unless the order of default is vacated under this regulation.</p> <p>511.6 Proceedings After Entry of an Order of Default.</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>Disciplinary Proceeding: Within sixty (60) days of the filing of the order of default, the Board must conduct a disciplinary proceeding to impose disciplinary action based on the allegations and violations established under DR 508.2.1. At the discretion of the Board, these proceedings may be conducted by formal hearing, written submissions, telephone hearing, or other electronic means. The attorney of record for the Board may present additional evidence including, but not limited to, requests for admission under DR 508.8 and depositions, affidavits, and declarations regardless of the witness’s availability.</p> <p>Motion To Vacate Order of Default: Within thirty (30) days after service of a default order, the CPG may file a written motion requesting that the order be vacated, on the following grounds:</p> <p>Mistake, inadvertence, surprise, excusable neglect, or irregularity in obtaining the default;</p> <p>Erroneous proceedings against a CPG, who was, at the time of the default, incapable of conducting a defense;</p> <p>Newly discovered evidence that by due diligence could not have been previously discovered;</p> <p>Fraud, misrepresentation, or other misconduct of an adverse party;</p> <p>The order of default is void;</p> <p>Unavoidable casualty or misfortune preventing the CPG from defending;</p> <p>Any other reason justifying relief from the operation of the default.</p>	<p>511.6.1 Service: The AOC serves the order of default and a copy of this rule under regulation 510.4.2.</p> <p>511.6.2 No Further Notices: After entry of an order of default, no further notices must be served on the guardian except for copies of the decisions of the hearing officer or the Board.</p> <p>511.6.3 Disciplinary Proceeding: Within 60 days of the filing of the order of default, the hearing officer or the Board must conduct a disciplinary proceeding to recommend disciplinary action based on the allegations and violations established under section (a). At the discretion of the hearing officer or Board, these proceedings may be conducted by formal hearing, written submissions, telephone hearing, or other electronic means. The attorney of record for the Board may present additional evidence including, but not limited to, requests for admission under regulation 511.10.0 and depositions, affidavits, and declarations regardless of the witness’s availability.</p> <p>511.7 Setting Aside Default</p> <p>511.7.1 Motion To Vacate Order of Default: A guardian may move to vacate the order of default and any decision of the hearing officer or Board arising from the default on the following grounds:</p> <p>a) mistake, inadvertence, surprise, excusable neglect, or irregularity in obtaining the default;</p> <p>b) erroneous proceedings against a guardian, who was, at the time of the default, incapable of conducting a defense;</p> <p>c) newly discovered evidence that by due diligence could not have been previously discovered;</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>Burden of Proof: The CPG bears the burden of proving the grounds for setting aside the default. If the CPG proves that the default was entered as a result of a disability which made the CPG incapable of conducting a defense, the default must be set aside.</p> <p>Service and Contents of Motion: The motion must be filed and served under DR 504 and be accompanied by a copy of CPG's proposed answer to each formal complaint for which an order of default has been entered. The proposed answer must state with specificity the CPG's asserted defenses and any facts the CPG asserts as mitigation. The motion to vacate the order of default must be supported by an affidavit showing:</p> <p>The date on which the CPG first learned of the entry of the order of default;</p> <p>The grounds for setting aside the order of default; and</p> <p>An offer of proof of the facts that the CPG expects to establish if the order of default is vacated.</p> <p>Response to Motion: Within ten (10) days of filing and service of the motion to vacate, the attorney of record for the Board may file and serve a written response.</p> <p>Decision: The Hearing Officer decides a motion to vacate the order of default on the written record without oral argument. Pending a ruling on the motion, the Hearing Officer may order a stay of proceedings not to exceed thirty (30) days. In granting a motion to vacate an order of default, the Hearing Officer has discretion to order appropriate</p>	<p>d) fraud, misrepresentation, or other misconduct of an adverse party;</p> <p>e) the order of default is void;</p> <p>f) unavoidable casualty or misfortune preventing the guardian from defending; or</p> <p>g) any other reason justifying relief from the operation of the default.</p> <p>511.7.2 Time: The motion must be made within a reasonable time and for grounds (A) and (C) within one year after entry of the default. If the guardian's motion is based on allegations of incapability of conducting a defense, the motion must be made within one year after the disability ceases.</p> <p>511.7.3 Burden of Proof: The guardian bears the burden of proving the grounds for setting aside the default. If the guardian proves that the default was entered as a result of a disability which made the guardian incapable of conducting a defense, the default must be set aside.</p> <p>511.7.4 Service and Contents of Motion: The motion must be filed and served under regulation 510.4.3 and 510.4.4 and be accompanied by a copy of guardian's proposed answer to each formal complaint for which an order of default has been entered. The proposed answer must state with specificity the guardian's asserted defenses and any facts that guardian asserts as mitigation. The motion to vacate the order of default must be supported by an affidavit showing:</p> <p>a) the date on which the guardian first learned of the entry of the order of default;</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>conditions.</p> <p>Appeal of Denial of Motion: A CPG may appeal to the Chair a denial of a motion to vacate an order of default by filing and serving a written notice of appeal stating the arguments against the Hearing Officer’s decision. The CPG must file the notice of appeal within ten (10) days of service on the CPG of the order denying the motion. The appeal is decided on the written record without oral argument. Pending a ruling on the appeal, the Chair may order a stay of proceedings not to exceed thirty (30) days. In granting a motion to vacate an order of default, the Chair has discretion to order appropriate conditions.</p> <p>Decision To Vacate Is Not Subject to Interim Review: An order setting aside an order of default is not subject to interim review by the Board.</p>	<p>b) the grounds for setting aside the order of default; and</p> <p>c) an offer of proof of the facts that the guardian expects to establish if the order of default is vacated.</p> <p>511.7.5 Response to Motion: Within ten days of filing and service of the motion to vacate, the attorney of record for the Board may file and serve a written response.</p> <p>511.7.6 Decision: The hearing officer decides a motion to vacate the order of default on the written record without oral argument. If the proceedings have been concluded, the chair of the Board assigns a hearing officer to decide the motion. Pending a ruling on the motion, the hearing officer may order a stay of proceedings not to exceed 30 days. In granting a motion to vacate an order of default, the hearing officer has discretion to order appropriate conditions.</p> <p>511.7.7 Appeal of Denial of Motion: A guardian may appeal to the Chair a denial of a motion to vacate an order of default by filing and serving a written notice of appeal stating the arguments against the hearing officer’s decision. The guardian must file the notice of appeal within ten days of service on the guardian of the order denying the motion. The appeal is decided on the written record without oral argument. Pending a ruling on the appeal, the Chair may order a stay of proceedings not to exceed 30 days. In granting a motion to vacate an order of default, the Chair has discretion to order appropriate conditions.</p> <p>511.7.8 Decision To Vacate Is Not Subject to Interim Review: An order setting aside an order of default is not subject to interim review.</p>
<p>508.6 SCHEDULING</p> <p>All disciplinary hearings must be held in Washington State at such time and place as may be directed by the Hearing Officer. Hearings may take place by</p>	<p>511 Hearing</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>telephone or other electronic means, in the discretion of the Hearing Officer. If possible, the parties should arrange a date, time, and place for the hearing by agreement among themselves and the Hearing Officer.</p> <p>Scheduling Order. The Hearing Officer must enter an order setting the dates and places of hearings. This order will include any prehearing deadlines the Hearing Officer deems required by the complexity of the case, which may include witness lists, discovery dates, motions, and exhibits. The AOC shall ensure that all parties receive notice of the time and place of the hearing at least thirty (30) days before the hearing, unless this time requirement is waived by all parties.</p> <p>Continuance. Either party may move for a continuance of the hearing date. The Hearing Officer has discretion to grant the motion for good cause shown</p>	<p>511.1 Board Representation: AOC staff or other person, including counsel appointed by the Chair, shall represent the Board.</p> <p>511.2 Where Held: All disciplinary hearings shall be held within the State of Washington at such place and time as may be directed by the Hearing Officer. Hearings may take place by telephone or other electronic means, in the discretion of the Hearing Officer.</p> <p>511.3 Date of Hearing: The Hearing Officer shall ensure that the parties receive notice of the time and place of the hearing at least thirty (30) days before the hearing.</p> <p>511.4 Postponements/Continuances: The Hearing Officer may grant a postponement or continuance of any hearing. An application for a continuance or postponement by a party shall be supported by affidavit and shall be served and filed at least seven (7) days prior to the scheduled hearing, unless such time is shortened by the Hearing Officer.</p>
<p>508.7 MOTIONS</p> <p>Motions must be in writing and served on the opposing party. The Hearing Officer shall determine whether a response and reply is called for and the timing of any such response or reply. The Hearing Officer should promptly rule on the motion, with or without argument as may appear appropriate. Argument on a motion may be heard by telephone or other electronic means at the discretion of the Hearing Officer. A ruling on a written motion must be in writing and filed with the AOC.</p>	<p>No Equivalent Regulation</p>
<p>508.8 DISCOVERY AND PREHEARING PROCEDURES</p> <p>General. The parties should cooperate in mutual informal exchange of relevant non-privileged information to facilitate expeditious, economical, and fair</p>	<p>511.10 Discovery: The parties shall have the following discovery rights, limited only to the extent the Hearing Officer deems just:</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>resolution of the case.</p> <p>Requests for Admission. After a Complaint is filed, the parties may request admissions under Civil Rule 36.</p> <p>Other Discovery. After a Complaint is filed, the parties may obtain other discovery under the Superior Court Civil Rules only on motion and under terms and limitations the Hearing Officer deems just or on the parties' Settlement Agreement.</p>	<p>511.10.1 Admissions from a party under Superior Court Civil Rule (CR) 36.</p> <p>511.10.2 Depositions of another party or witness under Superior Court Civil Rule (CR) 30.</p> <p>511.10.3 Other discovery under the Superior Court Civil Rules, only on motion and under terms and limitations the Hearing Officer deems just or on the parties' stipulation.</p> <p>511.12 Exchange of Materials: The parties shall exchange witness lists and exhibits prior to the hearing, as directed by the Hearing Officer. Failure to comply with the case scheduling requirements as directed by the Hearing Officer may result in the exclusion of witnesses and evidence not timely identified.</p>
