

Office of Public Guardian 2024 Annual Report



A Clear Vision for the Future: Empowering People Subject to Guardianship



STATE OF
NEBRASKA
JUDICIAL BRANCH

Office of Public
Guardian

A Letter from Our New Director

This year's Annual Report is one of **accomplishment**, **gratitude**, and a **vision** forward.

The Office of Public Guardian (OPG) is a guardian of last resort.¹ Unfortunately, the need for guardians is often greater than those available to serve. This becomes more apparent when the OPG is nominated but lacks caseload capacity, resulting in a referral to the OPG's waiting list. Despite fluctuations in vacancies and staff positions this year, the OPG was able to **accomplish** the acceptance of **66 individuals** from the waiting list.

The OPG is also celebrating its **accomplishment** in the success of the restoration of rights (e.g., termination of guardianship) of **5 individuals** served during the reporting period. The OPG is statutorily and ethically required to terminate and move to restore the rights of individuals served when they have regained capacity.² Two individuals' stories are included in this report and are testament to the hard work of those served as well as the support of Associate Public Guardians (APGs) and OPG staff. *See pages 12 and 13 for their stories.* Our team looks forward to many more stories like these. Even if there doesn't appear to be an opportunity to end the guardianship, we are committed to finding ways to have a **vision** (independence without a guardian) with and for the people we serve for more meaning in their life. These examples highlight the Public Guardianship Act's intent to ensure the least restrictive option is used and guardianship is terminated when it is no longer necessary.

In June 2024, the OPG's first Director, Michelle Chaffee, retired after laying the foundation for public guardianship and conservatorship in Nebraska. Her dedication and persistent advocacy ensured standards, policies, and procedures were modeled after best practices as statutorily required.³ The OPG is forever indebted with **gratitude** to Michelle for her ability to grow and support its work.

All OPG staff demonstrate immense dedication and **vision** forward in their work and to the people the OPG serves. Prior to Michelle's retirement, the OPG team began examining its organizational values for the people we serve, our team, stakeholders, and ourselves. This process empowers all team members to participate in the OPG's shared **vision** and to create individual, team, and organizational goals in alignment with our values. The team has united to maximize support for one another by taking care of those we serve, providing coverage and case management assistance to colleagues whenever needed. Ensuring a person's needs are met is one thing, but offering a person-centered, intentional, and meaningful life becomes more of the reality when team members have the **vision** to walk along with the people we serve.

The intentional use of language is important when referring to the people we serve. The potential to objectify and remove personhood from the person subject to guardianship is an inherent risk in guardianship, thus it is important to ensure that the language used, and the services provided always put the person first. The Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGCOPAA) uses neutral terms such as 'person subject to guardianship' once a court order appointing a guardian has been issued.⁴ Nebraska has not yet adopted this Act, but the provision to remove demeaning and offensive terms in favor of neutral ones can easily be implemented in practice even if not formalized in law. **The OPG's annual reports and other publications will no longer use the word, "ward," to describe people who are subject to guardianship and/or conservatorship.**

I am grateful to be a part of the OPG team's common vision to accomplish so much more in the coming years!



Marla Fischer, JD
PUBLIC GUARDIAN

ACKNOWLEDGMENTS:

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Design by Traci Webber.

Our Team



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Public Guardian



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Deputy Public Guardian



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Financial Operations
Manager



Erin Wiesen
Education and Outreach
Coordinator



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Administrative
Assistant



Jacey Gale
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Assistant - Intake



Sarah Herrera
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Assistant - Case Aide



Shelly Ging
Administrative Assistant
- Case Aide



Stacy
Associate Public
Guardian



Jana*
Associate Public
Guardian



Glenda
Associate Public
Guardian



Marissa
Associate Public
Guardian



Martin
Associate Public
Guardian



Lisa*
Associate Public
Guardian



Missy
Associate Public
Guardian



Joe
Associate Public
Guardian



Jena
Associate Public
Guardian



Angie
Associate Public
Guardian



Ali
Associate Public
Guardian



Allen
Associate Public
Guardian



Emily
Associate Public
Guardian



Tracey
Associate Public
Guardian



Nancy
Associate Public
Guardian



Michelle
Associate Public
Guardian



Susan
Associate Public
Guardian



Martha
Associate Public
Guardian



Selene
Associate Public
Guardian



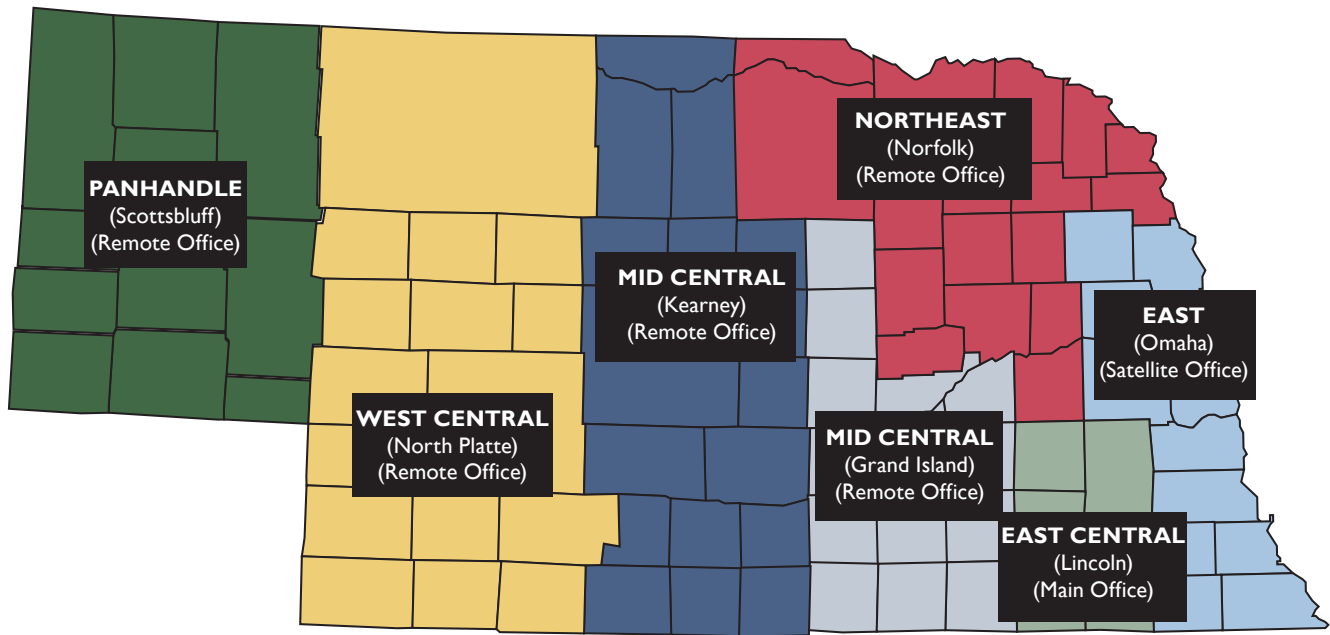
Brian
Associate Public
Guardian

The Office of Public Guardian (OPG) is committed to providing high quality guardianship and conservatorship services to all individuals.⁵ The OPG models the highest standards of practice for guardians and conservators to improve the performance of all guardians and conservators in the state. The OPG's staff have backgrounds in law, healthcare, social work, education, business, accounting, administration, geriatrics, psychology, and other relevant specialties.⁶

OPG staff receive extensive initial and ongoing training, are members of the National Guardianship Association (NGA), and are eligible to seek national certification after two years of employment. Staff who attend the NGA's annual conference provide information to the entire team during monthly All-Staff meetings, enriching the working knowledge of all employees.⁷

*Four OPG staff members are National Certified Guardians (NCG) through the Center for Guardianship Certification.

Where We Are



The Office of Public Guardian’s main office is located in Lincoln, with a satellite office in Omaha. The remaining service areas are supported by staff who work from remote offices. Associate Public Guardians have assigned service areas that cover all of Nebraska’s 93 counties.

