

Meeting Minutes

March 10, 2025



Certified Professional Guardianship and Conservatorship Board

Monday, March 10, 2025

7:30 a.m. – 9:00 a.m.

MEETING MINUTES

Members Present

Judge Cadine Ferguson-Brown, Chair
Commissioner Solomon Kim, Vice Chair
Commissioner Lynn Fleischbein
Judge Jeremy Schmidt
Ms. Camille Minogue
Dr. K. Penney Sanders
Mr. Daniel Smerken
Ms. Suzanne Thompson Wininger
Jack Vogel

Staff Present

Ms. Stacey Johnson
Ms. Cynthia Kennedy
Ms. Kay King
Ms. Collette Mason
Ms. Thai Kien
Ms. Leanna Mistachkin
Ms. Rhonda Scott
Ms. Sherri White

Members Absent

Judge Nancy Retsinas
Ms. Kristina Hammond

Ms. Iris Kingston
Dr. Anita Souza

1. Meeting Called to Order

Judge Ferguson-Brown called the March 10, 2025 Certified Professional Guardianship and Conservatorship (CPGC) Board meeting to order at 7:30 a.m.

2. Welcome, Roll Call & Approval of Minutes

Judge Ferguson-Brown welcomed all present and then called for approval of the minutes.

Motion: Dr. Sanders moved to approve the February 10, 2025 minutes as written. Smerken seconded. All in favor. The motion carries.

3. Executive Session (Closed to Public)

4. Chair's Report

Judge Ferguson-Brown reminded the group that the April planning meeting is at the SeaTac Airport conference room with validated parking and lunch. AOC staff will provide details.

5. Regulations 509.6, 501.1, and 508.1

On behalf of the Regulations Committee, Mr. Smerken proposed changes to regulations 509.6, 501.4, and 508.1.

6. Grievance Report

Ms. Scott presented the February Grievance Report, which is available in the meeting packet. The Board received four (4) new grievances in February. Five (5) grievances were forwarded to Superior Court. 11 of the forty-one unresolved grievances involve CPGCs or agencies with two or more grievances. Currently, there are two hundred fifty-five (255) active CPGCs.

7. Reconvene (Open to Public)

8. Vote on Executive Session Discussion

On behalf of the Applications Committee, Commissioner Fleischbein presented the following applications for Board action:

Motion: Comm. Fleischbein moved to approve Rebecca Davis' application for certification, with transferable skills in social services and healthcare, conditioned on completion of the UW program. Judge Schmidt seconded. 9 in favor. The motion carries.

On behalf of the Standards of Practice Committee, Dr. Sanders presented the following grievances for Board action:

Motion: Mr. Smerken moved to dismiss grievance 2025-010 as incomplete. Ms. Thompson Wininger seconded. 9 in favor. None opposed. The motion carries.

Motion: Dr Sanders moved to refer grievance 2025-011 to superior court. Judge Schmidt seconded. 8 in favor. 1 opposed. The motion carries.

Motion: Comm. Kim moved to dismiss grievance 2025-050 following court review. Dr. Sanders seconded. 9 in favor. None opposed. The motion carries.

Motion: Comm. Kim moved to dismiss grievance 2025-059 following court review. Dr. Sanders seconded. 9 in favor. None opposed. The motion carries.

Motion: Comm. Kim moved to dismiss grievance 2025-062 following court review. Dr. Sanders seconded. 8 in favor. None opposed. Thompson Wininger recused. The motion carries.

Motion: Comm. Kim moved to dismiss grievance 2025-065 following court review. Dr. Sanders seconded. 9 in favor. None opposed. The motion carries.

Motion: Comm. Kim moved to dismiss grievance 2024-074 for no jurisdiction. Dr. Sanders seconded. 9 in favor. The motion carries.

Motion: Mr. Smerken moved to post the suggested changes to regulations for public comment. Dr. Sanders seconded. 9 in favor. None opposed. The motion carries.

Noted for the record that 2025-012 has been dismissed for no jurisdiction.

9. Wrap Up/Adjourn

With no other business to discuss, Judge Ferguson-Brown adjourned the March 10, 2025 CPGC Board meeting at 9:03 a.m. The next Board meeting will take place on April 14, 2025, beginning at 9:00 a.m. in the Conference Center at Seattle-Tacoma International Airport.

