
**OFFICE OF
CHILDREN'S
OMBUDSMAN
OVERVIEW**

The Children's Ombudsman Act, 1994 PA 204 (MCL 722.923), effective January 1, 1995, established the Office of Children's Ombudsman (OCO). As an autonomous unit within the Department of Technology Management and Budget the OCO monitors and ensures compliance with relevant statutes, rules, and policies pertaining to children's protective services and the placement, supervision, treatment and improving delivery of care of children in foster care and adoptive homes.

The act requires the OCO to establish procedures for receiving and processing complaints, conducting investigations, holding hearings and reporting investigative findings and recommendations. The act also requires the Department of Human Services (DHS) to provide information to and cooperate with the ombudsman in the carrying out of the responsibilities of the office.

The Child Care Organization Act, 1973, PA 116, MCL 722.115a says: "A child placing agency shall provide the Children's Ombudsman created in section 3 of the children's ombudsman act with those records requested by the ombudsman pertaining to a matter under investigation by the ombudsman." The Children's Ombudsman Act requires the DHS and child placing agencies to do all of the following:

- (a) Upon the ombudsman's request, grant the ombudsman or his or her designee access to all information, records, and documents in the possession of the department (DHS) or child placing agency that the ombudsman considers relevant and necessary in an investigation.
- (b) Assist the ombudsman to obtain the necessary releases of those documents that are specifically restricted.
- (c) Upon the ombudsman's request, provide the ombudsman with progress reports concerning the administrative processing of a complaint.
- (d) Upon the ombudsman's request, provide the ombudsman information he or she requests under subdivision (a) within 10 business days after the request. If the department determines that release of the information would violate federal or state

law, the ombudsman must be notified of that determination within the same 10-day deadline.

**OFFICE OF THE
FAMILY
ADVOCATE (OFA)
LIAISON DUTIES:**

The OFA is the department liaison to the OCO. The OFA:

1. Determines if DHS possesses or, in consultation with legal affairs, has legal access to case information regarding the child(ren) and family with respect to adoption, foster care, juvenile justice and/or children's protective services.
2. Assists the OCO to obtain requested documents, access to department and private child placing agency staff, or case status.
3. Maintains a record of OCO cases including notations of subsequent action taken.
4. Notifies the local office director, the Urban Field Office, and the Field Operations Administration child welfare managers of the OCO investigation conclusion.
5. Forwards to the appropriate central office division the issues identified in findings or recommendations that require policy, statutory, and/or legal clarification.
6. Performs SWSS data checks upon OCO request.
7. Coordinates and prepares the DHS response to the OCO.
8. Facilitates meetings between the OCO and DHS or child placing agency staff.

**OCO Requests
for Records or
Documents**

OCO requests for records or documents regarding children's protective services (CPS), foster care (FC), adoption services (AS), or juvenile justice (JJ) must be made in writing to the OFA. Each written request must contain:

1. General Information (if known).

- Name and date of birth of the child(ren) and the parent(s).
 - Legal status and placement (if JJ).
 - DHS county/district office and/or private child placing agency involved.
2. Type of Complaint.
- CPS.
 - FC.
 - Adoption.
 - JJ.
 - A combination.
3. Nature of the complaint - a summary of the issues presented to, or determined by, the OCO.

Exception: Private child placing agencies - All OCO requests for records or documents must be made directly to the private child placing agency with a copy to the OFA. The OCO will contact the private child placing agency directly if the requested information is not received by the due date.

Response to a Request for Records or Documents

Upon request, the DHS must provide the OCO with the requested information within 10 business days. If the DHS determines that release of the information would violate federal or state law, the OCO must be notified within the same 10-day deadline. All case file materials must be sent to:

Office of Children's Ombudsman
Boji Tower, Suite 100
PO Box 30026
124 W. Allegan St.
Lansing, MI 48909

Note: Due to statutory prohibitions, certain confidential information may not be released from children's services case files to the OCO; see SRM 131 for detailed information.

**OCO
Preliminary
Investigations**

When the OCO initiates a preliminary investigation, the OCO request must contain information subject to the protocol for Requesting Records and Documents.

Exception: Preliminary investigations involving only a private child placing agency will be sent directly to that agency by the OCO with a copy to the OFA. For private child placing agencies that have not selected a person to act as the primary contact to the OCO, the OCO must contact the private child placing agency director.