<p>508.9 PARTICIPATION AT DISCIPLINARY HEARING</p> <p>Respondent CPG Must Attend. A respondent CPG given notice of a hearing must attend the hearing. If, after proper notice, the respondent fails to attend the hearing, the Hearing Officer:</p> <p>May draw an adverse inference from the respondent's failure to attend as to any questions that might have been asked the respondent at the hearing; and</p> <p>Must admit testimony by deposition regardless of the deponent's availability. An affidavit or declaration is also admissible, if:</p> <p>The facts stated are within the witness's personal knowledge;</p> <p>The facts are set forth with particularity; and</p> <p>It shows affirmatively that the witness could testify competently to the stated facts.</p>	<p>511.13 Cooperation: It shall be the duty of the professional guardian and the Board's counsel to timely respond to all requests or directions of the Hearing Officer. Upon a party's failure to do so, the Hearing Officer may recommend to the Board that the professional guardian be decertified for non-compliance with the disciplinary process. Such failure may constitute a separate violation of these regulations. The Hearing Officer may dismiss the complaint with prejudice upon failure of the Board's counsel to timely respond to requests or directions of the Hearing Officer.</p> <p>511.11 Testimony: Testimony may be live or taken electronically via telephone, video, or other means at the discretion of the Hearing Officer. Hearings shall be electronically recorded and testimony may be presented through depositions. Witnesses shall testify under oath administered by the Hearing Officer.</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>Witnesses. Witnesses must testify under oath. Testimony may also be submitted by deposition as permitted by Civil Rule 32. Testimony must be recorded by a court reporter or, if allowed by the Disciplinary Committee, by digital or tape recording. The parties have the right to cross-examine witnesses who testify and to submit rebuttal evidence.</p> <p>Subpoenas. Any party may issue a subpoena to compel the attendance of witnesses or to produce documents at a hearing or deposition. The subpoena shall be issued in the name of the Board and shall be signed and subscribed to by the party or the party’s attorney of record. Subpoenas shall be served in the same manner as in civil cases in superior court. A failure to attend or produce as required by the subpoena shall be considered contempt of the Supreme Court. A motion to quash or modify the subpoena, on the grounds of unreasonableness or oppression, shall be decided by the Hearing Officer.</p>	<p>511.9 Subpoenas: Any party may issue a subpoena to compel the attendance of witnesses or to produce documents at a hearings or deposition. The subpoena shall be issued in the name of the Board and shall be signed and subscribed to by the party or the party’s attorney of record. Subpoenas shall be served in the same manner as in civil cases in superior court. A failure to attend or produce as required by the subpoena shall be considered contempt of the Supreme Court. A motion to quash or modify the subpoena, on the grounds of unreasonableness or oppression, shall be decided by the Hearing Officer.</p>
<p>508.10 HEARINGS</p> <p>Scope of the Hearings. To limit the scope of hearings, parties may stipulate to specific facts, whether misconduct occurred, and/or disciplinary sanctions. The Hearing Officer may determine whether both facts surrounding the alleged misconduct and disciplinary sanctions shall be litigated at the same hearing, or whether they shall be addressed at separate hearings.</p> <p>Upon agreement by both parties, and approval by the Hearing Officer, hearings may be limited to the disciplinary sanction only.</p> <p>Burden of Proof. The Board has the burden of establishing an act of misconduct by a preponderance of the evidence.</p> <p>Proceeding Based on Criminal Conviction. If a Complaint charges a respondent CPG with an act of misconduct for which the respondent has been convicted in a criminal proceeding, the court record of the conviction is conclusive evidence at the disciplinary hearing of the respondent’s guilt of the crime and violation of the statute on which the conviction was based.</p>	<p>511.14 Standard of Proof: The Board bears the burden of establishing misconduct warranting disciplinary action by a preponderance of the evidence in all cases. (Adopted 11-14-11)</p> <p>511.15 Rules of Evidence: The rules of evidence shall be those set forth in chapter 34.05 RCW, the Administrative Procedure Act.</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>Rules of Evidence. The rules of evidence shall be those set forth in Chapter 34.05 RCW, the Administrative Procedures Act.</p> <p>Prior Disciplinary Record. The respondent’s record of prior disciplinary action, or the fact that the respondent has no prior disciplinary action, must be made a part of the hearing record before the Hearing Officer files a decision.</p>	
<p>508.11 DECISION OF HEARING OFFICER Within ninety (90) days after the proceedings are concluded, unless extended by agreement, the Hearing Officer should file with the parties a Decision in the form of findings of fact, conclusions of law, and order recommending disciplinary sanction.</p>	<p>511.18 Findings, Conclusions, and Recommendation: Within twenty (20) days after the hearing, the Hearing Officer shall file with the AOC written findings of fact, conclusions of law, and recommendations to the Board for action. The AOC shall mail copies to the parties.</p>
DISCIPLINARY SANCTIONS	
<p>509.1 GUIDELINES FOR IMPOSING DISCIPLINARY SANCTIONS: Following a determination that a CPG has engaged in misconduct, disciplinary sanctions may be appropriate. Factors to be considered in imposing disciplinary sanctions, include:</p> <p>Nature of the misconduct;</p> <p>Potential or actual injury caused by the CPG’s misconduct;</p> <p>The existence of aggravating or mitigating factors:</p> <p>Aggravating factors include prior disciplinary action by the Board against the same CPG, substantial experience as a CPG, intentional, premeditated, knowing, grossly incompetent or grossly negligent act, bad faith or obstruction,</p>	<p>515 Sanctions and Remedies</p> <p>515.1 Following a determination that a professional guardian has violated a provision of the Standards of Practice, sanctions may be appropriate. Any sanction or remedy imposed by the Board or the Supreme Court on a professional guardian or agency, whether or not agreed to by the professional guardian, is a disciplinary sanction. Sanctions may include decertification, suspension, prohibition against taking new cases, letter of reprimand, or letter of admonishment. Factors to be considered in imposing sanctions include:</p> <p>515.1.1 The duty violated.</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>dishonest or selfish motives, a pattern of misconduct, multiple offenses, failure to cooperate during the disciplinary proceeding, refusal to acknowledge the wrongful nature of the conduct, vulnerability of the victim, indifference to making restitution, and illegal conduct.</p> <p>Mitigating factors include the absence of a prior disciplinary record, isolated incident not likely to recur, remoteness of misconduct, inexperience as a CPG, implementation of remedial measures to mitigate harm or risk of harm, self-reported and voluntary admission of violation, timely good faith efforts to make restitution or rectify consequences of misconduct, and temporary circumstances outside of the CPG’s control.</p>	<p>515.1.2 The professional guardian's mental state.</p> <p>515.1.3 The potential or actual injury caused by the professional guardian's misconduct.</p> <p>515.1.4 The existence of aggravating or mitigating factors.</p> <p>515.1.4.1 Aggravating factors include prior disciplinary action by the Board against the same professional guardian, dishonest or selfish motives, a pattern of misconduct, multiple offenses, failure to cooperate during the disciplinary proceeding, refusal to acknowledge the wrongful nature of the conduct, vulnerability of the victim, indifference to making restitution, and illegal conduct.</p> <p>515.1.4.2 Mitigating factors include the absence of a prior disciplinary record, timely good faith to make restitution or to rectify consequences of misconduct, cooperation with the disciplinary proceedings, and temporary circumstances outside the professional guardian’s control.</p>
<p>509.2 TYPES OF DISCIPLINE Upon a finding that a CPG 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, the Board may impose one or more of the following:</p> <p>Revocation of certification;</p> <p>Suspension of certification;</p> <p>Prohibition Against Taking New Cases;</p> <p>Reprimand;</p>	<p>515.2 Imposition of Sanctions: Generally, the following sanctions are available.</p> <p>515.2.1 Decertification is generally appropriate when a professional guardian engages in:</p> <p>515.2.1.1 Professional misconduct incompatible with the Standards of Practice with the intent to benefit the professional guardian or another; or deceive the court; or cause serious or potentially serious injury to a party, the public, or the legal system or causes serious or potentially serious interference with a legal proceeding;</p> <p>515.2.1.2 Felonious criminal conduct;</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>Probation;</p> <p>Other Disciplinary Sanctions as described in DR 509.7</p> <p>Restitution.</p>	<p>515.2.1.3 Any other intentional misconduct involving dishonesty, fraud, deceit, or misrepresentation that seriously, adversely reflects on the professional guardian's fitness to practice; or</p> <p>515.2.1.4 Gross incompetence as demonstrated by a pattern or practice of late filings, accounting errors, case tracking, or other violations of the same Standards of Practice, and where the guardian has not corrected the behavior despite previous attempts by the courts or the Board to correct the behavior. (Adopted 1-9-12)</p> <p>515.2.2 Prohibition against taking new cases or suspension for a period of time, or both, is generally appropriate when a professional guardian engages in:</p> <p>515.2.2.1 Professional conduct incompatible with the Standards of Practice and causes injury or potential injury to a party, the public, or the legal system, or causes interference or potential interference with a legal proceeding; or</p> <p>515.2.2.2 Criminal conduct that seriously adversely reflects on the professional guardian's fitness to serve.</p> <p>515.2.3 A letter of reprimand is generally appropriate when a professional guardian engages in:</p> <p>515.2.3.1 Professional misconduct incompatible with the Standards of Practice and causes injury to a party, the public, or the legal system, or causes interference with a legal proceeding; or</p> <p>515.2.3.2 Any other misconduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the professional guardian's fitness to practice.</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
	<p>515.2.4 A letter of admonishment is generally appropriate when a professional guardian engages in professional misconduct incompatible with the standards of practice and not rising to the level justifying a reprimand.</p> <p>515.3 Remedies are designed to ensure compliance with duties, standards, and requirements for a professional guardian. Remedies may include, but are not limited to, changes in methods of practice, probation, restitution, additional training for guardian or staff, requirement that the professional guardian obtain expert consultation, mentoring, or an audit.</p>
<p>509.3 REVOCATION OF CERTIFICATION</p> <p>1. Applicability of Revocation: Revocation may be imposed when a professional guardian:</p> <p>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</p> <p>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</p> <p>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</p> <p>Engages in conduct or misconduct that adversely impacts an incapacitated person in a highly significant manner. “Highly significant”</p>	<p>515.2 Imposition of Sanctions: Generally, the following sanctions are available.</p> <p>515.2.1 Decertification is generally appropriate when a professional guardian engages in:</p> <p>515.2.1.1 Professional misconduct incompatible with the Standards of Practice with the intent to benefit the professional guardian or another; or deceive the court; or cause serious or potentially serious injury to a party, the public, or the legal system or causes serious or potentially serious interference with a legal proceeding;</p> <p>515.2.1.2 Felonious criminal conduct,</p> <p>515.2.1.3 Any other intentional misconduct involving dishonesty, fraud, deceit, or misrepresentation that seriously, adversely reflects on the professional guardian's fitness to practice, or</p> <p>515.2.1.4 Gross incompetence as demonstrated by a pattern or practice of late filings, accounting errors, case tracking, or other violations of the</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>in this context, means, but is not limited to, a financial loss to an incapacitated person or their estate that is greater than \$ 750.00, or results in any kind of direct physical harm, infirmity or adverse medical condition to an incapacitated person; or</p> <p>Engages in conduct that occurs either while performing duties as a guardian or outside those duties, that constitutes any Washington felony.</p> <p>2. Duties of CPG upon revocation of certification. Upon receipt of the Supreme Court’s order revoking the CPG’s certification, the CPG will submit a complete list of all active guardianships in which the CPG serves as the court-appointed guardian or standby guardian to AOC, and must immediately notify the superior court with authority over any of the CPG’s cases of the revocation. The CPG shall ensure the timely transfer of any active guardianship cases to a new CPG and cooperate with the court in this process. The CPG shall turn over all client records and provide access to client accounts in a timely manner to the newly appointed CPG. The CPG shall immediately cease holding him or herself out to the public as a professional CPG. If requirements aren’t met the Board may file a motion for contempt of court with the Supreme Court.</p>	<p>same Standards of Practice, and where the guardian has not corrected the behavior despite previous attempts by the courts or the Board to correct the behavior. (Adopted 1-9-12)</p>
<p>509.4 SUSPENSION</p> <p>1. Applicability of Suspension: A suspension for a period of time from performing as a professional guardian may be imposed when a professional guardian:</p> <p>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</p> <p>Engages in conduct that occurs either while performing duties as a guardian or outside those duties, that meets the statutory elements of</p>	<p>515.2.2 Prohibition against taking new cases or suspension for a period of time, or both, is generally appropriate when a professional guardian engages in:</p> <p>515.2.2.1 Professional conduct incompatible with the Standards of Practice and causes injury or potential injury to a party, the public, or the legal system, or causes interference or potential interference with a legal proceeding, or</p> <p>515.2.2.2 Criminal conduct that seriously adversely reflects on the professional guardian's fitness to serve.</p>