Recap of Motions:

MOTION SUMMARY		STATUS
Motion	Dr. Sanders moved to approve the February 10, 2025 minutes as written. Smerken seconded. All in favor.	Approved
Motion	Comm. Fleischbein moved to approve Rebecca Davis' application for certification, with transferable skills in social services and healthcare, conditioned on completion of the UW program. Judge Schmidt seconded. 9 in favor.	Approved

Motion	Mr. Smerken moved to dismiss grievance 2025-010 as incomplete. Ms. Thompson Wininger seconded. 9 in favor.	Approved
Motion	Dr Sanders moved to refer grievance 2025-011 to superior court. Judge Schmidt seconded. 8 in favor.	Approved
Motion	Comm. Kim moved to dismiss grievance 2025-050 following court review. Dr. Sanders seconded. 9 in favor.	Approved
Motion	Comm. Kim moved to dismiss grievance 2025-059 following court review. Dr. Sanders seconded. 9 in favor.	Approved
Motion	Comm. Kim moved to dismiss grievance 2025-062 following court review. Dr. Sanders seconded. 8 in favor. None opposed. Thompson Wininger recused.	Approved
Motion	Comm. Kim moved to dismiss grievance 2025-065 following court review. Dr. Sanders seconded. 9 in favor.	Approved
Motion	Comm. Kim moved to dismiss grievance 2024-074 for no jurisdiction. Dr. Sanders seconded. 9 in favor.	Approved
Motion	Mr. Smerken moved to post the suggested changes to regulations for public comment. Dr. Sanders seconded. 9 in favor.	Approved

Guests:

Samantha Hellwig, general counsel (AAG)

Katlyn Balsam

Deborah Jameson

Alexia

Dave M

Karen Newland, Puget Sound Guardians

Jeanette Childress, DSHS

Certified Professional Guardianship and Conservatorship Board
Annual Report 2024

2024

Certified Professional Guardianship and Conservatorship Board

Annual Report



Certified Professional Guardianship and Conservatorship Board

2024 Annual Report

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INTRODUCTION

We are pleased to present the 2024 Certified Professional Guardianship and Conservatorship Board's Annual Report. We make this report publicly available with the goal of increasing awareness of the work of the Certified Professional Guardianship and Conservatorship Board (Board) and the Administrative Office of the Court's Office of Guardianship and Elder Services.

The Washington State Supreme Court has authority over guardianship practice in the state, as Certified Professional Guardians and Conservators (CPGCs) are officers of the court. The Supreme Court established a certification, regulation, and discipline framework for CPGCs and related agencies by promulgating General Rule (GR) 23. GR 23 created the Board to implement processes to certify, regulate and discipline individuals who choose to become CPGCs.

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

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

The Supreme Court retains primary jurisdiction over CPGCs, the Board, and Board functions. Brief highlights of Supreme Court authority in GR 23 are as follows:

- The Supreme Court appoints all members to the Board. GR 23(c)(1)(i).
- The Supreme Court designates the Chair of the Board. GR 23(c)(1)(iii).
- The Supreme Court enters the order certifying an individual or agency as a certified professional guardian and conservator. GR 23(c)(3)(v).
- The Board may seek Supreme Court enforcement of an order or subpoena that it issued. GR 23(c)(3)(x)(c).
- The Supreme Court approves the Board's expense budget. GR 23(c)(4).
- The Supreme Court, pursuant to its statutory authority to direct the Administrative Office of the Courts (AOC), instructs the AOC to provide administrative support to the Board and authorizes AOC to contract with other agencies or organizations on behalf of the Board. GR 23(c)(9).
- The Supreme Court extends quasi-judicial immunity to the Board where the Supreme Court would have immunity in performing the same functions. GR 23(c)(6).

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

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

In order to facilitate the discharge of the duties delegated by the Supreme Court, the Board, through its bylaws and regulations, has created several Committees charged

with overseeing specific Board duties and providing input and expertise to the Board on these areas. During 2024, the following four Board Committees were active:

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

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

The Board meets monthly to meet timelines under RCW 11.130, otherwise known as the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGA).

APPLICATIONS COMMITTEE: 2024 AT A GLANCE

Every individual or agency desiring to be certified as a certified professional guardian and conservator (CPGC) must submit an online application to the Board and must satisfy all requirements set out in the Board Application Regulations.¹

Individual CPGC Requirements

There are a number of GR 23 and Board certification requirements for individual certification. These include having a high school degree or GED equivalent, years of transferable work experience like decision-making for the benefit of others, passing background checks, demonstrating financial responsibility, and successfully completing a training program approved by the Board. Additionally, applicants must also meet the qualifications set out in RCW 11.130.