PANHANDLE	
Banner	Box Butte
Cheyenne	Dawes
Deuel	Garden
Kimball	Morrill
Scotts Bluff	Sheridan
Sioux	

(1 Associate Public Guardian)

MID CENTRAL	
Blaine	Brown
Buffalo	Custer
Dawson	Franklin
Furnas	Garfield
Gosper	Harlan
Kearney	Keya Paha
Loup	Phelps
Rock	Sherman
Valley	

(1 Associate Public Guardian)

NORTHEAST	
Antelope	Boone
Boyd	Butler
Cedar	Colfax
Dixon	Holt
Knox	Madison
Pierce	Platte
Stanton	Thurston
Wayne	

(1 Associate Public Guardian)

EAST	
Burt	Cass
Cuming	Dakota
Dodge	Douglas
Johnson	Nemaha
Otoe	Pawnee
Richardson	Sarpy
Saunders	Washington

(9 Associate Public Guardians)

WEST CENTRAL	
Arthur	Chase
Cherry	Dundy
Frontier	Grant
Hayes	Hitchcock
Hooker	Keith
Lincoln	Logan
McPherson	Perkins
Red Willow	Thomas

(1 Associate Public Guardian)

MID CENTRAL	
Adams	Clay
Fillmore	Greeley
Hall	Hamilton
Howard	Merrick
Nance	Nuckolls
Polk	Taylor
Webster	Wheeler
York	

(2 Associate Public Guardians)

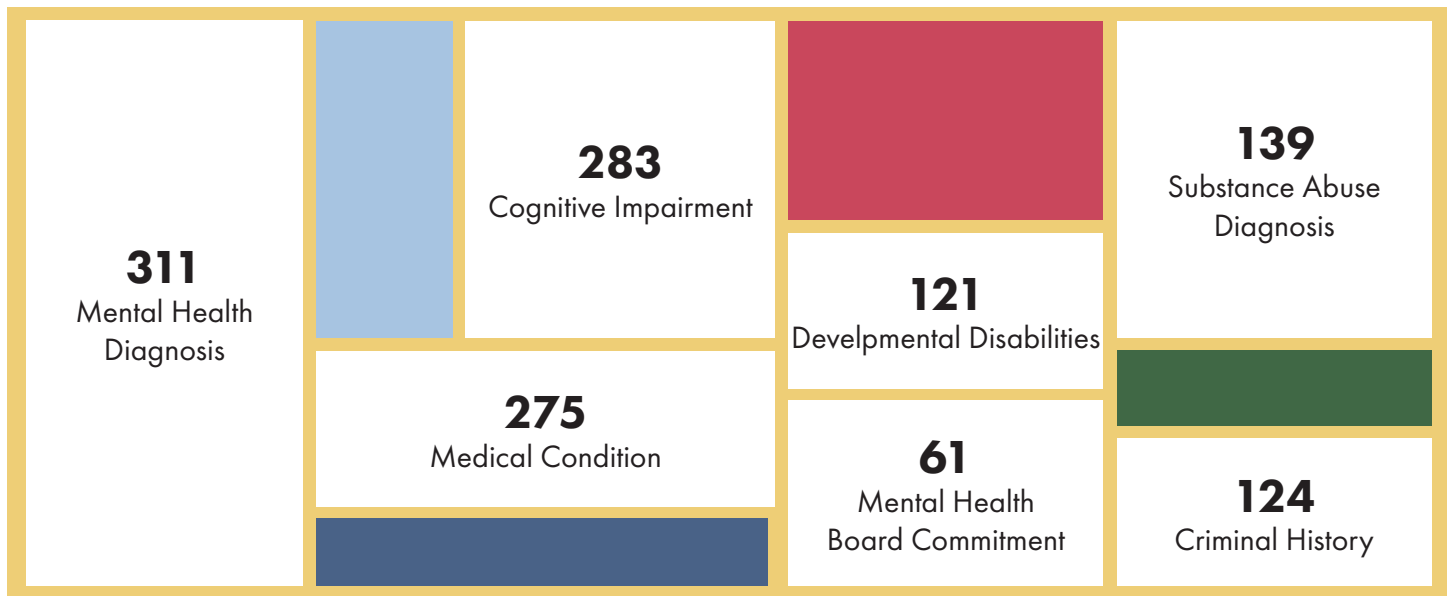
EAST CENTRAL	
Gage	Jefferson
Lancaster	Saline
Seward	

(5 Associate Public Guardians)

What We Do

The Office of Public Guardian serves as the guardian and/or conservator of last resort for individuals whose needs cannot be met by another individual, nor by less restrictive alternatives to guardianship. The OPG has a statutory obligation to model the highest standard of practice in guardianship,⁸ and strives to demonstrate how caring, effective, and responsible guardianships should be administered in Nebraska. Each Associate Public Guardian serves as the guardian and/or conservator for 20 individuals, providing ongoing case management that includes monthly in-person visits, regular communication with direct service providers, prudent financial case management, and response to emergency needs including consents for medical treatment or discharge to appropriate placement.

Meeting the specific, distinct needs of 20 individuals requires a great deal of time, attention to detail, and faithful dedication. The OPG's staff embody those qualities, with Associate Public Guardians spending an average of 2.5 hours per individual served per week and financial and administrative support staff averaging 1.5 hours per individual served per week. Members of the multidisciplinary team provide support to Associate Public Guardians in areas of resource development, financial case management, and clerical support.⁹



Who We Serve

During this reporting period, the Office of Public Guardian served **369** individuals experiencing **1,314** complex medical issues and/or social conditions. Overall, the number of people served increased, and the number of complex issues experienced by those individuals also increased. Mental health diagnoses impacted **84%** of people served by the OPG. Many individuals served continue to experience the “revolving door” of hospitalization, discharge, and homelessness.

The lack of appropriate community based mental health services, specifically residential services, is the number one cause of hospital discharge delays in the United States.¹⁰ The OPG continues to assert that there are not enough residential services at any level of care, but the area of highest need appears to be post-hospitalization transition and long-term supported residential services for those needing mental health supports. Americans in rural areas are less likely to say that mental health services are accessible, with some traveling more than 1 hour roundtrip to access care.¹¹ Most of Nebraska's residential services, for example, are located in the eastern part of the state, thus necessitating some to move hundreds of miles to get the support they need. The lack of individualized, goal-driven treatment in community-based settings coupled with the lack of ongoing, intensive case management across the entire continuum of care means that people are not getting the care that they need, thus reducing their chances of stability and recovery.

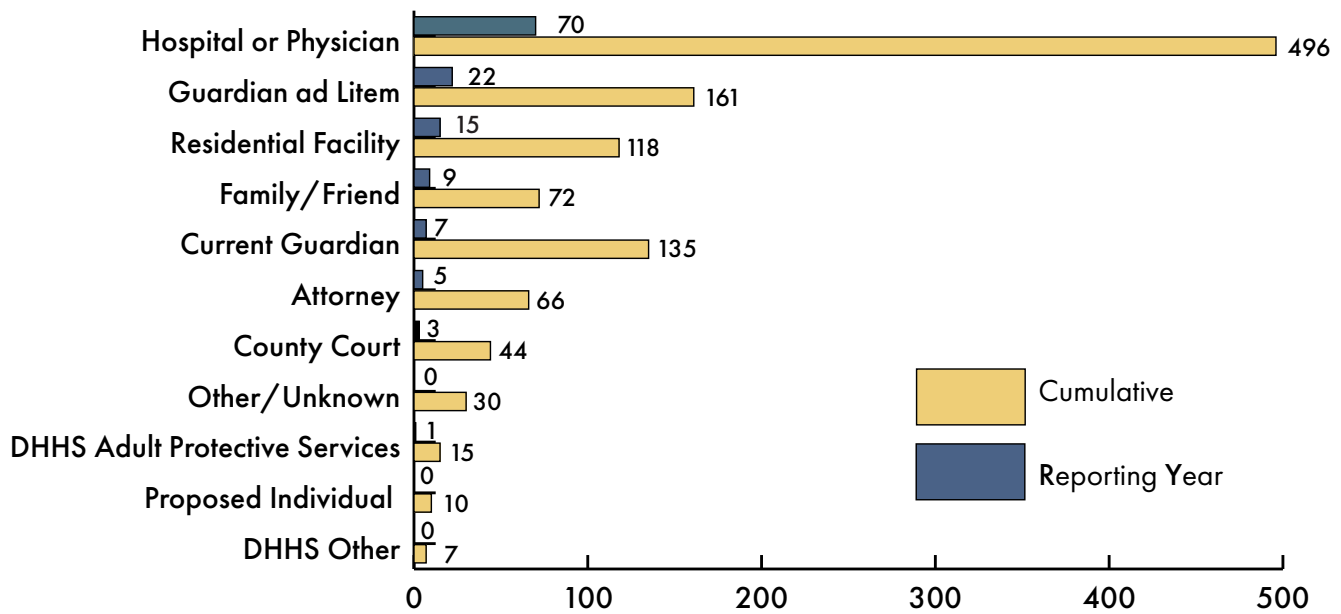
Nominations

132

nominations this reporting year

1,154 nominations since 2015

Referral Sources



The Office of Public Guardian was nominated **132** times this reporting year, with **53%** of those nominations coming from hospitals or physicians. Unfortunately, well-intentioned physicians and hospitals are likely unaware of the long-term impact guardianship may have on a person's life to achieve the short-term hospital goal of facilitating the person's discharge.¹² Guardianship is not the panacea for every ill, in that it cannot always solve the person's issues like a lack of resources or limited available options for discharge.¹³

