

Office of Public Guardian 2023 ANNUAL REPORT

Protecting Nebraska's Most Vulnerable



STATE OF
NEBRASKA
JUDICIAL BRANCH

Office of Public
Guardian

A Letter from Our Director

This OPG Director's 2023 Annual Report introduction recognizes the OPG team members who, against overwhelming challenges and stress, have served Nebraska's most vulnerable individuals with commitment, sacrifice, and compassion. They are identified with names highlighted under staff pictures on page 3.

Over the last four years these special staff have served despite a worldwide pandemic, whose wards were at the greatest risk of death: people who are medically fragile, elderly, and whose incapacities impaired their ability to care for themselves. These staff made vital decisions for wards' survival, health, and wellbeing. They cared for wards as they faced death and then, many stood alone at the wards' grave sites during the burials. Because of their diligent work, only nine OPG wards died from COVID.

However, the challenges continued. For the last two years, these employees persevered, serving wards during staff shortage and turnover. That turnover resulted in 16 staff leaving a 29-member team. Many of the individuals who left were not able to endure the crushing stress and vicarious trauma experienced due to the lack of appropriate services for desperate wards during, and since, the pandemic. The team members who stayed took on the ward care of the those who left. They stayed and faced the daily battles, and, sometimes, adversarial struggles to obtain necessary care and services for the vulnerable individuals for whom the OPG is legally responsible. They stayed despite personally being criticized for the lack of service, care, or housing for wards despite their tireless efforts to find options. They stood against the hostility and frustration from hospital personnel when these OPG staff refused to allow vulnerable, incapacitated individuals to be discharged to homelessness or inappropriate levels of care. They stayed and served wards even as efforts were made to increase their 20-person caseload (averaging 50 hours a week) to reduce the OPG waitlist. They stayed, served, cared, and kept their fragile fellow humans from falling through the frayed, broken human services safety net. And, because they stayed, the framework of the OPG was strong, supportive of the new staff who, by the end of the year, filled all but one vacant position, thanks to the additional compensation from a salary study provided by the Supreme Court.

As a result, of these committed OPG Team members the OPG, with new staff, was able to accept 43 individuals from the OPG Waitlist this past year. This is compared to nine individuals who were accepted from the Waitlist in 2022. (Additionally, during the two-month drafting period of this report another 21 individuals have been accepted from the waitlist.) Moreover, OPG capacity was increased through OPG staff recruitment efforts focused on Nebraska attorneys as successor guardians. As a result of these efforts, nine wards were transferred from OPG care to private attorneys. Additional 2023 OPG employee efforts resulted in a new guardian education online class for 1,500 family and private guardians. The new process provided immediate access to the course, as compared to the prior weeklong waiting period.

Further, OPG subsidized 178 Nebraska attorneys' education on national guardianship best practices presented by the Director and Legal Counsel of the American Bar Association's Commission on Law and Aging. Moreover, to recruit volunteer guardians, the OPG collaborated with Adult Protective Services on a media campaign through 50 TV and 35 radio advertising spots from September through December. Accordingly, it is with deep appreciation and recognition of the hard work and commitment of all the OPG Team members – new and experienced – that I present the 2023 Annual Report of the services provided by the Office of Public Guardian.



MICHELLE CHAFFEE, JD
PUBLIC GUARDIAN

ACKNOWLEDGMENTS:

Cover photo courtesy of Michael Chaffee.

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Our Team



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Public Guardian



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Deputy Public Guardian



Michelle Moore*
Financial Operations Manager



Erin Wiesen
Education and Outreach Coordinator



Lisa Meyer, JD
Legal Counsel



Jeff Heineman, JD
Legal Counsel



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Business Manager



Jill VanDusen
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Administrative Assistant – Intake



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Shelly Ging
Administrative Assistant – Case Aide



Stacy
Associate Public Guardian



Jana*
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Glenda
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Marissa
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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