Education

Applicants are required to have a minimum high school degree or GED equivalent. The applicant's college degree determines the minimum number of full years of transferable experience required for certification: High School or GED equivalent, five years; AA, four years; BA/BS, two years; Masters, J.D., Ph.D., or equivalent, one year.²

Transferable Experience

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

Background Checks

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

Financial Responsibility

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

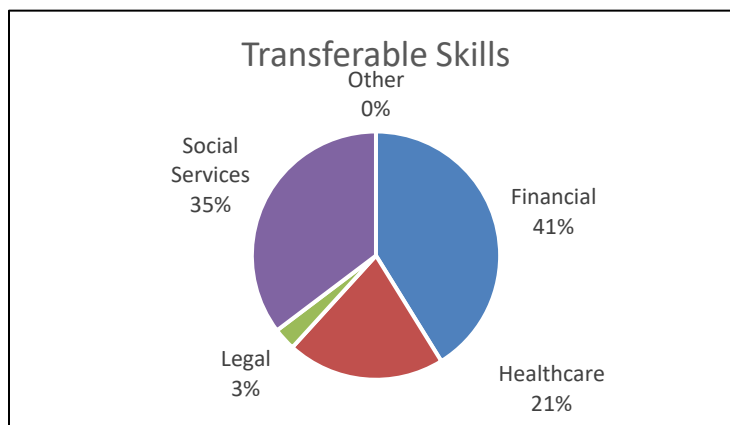
FICO scores between 650 and 699 require Board review of an applicant's full credit report and an applicant's explanation regarding circumstances concerning their credit and negative report indicators. If a score falls into the 650-699 range, the Board has discretion to determine whether or not the financial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

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

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

Individual Certification Process

The Applications Committee meets monthly to review completed applications and make recommendations to the Board to approve, conditionally approve, or deny applications. Committee recommendations also identify the transferable skills category (or categories) applicable to each applicant. GR 23 provides the following list of transferable skills categories: legal, financial, social services, healthcare, and other. The chart below shows the percentage of transferable skills applicable to applicants reviewed by the Board in 2024.



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

The Board reviews applications at each regularly scheduled meeting. Recommendations for approval are sent to the Washington State Supreme Court for approval, an Order of Certification, and issuance of a CPGC Certificate. Recommendations for denial can be appealed to the Board.

2024 Certification Related Information

- 30 application packets were reviewed by the Board: 6 approvals, 9 conditional approvals, 15 denials
- 21 CPGCs were certified by the Washington Supreme Court³
- 11 Individual CPGCs and 1 agency terminated their certifications⁴
- No Individual CPGCs and no agencies were administratively decertified for non-renewal of certification and/or non-compliance related to continuing education

³ Of the 21 Court certifications, 6 applicants were approved and 15 applicants, who were previously conditionally approved, successfully completed the training program in 2024.

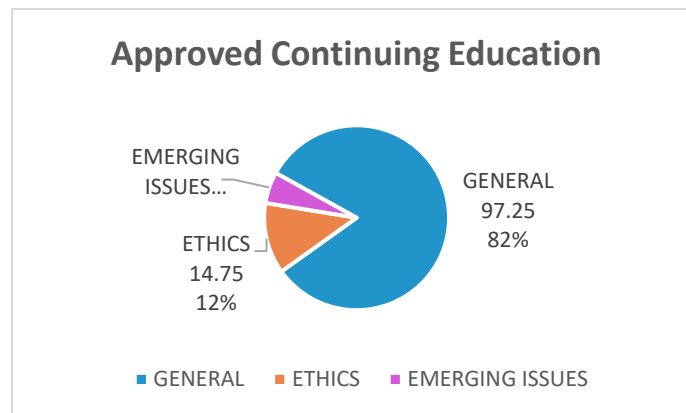
⁴ The primary reason for termination of certification was planned retirement.

EDUCATION COMMITTEE: 2024 AT A GLANCE

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

Of these 24 credit hours CPGCs must complete, at least four (4) are ethics and four (4) emerging issues credits. Failure to comply with the Board's continuing education requirements may result in a professional guardian or conservator being administratively decertified.

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



In 2024, 13 courses were approved by the Education Committee for continuing education credits, for a total of 118.5 course presentation hours.

Of the total 118.5 course presentation hours, General Education credits accounted for 97.25 hours (82%), 6.5 hours were on Emerging Issues (5.5%), and 14.75 hours were on Ethics (12.5%).