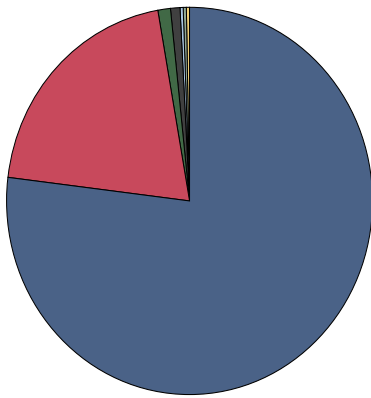
Guardianship and conservatorship impose complete control over an individual's medical care, financial affairs, and property management.¹⁴ Full guardianship should be pursued only as a last resort, with a clear showing that less restrictive options have failed or are unsuitable to meet the person's needs.¹⁵ Guardianships and conservatorships should be limited to meet the person's needs in the least restrictive manner possible.¹⁶ Advance planning can avoid the need for most guardianships but requires individuals to make plans while they have capacity.¹⁷

Case Distribution

The Office of Public Guardian served **369** individuals during this reporting period. The OPG has a statutory mandate to safeguard the rights of individuals by exploring all options for less restrictive alternatives and to model the highest standards of practice.¹⁸ In recognition of the deprivation of rights resulting from full guardianships, Nebraska statutes require that less restrictive alternatives be explored.¹⁹ Limited guardianships and/or conservatorships have been ordered in just **8** of the OPG's 369 cases. For the second year in a row, **none** of this year's nominations sought a limited guardianship and/or conservatorship as a less restrictive option.

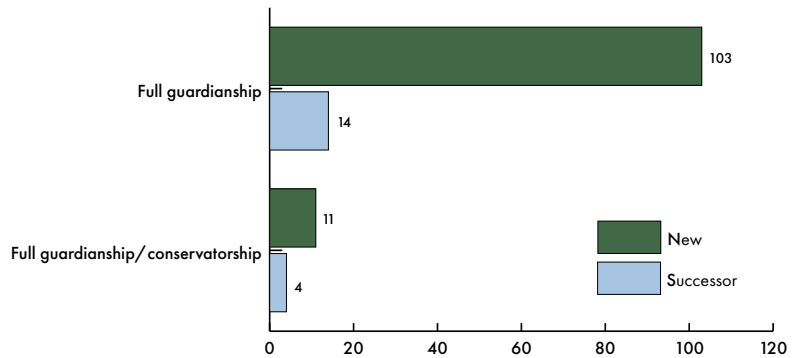
The National Guardianship Association's Standards of Practice require guardians to seek termination or restoration of rights when less restrictive alternatives exist.²⁰ Accordingly, Associate Public Guardians review cases on a continuous basis, and pursue less restrictive alternatives where indicated. See page 11's *Restoration of Rights* section for information on OPG cases that moved away from full guardianship this reporting year.

Case Types

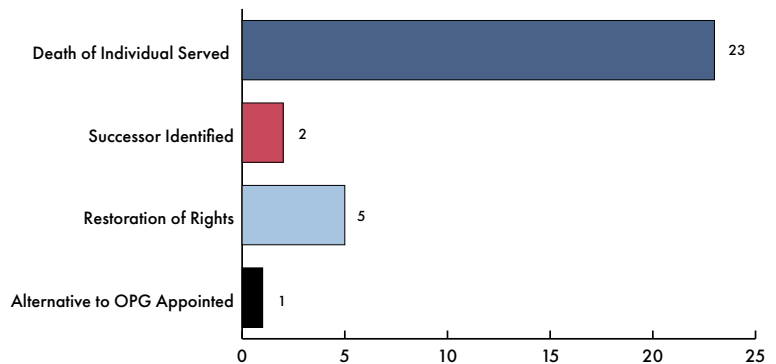


- Temporary guardianship/conservatorship (1)
- Limited guardianship/full conservatorship (1)
- Full conservatorship (1)
- Limited guardianship/conservatorship (3)
- Limited guardianship (4)
- Full guardianship/conservatorship (74)
- Full Guardianship (284)