Susan
Associate Public Guardian



Martha
Associate Public Guardian



Selene
Associate Public Guardian



Deidre
Associate Public Guardian



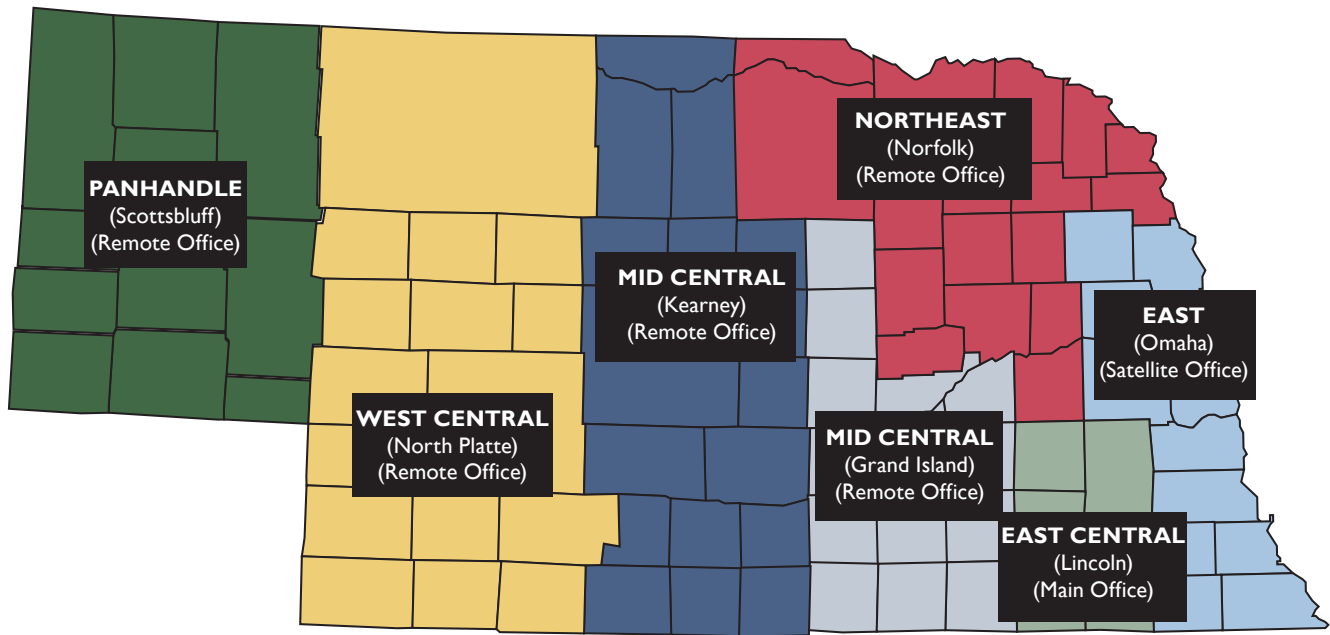
Colleen
Associate Public Guardian

The Office of Public Guardian is committed to providing high quality guardianship and conservatorship services to all individuals. The office models the highest standards of practice for guardians and conservators to improve the performance of all guardians and conservators in the state. The OPG acts in accordance with relevant statutes, court rules, standards of practice set forth by the National Guardianship Association, and other best practices.

Associate Public Guardians receive extensive initial and ongoing training, are members of the National Guardianship Association, and are eligible to seek national certification after two years of employment. The Office of Public Guardian currently has 3 staff members who are National Certified Guardians (NCG). In addition to certified guardians, several OPG staff attended the National Guardianship Association conference in Orlando, Florida, in October 2023. Staff who attend the NGA conference provide summaries of information learned during monthly All-Staff meetings, enriching the working knowledge of all employees.

*National Certified Guardian (NCG)

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

(8 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	

(1 Associate Public Guardian)

EAST CENTRAL	
Gage	Jefferson
Lancaster	Saline
Seward	

(6 Associate Public Guardians)

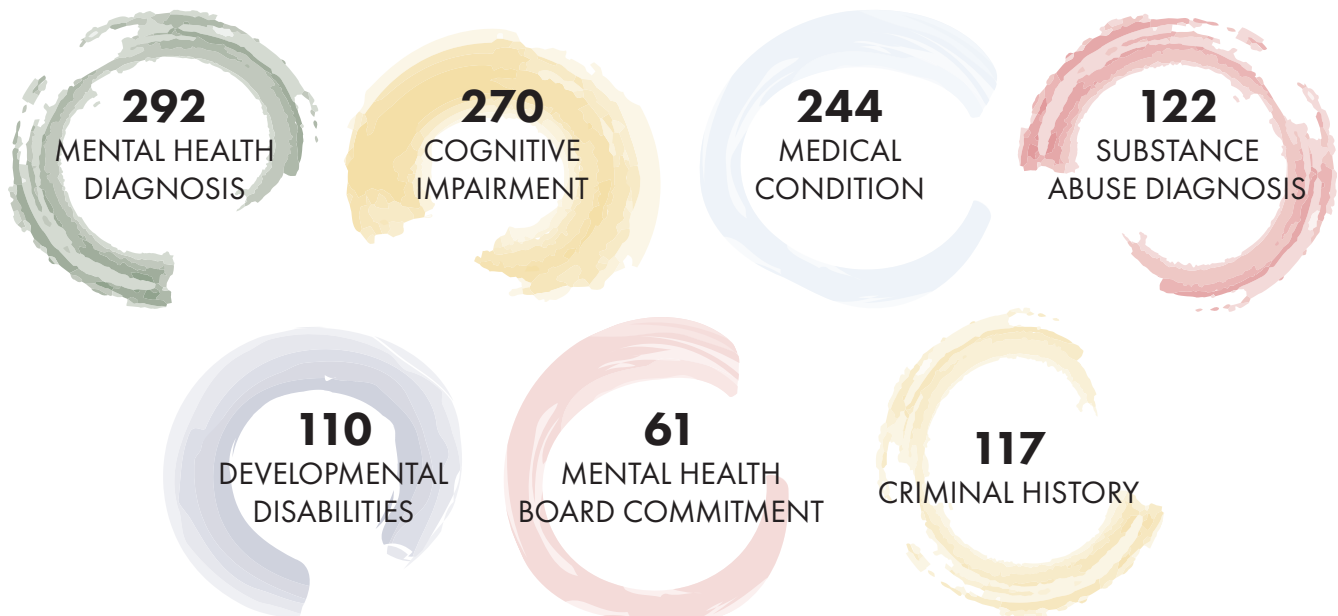
What We Do

The Office of Public Guardian is designed to serve as the guardian and/or conservator of last resort for individuals whose needs cannot be met by less restrictive alternatives to guardianship. The Office of Public Guardian acts in accordance with Nebraska law and court rules, as well as the Standards of Practice set by the National Guardianship Association.

Each Associate Public Guardian serves as the guardian and/or conservator for 20 individuals, providing ongoing case management includes monthly in-person visits, communication with direct service providers, financial case management, medical consents, and response to emergency needs. Members of the multidisciplinary team provide support to Associate Public Guardians in areas of resource development, financial case management, and clerical support.¹ Associate Public Guardians spend an average of 2.5 hours per ward per week, with financial and administrative support staff averaging 1.5 hours per ward per week.