The Education Committee recommended to the Board, and the Board approved, the following emerging issues for the 2025-2026 reporting period: housing, behavioral health, less restrictive alternatives to guardianship and/or conservatorship, and protective order changes. The Education Committee also recommended to the Board, and the Board published notice of, an amendment to Regulation 205.1 which broadens the types of courses CPGCs may take to meet the continuing education credit hours requirement.

REGULATIONS COMMITTEE: 2024 AT A GLANCE

The Regulations Committee considered and discussed several regulatory issues from a broad, comprehensive perspective to determine, in part, whether additional Board regulations were necessary or useful.

The Committee provided a presentation to the rest of the Board and the Board's stakeholders at the April meeting regarding General Rule 23, the Board's regulations, and the process for enacting and amending regulations.

The Committee undertook the work of revising the Board's interim suspension regulations, Regulation 509.5, and Regulation 509.6. These interim suspension regulations were enacted as part of the overall Disciplinary Regulations adoption about a decade ago. The Committee observed that these regulations required clarification of procedural roles, simplification of crime definitions, elimination of inconsistent procedures, as well as other minor corrections. The Committee's work focused on identifying appropriate structures for interim suspension procedures, retaining the narrow circumstances for interim suspensions, and providing timely response procedures to hear petitions to terminate an interim suspension.

The Committee recommended a correction to Regulation 508.3, which was subsequently adopted by the Board.

The Committee also worked on identifying priorities for Committee time and attention going forward.

STANDARDS OF PRACTICE COMMITTEE: 2024 AT A GLANCE

One of the key duties delegated by the Supreme Court to the Board is the duty to promulgate and enforce standards of practice (SOP). The Board must also ensure that certified professional guardians and conservators comply with all applicable statutes, fiduciary duties, standards of practice, rules, and regulations. GR 23(c)(3) sets out the duties and responsibilities of the Board in receiving, reviewing, and taking disciplinary action related to grievances against CPGCs:

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

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

The Board's Standards of Practice Regulation 400, is drawn from the National Guardianship Association's Standards of Practice and incorporates language from RCW 11.130.

Initial Grievance Receipt and Review Process

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

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

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

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

An investigation typically includes a review of materials submitted by both the grievant and the CPGC. It may also include other relevant documents, and interviews with individuals who may have knowledge of the issues alleged in the grievance, including the person subject to guardianship.

Types of Grievance and Investigation Resolutions

Dismissal

A grievance may be dismissed if it does not meet jurisdictional requirements or following a review of the court order or disposition. A grievance may also be dismissed following an investigation if it is determined that the guardian's and/or conservator's conduct did not violate the Board's Standards of Practice or other applicable laws, rules, regulations, standards, or duties related to the conduct of a professional guardian and conservator.

Resolution Without Complaint

Grievances not dismissed, which support disciplinary action, can be resolved without the filing of a complaint (formal document filed by the Board with the AOC), through the following non-exhaustive methods:

Advisory Letter

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

Agreement Regarding Discipline

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

Voluntary Surrender, In Lieu Of Further Disciplinary Proceedings

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

Resolution With Complaint

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

Types of Disciplinary Sanctions

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

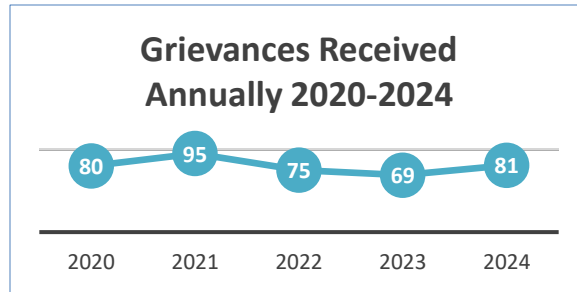
- Letter of Reprimand
- Probation
- Restitution
- Prohibition on Taking New Cases
- Other Disciplinary Sanctions:

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

- Suspension of Certification / Interim Suspension of Certification / Decertification:

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

GRIEVANCES RECEIVED IN 2024



The Board received 81 new grievances in 2024, with 44 being resolved by the end of the year. Of those resolutions, 10 were dismissed as incomplete or because they provided insufficient information, and 13 were dismissed for no jurisdiction. Seventeen grievances were dismissed following the Board's review of the court's decision. The Board conducted 4 investigations, all of which were dismissed for no actionable conduct. Of the 81 grievances opened in 2024, 27 remain open pending resolution.