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>any Washington gross misdemeanor or misdemeanor, and which adversely reflects on the professional guardian’s fitness to practice; or 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.</p> <p>Engages in conduct or misconduct that adversely impacts an incapacitated person in a manner that is not “highly significant” as defined above.</p> <p>Suspension may be imposed for conduct or misconduct that does not rise to the level of Revocation.</p> <p>2. Term of Suspension. A suspension must be for a fixed period of time and must specifically state what requirements, if any, be completed prior to the respondent’s reinstatement. Suspension does not affect the requirement to comply with other program policies, such as reporting of continuing education, and Errors & Omissions Insurance, payment of dues, filing of declarations, etc.</p> <p>3. Reinstatement. The respondent shall submit to the AOC a request for written reinstatement before the conclusion of the suspension period. The request shall include a statement verifying that the conditions of the suspension have been met. With approval of the Disciplinary Committee Chair, the AOC shall reinstate the CPG.</p> <p>4. Duties of CPG upon suspension. The CPG will submit a complete list of all active guardianships in which he or she serves as the court-appointed guardian or the standby guardian and must immediately notify the superior court with authority over any of the CPG’s cases of the suspension. The CPG shall ensure the timely transfer of any active guardianship cases to a new guardian and cooperate with the court in this process. The CPG shall turn over all client</p>	<p>517 Reinstatement after Decertification or Suspension</p> <p>517.1 No decertified or suspended professional guardian shall resume working as a professional guardian until they have complied with all</p>