In addition to providing direct guardianship and/or conservatorship services, the Office of Public Guardian provides education, training, and support for volunteer and family guardians and conservators, recruits individuals to serve as guardians and conservators, and safeguards the rights of all Nebraskans under guardianship by supporting least restrictive alternatives and full guardianships only as a last resort.²

Who We Serve



During this reporting period, the Office of Public Guardian served 341 individuals experiencing 1,216 complex medical issues and/or social conditions. Mental health diagnoses impacted 86% 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.³ In Nebraska specifically, the OPG maintains 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. One of the biggest barriers to mental health recovery is the lack of meaningful case management through the Medicaid insurance coverage process, which often mandates that an individual move to a lower level of care when even the slightest amount of progress is shown. This abrupt termination of coverage usurps the recovery process and prevents the individual’s development of any kind of stability or support for their continued recovery. *See page 13 for Nolan’s lived experiences with the lack of longevity in services and the lack of intensive case management needed to ensure his continuity of care.*

¹Neb. Rev. Stat. § 30-4115.

²Neb. Rev. Stat. § 30-4105.

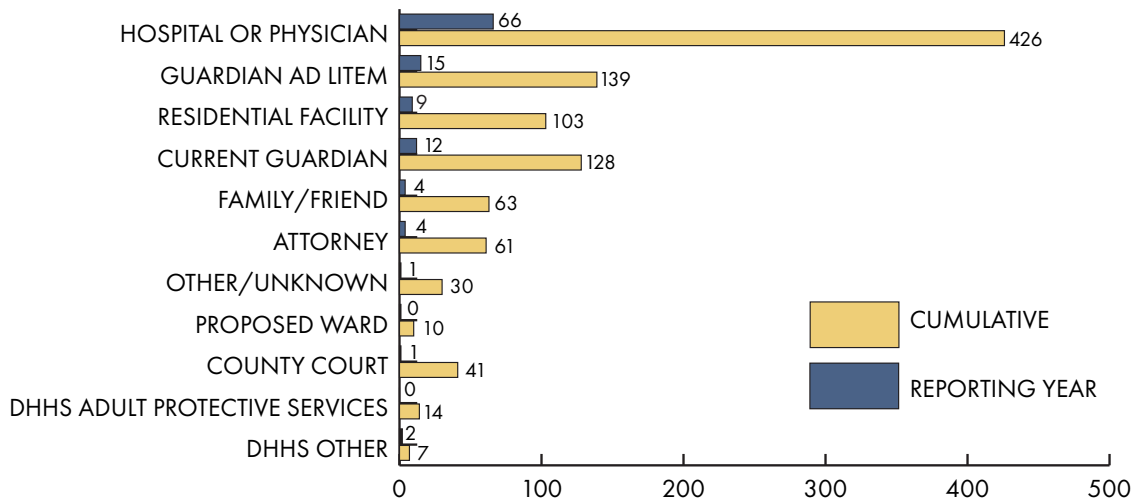
³Alison Hirschel and Lori Smetanka, Use and Misuse of Guardianship by Hospitals and Nursing Homes, 72 Syracuse L. Rev. 255 (2022), <https://lawreview.syr.edu/wp-content/uploads/2022/09/255-289-Hirschel-2.pdf>

Nominations

115
nominations this
reporting year

1,022
nominations since
2015

Referral Sources



During this reporting year, the Office of Public Guardian was nominated 115 times. Nominations come from a variety of sources (see graph above). Guardianship nominations from hospitals and physicians continue to account for over half of this year's nominations.

The Office of Public Guardian has a statutory duty to safeguard the rights of individuals by exploring all options available in the least restrictive manner possible.⁴ Even when it is determined that a guardianship is the necessary and least restrictive step, and the OPG the last resort, the magnitude of guardianship on a person's life and autonomy cannot be overstated. Guardianship inflicts total and complete control over the individual's medical care, property, and finances. That is the reason that guardianship/conservator statutes and policies mandate great care and due diligence be taken to explore alternatives to guardianship, including surrogate decision-making and temporary protective orders in lieu of guardianship, narrowed in scope to meet the needs of the individual.⁵

In 2022, the National Guardianship Network adopted the Guardianship Bill of Rights, the first of its kind for people subject to guardianship. In September 2023, the American Bar Association adopted its policy on the Guardianship Bill of Rights and Due Process Protections, which recommends that states adopt the provisions.

⁴Neb. Rev. Stat. § 30-4105.

⁵Nina Kohn and David English, Protective Orders and Limited Guardianships: Legal Tools for Sideline Plenary Guardianship, 72 Syracuse L. Rev. 225 (2022), <https://lawreview.syr.edu/wp-content/uploads/2022/09/255-289-Hirschel-2.pdf>; Anita Raymond, The Hospital to Guardianship Pipeline, American Bar Association Bifocal Vol. 44 Issue 6 (2023), https://www.americanbar.org/content/dam/aba/administrative/law_aging/bif-vol-44-issue6.pdf.

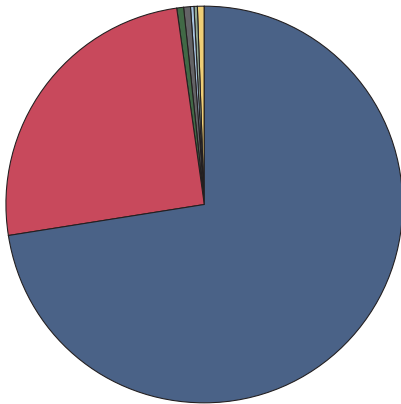
Case Distribution

The Office of Public Guardian served 324 individuals during this reporting period. Limited guardianships and/or conservatorships have been ordered in just 5 of the OPG's 324 cases. None of this year's nominations sought a limited guardianship and/or conservatorship as a less restrictive option. In recognition of the deprivation of rights resulting from full guardianships, Nebraska statutes require that less restrictive alternatives be explored.⁶

The Office of Public Guardian 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.⁷ The National Guardianship Association's Standards of Practice require guardians to seek termination or restoration when less restrictive alternatives exist.⁸ Accordingly, Associate Public Guardians review cases on a continuous basis, and pursue less restrictive alternatives wherever indicated.