Nominations - New or Successor



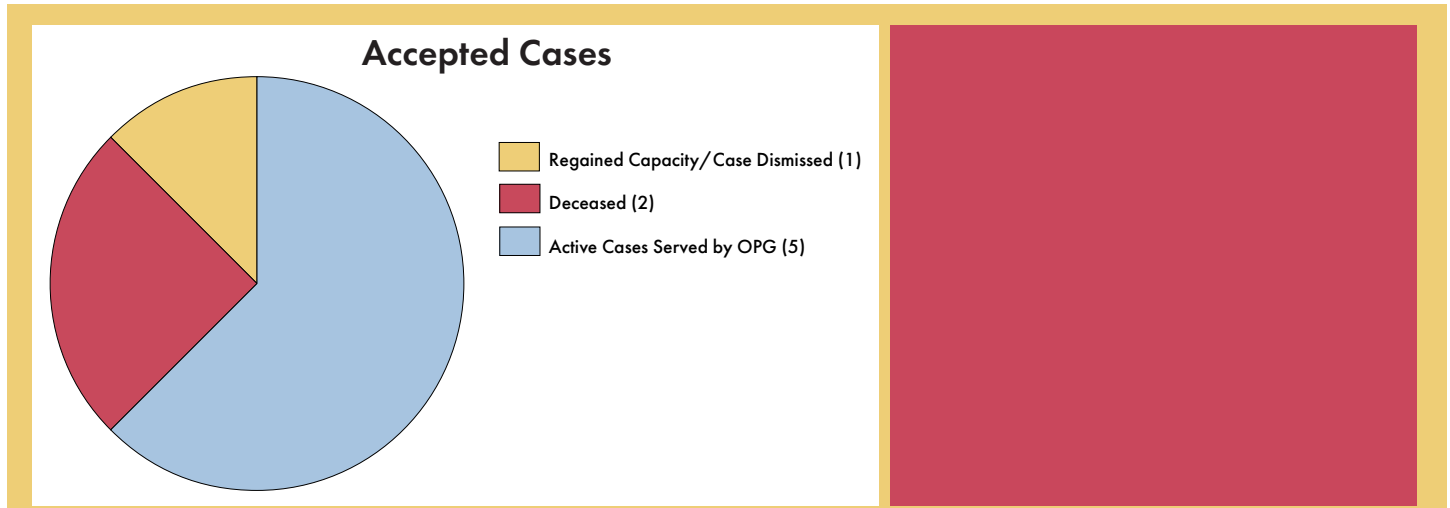
Terminations



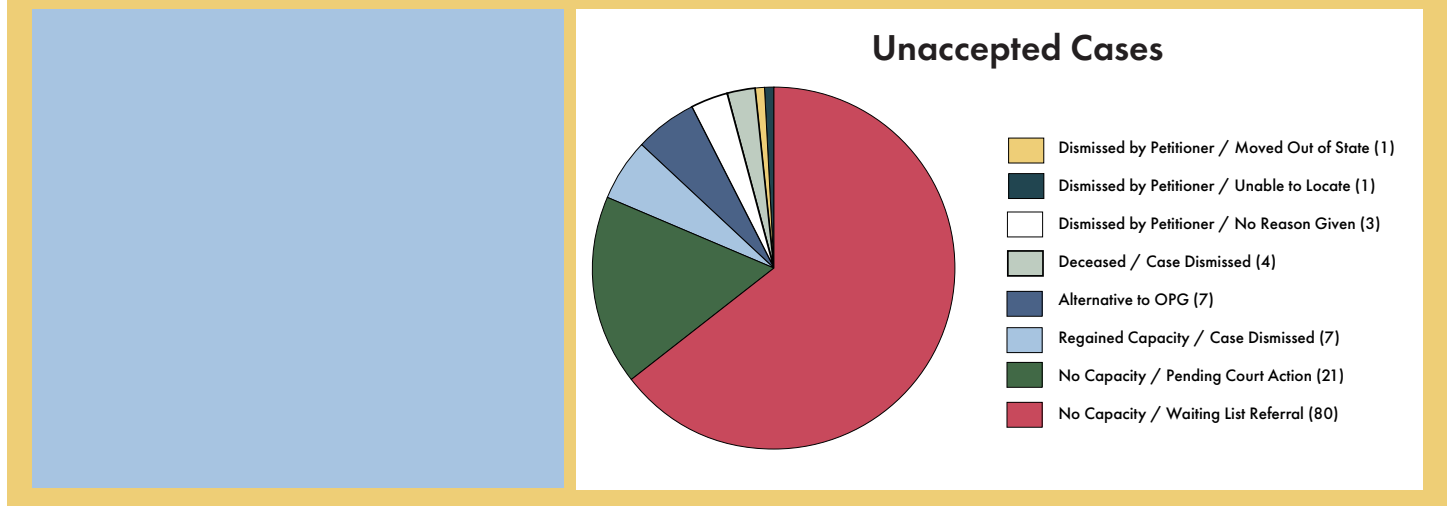
Case Disposition

As identified in the Nominations section on page 6, the Office of Public Guardian was nominated **132** times during this reporting year. The Office of Public Guardian accepted **8** cases from the initial nomination process. *See page 9 for waiting list information including the number of cases accepted from the waiting list.*

The disposition of accepted cases by the end of this reporting year are as follows:



Of the **132** total nominations, the OPG did not accept **124** cases for the following reasons:

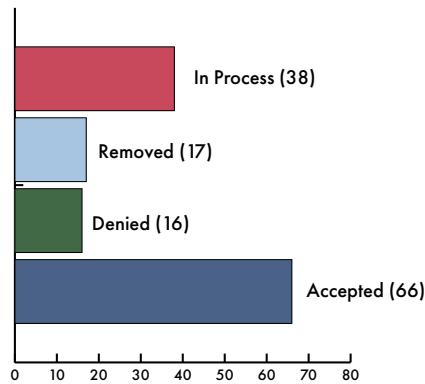


A nomination does not automatically demonstrate that guardianship is appropriate or necessary for the individual, or that the services of the OPG are necessary and/or of last resort. While the number of cases accepted from the time of nomination decreased this reporting year, the OPG was able to accept more cases from the waiting list (66, compared with 43 last year).

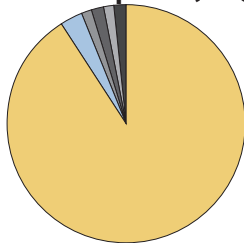
Case terminations continue to occur at lower rates than the number of nominations coming in, leading to the OPG's inability to take more cases due to full caseloads. Staff vacancies and leaves of absence also contribute to capacity issues, requiring Associate Public Guardians to provide temporary case coverage to ensure continuity of high-quality service and care. The Office of Public Guardian remains committed to providing high quality guardianship and conservatorship services to all individuals.²¹

Waiting List

Waitlist Referrals (92)

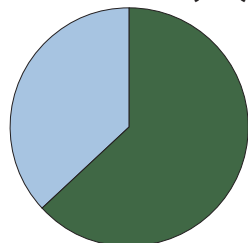


Accepted (66)



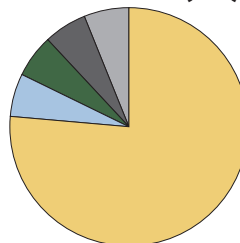
- No Incapacity (1)
- Proposed Individual Out of State (1)
- OPG Temporary Only; Alternative to OPG Permanently Appointed (1)
- Proposed Individual Died (1)
- Pending Court Action (2)
- OPG Currently Serving (60)

In Process (38)



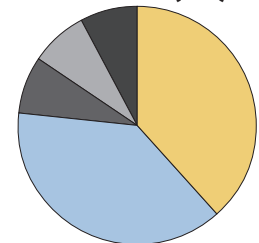
- In Referral Process / Waiting on CV/GAL Report (14)
- On Waiting List (24)

Removed (17)



- Regained Capacity (1)
- Proposed Individual Out of Country (1)
- Proposed Individual Died (1)
- Alternative to OPG Appointed (1)
- 90 Day Limit Reached (13)

Denied (16)



- Alternative to OPG Appointed (1)
- Dismissed by Court/No Jurisdiction (1)
- Dismissed by Petitioner / No Reason Given (1)
- Proposed Individual Died (3)
- No Incapacity (5)
- OPG Not Last Resort (5)

The Office of Public Guardian may accept appointments not to exceed an average ratio of 20 cases per multidisciplinary team member.²² When the average ratio is reached, the OPG shall not accept further appointments.²³ During this year's reporting period, the OPG continued to operate at capacity in many service areas, receiving **92** referrals to the waiting list (**81** new referrals and **11** re-referrals) during this reporting period. The category totals showing the disposition of waiting list referrals above is inclusive of the waiting list itself and is not based solely on the number of referrals received during the reporting year.

The OPG was able to take **66** cases off of the waiting list during this reporting year, another substantial increase in accepted cases. When the OPG receives a Waiting list referral, it is approved or denied based on the Court Visitor/Guardian ad Litem (CV/GAL) report and other factors. If approved, the case remains on the list for up to 90 days. If an opening becomes available during that timeframe, cases are selected based on a level of need determination. If the case is not chosen within the 90 days, the OPG removes the case from the list.

For cases that are re-referred to the waiting list, the OPG continues to have difficulty obtaining updated, accurate GAL reports. Reports that contain a minimal amount of substantive information regarding the individual's current functional abilities as well as details regarding their personal, financial, and living situation, are difficult to extract the necessity of OPG services and the need for guardianship as a whole. Instead, GAL reports that do contain those elements are much easier to ascertain the person's needs and the immediacy of the same. Updated GAL reports directly inform the OPG's ability to assess individuals with the most need.

Court Visitor / Guardian ad Litem

Court rules require the appointment of a Court Visitor or Guardian ad Litem (CV/ GAL) to each OPG nominated case.²⁴ The purpose of a CV/GAL appointment is to investigate the claims of the petition and to present a report to the court, demonstrating whether the person requires guardianship, if less restrictive alternatives are/are not appropriate, and if anyone other than the OPG is available to serve.

The OPG provides outreach with CV/GAL education materials for OPG nominations and waiting list referrals. These efforts include providing the CV/GAL with training materials for OPG-specific court forms, blank copies of all forms, and examples of best practices.

Individuals wait longer for OPG's services when CV/GAL reports are missing crucial information necessary for OPG appointments, as noted in the Waiting list section on page 9. Detailed and thorough CV/GAL reports assist with determining who has the greatest need when an opening occurs and are crucial to the waiting list process. Thorough CV/GAL reports are also crucial "starting blocks" for Associate Public Guardians who have no prior knowledge of the individual, their situation, or their immediate needs. Becoming an individual's guardian is a labor-intensive process and requires thorough due diligence. Comprehensive CV/GAL reports are one of the main sources of initial information upon acceptance of a new case.