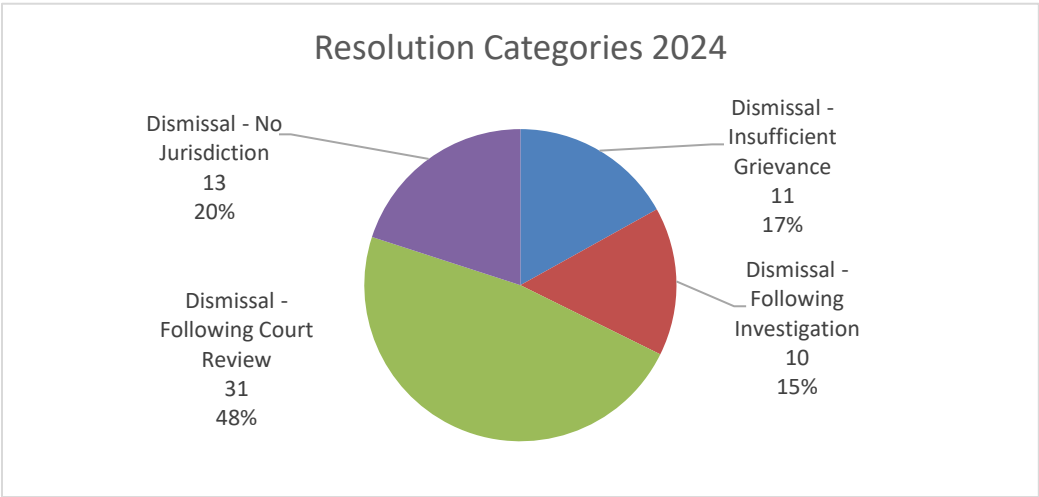
All Grievances Resolved in 2024

A total of 65 grievances were resolved by the Board in 2024, which includes outstanding grievances received between 2020 through 2024.

Ten grievances were dismissed for no actionable conduct following investigation. Thirteen grievances were dismissed for no jurisdiction, and 11 were dismissed as incomplete or because there was insufficient information provided to open a grievance. Thirty-one grievances were dismissed following a court decision.

Resolution Categories by Total	2023	2024	Totals
Dismissal - Insufficient Grievance	1	10	11
Dismissal - Following Investigation	6	4	10
Dismissal - Following Court Review	14	17	31
Dismissal - No Jurisdiction	0	13	13
Total Grievances Resolved in 2024	21	44	65