Certified Professional Guardianship Board

Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
records and provide access to client accounts in a timely manner to the newly appointed CPG. The CPG shall immediately cease holding him or herself out to the public as a professional guardian.	orders for sanctions and have received written confirmation of such compliance from the Board. 517.2 No petition for reinstatement shall be allowed until five (5) years after decertification.

509.5 INTERIM SUSPENSION FOR CONVICTION OF A CRIME

1. Definitions.

- A. "Conviction" for the purposes of this rule occurs upon entry of a plea of guilty, or a verdict of guilty, unless the defendant affirmatively shows that the guilty plea or verdict was not accepted or was withdrawn, or upon entry of a finding or verdict of guilty, unless the defendant affirmatively shows that judgment was arrested or a new trial granted. Conviction does not include findings or verdicts that were disclosed at the time of application.

- B. "Serious Crime" includes any:
 - i. Felony;

 - ii. Crime, a necessary element of which, as determined by its statutory or common law definition, includes any of the following:
 - a. Commission of an act of violence;

 - b. Interference with the administration of justice;

 - c. Perjury;

 - d. Fraudulent misrepresentation;

 - e. Bribery;

 - f. Extortion;

 - g. Misappropriation;

 - h. Theft.

518 Conviction of Felony

518.1 **The Board shall decertify a professional guardian upon the conviction of a felony, or a misdemeanor or gross misdemeanor involving moral turpitude, under either state or federal law, whether such conviction is after a plea of guilty, nolo contendere, not guilty, or otherwise, and regardless of the pendency of an appeal. The decertification shall be effective upon the filing of a certified copy of such conviction with the Board. The Board shall file the certified copy of the conviction with other Board records pertaining to the professional guardian's certification. The Board shall provide written notice of the decertification to the professional guardian by certified mail, directed to the guardian's last known address maintained by the AOC. The notice shall advise the professional guardian of the decertification and the reason(s) for the decertification. The notice shall further advise that if the professional guardian should not have been decertified by the Board, the professional guardian may file a petition requesting an administrative hearing. The petition shall set forth in detail the facts supporting the professional guardian's claim that an administrative error has occurred and that the professional guardian has not been convicted of a felony, or a misdemeanor or gross misdemeanor involving moral turpitude. The petition must be signed by the professional guardian under penalty of perjury. The professional guardian must file the petition within 15 days of the date of mailing of the Board's notice of decertification. Any petition not filed within 15 days shall be dismissed by the Board.**

518.2 If a timely petition is filed by the professional guardian, the Board Chair shall appoint a three-person Review Panel to conduct a hearing on the petition. The sole issue before the Review Panel shall be to determine whether the professional guardian has been convicted of a felony, or of a misdemeanor or gross misdemeanor involving moral turpitude. In the sole discretion of the Review Panel, the hearing may be held by telephone. The Review Panel shall make written findings and a recommendation about whether the petition should be granted. The

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>iii. Attempt, or a conspiracy, or solicitation of another, to commit a “serious crime”.</p> <p>2. Procedure upon Conviction.</p> <p>If a CPG is convicted of a felony or other serious crime, or, is convicted of a misdemeanor or gross misdemeanor involving moral turpitude, AOC must file with the Board a certified copy of the judgment and sentence that sets out such conviction. The Board shall decertify a professional guardian upon the conviction of a felony or a misdemeanor or gross misdemeanor involving moral turpitude, under either state or federal law, regardless whether such conviction is after a plea of guilty, nolo contendere, not guilty, or otherwise, and regardless of the pendency of any appeal. AOC must also petition the Disciplinary Committee Chair for an order suspending the respondent CPG during the pendency of disciplinary proceedings.</p> <p>The decertification shall be effective upon the filing of a certified copy of such conviction with the Board. The Board shall file the certified copy of the conviction with other Board records pertaining to the professional guardian’s certification. The Board shall provide written notice of the decertification to the professional guardian by certified mail, directed to the guardian’s last known address maintained by the AOC. The notice shall advise the professional guardian of the decertification and the reason(s) for the decertification. The notice shall further advise that if the professional guardian should not have been decertified by the Board, the professional guardian may file a petition requesting an administrative hearing. The petition shall set forth in detail the facts supporting the professional guardian’s claim that an administrative error has occurred and that the professional guardian has not been convicted of a felony, or a misdemeanor or gross misdemeanor involving moral turpitude. The petition must be signed by the professional guardian under penalty of perjury. The professional guardian must file the petition within 15 days of the date of</p>	<p>findings and recommendation of the Review Panel shall be filed with the Board and served by first-class mail on the professional guardian.</p> <p>518.3 The Board shall review the decision of the Review Panel and shall make a decision approving or denying the petition. If the petition is approved, then the professional guardian shall be eligible for recertification, if the professional guardian shows proof of compliance with all other requirements for certification. The members of the Review Panel shall not participate in the decision of the Board. A copy of the Board’s order shall be sent by first-class mail to the professional guardian. Any such order shall be final.</p>

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>mailing of the Board’s notice of decertification. Any petition not filed within 15 days shall be dismissed by the Board.</p> <p>If a timely petition is filed by the professional guardian, the Board Chair shall appoint a three-person Review Panel to conduct a hearing on the petition. The sole issue before the Review Panel shall be to determine whether the professional guardian has been convicted of a felony, or of a misdemeanor or gross misdemeanor involving moral turpitude. In the sole discretion of the Review Panel, the hearing may be held by telephone. The Review Panel shall make written findings and a recommendation about whether the petition should be granted. The findings and recommendation of the Review Panel shall be filed with the Board and served by first-class mail on the professional guardian.</p> <p>The Board shall review the decision of the Review Panel and shall make a decision approving or denying the petition. If the petition is approved, then the professional guardian shall be eligible for recertification, if the professional guardian shows proof of compliance with all other requirements for certification. The members of the Review Panel shall not participate in the decision of the Board. A copy of the Board’s order shall be sent by first-class mail to the professional guardian. Any such order shall be final</p> <p>A. If a CPG is convicted of a crime that is not a felony, a serious crime, or a misdemeanor or gross misdemeanor involving moral turpitude, the Disciplinary Committee considers a report of the conviction in the same manner as any other report of possible misconduct by a CPG.</p> <p>3. Petition. A petition to the Disciplinary Committee for suspension under</p>	

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>this rule must include a copy of any available document establishing the fact of conviction. AOC may also include additional facts, statements, arguments, affidavits, and documents in the petition. AOC must serve a copy of the petition on the respondent, and proof of service filed with the AOC.</p> <p>4. Immediate Interim Suspension. If the crime of conviction is a felony or other serious crime or a misdemeanor or gross misdemeanor involving moral turpitude, the Disciplinary Committee must enter an order immediately suspending the respondent’s CPG certification.</p> <p>A. If suspended, the respondent must comply with DR 509.4.4.</p> <p>B. Suspension under this rule occurs:</p> <p>i. Whether the conviction was under a law of this state, any other state, or the United States;</p> <p>ii. Whether the conviction was after a plea of guilty, nolo contendere, not guilty, or otherwise; and</p> <p>iii. Regardless of the pendency of an appeal of the underlying conviction.</p> <p>5. Duration of Interim Suspension. An interim suspension under this rule must terminate when the disciplinary proceedings in response to the complaint are fully completed or after appeal of the Disciplinary Committee’s decision.</p> <p>6. Termination of Suspension.</p> <p>A. Petition and Response. A respondent may at any time petition</p>	

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>the Disciplinary Committee to recommend termination of an interim suspension. AOC, through disciplinary counsel, may file a response to the petition.</p> <p>Disciplinary Committee Recommendation. If either party requests, the Disciplinary Committee must hear oral arguments on the petition at a time and place and under terms as the Disciplinary Committee Chair directs. The Disciplinary Committee may recommend termination of a suspension only if the Committee makes an affirmative finding of good cause to do so. There is no right of appeal from a Disciplinary Committee’s decision regarding interim suspension.</p>	
<p>509.6 INTERIM SUSPENSION IN OTHER CIRCUMSTANCES Types of Interim Suspension.</p> <p>Disciplinary Committee Finding of Risk to Public. AOC may petition the Disciplinary Committee for an order suspending the respondent CPG during the pendency of any proceeding under these rules if: it appears that a respondent’s continued practice as a CPG poses a substantial threat of serious harm to the public.</p> <p>Disciplinary Committee Recommendation for Decertification. When the recommended sanction in a Complaint is decertification, AOC may file a petition for the respondent’s suspension during the remainder of the proceedings.</p> <p>Failure To Cooperate with Investigation. When any CPG fails without good cause to comply with a request under DR 505.2.5 for information or documents, or with a subpoena issued under DR 504.6, AOC may petition the Disciplinary Committee for an order suspending the CPG pending compliance with the request or subpoena. If the CPG complies with the request or subpoena, the Disciplinary Committee may lift the suspension on terms the Disciplinary Committee deems appropriate.</p>	<p>519 Suspension Pending Disciplinary Proceedings</p> <p>519.1 Board may Suspend a Professional Guardian Pending Disciplinary Proceedings: After institution of a disciplinary proceeding where it appears that a continuation of certification by a professional guardian will result in substantial risk of injury to the public, or where the professional guardian has refused to cooperate in the disciplinary procedures, the SOPC may request that the Board suspend the professional guardian during the pendency of the disciplinary proceedings.</p> <p>519.2 Petition and Notice to Answer: At the request of the SOPC, an attorney appointed by the Board Chair shall file a petition with the Board requesting that the Board suspend the professional guardian during the pendency of disciplinary proceedings. The petition to the Board under this rule shall set forth grounds for such suspension pending disciplinary proceedings. A copy of the complaint shall be attached to the petition. Documents or affidavits may support the petition. The Board shall issue an order to show cause requiring the professional guardian to appear before the Board on a date certain to</p>

