

Inter-Agency Agreement

between

**The Office of the Family and
Children's Ombudsman**

and

**The Department of Social and Health
Services**

This INTER-AGENCY AGREEMENT is hereby made and entered into by and between the Office of the Family and Children’s Ombudsman (OFCO) and the Department of Social and Health Services (DSHS) in compliance with existing law, including but not limited to, chapter 43.06A RCW; chapter 74 RCW; chapter 26.44 RCW; and chapter 13.34 RCW.

A. PURPOSE

This INTER-AGENCY AGREEMENT between the Office of the Family and Children’s Ombudsman (OFCO) and the Department of Social and Health Services (DSHS, the department, or agency) sets forth the role and responsibilities of OFCO and DSHS and provides a framework for the working relationship between OFCO and DSHS. This INTER-AGENCY AGREEMENT sets forth a credible review process, which includes in part, an opportunity for DSHS to be consulted and provided an opportunity to review, comment or respond to OFCO reports prior to their publication. The review process is intended to ensure that the conclusions, findings, and recommendations of OFCO, in its oversight of DSHS are fair, accurate, and credible.

This INTER-AGENCY AGREEMENT was developed jointly by OFCO and DSHS to facilitate communication between the two agencies and to improve oversight of DSHS by OFCO. This document does not take the place of existing law. Should a conflict arise between this INTER-AGENCY AGREEMENT and existing law, both OFCO and DSHS agree that existing law governs.

B. MISSION OF THE OFFICE OF THE FAMILY AND CHILDREN’S OMBUDSMAN

OFCO shall strive to carry out its mission:

1. The mission of the Office of the Family and Children’s Ombudsman is to protect children and families from harmful agency action or inaction, and to inform the Governor, Legislators, and state policy makers of problems in the child protection and welfare system that need to be addressed. OFCO identifies problems through its investigation of complaints by analysis of facts and the application of law, policy, procedure, and best practices for child welfare, and takes appropriate action as necessary.

C. MISSION & VISION OF DSHS

1. DSHS shall strive to carry out its mission:

The mission of DSHS is to improve the safety and health of individuals, families, and communities by providing leadership and establishing and participating in partnerships. With regard to serving children and families, DSHS's priorities are to provide safety, permanency, and well-being to children while they are in care; build community capacity; and to strengthen and support families. It is also a priority of DSHS to implement programs that meet the needs of special populations including populations that need long-term care supports, tribal citizens, populations with health disparities, transitioning youth to create a smooth bridge to adulthood, and children and youth at risk and/or with special needs.

DSHS operates as one department with one vision, one mission, and one core set of values. DSHS is committed to providing high-performing programs in an integrated organization working in partnership for statewide impact.

2. DSHS will strive to act in accordance with its vision:

DSHS seeks to be an organization that provides high-performing programs to promote safe, healthy individuals, families, and communities. Together with its community partners, DSHS will decrease poverty, improve the safety and health status of citizens, increase educational and employment success and support people and communities in reaching their potential.

D. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT OFCO and DSHS each operate in accordance with certain guiding principles and procedures:

1. **OFCO Guiding Principles and Procedures.** In accordance with the standards set forth by the United States Ombudsman Association (USOA), OFCO's authorizing statute, chapter 43.06A RCW, and implementing regulations, contained in chapter 112-10 of the Washington Administrative Code (WAC). OFCO operates according to four key guiding principles and related procedures:

a. Independence:

OFCO must be free from outside control or influence. This standard enables the Ombudsman to function as an impartial and critical entity that reports findings and makes recommendations based solely on a review of facts and law, in the light of reason and fairness.

b. Impartiality:

OFCO receives and reviews each complaint in an objective and fair manner, free from bias, and treats all parties without favor or prejudice. This standard instills confidence that complaints reviewed and investigated by OFCO will receive a fair review, and encourages all parties to accept the Ombudsman’s findings and recommendations.

c. Confidentiality:

OFCO maintains the confidentiality of complainants and may not be compelled to testify or to release records. OFCO maintains the confidentiality of individuals from whom information is acquired except as necessary to perform the duties of the office. These confidentiality protections encourage individuals to come forward with information and concerns without fear of possible retaliation by others.

d. Credible Review Process:

A credible review process promotes respect and confidence in OFCO’s oversight of DSHS.