	2021	2022	2023	2024	Total
Open Grievances at Year-End 2024	1	1	2	22	26

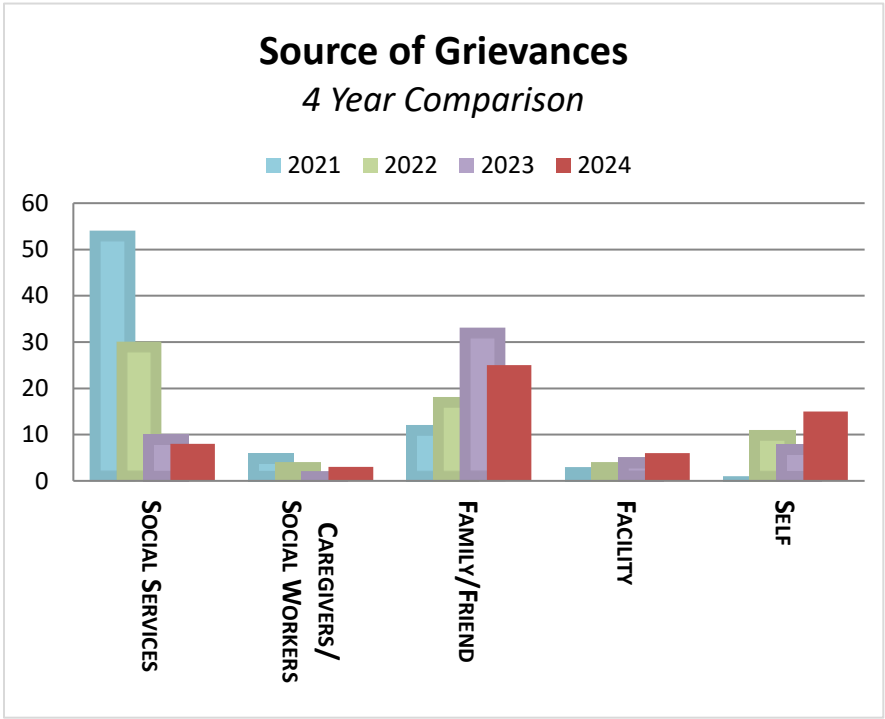


Sources of Grievances

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

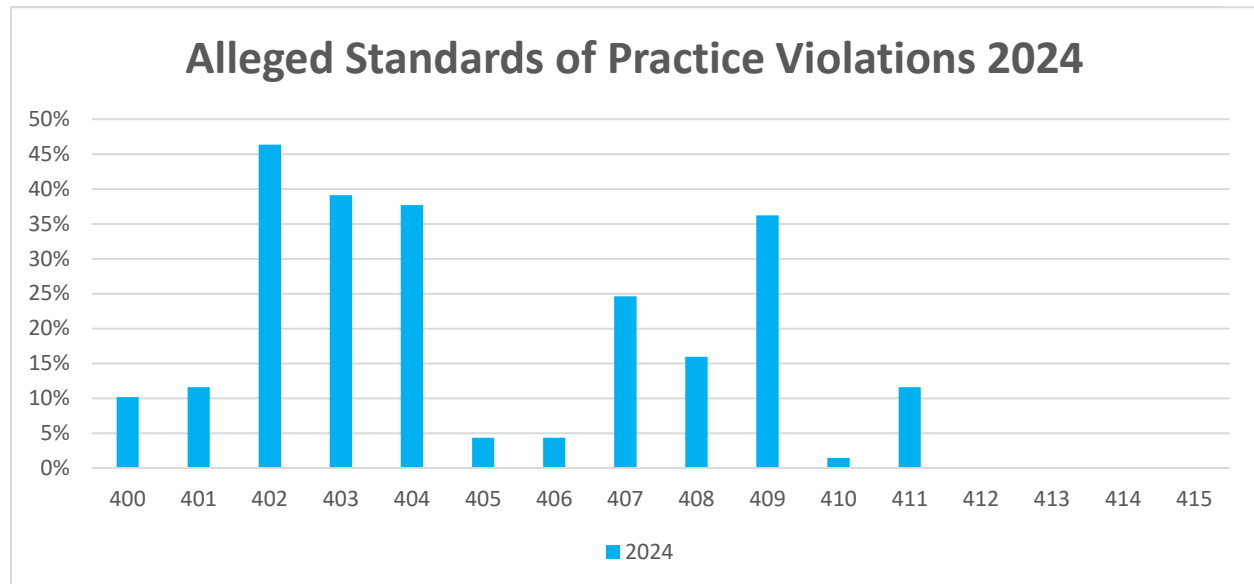
In 2024, 44% of grievances received were from family members and friends of individuals subject to guardianship.

The individuals subject to guardianship/conservatorship were the second most common group to submit grievances at 26%. Residential facilities and care providers accounted for 11% of the grievances received in 2024.



Grievances by Standards of Practice

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



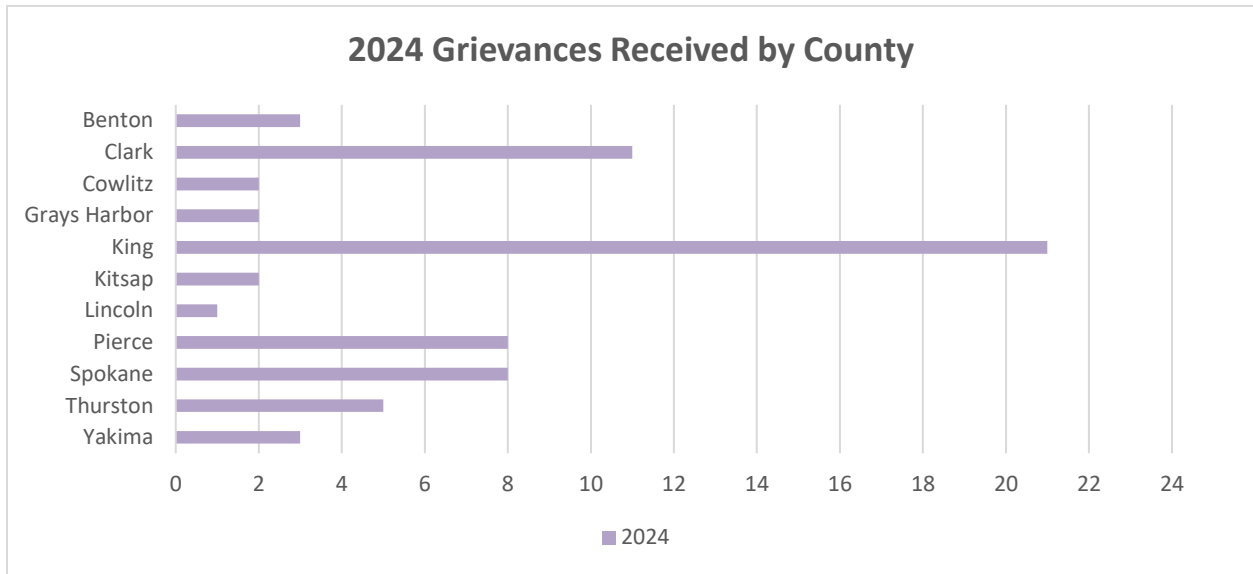
Concerns involving the CPGC's relationship to family and friends of the individual and to other professionals (SOP 402) remains the most frequently reported violation.