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>Procedure.</p> <p>Petition. A Petition to the Disciplinary Committee under this rule must set forth the acts of the CPG constituting grounds for interim suspension. The Petition may be supported by documents or affidavits. The AOC must serve the Petition on the Disciplinary Committee and respondent CPG.</p> <p>Show Cause Order. Upon filing of the Petition, the Disciplinary Committee Chair orders the CPG to appear in person or telephonically before the Disciplinary Committee to show cause why the Petition for interim suspension should not be granted. This Show Cause Hearing cannot occur less than ten (10) days after service on the respondent of the Show Cause Order.</p> <p>Answer to Petition. The CPG may answer the Petition. An Answer may be supported by documents or affidavits. Failure to answer does not result in default or waive the right to appear at the Show Cause Hearing.</p> <p>Filing of Answer. Any Answer must be filed with the AOC within five (5) days of receipt of the Show Cause Order.</p> <p>Settlement Agreement. At any time a respondent CPG and Disciplinary Committee may stipulate that the respondent be suspended during the pendency of any investigation or proceeding because of conviction of a serious crime or a substantial threat of serious harm to the public. Settlement Agreements under this rule are public upon filing with the AOC, but the Disciplinary Committee may order that supporting materials are confidential. The respondent may petition the Disciplinary Committee to terminate the interim suspension, and on a showing that the cause for the interim suspension no longer exists, the Disciplinary Committee may terminate the interim suspension.</p>	<p>show cause why the request for Suspension Pending Disciplinary Proceedings should not be granted.</p> <p>519.3 Answer to Petition: The professional guardian’s answer may contain facts relating only to the issue of substantial risk of injury to the public, shall be verified by the professional guardian, and may be supported by declarations, affidavits, and other documentary evidence.</p> <p>519.4 Service of Answer: A copy of the answer shall be served on the Board’s attorney at least five days before the scheduled show cause hearing. For good cause shown, the time for answer may be extended.</p> <p>519.5 Costs: No costs shall be assessed for a hearing on a petition to suspend a professional guardian pending disciplinary proceedings.</p> <p>519.6 Show Cause Hearing: The Board shall base its decision on all pleadings and other documents, affidavits and declarations filed by the parties, as well as oral argument of the parties. The Board shall issue an order suspending the certification of the professional guardian during the pendency of the disciplinary proceedings if it is persuaded by a preponderance of the evidence that the continued certification of the professional guardian presents a substantial risk of injury to the public or that the professional guardian has failed to cooperate in disciplinary proceedings.</p> <p>519.7 Supreme Court Review: Either party may request review of the Board’s order by the Supreme Court. The Supreme Court shall review the Board’s order and the pleadings, documents, affidavits and declarations filed by the parties before the Board. The Supreme Court shall determine whether oral argument is granted. The Supreme Court may adopt, modify or reverse the order of the Board. The AOC shall mail a copy of the Supreme Court’s order to all parties.</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>Show Cause Hearing. The respondent may appear before the Disciplinary Committee at the hearing to show cause why the Petition for interim suspension should not be granted.</p> <p>Application of Other Rules. If the Disciplinary Committee enters an interim order suspending the CPG, the rules relating to suspended CPGs, including DR 509.4, apply.</p>	
<p>509.7 NOTIFICATION OF INTERIM SUSPENSION Upon entry of an order for interim suspension, the AOC shall notify all presiding judges and court administrators of the interim suspension. The AOC shall also remove the respondent CPG's name from all public AOC Web site lists of certified professional guardians.</p>	No Equivalent Regulation.
<p>509.8 PROHIBITION AGAINST TAKING NEW APPOINTMENTS 1. Applicability of Prohibition Against Taking New Appointments. A prohibition against taking new appointments may be imposed when 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; or Engages in conduct or misconduct that occurs while performing duties as a guardian that adversely reflects on the professional guardian's fitness to practice. Prohibition Against Taking New Appointments may be imposed for conduct or misconduct that does not rise to the level of Revocation.</p> <p>2. Term of Prohibition Against Taking New Appointments. A prohibition against taking new appointments must be for a fixed period of time and must specifically state what requirements, if any, be completed prior to the respondent's reinstatement. A prohibition against taking new appointments</p>	<p>517 Reinstatement after Decertification or Suspension</p> <p>517.1 No decertified or suspended professional guardian shall resume working as a professional guardian until they have complied with all orders for sanctions and have received written confirmation of such compliance from the Board.</p> <p>517.2 No petition for reinstatement shall be allowed until five (5) years after decertification.</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>does not affect the requirement to comply with other program policies, such as reporting of continuing education, and Errors & Omissions Insurance, payment of dues, filing of declarations, etc.</p> <p>3. Reinstatement. The respondent shall submit to the AOC a request for written reinstatement before the conclusion of the prohibition against taking new appointment period. The request shall include a statement verifying that the conditions of the prohibition against taking new appointment have been met. With approval of the Disciplinary Committee Chair, the AOC shall reinstate the CPG.</p> <p>4. Duties of CPG upon being prohibited from accepting new appointment. The CPG will submit a complete list of all active guardianships in which he or she serves as the court-appointed guardian or the standby guardian and must immediately notify the superior court with authority over any of the CPG's cases of the prohibition.</p>	
<p>509.9 LETTER OF REPRIMAND</p> <p>1. A letter of reprimand may be imposed when 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; or The guardian engages in conduct which does not rise to the level of a Revocation, Suspension or Prohibition Against Taking New Cases.</p> <p>509.10 PROBATION</p> <p>1. Probation is a remedy that will be imposed for a period of time that is not less than six months in duration when 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</p>	<p>515.2.3 A letter of reprimand is generally appropriate when a professional guardian engages in:</p> <p>515.2.3.1 Professional misconduct incompatible with the Standards of Practice and causes injury to a party, the public, or the legal system, or causes interference with a legal proceeding, or</p> <p>515.2.3.2 Any other misconduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the professional guardian's fitness to practice.</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>statutes, or the guardian’s fiduciary duty. Probation shall consist primarily of a monitoring function that seeks to ensure the guardian: Fully complies with any sanctions, remedies or other actions imposed by the Board, a court or a judicial officer; and Fully complies with the duties, requirements or prohibitions in the Standards of Practice, Guardianship Program rules and regulations, Washington statutes, and guardian’s fiduciary duty.</p> <p>2. The Disciplinary Committee Chair may appoint a suitable person to monitor the conditions of the probation are being met. Cooperation with a person so appointed is a condition of the probation. The guardian will be responsible for compensating the appointed monitor</p> <p>3. Failure to comply with a condition of probation may be grounds for discipline and any sanction imposed must take into account the misconduct leading to the probation.</p> <p>4. Probation may be imposed in conjunction with any disciplinary action except Revocation.</p>	
<p>509.11 OTHER DISCIPLINARY SANCTIONS Upon a finding that a CPG 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, the Board may impose one or more of the following:</p> <p>Limitation on practice;</p> <p>Requirement that the CPG attend specific education courses or training, including the initial mandatory training;</p> <p>Alcohol or drug treatment;</p> <p>Behavior modification classes;</p>	<p>515.3 Remedies are designed to ensure compliance with duties, standards, and requirements for a professional guardian. Remedies may include, but are not limited to, changes in methods of practice, probation, restitution, additional training for guardian or staff, requirement that the professional guardian obtain expert consultation, mentoring, or an audit.</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>Professional office practice or management advice and support to help the CPG correct deficiencies and make decisions.</p> <p>Periodic audits or reports;</p> <p>Requirement that the CPG work with a mentor, who is a practicing or retired CPG or that the CPG's work be supervised;</p> <p>Other requirements consistent with the purposes of discipline; The Board must specify the terms and requirements in writing.</p> <p>Failure to comply with the terms and requirements may be grounds for discipline and any sanction imposed must take into account the misconduct leading to the discipline.</p>	
<p>509.12 RESTITUTION Restitution defined: Restitution is the payment of the victim's out-of-pocket expenses directly related to the respondent's misconduct.</p> <p>Restitution May Be Required. After a finding of misconduct, a respondent CPG may be ordered to make restitution to persons financially injured by the respondent's conduct.</p> <p>Payment of Restitution.</p> <p>A respondent ordered to make restitution must do so within thirty (30) days of the date on which the decision requiring restitution becomes final, unless the decision provides otherwise, the respondent enters into a periodic payment plan with the AOC, or the restitution is stayed pending appeal.</p> <p>The AOC may enter into an agreement with a respondent for a reasonable periodic payment plan if:</p>	<p>515.3 Remedies are designed to ensure compliance with duties, standards, and requirements for a professional guardian. Remedies may include, but are not limited to, changes in methods of practice, probation, restitution, additional training for guardian or staff, requirement that the professional guardian obtain expert consultation, mentoring, or an audit.</p> <p>516 Costs The Board may order a professional guardian to pay costs including cost of the discipline process and any other directly provable expense, including attorney fees as part of the sanctions imposed. A Hearing Officer may recommend the payment of costs. Failure of a professional guardian to pay costs or to pay restitution when ordered to do so, or failure to comply with the terms entered, may constitute additional grounds for discipline. (Amended 2-11-08).</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>The respondent demonstrates in writing present inability to pay restitution; and</p> <p>The AOC consults with the persons owed restitution.</p> <p>Failure To Comply. A respondent's failure to make restitution when ordered to do so, or to comply with the terms of a periodic payment plan may be grounds for discipline.</p>	
<p>509.13 COSTS AND FEES</p> <p>Assessment. The Board's costs and fees may be assessed as provided in this rule against any respondent CPG who is disciplined.</p> <p>Costs Defined. The term "costs" for the purposes of this rule includes all monetary obligations, except fees as defined below, reasonably and necessarily incurred by the Board in the complete performance of its duties under these rules, whether incurred before or after the filing of a Complaint. Costs include, by way of illustration and not limitation:</p> <p>Court reporter charges for attending and transcribing depositions or hearings;</p> <p>Necessary travel expenses of the Hearing Officer, disciplinary counsel, AOC staff or witnesses;</p> <p>Witness charges;</p> <p>Costs of conducting an examination of books and records or an audit;</p> <p>Costs incurred in supervising probation imposed under rule 509.5;</p> <p>Telephone toll charges;</p>	<p>516 Costs</p> <p>The Board may order a professional guardian to pay costs including cost of the discipline process and any other directly provable expense, including attorney fees as part of the sanctions imposed. A Hearing Officer may recommend the payment of costs. Failure of a professional guardian to pay costs or to pay restitution when ordered to do so, or failure to comply with the terms entered, may constitute additional grounds for discipline. (Amended 2-11-08).</p>