1. Request for documents - The requested documents must be sent to the OCO within 5 business days from the date the request was sent to OFA and/or the private child placing agency.
2. Request for telephone contact - Specific questions for DHS offices and private child placing agencies must be included in the request for preliminary information. To allow the DHS and/or private child placing agency time to prepare, the OCO investigator will not initiate contact sooner than 5 business days from the date of the request.

When the primary (or alternate) contact elects to designate a different person to speak with the OCO investigator, the primary (or alternate) contact must notify the OCO investigator before the scheduled contact and provide the name, telephone number, and title of the person with whom the OCO investigator should speak.

3. Request for e-mail information - Specific questions for DHS offices and/or private child placing agencies must be included in the request for preliminary information. The DHS and/or private childplacing agencies must respond within 5 business days from the date of the OCO request.

The OFA must forward the OCO request to the specified local office within 2 business days of receiving the request. If the primary contact is not available the day the request is received, the request should be forwarded to an alternate contact.

If the OCO request involves more than one program, the local office should designate one person to respond to the OCO investigator. If this is not possible or practical, the primary (or alternate) contact

must provide the OCO investigator with the name, telephone number, and title of each person the OCO investigator should contact.

When the OCO preliminary investigation is complete, the OCO must notify OFA (and/or the private child placing agency) of its decision regarding investigation of the complaint. When the case is opened for a full investigation, the OCO must send a standard request for case files to the OFA and/or private child placing agency.

OCO Full Investigations

The OCO sends a notice of investigation letter to the complainant after the request for case files form has been sent to the OFA. A copy of this letter (with name and address redacted) must also be sent to the OFA, DHS local office, and/or the private child placing agencies involved.

Exception: When the OCO opens a case for investigation that involves only a private child placing agency, the OCO must forward a copy of the notice of investigation letter and subsequent closing letter to the OFA and the local office that monitors the private child placing agency with a notation that it is for informational purposes only.

OCO Requests for Additional Records or Documents

The OCO must contact the OFA and follow the procedures outlined in the protocol for Requesting Records or Documents when requesting additional or updated records or documents.

Exception: When the local office has designated a contact person to whom requests for additional information can be directed, the OCO does not need to contact the OFA.

DHS must process the OCO request for additional or updated records relating to an ongoing investigation according to the time frames and methods as described in the protocol for Response to a Request for Records or Documents.

Exception: DHS and the OCO investigator agree to a modified time frame or method.

Note: Due to statutory prohibitions, some information may not be released from children's services case files to the OCO; please see SRM 131 for detailed information.

Protocol for the OCO Closing Investigations

The OFA distributes closing letters to Urban Field Operations and/or the Field Operations Administration child welfare manager and county director upon receipt from the OCO. The OCO must conclude each investigation via one of the following:

1. **Affirmation** - The OCO concludes that DHS and/or the private child placing agency complied with law and policy.
2. **Report of Findings and Recommendations** - The OCO finds one or more of the following:
 - A matter should be further considered by the DHS and/or the private child placing agency.
 - An administrative act should be modified, canceled or corrected.
 - Reasons should be given for an administrative act or omission.
 - Other actions should be taken by the DHS and/or the private child placing agency.
3. **Administrative Closing** - The OCO recommended and the DHS and/or private child placing agency initiated actions that resolved the matter that was the subject of the OCO investigation and no further action is required by the OCO, the DHS, and/or the private child placing agency.

LOCAL OFFICE PRIMARY CONTACT/ ALTERNATE DUTIES: CONTACT WITH THE OCO

Each local office shall ensure that OCO written requests for information are directed to the designated OCO local office primary

contact or alternate. In addition to keeping local office management informed of OCO requests, the primary contact is also responsible for facilitating the OCO's access to specific local office staff and case information.

The OCO local office primary contact is responsible for:

- Reviewing the OCO's request for information and facilitating the transfer of information to the OCO.
- Notifying the OFA promptly if the local office has had no involvement, the subject of a complaint resides in another county, or if information on file cannot be provided and the reason it cannot be provided.
- Forwarding information to CPS and the Bureau of Children and Adult Licensing (BCAL) when appropriate.
- Ensuring that the initial contact and all subsequent contacts with the OCO are noted in an administrative file separate from the children's services case file. When contact has been made and the identity of the OCO staff is uncertain, the local office contact person must verify the identity by return call to the OCO office.
- Processing a request for an OCO preliminary investigation within 5 business days
- Processing an OCO request for case file within 10 business days.
- Notifying the OFA of the date that requested information is sent to the OCO.
- Facilitating contact between the OCO and local office staff (including in person, telephone, or e-mail contact) when requested by the OCO. A supervisor may participate in these interviews.
- Providing the OFA with updates to forward to the OCO when specifically requested (such as copies of updated service plans, court reports, or new CPS complaints).
- Notifying the OFA when the OCO requests the local office to participate in a meeting/hearing with the OCO.