Standards of Practice Regulation 400

The Standards of Practice Regulations are as follows:

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

Grievances Received by County



During 2024, the Board received 81 grievances from 11 of Washington State's 39 counties. The largest number of grievances was received from King County (21), followed by Clark County (11), Pierce and Spokane Counties (8).

Grievance Report

March 2025

Certified Professional Guardian and Conservator
Grievance Status
March 2025

Activity during March 2025	
New Grievances Received in March 2025:	5
Grievances Dismissed by Board:	6
Grievances Forwarded to Superior Court:	1

Grievance Resolutions (UGA)	2022	2023	2024	2025
Total Grievances Received	75	69	81	15
Dismissed:	30	22	23	4
No Jurisdiction	13	8	13	3
Insufficient Grievance	17	14	10	1
Forwarded to Superior Court	45	47	57	7
Dismissed Following Court Review	39	38	26	0
Dismissed Following Investigation	5	7	4	0
Open Pending Investigation, CRC Review or Other Disciplinary Process	1	2	5	2

Please note that the numbers reported in this section will not necessarily be equal to the total number of grievances received; this is due to the timing of when new grievances are received and in process of review by the Board.

Active CPGCs: 254

Grievances Pre-UGA

Pre-UGA Grievance Status	2021
Total Grievances Pending Investigation Resolution:	1

Guardians and Conservators, or Agencies with Multiple Open Grievances

ID	Year Certified	2021	2023	2024	2025	Total OPEN
A	2002	1	0	1	0	2
B	2009	0	0	1	2	3
C	2011	0	0	2	0	2
D	2012	0	2	2	0	4
E	2014	0	0	0	2	2
F	2016	0	0	2	0	2
G	2017	0	0	6	0	6
H	2020	0	0	1	1	2
I	2022	0	0	2	0	2
						25

At the time of this report, 25 of the 39 unresolved grievances involve 9 Certified Professional Guardians/Conservators or Agencies with two or more grievances.

Regulations Committee

Regulation 509.5

Final Recommended Changes

509.5 INTERIM SUSPENSION FOR CONVICTION OF A CRIME

1. Definitions.

A. "Conviction" means:

~~i. for the purposes of this rule occurs upon~~ An entry of a plea of guilty, or a verdict of guilty for a crime, unless the ~~defendant person~~ affirmatively shows that the ~~guilty~~ plea or verdict was not accepted or ~~was~~ withdrawn~~;~~_; or

~~ii. upon~~ An entry of a finding or verdict of guilty for a crime, unless the ~~defendant person~~ affirmatively shows that the judgment was ~~arrested~~ vacated or a new trial was granted.

Conviction does not include findings or verdicts that were disclosed by the person at the time of application for professional guardian or conservator certification. Convictions previously disclosed at the time of application are not addressed by this regulation and are governed by Washington State Court General Rule 23 and the Board's Series 100 Application Regulations.

B. "~~Serious Crime~~" includes any means, regardless of whether under a law of Washington, any other state, or the United States:

~~i. Felony~~ Any felony criminal offense;

~~ii. Crime~~, A criminal offense, a necessary element of which, as determined by its statutory or common law definition, includes ~~any of the following~~ dishonesty, neglect, abuse, violence, or use of physical force;

~~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"~~ Any criminal offense listed under RCW 43.43.830
Background checks – Access to children or vulnerable persons -
Definitions;

- iv. Any criminal offense listed under RCW 43.43.842 Vulnerable adults – Additional licensing requirements for agencies, facilities, and individuals providing services; or
- v. Any criminal offense relevant to the functions assumed as guardian or conservator.