70

Outreach emails sent to CV/GALs

10

Alternatives to
Guardianship/OPG
Identified through CV/
GAL Process

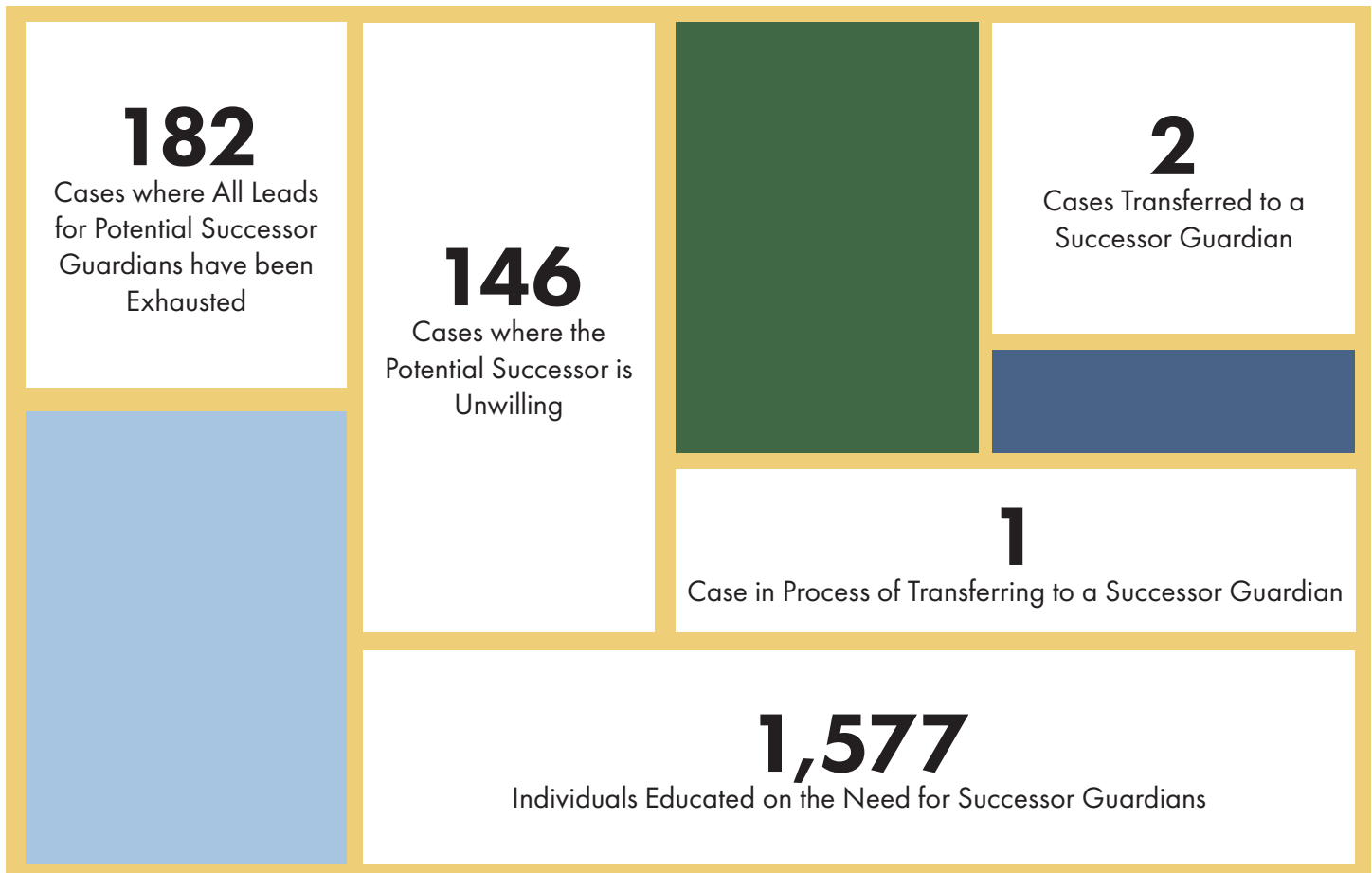
58

CV/GALs trained from 2015 to Present



Successor Guardian Efforts

The Office of Public Guardian makes reasonable efforts to locate a successor guardian for all individuals served.²⁵ Guardianship requires a high level of responsibility for complex decision-making including medical decisions, legal decisions, and financial case management. Thanks to the diligent efforts of OPG staff, including an attorney outreach project, the Office of Public Guardian was able to transfer **2** cases to successor guardians this reporting year, and **1** additional case was closed due to the availability of a family member outside of the OPG's typical successor process. The OPG was also reappointed to **1** case this reporting year that had previously been appointed to a private successor guardian.



Restoration of Rights

Adult guardianships are often permanent, lifelong appointments.²⁶ There is a clearly outlined procedure for the appointment of a guardian, but the process of limiting a guardian's authority or restoring the individual's rights is not widely understood or utilized. Guardians must always evaluate less restrictive options that may become available throughout the life of a case and make decisions based on the individual's needs. The National Guardianship Association's Standards of Practice are clear: The guardian shall petition the court to restore the person's rights or limit the guardian's authority if [an] assessment so indicates.²⁷

The Office of Public Guardian provides regular public outreach and training to agencies, providers, families, advocates, and other stakeholders. This includes explaining the importance of limited guardianships and restoration of rights, as no one's rights should be restricted without current and ongoing need for such intervention. **The Office of Public Guardian was discharged from 5 cases this year where a full restoration of rights was appropriate.** See pages 12 and 13 for more information on how less restrictive alternatives to guardianship can meet people's needs.

Less Restrictive Alternatives: Supported Decision-Making Dale

The Office of Public Guardian was appointed to serve as guardian for Dale in 2017, though he had been subject to guardianship since 2015. At the time, Dale was unable to make informed decisions regarding his medical care and needed assistance with activities of daily living. Upon OPG's appointment, Dale was living in an assisted living facility for people with mental health issues.

Dale attempted several times to end the guardianship by asserting to the court that he had regained capacity. None of these attempts were successful, as he was deemed unable to handle his affairs independently each time. Dale lacked the supports and accommodations that would enable the court to consider a less restrictive alternative to full guardianship. Dale moved to a different assisted living facility and remained stable for several years, building trusting relationships with staff and continuing to work towards his goal of terminating the guardianship.

In early 2024, Dale asked his psychiatrist to write a letter indicating he no longer needed a guardian. The psychiatrist evaluated Dale and determined that his stability over the years proved he could oversee his own life. Dale presented the letter to the court, a hearing was set, and a Guardian ad Litem (GAL) was appointed to investigate. **Ultimately, the court determined Dale no longer needed a guardian and terminated the guardianship.**

After the court terminated Dale's guardianship, his now-former Associate Public Guardian printed multiple documents and met with him to review everything. The documents included items held for safekeeping such as Dale's birth certificate and Social Security card, as well as information pertaining to his benefits like Social Security, Medicare, and Medicaid. She also provided Dale with the usernames and passwords for online accounts that were utilized to oversee his care during the guardianship, information regarding his monthly budget, and contact information for his medical providers. She made notes explaining the documents to him so that he could review the information again after the meeting.

Dale has often been reluctant to ask for help, sometimes pretending he knows or understands things he does not fully comprehend. However, he does reach out to trusted support professionals to clarify information and ask questions when needed. Since the termination of the guardianship, he has contacted his former Associate Public Guardian a few times and he regularly obtains assistance from assisted living facility staff.

By obtaining support from trusted individuals, Dale is engaging in supported decision-making. Supported decision-making practices “have the potential to transform individuals with disabilities from legal subjects into legal actors and reduce the need for court-imposed guardianship and other restrictions on self-governance.” Supported decision-making can be informal and executed via reasonable accommodations under the Americans with Disabilities Act.²⁹ Dale is capable of making decisions, with or without support, and has trusted individuals who are willing to assist when he deems necessary.



*Names have been changed to protect the individual's identity.

Less Restrictive Alternatives: Representative Payee

Tina

The Office of Public Guardian was appointed to serve as guardian and conservator for Tina in 2016, though she had been subject to conservatorship since the early 2000s. Serving as a conservator creates a fiduciary duty to the individual and requires the conservator to act according to the highest standards of care, accountability, trust, honesty, confidentiality, and fidelity to the individual.³⁰ The OPG was appointed after the court removed Tina's prior conservator on the grounds that she had financially exploited Tina for a number of years.