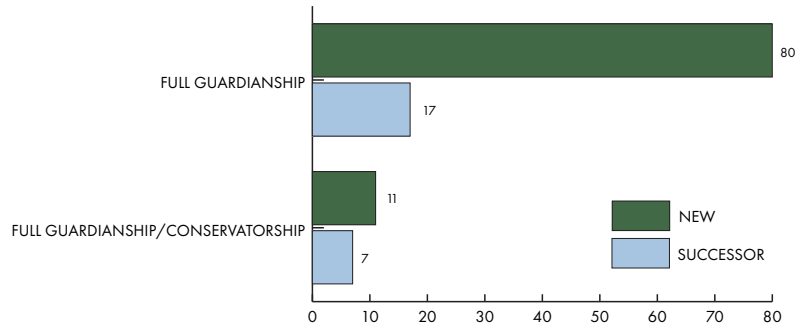
In two separate cases this reporting year, individuals had regained capacity to the point where guardianship was no longer the appropriate intervention, and the case was discharged in favor of a less restrictive alternative.

Case Types

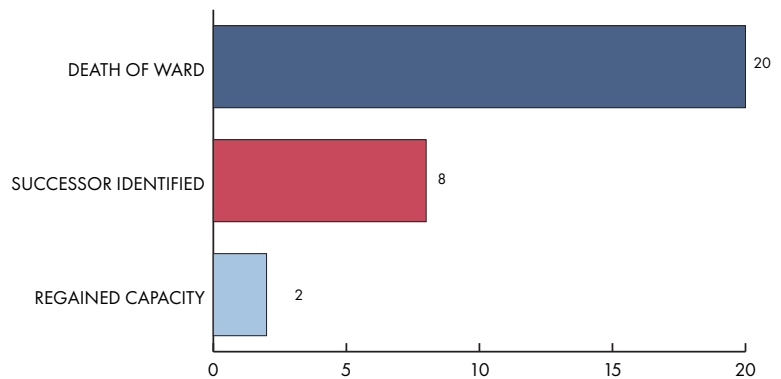


- Temporary guardianship/conservatorship (1)
- Limited guardianship/full conservatorship (1)
- Full conservatorship (1)
- Limited guardianship/conservatorship (2)
- Limited guardianship (2)
- Full guardianship/conservatorship (82)
- Full guardianship (235)

Nominations - New or Successor



Terminations



⁶Neb. Rev. Stat. §§ 30-2620, 30-4102.

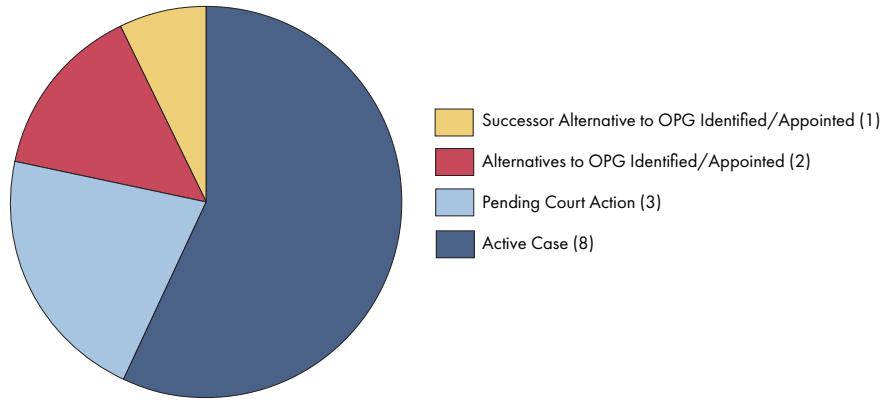
⁷Neb. Rev. Stat. § 30-4105(7).

⁸National Guardianship Association, Standards of Practice, <https://www.guardianship.org/wp-content/uploads/NGA-Standards-Final-8-22.pdf>

Case Disposition

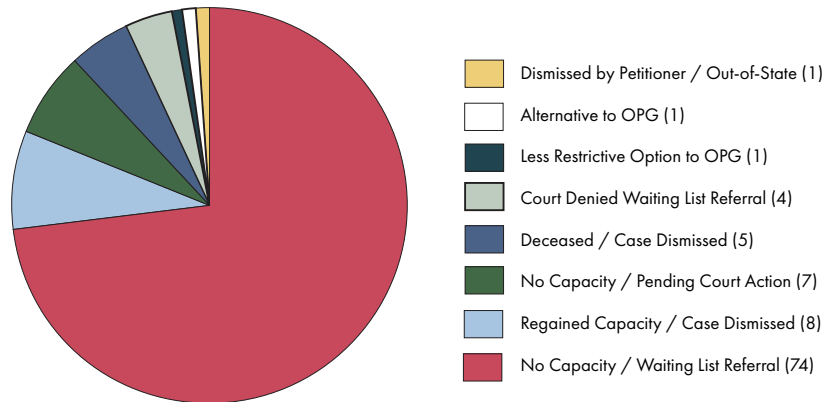
As identified in the Nominations section, the Office of Public Guardian was nominated 115 times during the reporting year. The Office of Public Guardian accepted 14 cases from the initial nomination process (*see page 9 for waiting list information*). The disposition of accepted cases by the end of this reporting year are as follows:

Accepted Cases



Of the 115 total nominations, the OPG did not accept 101 cases for the following reasons:

Unaccepted Cases

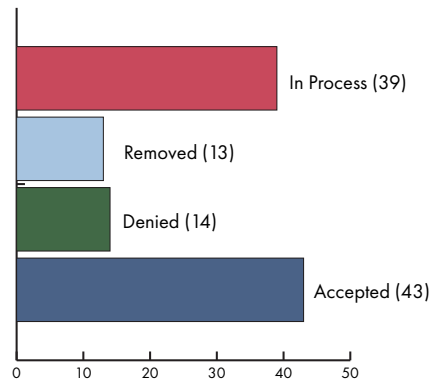


The Office of Public Guardian remains committed to providing high quality guardianship and conservatorship services to all individuals.⁹ As reported last year, the OPG was not immune to the hiring challenges of the post-COVID job market. Early in this reporting year, APG vacancies continued to have a direct impact on the OPG’s ability to take new cases, however towards the latter half of the year OPG was able to hire and train staff.