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>Costs for court records;</p> <p>Costs for AOC staff professional services;</p> <p>Costs of copying materials.</p> <p>Fees defined. Fees assessed under this rule may be equal to the actual fees incurred by the AOC.</p> <p>Statement of Costs and Fees. Content. A statement of costs and fees must state with particularity the nature and amount of the costs claimed and also state the fees requested. An appropriate AOC staff member must sign the statement, and this signature constitutes a certification that all reasonable attempts have been made to insure the statement's accuracy.</p> <p>Service. The AOC serves a copy of the statement on the respondent.</p> <p>Assessment Discretionary. Assessment of any or all costs and fees may be denied if it appears in the interests of justice to do so.</p> <p>Payment of Costs and Fees.</p> <p>A respondent ordered to pay costs and fees must do so within thirty (30) days of the date on which the assessment becomes final, unless the order provides otherwise, the respondent enters into a periodic payment plan with the AOC, or the restitution is stayed pending appeal.</p> <p>The AOC may enter into an agreement with a respondent for a reasonable periodic payment plan if the respondent demonstrates in writing present inability to pay assessed costs and fees.</p>	

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
Failure To Comply. A respondent’s failure to pay costs and fees when ordered to do so or to comply with the terms of a periodic payment plan may be grounds for discipline.	
Board’s Review	
<p>510.1 DECISION Decision. For purposes of this title, “Decision” means the Hearing Officer’s findings of fact, conclusions of law, and order recommending disciplinary sanction,.</p> <p>Review of Decision. The Board reviews all Hearing Officer Decisions. Either party may file a written Notice of Review within thirty (30) days of the final Decision. The Disciplinary Committee members shall recuse themselves from all review proceedings. All Board members shall disqualify themselves as necessary according to the standards set out in DR 502.2.6.</p> <p>Notice of Review. The Notice of Review must include the following:</p> <p>A statement that review being requested;</p> <p>The portion of the Hearing Officer’s decision to be challenged;</p> <p>The general basis for the review; and</p> <p>Whether a full or partial transcript should be ordered pursuant to 510.3.</p>	<p>512.3 Board Review: The Board shall review the Hearing Officer’s findings of fact, conclusions of law and recommendations. In addition, the Board shall review any statements in support or opposition to such findings, conclusions, and recommendation, and any portion of the record deemed necessary to resolve the matter.</p> <p>512.4 Board Action</p> <p>512.4.1 Board Decision: The Board shall adopt, modify or reverse the findings, conclusions, and recommendation of the Hearing Officer by written decision, a copy of which shall be served upon the parties.</p> <p>512.4.2 Dissent: If any Board member or members dissent from the findings, conclusions, and recommendation of the majority, the member or members shall state in writing the reasons for the dissent. Dissents shall be made a part of the record.</p> <p>512.4.3 Retention of Records: The record of any disciplinary proceeding shall be retained in accordance with records retention schedules for the judicial branch and the AOC.</p> <p>512.4.4 Disposition Requiring Supreme Court Action: If the Board’s recommendation is that the professional guardian be decertified or suspended, that recommendation, along with the record, shall be transmitted to the Supreme Court.</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
	<p>512.4.5 Disqualification: The Hearing Officer and all Board members who served on the SOPC are disqualified from participating in the Board’s review of the Hearing Officer’s decision and from participating in the Board’s vote on the matter.</p> <p>512.4.6 Quorum: A quorum for determination of the Board’s decision on review of the Hearing Officer’s decision shall consist of a majority of the Board members who are not disqualified as above.</p> <p>512.4.7 Information to Grievant: The Board shall advise the grievant in all cases of the final disposition of the grievance</p>
<p>510.2 TRANSCRIPT OF HEARING Ordering Transcript. AOC must order the entire transcript unless the parties agree that no transcript or only a partial transcript is necessary for review.</p> <p>Filing and Service. The original of the transcript is filed with the AOC and AOC must serve it on the respondent except if the respondent ordered the transcript.</p>	<p>512.1 Transcript of the Hearing: The Board shall prepare the transcript of the evidentiary hearing held before the Hearing Officer and shall mail a copy to each party.</p>
<p>510.3 RECORD ON REVIEW Generally. The record on review consists of:</p> <p>Any hearing transcript or partial transcript; and</p> <p>Documents and exhibits admitted into the evidentiary record by the Hearing Officer.</p> <p>References to the Record. Briefs filed must specifically refer to the record if available, using the designations TR for transcript of hearing, EX for exhibits and documents.</p> <p>No Additional Evidence. Evidence not presented to the Hearing Officer must not be presented to the Board.</p>	