When the OPG became guardian and conservator, Tina was living in an adult foster home and receiving outpatient mental health services. After building rapport and getting to know Tina, her Associate Public Guardian recognized Tina's potential to live independently. Tina also wished to live more independently so she began working towards the goal of living in her own apartment.

In 2018, Tina moved into her own apartment. She was nervous but adjusted well and continued building her independent living skills. The move to her own apartment included wraparound supports to assist her in maintaining independent living, including medication management. The Associate Public Guardian was very involved in making sure that Tina attended her appointments, obtained medication refills, and that bills were paid timely. Tina began handling communications with her provider and pharmacy whenever changes in her medications or refills were needed.

After the first year of living independently, Tina began scheduling her own medical, dental, and psychiatry appointments. She was able to follow through with her providers' recommendations and any new orders as well as communicate them to her Associate Public Guardian, case managers, and other providers who may be involved in her continuity of care. Tina was able to independently manage her grocery/personal shopping, laundry, and transportation. She started keeping a calendar/planner with her notes, important questions, and issues to address with her community support worker and doctor. She also began keeping an ongoing balance ledger for her prepaid debit card and SNAP card balances. Tina's Associate Public Guardian set up home delivered meals for her through her Medicaid benefits, so that she had a balanced meal each evening. Tina's Associate Public Guardian also arranged for a Community Support Worker and a therapist that she began seeing weekly. Tina began asserting that she didn't think she needed a guardian or conservator any longer. She worked with her Associate Public Guardian to move towards that goal.

Tina's primary care physician, psychiatrist, therapist, and Community Support Worker all completed evaluations of her need for ongoing guardianship and conservatorship. All providers recommended that the guardianship and conservatorship be terminated, but that a Representative Payee should be appointed to assist with prudent management of Tina's Social Security benefits. In 2024, the OPG filed a petition on Tina's behalf to terminate the guardianship and conservatorship. **The Court agreed and terminated the guardianship and conservatorship, finding that Tina was no longer incapacitated and that a Representative Payee was the least restrictive intervention necessary to meet her needs.**

*Names have been changed to protect the individual's identity.

Legal Counsel

Legal Counsel for the Office of Public Guardian provide representation concerning issues within guardianship and conservatorship cases in accordance with the Public Guardianship Act. The Public Guardian retains outside counsel as necessary to represent individuals served by the OPG in a variety of matters relating to divorces, child support enforcement, criminal charges, real estate transactions, personal injury, etc.

Legal Counsel have regular communication with stakeholders of OPG cases, including attorneys, Guardians ad Litem, Court Visitors, court staff, and interested parties. Legal Counsel often act as an intermediary between Associate Public Guardians (APGs) and financial institutions, service providers, facilities, etc., to explain and promote proper application of guardianship laws, standards of practice, and OPG policies. Legal Counsel also monitor policy and regulation issues affecting individuals served by the OPG and conduct legal research as necessary for specific circumstances.

OPG Legal Counsel draft petitions, applications, motions, objections, and other documents for filing with the court. Legal Counsel also review all initial court forms, after-letters forms, annual reports, and final reports prepared by Associate Public Guardians. Legal Counsel attend most court hearings involving individuals served by or nominated to be served by the OPG, attending a total of **346** hearings this reporting year.

346

hearings attended by OPG Legal Counsel



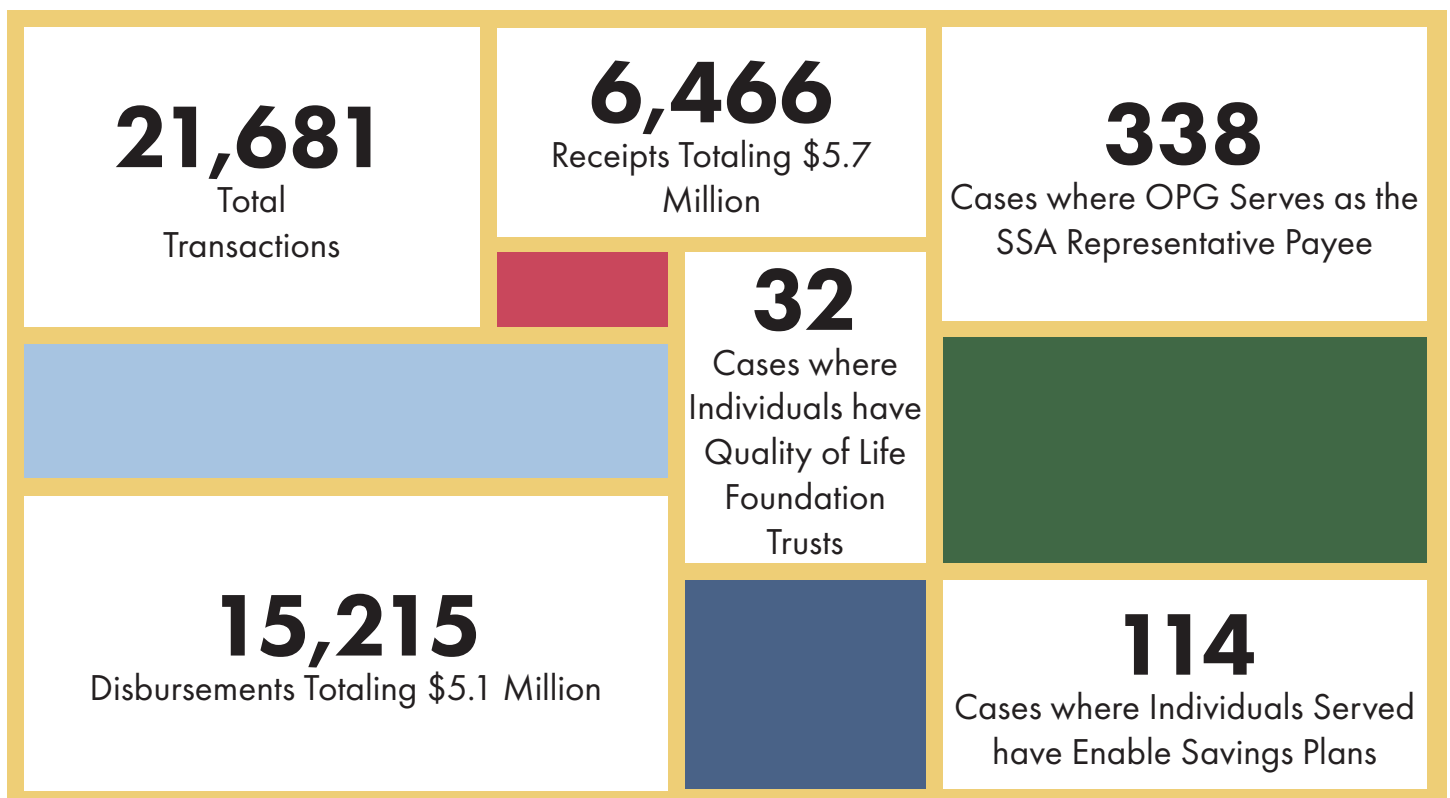
Financial Operations

The Office of Public Guardian’s Financial Operations team is responsible for the oversight and management of assets and property held by individuals served. The web-based case management system, EMS, continues to support the OPG in managing the finances of individuals served including receipts, disbursements, and records maintenance for each person served. An individual’s income and benefits come from a variety of sources, including Social Security, Supplemental Security Income, Veterans benefits, state benefits such as AABD, and wages. An individual’s monthly bills are paid timely and accurately through the OPG’s budgeting process.

The Financial Operations team is staffed by a Financial Operations Manager and a Business Manager, who collaborate with Associate Public Guardians and other members of the OPG’s multidisciplinary team. Associate Public Guardians spent significant time this reporting year on Medicaid renewals as part of the continuing “unwind” process to ensure benefits continuity for eligible individuals. The OPG experienced significant delays in obtaining benefits on behalf of individuals served, including significant changes in the way applications and renewals are being processed. These delays have led to increased hospitalization days, discharge delays, and disruptions to placement because of the wait for Medicaid approval.