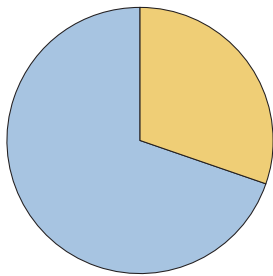
As of the writing of this report, the OPG has one vacancy for an Associate Public Guardian. New APGs receive a robust orientation and training before assuming their official duties. While the number of cases accepted from the time of nomination remained steady, the OPG was able to accept nearly 43 cases from the Waiting List, nearly five times the number of WL cases accepted last reporting year (9).

⁹Neb. Rev. Stat. § 30-4115(b).

Waitlist Referrals (109)

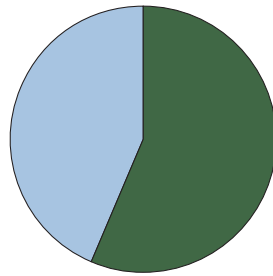


Accepted (43)



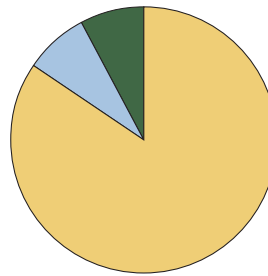
- Pending Court Action (16)
- Currently Serving (27)

In Process (39)



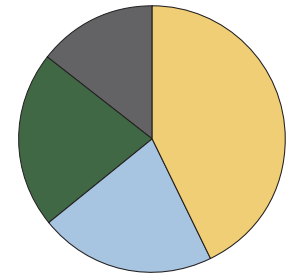
- In Referral Process / Waiting on CV/GAL Report (17)
- On Waiting List (22)

Removed (13)



- Court Denied WL / Alternative to OPG (1)
- Court Denied WL (1)
- 90 Day Limit Reached (11)

Denied (14)



- Dismissed by Petitioner (2)
- No Incapacity (3)
- Proposed Ward Passed Away (3)
- OPG Not Last Resort (6)

During this year's reporting period, the OPG continued to operate at capacity in many service areas, receiving 109 referrals to the Waiting List (77 new referrals and 32 re-referrals). The Office of Public Guardian may accept appointments not to exceed an average ratio of 20 cases per multidisciplinary team member.¹⁰ When the average ratio is reached, the OPG shall not accept further appointments.¹¹

When the OPG receives a Waiting List referral, it is approved or denied based on the 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.

The OPG was able to take 43 cases off of the waiting list this reporting year, a substantial increase in accepted WL cases over the past few years. As reported in previous years, the OPG was not immune to the hiring-related challenges during the pandemic, but the hiring and training of new staff have allowed cases to move forward. The need for public guardianship continues.

For cases that are re-referred to the waiting list, obtaining updated, accurate GAL reports remains a serious issue. The OPG often receives GAL reports that contain a minimal amount of substantive information regarding the individual's current functional abilities, lacking critical details regarding their personal, financial, and living situation. Having timely, updated, and accurate information directly informs the OPG's ability to assess which individuals have the most need.

¹⁰Neb. Rev. Stat. § 30-4115(2).

¹¹Neb. Rev. Stat. § 30-4115(3).

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.¹² The purpose of a CV/GAL appointment is to investigate the claims of the petition and to present a report to the court, demonstrating that the person requires guardianship, that less restrictive alternatives are not appropriate, and that no one else 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 selection 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.

99

outreach emails to CV/
GALs appointed in OPG
cases

58

Court Visitors and/or
Guardians ad Litem trained
from 2015-Present

13

alternatives to the OPG
(e.g. private guardians)
identified and pursued
through the CV/GAL
report process

¹²Neb. Ct. R. § 6-1433.02(F).

Successor Guardian Efforts

The Office of Public Guardian makes reasonable efforts to locate a successor guardian for all individuals served.¹³ 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 9 cases to successor guardians this reporting year.



Restoration of Rights

Often, adult guardianships are permanent, lifelong appointments.¹⁴ 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 well understood. Guardians should always evaluate the alternatives available and make decisions based on the individual's needs, including the exploration of less restrictive alternatives. 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.¹⁵

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 2 cases where a full restoration of rights was appropriate**. The Office of Public Guardian also has **1 case in the process of becoming a limited guardianship**.

¹³Neb. Rev. Stat. § 30-4114(1).

¹⁴American Bar Association, Commission on Law and Aging, Restoration of Rights in Adult Guardianship: Research & Recommendations, https://www.americanbar.org/content/dam/aba/administrative/law_aging/restoration%20report.authcheckdam.pdf.

¹⁵National Guardianship Association, Standards of Practice, <https://www.guardianship.org/wp-content/uploads/NGA-Standards-Final-8-22.pdf>.

An update to Edward's story, first shared in the 2022 Annual Report...