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
The AOC shall prepare and distribute the record on review to the Board.	
<p>510.4 BRIEFS When seeking review by the Board, the respondent has the right to file a brief, which shall include a statement in opposition to the Decision of the Hearing Officer, alleging errors of fact, law, or other pertinent matter.</p> <p>Time for Filing Briefs. Briefs, if any, must be filed within twenty (20) days of service on the respondent CPG of a copy of the hearing transcript unless no transcript was requested. If no transcript was requested, briefs must be filed within twenty (20) days of the filing of the Notice of Review. Disciplinary counsel must file a brief within fifteen (15) days of service on disciplinary counsel of the respondent’s brief, or, if no brief is filed by the respondent, within fifteen (15) days of the expiration of the period for the respondent to file a brief.</p> <p>4. The respondent may file a reply to disciplinary counsel’s brief within ten (10) days of service of that brief on the respondent, unless respondent failed to file an initial brief.</p>	<p>512.3 Board Review: The Board shall review the Hearing Officer’s findings of fact, conclusions of law and recommendations. In addition, the Board shall review any statements in support or opposition to such findings, conclusions, and recommendation, and any portion of the record deemed necessary to resolve the matter.</p> <p>512.2 Statement in Opposition and Rebuttal: Any statement in opposition to the decision of the Hearing Officer, alleging errors of fact, law, or any other pertinent matter shall be filed within twenty (20) days from receipt of the hearing transcript. Said statement shall be filed with the Board and served on each party. Each party shall have ten (10) days from the date of mailing of a statement in opposition of any party to file a rebuttal to said statement. Receipt of any mailed materials shall be deemed complete three days after the postmarked date on the materials.</p>
<p>510.5 DECISION OF BOARD Basis for Review. Board review is based on the Hearing Officer’s Decision, the parties’ briefs, and the record on review.</p> <p>Action by Board. The Chair, by virtue of that office, is not disqualified from participating in the review before the Board or from participating in the Board’s vote on a matter. On review, the Board may adopt, modify, or reverse the findings, conclusions, or recommendation of the Hearing Officer.</p> <p>Board Order. The Board must issue a written Order within ninety (90) days of the hearing on the appeal. If the Board amends, modifies, or reverses any finding, conclusion, or recommendation of the Hearing Officer, the Board must state the reasons for its decision in a written Order. A Board member agreeing</p>	<p>512.4.1 Board Decision: The Board shall adopt, modify or reverse the findings, conclusions, and recommendation of the Hearing Officer by written decision, a copy of which shall be served upon the parties.</p> <p>512.4.2 Dissent: If any Board member or members dissent from the findings, conclusions, and recommendation of the majority, the member or members shall state in writing the reasons for the dissent. Dissents shall be made a part of the record.</p> <p>512.4.4 Disposition Requiring Supreme Court Action: If the Board’s recommendation is that the professional guardian be decertified or suspended, that recommendation, along with the record, shall be transmitted to the Supreme Court.</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>with the majority's Order may file separate concurring reasons. A Board member dissenting from the majority's Order may set forth in writing the reasons for that dissent. The Order should be prepared as expeditiously as possible and consists of the majority's decision together with any written dissent. A copy of the complete Order is served by the AOC on the parties.</p> <p>Board's Order is Final. The Board's Order is final unless the Board is recommending suspension or decertification, in which case the Supreme Court shall review the Board's Decision. The Board will file its decision and the complete record with the Supreme Court.</p>	
<p>510.7 CHAIR MAY MODIFY REQUIREMENTS Upon written motion and for good cause shown, the Chair may modify the time periods in CR 10, and make other orders as appear appropriate to assure fair and orderly Board review</p>	No Equivalent Regulation
Supreme Court Review	
<p>511 SUPREME COURT REVIEW</p> <p>511.1 Notification of Filing: Upon the filing of the Board's recommendation of suspension or decertification and of the record, the Supreme Court Clerk shall mail written notice to the professional guardian and counsel.</p> <p>511.2 Review on the Record: The Supreme Court shall review any Board recommendation for suspension or decertification after consideration of the transmitted record. No oral argument or evidence will be heard by the Supreme Court. The Supreme Court may adopt, modify, or reverse the Board's recommendation by written order. The AOC shall mail a copy of the Supreme Court's order to all parties, counsel, and the Board. Costs, if any, of transcription and preparation of the record for Supreme Court review shall be paid by the Board.</p>	<p>513 Supreme Court Review</p> <p>513.1 Notification of Filing: Upon the filing of the Board's recommendation of suspension or decertification and of the record, the Supreme Court Clerk shall mail written notice to the professional guardian and counsel.</p> <p>513.2 Review on the Record: The Supreme Court shall review any Board recommendation for suspension or decertification after consideration of the transmitted record. No oral argument or evidence will be heard by the Supreme Court. The Supreme Court may adopt, modify, or reverse the Board's recommendation by written order. The AOC shall mail a copy of the Supreme Court's order to all parties, counsel, and the Board. Costs, if any, of transcription and preparation of the record for Supreme Court review shall be paid by the Board.</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>511.3 Finality: The court’s order in a disciplinary proceeding is final when filed unless the court specifically provides otherwise.</p> <p>511.4 Decertified or Suspended Professional Guardians</p> <p>511.4.1 Referral to Court: The Supreme Court’s order decertifying or suspending a professional guardian shall include provisions providing for the immediate referral of the matter to the superior court of each county.</p> <p>511.4.2 Agencies: If the Board has recommended decertification or suspension of a professional guardian to the Supreme Court, the employer agency, if any, shall, upon notice of the Board’s recommendation, promptly appear before the Board to determine how the decertification or suspension shall affect continuation of the agency’s certification. Continuing certification of an agency affected by the suspension or decertification of a professional guardian shall be determined by the Board. The Board’s primary concern shall be the best interests of the incapacitated persons. This provision does not supplant the exclusive jurisdiction of the superior court of each county over guardianship cases.</p> <p>511.4.3 Notice to Interested Parties: Within ten (10) days of decertification or suspension, the professional guardian shall notify all parties entitled to notice in any active or pending guardianship matters of the professional guardian’s decertification or suspension and the anticipated effect on the incapacitated person.</p> <p>511.4.4 Immediate Cessation of Professional Guardian Status: After entry of the order of decertification or suspension, the decertified or</p>	<p>513.3 Finality: The court’s order in a disciplinary proceeding is final when filed unless the court specifically provides otherwise.</p> <p>513.4 Decertified or Suspended Professional Guardians</p> <p>513.4.1 Referral to Court: The Supreme Court’s order decertifying or suspending a professional guardian shall include provisions providing for the immediate referral of the matter to the superior court of each county.</p> <p>513.4.2 Agencies: If the Board has recommended decertification or suspension of a professional guardian to the Supreme Court, the employer agency, if any, shall, upon notice of the Board’s recommendation, promptly appear before the Board to determine how the decertification or suspension shall affect continuation of the agency’s certification. Continuing certification of an agency affected by the suspension or decertification of a professional guardian shall be determined by the Board. The Board’s primary concern shall be the best interests of the incapacitated persons. This provision does not supplant the exclusive jurisdiction of the superior court of each county over guardianship cases.</p> <p>513.4.3 Notice to Interested Parties: Within ten (10) days of decertification or suspension, the professional guardian shall notify all parties entitled to notice in any active or pending guardianship matters of the professional guardian’s decertification or suspension and the anticipated effect on the incapacitated person.</p> <p>513.4.4 Immediate Cessation of Professional Guardian Status: After entry of the order of decertification or suspension, the decertified or suspended professional guardian shall not accept any new</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>suspended professional guardian shall not accept any new appointments or engage in work as a professional guardian in any matter, except to assist in the orderly transfer of cases.</p> <p>511.4.5 Affidavit of Compliance: Within ten (10) days of the effective date of the decertification or suspension order, the decertified or suspended professional guardian shall file with the AOC:</p> <p>a) An affidavit attesting to full compliance with the provisions of the order, and with these regulations, including current mailing address. b) A copy of the notification letter sent to all parties entitled to notice, together with a list of the names and addresses of all persons to whom the notice was sent.</p> <p>511.4.6 Records Maintained: Proof of compliance with these regulations shall be a condition precedent to any petition for reinstatement.</p>	<p>appointments or engage in work as a professional guardian in any matter, except to assist in the orderly transfer of cases.</p> <p>513.4.5 Affidavit of Compliance: Within ten (10) days of the effective date of the decertification or suspension order, the decertified or suspended professional guardian shall file with the AOC:</p> <p>a) An affidavit attesting to full compliance with the provisions of the order, and with these regulations, including current mailing address. b) A copy of the notification letter sent to all parties entitled to notice, together with a list of the names and addresses of all persons to whom the notice was sent.</p> <p>513.4.6 Records Maintained: Proof of compliance with these regulations shall be a condition precedent to any petition for reinstatement.</p>
<p>511.5 DECERTIFIED OR SUSPENDED PROFESSIONAL GUARDIANS</p> <p>Referral to Superior Court: Upon receipt of the Supreme Court’s order decertifying or suspending a professional guardian, the AOC shall notify each superior court.</p> <p>Agencies: If the Board has recommended decertification or suspension of a professional guardian to the Supreme Court, the employer agency, if any, shall, upon notice of the Supreme Court order contact AOC to determine how the decertification or suspension shall affect continuation of the agency’s certification. Continuing certification of an agency affected by the suspension or decertification of a professional</p>	<p>513.4.2 Agencies: If the Board has recommended decertification or suspension of a professional guardian to the Supreme Court, the employer agency, if any, shall, upon notice of the Board’s recommendation, promptly appear before the Board to determine how the decertification or suspension shall affect continuation of the agency’s certification. Continuing certification of an agency affected by the suspension or decertification of a professional guardian shall be determined by the Board. The Board’s primary concern shall be the best interests of the incapacitated persons. This provision does not supplant the exclusive jurisdiction of the superior court of each county over guardianship cases.</p> <p>513.4.3 Notice to Interested Parties: Within ten (10) days of decertification or suspension, the professional guardian shall notify all</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>guardian shall be determined by the Board. The Board's primary concern shall be the best interests of the incapacitated persons.</p> <p>Notice to Interested Parties: Within ten (10) days of decertification or suspension, the professional guardian shall notify all parties entitled to notice in any active or pending guardianship matters of the professional guardian's decertification or suspension and the anticipated effect on the incapacitated person.</p> <p>Immediate Cessation of Professional Guardian Status: After entry of the order of decertification or suspension, the decertified or suspended professional guardian shall not accept any new appointments or engage in work as a professional guardian in any matter, except to assist in the orderly transfer of cases.</p>	<p>parties entitled to notice in any active or pending guardianship matters of the professional guardian's decertification or suspension and the anticipated effect on the incapacitated person.</p> <p>513.4.4 Immediate Cessation of Professional Guardian Status: After entry of the order of decertification or suspension, the decertified or suspended professional guardian shall not accept any new appointments or engage in work as a professional guardian in any matter, except to assist in the orderly transfer of cases.</p> <p>513.4.5 Affidavit of Compliance: Within ten (10) days of the effective date of the decertification or suspension order, the decertified or suspended professional guardian shall file with the AOC:</p> <p>a) An affidavit attesting to full compliance with the provisions of the order, and with these regulations, including current mailing address.</p>
Discipline in Other Jurisdictions	
<p>512 DISCIPLINE FROM OTHER JURISDICTIONS; DUTY TO SELF-REPORT Duty To Self-Report Discipline. Within thirty (30) days of being disciplined in another jurisdiction as a certified professional guardian or conservator, whatever term may be appropriate in that other jurisdiction, a CPG must inform the AOC of the discipline.</p> <p>Obtaining Order. Upon notification from any source that a CPG certified in this state was disciplined in another jurisdiction, the AOC must obtain a copy of the Order and file it with the Disciplinary Committee.</p> <p>Disciplinary Committee Action. Upon receipt of information demonstrating that a CPG certified in this state has been disciplined in another jurisdiction, the Disciplinary Committee may order the respondent CPG to show cause within thirty (30) days of service of the</p>	<p>No Equivalent Regulation</p>