Associate Public Guardians and the Financial Operations Manager also continue to spend significant amounts of time attempting to identify, secure, and control assets from banks and other financial institutions who, despite being presented with certified Letters of Guardianship and/or Conservatorship, refuse to provide statements or transact business. The Office of Public Guardian has a fiduciary responsibility to the people it serves, and banks who refuse to cooperate with court orders place individuals subject to guardianship at risk of not having their bills paid. These ongoing access issues have been highlighted in each of OPG’s Annual Reports from 2017 to present.³¹ The OPG continues to attempt to work towards solutions with these entities for the best outcome for the people it serves.

The Public Guardianship Act and related court rules require the use of a sliding fee scale for payment of guardianship fees with court approval. If the individual does not meet criteria, or if they would experience a hardship because of guardianship fees, no fee is charged. **The Office of Public Guardian collected fees from 110 individuals this reporting period, totaling \$49,775.00.**

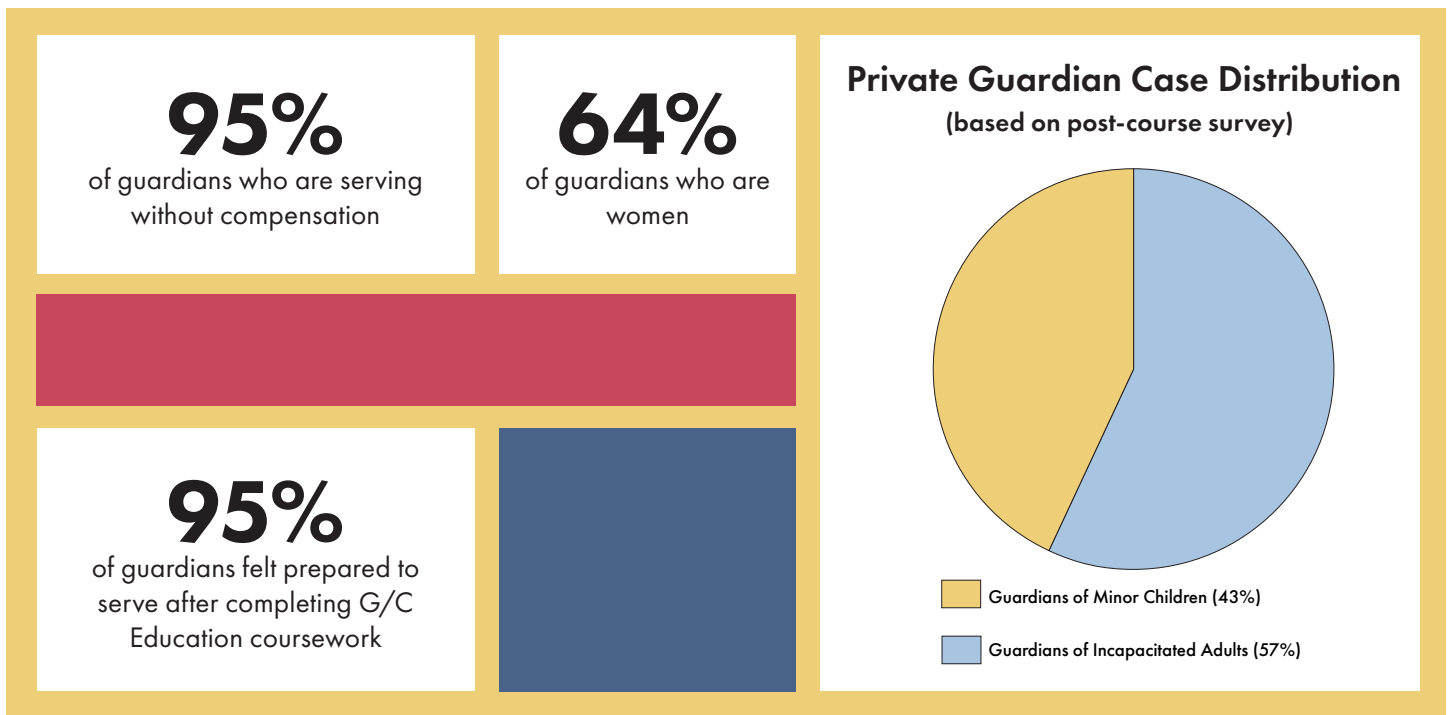


Private Guardian Education and Support

Education

The Office of Public Guardian (OPG) provides training and support to new guardians and/or conservators in Nebraska. **During this annual reporting year, the OPG provided education to 1,577 people serving as guardians and/or conservators for children and incapacitated adults, with 98% of participants taking the class online.** Due to low in-person registration numbers and limited OPG resources, the course will be administered online only starting November 1, 2024.

The migration to a new online platform in 2023 has streamlined the entire user experience. What used to take a minimum of 10 business days to achieve can now be completed in just over 3 hours at a cost of \$20 per person (a savings of \$15 per person). The platform offers significant improvements to overall customer service: reduction of payment processing time, immediate access to the course, immediate access to the certificate upon completion of the course, and the use of any internet connected device.



Support

The Office of Public Guardian provides ongoing support to private guardians/conservators upon request outside of the initial training process. The OPG assists with general resource connections, court forms, and other information. OPG staff continued to provide 1:1 support and information to private guardians via phone and email, with **95** individual instances of support provided throughout the reporting year.

Outreach efforts also continued this year with regular speaking engagements, support calls with provider agencies, and support calls with private guardians. Training sessions were provided at the agency and community group levels in Lincoln and Omaha.

Scan for OPG Facebook Page

Scan for OPG Webinars

Outreach

Best Practices

The Office of Public Guardian has a statutory obligation to provide public education to increase the awareness of the duties of guardians and conservators, to act as a resource to guardians/conservators, to safeguard the rights of individuals subject to guardianship by promoting the least restrictive alternatives with full guardianship being a last resort, and to model the highest standard of practice in guardianship to improve the performance of all guardians and conservators in the state.³²

In support of those duties, OPG's Director, Deputy, and Legal Counsel provided training to approximately 250 Nebraska attorneys at the Nebraska State Bar Association conference in October 2024. The presentation, *Professional Responsibility for Due Diligence in Guardianship and Conservatorship*, provided information on a variety of topics including inventorying assets, managing finances, appropriate fees for services, benefits applications, admission agreements, and disposition of property. Each topic included a review of relevant statutes, court rules, National Guardianship Association standards of practice, and practical applications via case studies.

The presentation also provided information on the OPG's two pilot projects (*detailed below*). Attorneys attending the session received continuing legal education (CLE) credits for ethics.

OPG Pilot Projects

The Office of Public Guardian is statutorily charged with recruiting private guardians and conservators and providing support to private guardians and conservators.³³ While the OPG has been able to do this peripherally, limited staff, time, and resources prevent these processes from being as robust as envisioned and needed. Graciously, the Nebraska Supreme Court has recognized the need for these two areas to be developed. The OPG is working with independent contractors on two pilot projects to develop reports on the strengths, challenges, and recommendations for each area to make the necessary improvements.

Guardian Support

The Office of Public Guardian recognizes the extraordinary amount of responsibility that guardians and conservators have in support of the individuals they serve. The Office of Public Guardian has a statutory duty to provide education and support to private guardians.³⁴ This is currently achieved through the education course required of all new guardians and conservators, as well as 1:1 support, resources, and information (*see page 16*).

It is important to note that while 95% of guardians/conservators who took the course this reporting year indicated they felt prepared to serve, the information is collected early on in the timeline of a guardianship case via a self-reported survey. It is likely not a reliable metric to indicate whether the guardian/conservator has the resources, skillset, and support necessary to provide high quality guardianship services over the longevity of a guardianship case (typically a number of years and potentially decades).

The Guardian Support pilot project has provided an initial report to the OPG and State Court Administrator on the needs of Nebraska guardians and recommendations for executable actions to move towards greater private guardian/conservator support. The project is in the process of developing a stakeholder survey. The survey will further inform the OPG and State Court Administrator's office as it seeks to find practical solutions to provide guardian support.