The Office of Public Guardian became Edward's guardian in the fall of 2021. Edward had been hospitalized since May 2021 after he was found to have fallen down a staircase. He was initially hospitalized in Iowa, then transferred to a hospital in Nebraska due to his complex care needs. Edward was diagnosed with a Traumatic Brain Injury (TBI) as a result of the fall, with a history of heart issues, the use of a pacemaker, and diabetes. Edward experiences behaviors commonly associated with his TBI, including frequent verbal outbursts and physical agitation. Aggression is common in an acute TBI period and a challenge in obtaining appropriate rehabilitation services due to both patient and staff safety concerns.¹⁶

Despite being hospitalized for over four months prior to the OPG's appointment as guardian, Medicaid benefits had not been initiated on Edward's behalf. The Office of Public Guardian applied for Medicaid benefits on Edward's behalf multiple times, finally being approved retroactively to 10/01/2022. Both the hospital and Edward's Associate Public Guardian spent months sending referrals for lower levels of care. According to the hospital social worker, "Facilities can decline patients for any reason. Unable to meet needs is a common response when they are not interested in accepting. We generally keep expanding the referral search area when we do not have an interested facility."

With the progression of Edward's illnesses and the fragility of his immigration case, along with his being labeled a "behavior problem," Edward has remained hospitalized for over two and a half years. Despite being approved for Medicaid, his ongoing wait for a resolution to his immigration case caused his benefits to end on 08/31/2023. Meanwhile, his health continues to deteriorate, having experienced a decline in his ability to walk causing multiple falls over this reporting year, and gaining a large amount of weight. The OPG and hospital agree that Edward's basic needs are not being met by hospital care, including the need for diabetic dietary restrictions, dental care, physical and occupational therapy, laundry, and other basic human services.

As of this writing, Edward's status is the same as in last year's report: he remains hospitalized pending the resolution of his immigration status, benefits application issues, and placement at an appropriate long-term care facility.



¹⁶ Vani Rao et al., "Aggression after Traumatic Brain Injury: Prevalence and Correlates," *The Journal of Neuropsychiatry and Clinical Neurosciences* 21, no. 4 (2009): pp. 420-429, <https://doi.org/10.1176/jnp.2009.21.4.420>.

Nolan is a 36-year-old male originally from southeastern Nebraska with significant mental health and substance abuse issues. Nolan has a significant childhood trauma history, or adverse childhood experiences (ACES), which can have lasting negative effects on health and wellbeing throughout a person's life.¹⁷ Nolan has a diagnosis of schizoaffective disorder and borderline personality disorder, both of which contribute to his constant need for attention. He also engages in the use of substances, primarily THC and alcohol.

Nolan has been to most mental health facilities in Nebraska at least once. Nolan does not understand the actual consequences of his behaviors (e.g., homelessness), as he believes that his guardian will “pick up the pieces” for him. He cannot fully conceptualize the idea that there are not infinite places for him to live. Nolan thinks that he can move to a new state or town and his problems will go away.

Nolan appears to utilize hospitalizations as an escape strategy when he wishes to evade expectations or commitments. Nolan's desire to “find an out” is evidenced by his impulsive attempts to remove himself from situations he does not like (usually placements) by reporting he is suicidal. Nolan has reported he doesn't feel comfortable being at “one place very long.” This discomfort fosters poor choices resulting in attempting to get kicked out of placements. Nolan's lack of impulse control and lack of insight into his self-harming behaviors causes him to need 24-hour support. However, because he is independent in many ways and presents as someone better prepared to deal with life's issues than he is, providers don't realize the intense supervision he needs.

Nolan requires consistent enforcement of well-defined boundaries, both from his guardian and service providers. He becomes fixated on issues such as independent living, imprudent spending, and medication related concerns. Some of his greatest success has been from having providers who are on board and consistent with the boundaries and communication plans. Left unchecked, Nolan's tendency to initiate multiple calls and texts throughout the day can become overwhelming for his support network and contributes to caregiver burnout. Establishing clear guidelines with Nolan is essential, including when it is appropriate to contact his guardian, therapist, community support worker, and psychiatrist. His overall progress is significantly improved when he is aware of the expectations set for him and the entire team consistently follows through with those boundaries and expectations.

However, given Nolan's history of challenges and issues, numerous group homes and providers are reluctant to accept him into their placements or programs, making it challenging to secure the appropriate residential and behavioral supports. Nolan benefits significantly from highly structured and routine oriented environments, where he has limited autonomy to leave, such as secure residential placements or placements with high level of supervision for redirection. Unfortunately, insurance coverage for extended treatment in a secure residential program or higher level of supervision is limited. Another obstacle to effective treatment for Nolan is that in Nebraska, borderline personality disorder is not recognized as a treatable mental health condition, rendering it ineligible for insurance coverage under Medicaid. This further complicates the already challenging process of identifying suitable treatment and services for Nolan.

¹⁷ Centers for Disease Control and Prevention. 2020. “Adverse Childhood Experiences (ACES).” <https://www.cdc.gov/violenceprevention/aces/index.html>

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 OPG wards 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 practices, and OPG policies. Legal Counsel continue to monitor policy and regulation issues affecting OPG wards, conducting 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 OPG wards. Legal Counsel attended 478 hearings throughout the reporting year.**

The Office of Public Guardian also initiated a Successor Guardianship Project by contacting members of the Real Estate, Probate, and Trust Law and Elder Law sections of the Nebraska State Bar Association. This effort resulted in successor guardianships for nine individuals and helped the OPG further reduce the Waiting List. Six cases were transferred to Charles Garman with Vandennack Weaver of Omaha. Additionally, Sarah Duey of Smith Pauley and Adaline Baker of The Law Office of Adaline Baker each became the successor for one individual. The ninth case transferred to a successor went to a family member of an individual served. Efforts to fulfill the OPG's statutory requirement to seek successor guardians and conservators are ongoing.