- Notifying the OFA when there are concerns regarding the interaction between the local office and the OCO.

RESPONSE TO AN OCO REPORT OF FINDINGS AND RECOMMENDATIONS

DHS must provide a written response to an OCO report of findings and recommendations (F&R). The OFA prepares the final written response.

Note: When DHS fails to respond within 60 days, or requests an extension, the OCO may send a closing letter to the complainant that provides the OCO's findings and recommendations with no corresponding DHS response.

F & R Response Process

1. OFA receives the F&R from the OCO. The response is due to the OCO 60 days from receipt of the F&R.
2. OFA creates the F&R response template.
3. OFA sends the F&R and the response template electronically with high priority status to the appropriate local office and/or private child placing agency within 1 business day. At the same time, the OFA will send an electronic copy of the F&R and response template to Urban Field Operations and/or the Field Operations Administration child welfare manager.
4. The local office and private child placing agency completes an objective review of the case file and department actions or omissions and drafts:
 - A clear response to each of the OCO's specific findings and recommendations, reflecting that the local office either agrees, agrees in part, or disagrees with the OCO. A detailed rationale is required for each finding and recommendation with which the local office or private child placing agency agrees in part or disagrees.
 - A clear corrective action plan (immediate and long-term) is required for each recommendation with which the local office agrees in part and/or fully agrees.

5. The local office and private child placing agency sends the draft response to the OFA, due 30 days from the date of receipt.
6. The OFA reviews the local office response to ensure that the findings and recommendations are accurately and completely addressed. The OFA will contact the local office when clarification is needed and/or if the OFA disagrees with the information as presented.
7. During the F&R response process, the OFA will notify and seek the assistance of Urban Field Operations and/or Field Operations Administration, child welfare manager if:
 - The OFA and local office cannot resolve a significant disagreement with information presented.
 - The OFA has been unable to obtain accurate and complete responses to the findings and recommendations.
8. The OFA prepares the department's final response to the OCO.
 - A clear response to each of the OCO's specific findings and recommendations, reflecting that the agency either agrees, agrees in part or disagrees with the OCO. A detailed rationale is required for each finding and recommendation with which the agency agrees in part or disagrees.
 - A clear corrective action plan (immediate and long-term) is required for each recommendation with which the agency agrees in part or fully agrees.

RESPONSE TO AN OCO REQUEST FOR ACTION

Requests for Action

When the OCO forwards a request for action (RFA) to the OFA it must contain sufficient information for DHS to take immediate action when the OCO alleges:

- Immediate risk to a child or children.
- Inappropriate placement of a child or children.
- Employee misconduct.

RFA's may be made regardless of the status of the DHS case or the OCO investigation. The process is as follows:

1. The OCO submits an RFA to the OFA.
2. The OFA creates the RFA response template.
3. The OFA must forward the RFA and the RFA response template within 1 business day to the DHS local office and/or private child placing agency director with a copy to the county director, Urban Field Operations and/or Field Operation Administration, child welfare manager.
4. The local office and/or private child placing agency completes an objective review of the case file and department actions or omissions and drafts:
 - A clear response to each of the OCO's specific requests for action, reflecting that the local office either agrees, agrees in part, or disagrees with the OCO. A detailed rationale is required for each request for action with which the local office agrees in part or disagrees.
 - A clear corrective action plan (immediate and long-term) is required for each request for action with which the local office agrees in part and/or fully agrees. The DHS response should include approximate time frames for completion of any action DHS agrees to take.
5. The DHS local office and/or private child placing agency must forward the draft response to the OFA within 3 business days of receiving the RFA.
6. The OFA must review the local office response to the RFA and prepare the official department response.
7. The OFA must forward the department's response to the OCO within 5 business days of the receipt of the RFA.

**STAFF
RESPONSE TO
COMPLAINTS
FILED WITH THE
OCO**

Section 11 of the Children's Ombudsman Act protects any person who has filed a complaint with the OCO or cooperated with the

OCO during the investigation. The act also prohibits interference with the lawful actions of the OCO. A foster parent filing a complaint with the OCO, or cooperating with an OCO investigation, is **not** to be used as a basis for a licensing complaint against the foster parent.

Allegations of Section 11 violations brought to the department's attention must be investigated by supervisory staff. Corrective action must be implemented if an allegation is confirmed by such an investigation.