Private Guardian Recruitment

The Office of Public Guardian also recognizes that there are not enough guardians to meet the needs, especially for unbefriended individuals, in Nebraska. While guardianship is neither a preferred nor adequate solution, the lack of preventative measures taken by unbefriended individuals presents a gap in between policy and practice.³⁵ The Office of Public Guardian is the last resort for guardianship in the state of Nebraska, and despite increases in funding and staffing levels will not realistically be able to meet the demand for services especially as the population continues to age. Research going back as far as 2003 shows that "the need [for surrogate decision-making] far outstrips the resources and will escalate with the aging of the population."³⁶

While the Office of Public Guardian maintains that all less restrictive alternatives to guardianship should always be explored and trialed prior to any guardianship petition, it also recognizes the shortage of compassionate, dedicated, trained, and supported volunteers to bridge the gap. The Guardianship Recruitment pilot seeks to provide an initial report to the OPG and State Court Administrator analyzing Nebraska's volunteer guardianship practices in comparison with other states, engaging stakeholders, and analyzing system demographics. The pilot will then examine recruitment channels and provide a final summary of its findings and recommendations for growth of volunteer recruitment for guardians and/or conservators in Nebraska. The OPG anticipates this pilot project will develop into a strategy for effective and sustainable guardian/conservator recruitment.

Advisory Council

Members of the Office of Public Guardian's Advisory Council assist the Public Guardian in carrying out the Public Guardianship Act, meeting at least four times per year.³⁷ The OPG Advisory Council consists of professionals from a variety of disciplines, including law, social work, mental health, aging, developmental disabilities, and other related fields. Members of the Advisory Council are appointed by the State Court Administrator and serve three-year terms.³⁸ As of the writing of this report, the OPG and the State Court Administrator's office are working to renew appointments and fill vacant positions.



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Administrator



Dianne DeLair, JD
Attorney
(Council Chair)



Hon. Todd Hutton
County Court
Judge



Lisa Line, JD
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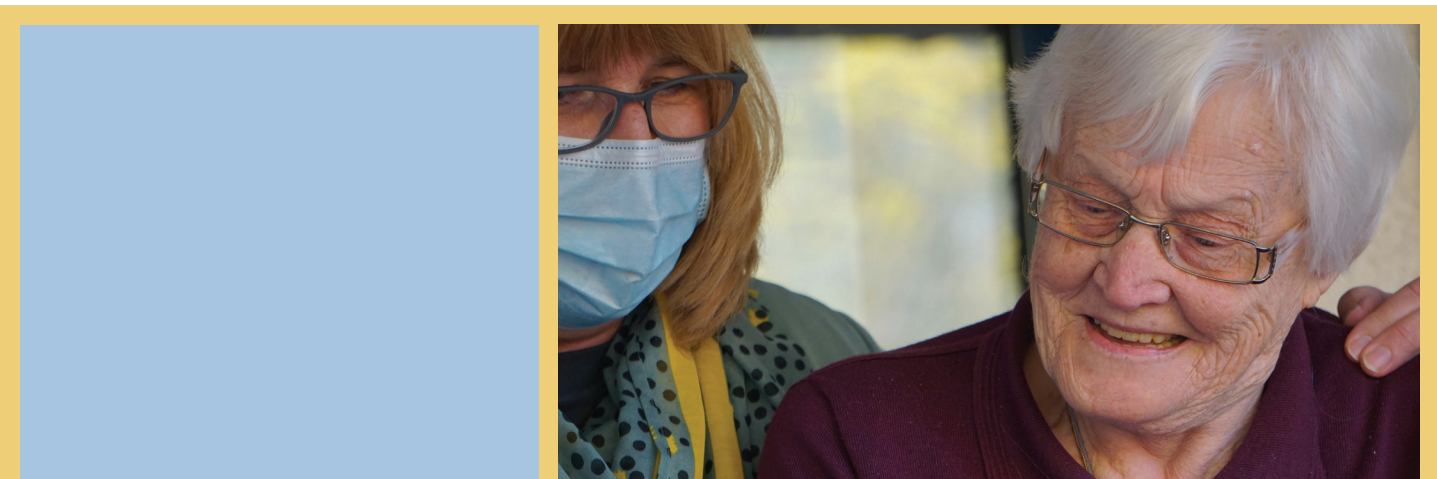
Julie Masters, PhD
Professor of
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Gina Mack
Adult Protective
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Julianne M. Spatz
Attorney



Endnotes

- ¹ [Neb. Rev. Stat. § 30-4102.](#)
- ² [Neb. Rev. Stat. § 30-4114.](#)
- ³ [Neb. Rev. Stat. § 30-4105\(8\).](#)
- ⁴ [Uniform Law Commission, The Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act – A Summary \(2017\).](#)
- ⁵ [Neb. Rev. Stat. §§ 30-4105\(8\), 30-4115\(1\)\(b\).](#)
- ⁶ [Neb. Rev. Stat. § 30-4104\(2\).](#)
- ⁷ [National Guardianship Association, Standards of Practice \(2022\).](#)
- ⁸ [Neb. Rev. Stat. § 30-4105\(8\).](#)
- ⁹ [Neb. Rev. Stat. § 30-4115.](#)
- ¹⁰ [Alison Hirschel and Lori Smetanka, The Use and Misuse of Guardianship by Hospitals and Nursing Homes, 72 Syracuse L. Rev. 255 \(2022\).](#)
- ¹¹ [National Council for Behavioral Health, America’s Mental Health 2018 \(2018\).](#)
- ¹² [Alison Hirschel and Lori Smetanka, The Use and Misuse of Guardianship by Hospitals and Nursing Homes, 72 Syracuse L. Rev. 255 \(2022\).](#)
- ¹³ [National Center on Elder Abuse, Guardianship: Remedy vs. Enabler of Elder Abuse \(2021\); Anita Raymond, The Hospital to Guardianship Pipeline, American Bar Association Bifocal, Vol. 44 Issue 6 \(2023\).](#)
- ¹⁴ [Nina Kohn and David English, Protective Orders and Limited Guardianships: Legal Tools for Sidelining Plenary Guardianship, 72 Syracuse L. Rev. 225 \(2022\); Anita Raymond, The Hospital to Guardianship Pipeline, American Bar Association Bifocal, Vol. 44 Issue 6 \(2023\).](#)
- ¹⁵ [U.S. Department of Justice, Guardianship: Less Restrictive Options, \(2024\).](#)
- ¹⁶ [Neb. Rev. Stat. § 30-2620\(a\).](#)
- ¹⁷ [David Godfrey, It’s Complicated: The Relationship Between Advance Planning, Guardianship and Elder Abuse, American Bar Association Bifocal, Vol. 42 Issue 2 \(2020\).](#)
- ¹⁸ [Neb. Rev. Stat. § 30-4105\(7\).](#)
- ¹⁹ [Neb. Rev. Stat. §§ 30-2620, 30-4102.](#)
- ²⁰ [National Guardianship Association, Standards of Practice \(2022\).](#)
- ²¹ [Neb. Rev. Stat. § 30-4115\(b\).](#)
- ²² [Neb. Rev. Stat. § 30-4115\(2\).](#)
- ²³ [Neb. Rev. Stat. § 30-4115\(3\).](#)
- ²⁴ [Neb. Ct. R. § 6-1433.02\(F\).](#)
- ²⁵ [Neb. Rev. Stat. § 30-4114\(1\).](#)
- ²⁶ [American Bar Association, Commission on Law and Aging, Restoration of Rights in Adult Guardianship: Research & Recommendations, \(2017\).](#)
- ²⁷ [National Guardianship Association, Standards of Practice \(2022\).](#)
- ²⁸ [Nina Kohn, Legislating Supported Decision-Making, 58 Harvard Journal on Legislation 313 \(2021\); National Center for State Courts, Trends in State Courts 2023 \(2023\); National Guardianship Association, Standards of Practice \(2022\).](#)
- ²⁹ [Fourth National Guardianship Summit: Maximizing Autonomy and Ensuring Accountability \(2021\); National Center for State Courts, Trends in State Courts 2023 \(2023\).](#)
- ³⁰ [Consumer Financial Protection Bureau, Managing Someone Else’s Money: Help for Court-Appointed Guardian of Property and Conservators \(2022\).](#)
- ³¹ [Office of Public Guardian Annual Reports.](#)
- ³² [Neb. Rev. Stat. § 30-4105.](#)
- ³³ [Id.](#)
- ³⁴ [Id.](#)
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- ³⁷ [Neb. Rev. Stat. § 30-4108.](#)
- ³⁸ [Neb. Rev. Stat. § 30-4107.](#)



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