478

hearings attended by
OPG Legal Counsel



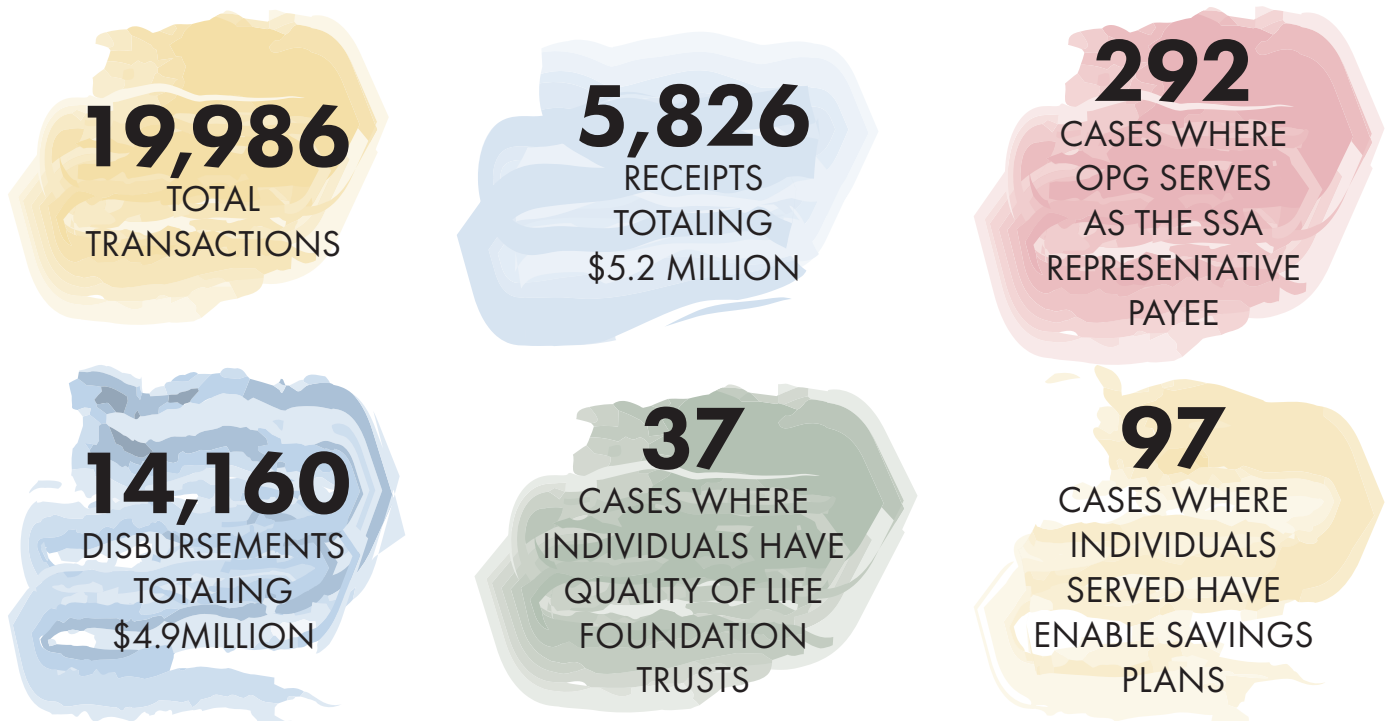
Financial Operations

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 ward finances including receipts, disbursements, and records maintenance for each person served. An individual’s income and benefits arrive from a variety of sources, including Social Security, Supplemental Security Income, Veterans benefits, state benefits such as AABD, and wages. An individual’s monthly expenditures are paid timely and accurately through the 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 “unwind” process to ensure benefits continuity for Medicaid-eligible individuals. Associate Public Guardians received updated finance training throughout the year on areas of budgeting, tax preparation, Social Security, Medicare, ENABLE, and others. In February 2022, the OPG participated in a Social Security audit, and in February 2023, received results confirming that the Office of Public Guardian fulfills the duties as a Representative Payee.

Associate Public Guardians and the Financial Operations Manager 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.¹⁸

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 hardship because of guardianship fees, no fee is charged. **The Office of Public Guardian collected fees from 102 individuals this reporting period, totaling \$44,230.00.**



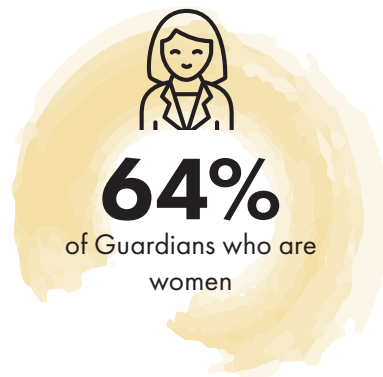
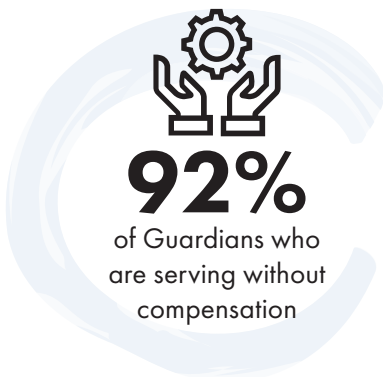
¹⁸Office of Public Guardian Annual Reports.