2. ~~Procedure upon Conviction.~~

~~If a CPGC is convicted of a felony or other serious crime involving dishonesty, neglect, abuse, or use of physical force, or otherwise relevant to the functions of a guardian or conservator, or, is convicted of a misdemeanor or gross misdemeanor involving dishonesty, neglect, abuse, or use of physical force, or otherwise relevant to the functions of a guardian or conservator, 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 and conservator upon the conviction of such crimes, 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 Standards of Practice Committee Chair for an order suspending the respondent CPGC 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 and conservator by certified mail, directed to the guardian and conservator's last known address maintained by the AOC. The notice shall advise the professional guardian and conservator of the decertification and the reason(s) for the decertification. The notice shall further advise that if the professional guardian and conservator should not have been decertified by the Board, the professional guardian and conservator may file a petition requesting an administrative hearing. The petition shall set forth in detail the facts supporting the professional guardian and conservator's claim that an administrative error has occurred and that the professional guardian and conservator has not been convicted of a felony, or a misdemeanor or gross misdemeanor involving dishonesty, neglect, abuse, or use of physical force, or otherwise relevant to the functions of a guardian or conservator. The petition must be signed by the professional guardian and conservator under penalty of perjury. The professional guardian and conservator 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 and conservator, 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 dishonesty, neglect, abuse, or use of physical force, or otherwise relevant to the functions of a guardian or conservator. 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 and conservator.~~

~~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 and conservator shall be eligible for recertification, if the professional guardian and conservator 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 and conservator. Any such order shall be final.~~

~~A. If a CPGC is convicted of a crime that is not a felony, a serious crime, or a misdemeanor or gross misdemeanor involving dishonesty, neglect, abuse, or use of physical force, or otherwise relevant to the functions of a guardian or conservator, the Standards of Practice Committee considers a report of the conviction in the same manner as any other report of possible misconduct by a CPGC~~

~~3. Petition. A petition to the Standards of Practice 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.~~

~~24. Immediate Interim Suspensionsuspension procedure. If the crime of conviction is a felony or other serious crime or a misdemeanor or gross misdemeanor involving dishonesty, neglect, abuse, or use of physical force, or otherwise relevant to the functions of a guardian or conservator, the Standards of Practice Committee must enter an order immediately suspending the respondent's CPGC certification.~~

~~A. If suspended, the respondent must comply with DR 509.4.4. Upon conviction of a certified professional guardian or conservator (CPGC) of a crime, the Administrative Office of the Courts (AOC) must file a certified copy of the judgment and sentence with the Board.~~

~~A.B. Suspension under this rule occurs: The Standards of Practice Committee (SOPC) shall review the certified copy of the judgment and issue an order suspending the CPGC (respondent) during the pendency of disciplinary proceedings under these rules.~~

~~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.~~

C. The SOPC will direct service of a copy of the order on the respondent.

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D. When suspended, the CPGC must comply with DR 509.4.4 – Duties of CPGC upon suspension.

~~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 Standard of Practice Committee's decision.~~

~~63. Termination of interim Suspensionssuspension.~~

~~A. Petition and Response. A respondent may at any time petition the Standards of Practice Committee to recommend termination of an interim suspension. AOC, through disciplinary counsel, may file a response to the petition. An interim suspension will terminate when the disciplinary proceeding under these rules, including any review or appeal of a disciplinary sanction, is complete.~~

~~B. Standards of Practice Committee Recommendation. If either party requests, the Standards of Practice Committee must hear oral arguments on the petition at a time and place and under terms as the Standards of Practice Committee Chair directs. The Standards of Practice 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 Standards of Practice Committee's decision regarding interim suspension. At any time, the suspended CPGC may petition the Board to terminate the interim suspension.~~

i. The SOPC, through disciplinary counsel, may file a response. Any response must be filed within 5 business days. The response shall be served on the respondent CPGC.

ii. If either the suspended CPGC or the SOPC requests, a Hearing Officer appointed for the matter must hear oral arguments on the petition at a time and place and under terms as the Hearing Officer directs.

iii. The Hearing Officer shall make written findings and may recommend to the Board that the interim suspension be terminated only upon an affirmative finding of good cause to do so. Any recommendation of the Hearing Officer shall be considered by the Board at its next scheduled meeting.

iv. There is no appeal right from a decision on this petition.