Certified Professional Guardianship Board
Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
<p>show cause order why it should not impose the identical discipline. The AOC must serve this Order by certified mail, and a copy of the Order from the other jurisdiction, on the respondent.</p> <p>Deferral. If the other jurisdiction has stayed the discipline, any reciprocal discipline in this state is deferred until the stay expires.</p> <p>Discipline to Be Imposed.</p> <p>Thirty (30) days after service of the Order under Section (3), the Disciplinary Committee may imposes the identical discipline unless the CPG demonstrates or the Disciplinary Committee finds, that it clearly appears on the face of the record on which the discipline is based, that:</p> <p>The procedure so lacked notice or opportunity to be heard that it denied due process;</p> <p>The proof of misconduct was so weak that the Disciplinary Committee is clearly convinced that it cannot, consistent with its duty, accept the finding of misconduct or disability;</p> <p>The imposition of the same discipline would result in grave injustice;</p> <p>The established misconduct warrants substantially different discipline in this state; or</p>	

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
<p>Appropriate discipline has already been imposed in this jurisdiction for the misconduct.</p> <p>If the Disciplinary Committee determines that any of the factors in subsection (A) exist, it enters an appropriate order. The burden is on the party seeking different discipline in this jurisdiction to demonstrate that imposing the same discipline is not appropriate.</p> <p>Conclusive Effect. Except as this rule otherwise provides, a final adjudication in another jurisdiction that a CPG has engaged in misconduct conclusively establishes the misconduct for purposes of a disciplinary proceeding in this state.</p> <p>Affidavit of Compliance. Within ten (10) days of the effective date of the decertification or suspension order, the decertified or suspended professional guardian shall file with the AOC:</p> <p>An affidavit attesting to full compliance with the provisions of the order, and with these regulations, including current mailing address.</p> <p>A copy of the notification letter sent to all parties entitled to notice, together with a list of the names and addresses of all persons to whom the notice was sent.</p> <p>Records Maintained. Proof of compliance with these regulations shall be a condition precedent to any petition for reinstatement.</p>	
<p>513 REVIEW OF SUPERIOR COURT CASE FILINGS To periodically audit CPGs' compliance with standards of practice and statutory court filing requirements, the Board directs AOC to select certified professional guardians at least monthly and review the guardians' cases on SCOMIS or other</p>	<p>520 Review of Superior Court Case Filings To periodically audit guardians' compliance with standards of practice and statutory court filing requirements, the Board directs AOC to select certified professional guardians at least monthly and review the</p>

Certified Professional Guardianship Board Disciplinary Regulation 500 Side-by-Side Comparison of Proposed and Current Regulation	
Proposed	Current
available case information sources. AOC may open a grievance and conduct an investigation pursuant to these Disciplinary Regulations.	guardians' cases on SCOMIS or other available case information sources. AOC may open a grievance and conduct an investigation pursuant to these Disciplinary Regulations.
514 REQUEST FOR DISCIPLINARY RECORD When an official licensing or disciplinary body of any state with a pending application, investigation or disciplinary action involving a certified professional guardian in Washington requests disciplinary information from the Board or the AOC, the AOC will certify and transmit the disciplinary record of the certified professional guardian involved. Notice of the request and the transmitted materials shall be provided to the last known address of the certified professional guardian.	521 Request for Disciplinary Record When an official licensing or disciplinary body of any state with a pending application, investigation or disciplinary action involving a professional guardian in Washington requests disciplinary information from the Board or the AOC, the AOC will certify and transmit the disciplinary record of the professional guardian involved. Notice of the request and the transmitted materials shall be provided to the last known address of the professional guardian.
515 ADMINISTRATIVE DECERTIFICATION If the Board decertifies a CPG for an administrative reason, including but not limited to the certified professional guardian's failure to: pay required fees satisfy the continuing education requirements, provide proof of insurance or waiver of insurance or file required information with the Board, any pending disciplinary grievance against the CPG may be dismissed. If the grievance is within the jurisdiction of the Disciplinary Committee, it may dismiss the grievance. If the Disciplinary Committee has already sent the grievance to the Board with a recommendation of action, the Board may dismiss the grievance. Information that a grievance was pending at the time of administrative decertification shall be placed in the CPG's licensing records and shall be available to the public.	522 Administrative Decertification If the Board decertifies a professional guardian for an administrative reason, including but not limited to the professional guardian's failure to: pay required fees satisfy the continuing education requirements, provide proof of insurance or waiver of insurance or file required information with the Board, any pending disciplinary grievance against the professional guardian may be dismissed. If the grievance is within the jurisdiction of the SOPC, it may dismiss the grievance. If the SOPC has already sent the grievance to the Board with a recommendation of action, the Board may dismiss the grievance. Information that a grievance was pending at the time of administrative decertification shall be placed in the guardian's licensing records and shall be available to the public.
	Sections of the Current Reg. Not Addressed in Proposed Reg.
	504.2 Grievances may be filed by completing the grievance form located on the Washington Courts website at http://www.courts.wa.gov/programs_orgs/forms/ and submitting the grievance form to the Board through the AOC

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
	<p>506.1.1 The SOPC may direct AOC to obtain the statement of any person believed to have information relevant to the grievance, obtain opinions from expert witnesses, or any other information the SOPC determines may be relevant to the grievance.</p> <p>506.1.2 Where there is reasonable cause to believe that testimony should be perpetuated, AOC may depose any witness upon reasonable notice to the professional guardian being investigated. An AOC staff attorney or an attorney appointed by the Board Chair shall conduct the deposition. The deposition shall be taken under oath before a Notary Public or other officer authorized by the law of the jurisdiction where the deposition is taken. The deposition may be transcribed by any party for use in further proceedings.</p> <p>506.1.3 AOC may issue a subpoena to compel attendance of witnesses or to compel production of documents at a deposition. The subpoena shall be issued in the name of the Board and subscribed by the signature of the Board’s attorney. Subpoenas shall be served in the same manner as in civil cases in superior court. Failure to attend or produce documents pursuant to a properly issued subpoena shall be considered contempt of the Supreme Court. A motion to quash or modify the subpoena, on the grounds of unreasonableness or oppression, shall be decided by the Board Chair.</p>
	<p>508.3 The professional guardian may be required to report to and seek instruction from the appointing court.</p>
	<p>510.2 Hearing Officer: In the absence of a hearing officer hired by the AOC, the Board Chair shall appoint a Hearing Officer, but may fulfill the obligations of a Hearing Officer in the absence of such appointment. Any Board member may be appointed as the Hearing Officer, except for any member of the Standards of Practice Committee that investigated the grievance.</p>

Certified Professional Guardianship Board
 Disciplinary Regulation 500

Side-by-Side Comparison of Proposed and Current Regulation

Proposed	Current
	510.8 Procedural Irregularity: No technical or procedural irregularity shall affect the validity of a complaint or of any related proceedings.
	511.8 Protective Orders: To protect a compelling privacy or safety interest of a grievant, witness, third party, or professional guardian, the Hearing Officer may, upon motion and finding that such privacy or safety interests outweigh the public interest in access to the record, issue a protective order prohibiting the public disclosure of specific information, documents, or pleadings, and direct that the proceedings be conducted so as to implement the order. Said order shall state with particularity the information prohibited from disclosure. Agreement of the parties alone does not constitute a sufficient basis for granting a protective order. The hearing on a motion for a protective order shall occur as soon as possible in order to not delay the proceedings.
	511.17 Witness Fees: Witnesses shall be paid the same fees and allowances, in the same manner and under the same conditions, as provided for witnesses in the courts of this state by RCW 2.40 and RCW 5.56.010, except that the AOC shall have the power to fix the allowance for meals and lodging in like manner as is provided in RCW 5.56.010 as to courts. The party issuing a subpoena shall pay the fees, allowances, and cost of producing records required to be produced by subpoena.
	512.4.3 Retention of Records: The record of any disciplinary proceeding shall be retained in accordance with records retention schedules for the judicial branch and the AOC.
	513.4.6 Records Maintained: Proof of compliance with these regulations shall be a condition precedent to any petition for reinstatement.
	515.2.4 A letter of admonishment is generally appropriate when a professional guardian engages in professional misconduct incompatible with the standards of practice and not rising to the level justifying a reprimand.