Private Guardian Education

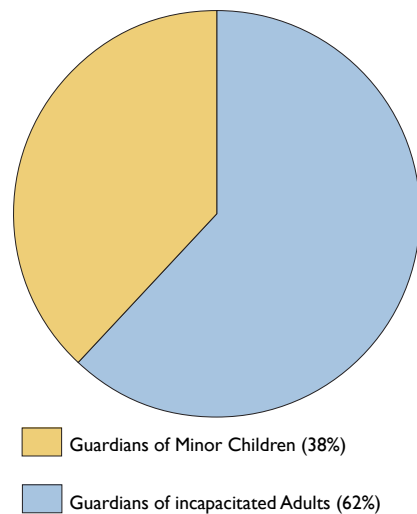
The Office of Public Guardian (OPG) provides training and support to new guardians and/or conservators in Nebraska. The online course is provided in English and Spanish, whereas the in-person course is provided in English with options for interpretation and other accommodations. During this annual reporting 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.

This reporting year also included the rollout of a new online course platform, with the English online class launching on August 7, 2023. The Spanish class is in the final stages of updates, including revisions to both written and audio instruction. The Office of Public Guardian would like to thank Kelly Varguez, Certified Spanish Interpreter, for her ongoing assistance in maintaining the Spanish course.

The migration to a new online platform 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, a 96% savings on time. 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.



Private Guardian Case Distribution



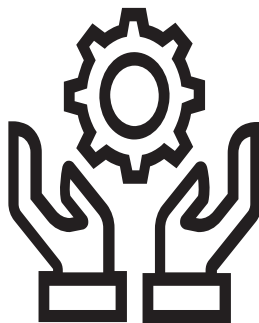
Private Guardian Support

The Office of Public Guardian provides ongoing support to private guardians/conservators upon request outside of the initial training process. The Office of Public Guardian 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 90 documented instances 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, Omaha, and Norfolk, reaching 500 people.



WEBINARS



FACEBOOK

LESS RESTRICTIVE ALTERNATIVES TO GUARDIANSHIP

- Representative Payee (Social Security Administration)
- Fiduciary (Veterans Administration)
- Health Care Surrogacy
- Durable Powers of Attorney (healthcare)
- Durable Powers of Attorney (financial)
- Living Will
- Trusts (including Special Needs Trusts)
- Supported Decision-Making

GUARDIAN'S AUTHORITY OVER AN INDIVIDUAL

- Selecting the individual's residence
- Arranging for and consenting to medical care
- Protecting personal effects (e.g., property)
- Providing consents, approvals, and releases
- Arranging for education, support, and habilitative services
- Managing public/private benefits such as Social Security, Medicare, Medicaid, pensions, etc.
- Compel individuals/entities to support the ward as required
- Enter into contractual agreements
- Receiving and applying the ward's funds to their care and needs
- Any other area which the court may direct¹⁹

¹⁹Neb. Rev. Stat. § 30-2628.

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.²⁰ The 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.²¹

The Office of Public Guardian would like to recognize and thank this year's outgoing members, Beth Baxter and Darla Schiefelbein, for their many years of dedicated service to the Office of Public Guardian's Advisory Council.



Corey Steel
State Court
Administrator



Dianne DeLair, JD
Attorney
(Council Chair)



Hon. Todd Hutton
County Court
Judge



Lisa Line, JD
Attorney



Julie Masters, PhD
Professor of
Gerontology



Laura Betzold
Hospital
Administrator



Julianne M. Spatz
Attorney



Gina Mack
Adult Protective
Services



Beth Baxter
Behavioral Health
Administrator



Darla Schiefelbein
Clerk Magistrate

²⁰Neb. Rev. Stat. § 30-4108.

²¹Neb. Rev. Stat. § 30-4107

Outreach

The Office of Public Guardian has a statutory duty to provide public education to increase awareness of the duties and responsibilities of guardians and conservators in the state of Nebraska. *See page 16 for Private Guardian Education and page 17 for Private Guardian Support.* In addition, the Office of Public Guardian has collaborated with various entities to improve Nebraska's systems of care, and to bring best practices to the state through its participation in various committees and groups.

Media Campaign

The OPG collaborated with Adult Protective Services, Eleanor Creative, and Nebraska Public Media to strategize, develop, and launch a media campaign to spread awareness of what makes a good guardian. Good guardianship involves treating persons subject to guardianship with dignity, involving them in the decision-making process, and maximizing their autonomy to the greatest extent possible. Guardians must be strong advocates who act responsibly and appropriately to meet the needs of others. They should be caring and compassionate, able to interact with people of all different backgrounds and communication styles. Guardians should always fulfill their commitments in a timely manner including phone calls, emails, and written reports.

Public radio spots have aired 34 times as of December 1, 2023, along with 51 public television spots.

Best Practices

The Office of Public Guardian was honored to host David Godfrey and Elizabeth Russo from the American Bar Association's Commission on Law and Aging in October 2023.

Two sessions were held on October 19, 2023, at UNO's Thompson Alumni Center in Omaha, where the OPG provided free continuing legal education (CLE) credits to attorneys. The first session, *Legal Considerations in Guardianship*, focused on due process and the rights of individuals subject to guardianship. The second session, *Innovations in Guardianship Systems Across the Nation*, highlighted innovative policies across the country to improve guardianship systems, and addressed common areas of improvement such as shortage of guardians, difficulties in meeting the needs of individuals with complex behavioral or support needs, and guardian burnout. Both sessions were well-attended, with 80 attorneys attending the first session and 60 attorneys attending the second.

A third session was held on October 20, 2023, during the Nebraska State Bar Association's Annual Meeting at the LaVista Conference Center, where 50 attorneys attended *Guardianship Nitty Gritty*. This session focused on due process, court procedures, the ethics of representing people with diminished capacity, best practices for attorneys, and less restrictive alternatives to guardianship.

All three sessions were open to OPG staff, the OPG's Advisory Council, members of the Supreme Court Commission on Guardianship and Conservatorship, the Nebraska Legislature's Judiciary and Health & Human Services Committees.

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STATE OF
NEBRASKA
JUDICIAL BRANCH

Office of Public
Guardian