OFCO is qualified to analyze issues and matters of law, administration, and policy. OFCO has collective experience and expertise in child welfare law, social work, mediation, and clinical practice; and in conducting investigations. Ombudsmen are also trained in and have familiarity with the United States Ombudsman Association Governmental Ombudsman Standards. In reviewing and analyzing complaints, and making complaint specific findings and systemic recommendations, OFCO recognizes that DSHS operates in accordance with the “One Department” framework, set forth in the DSHS mission statement recognizing that all children in the child welfare system are a department-wide responsibility. This mission

statement is set forth in pertinent part under section C of this INTER-AGENCY AGREEMENT, entitled "Mission and Vision of DSHS."

OFCO has been granted authority and responsibility necessary to thoroughly investigate complaints and conduct a credible review process under chapter 43.06A RCW and chapter 112-10 WAC:

1) Access to Agency documentation/records

- a) OFCO has the authority to examine agency documents and files, and electronic/computerized records and to physically examine state-licensed facilities.
- b) OFCO has unlimited access to records and proceedings of DSHS, including records that are considered confidential or not otherwise open to the public.
- c) OFCO has unlimited access within its authority to any and all DSHS staff.

2) Annual Report

- a) OFCO publishes annually its investigative findings and recommendations to improve the child welfare system in an annual report to the Governor and the Legislature. The report describes the work in OFCO's reporting year(s), the number of inquiries, and complaints received, investigated, and their status.
- b) The annual report is a tool for educating legislators and other policy makers about the need to make, change or set aside laws, policies or agency practices so that children are better protected and cared for within the child welfare system.
- c) OFCO will provide a confidential preliminary copy of the annual report to DSHS and may brief the DSHS Secretary and Children's Administration (CA) Assistant Secretary regarding the content of the Annual Report prior to its publication.

3) Systemic Investigations and Reports

- a) OFCO may identify a pattern of problems in the child welfare system. These could be related to a region of the state and/or a clearly unreasonable agency practice. It may be appropriate for OFCO to make the public aware of such problems by publishing a systemic report addressing concerns to promote agency accountability, educate the public, and induce corrective action. OFCO will notify DSHS in writing at the earliest possible time if a systemic pattern is identified and will be addressed in an OFCO investigation or report.
- b) OFCO may edit identifying information to protect the confidentiality of complainants or sources of information.
- c) OFCO will consult with DSHS and provide the agency the opportunity to review, comment or respond to the report prior to its publication.
- d) OFCO reports are posted for public review on the OFCO website and access to such reports may be provided on the DSHS website through a link to the OFCO website.

4) Complaints

- a) OFCO has the authority and responsibility to investigate complaints involving children and families receiving child protection or child welfare services, or any child reported to be at risk of abuse, neglect, or other harm.
- b) The objective of a complaint investigation is to determine whether DSHS or another agency has violated law, policy or procedure, or unreasonably exercised its authority.
- c) The process for how complaints are made, received, and acted upon by OFCO, including the scope and manner of investigation, is defined and transparent as set forth in the OFCO "Policy and

Procedure Manual”, chapter 43.06A RCW, and chapter 112-10 WAC.

- d) OFCO retains discretion over which complaints to accept or deny within OFCO’s jurisdiction. If a complaint is not investigated, OFCO explains to the complainant the reason a complaint is not accepted for investigation.
- e) OFCO inquires of complainants if they have attempted to resolve an issue with DSHS staff either at the local office, regional or HQ level. OFCO may encourage callers to attempt resolution within DSHS prior to filing a complaint with OFCO, as appropriate.
- f) In cases where the Ombudsman finds that the agency has properly carried out its duties, no further action is taken and OFCO communicates this decision to the complainant. In cases in which an adverse finding is made, the Ombudsman may work to resolve or change a decision or course of action by DSHS or the pertinent agency. This is known as an “intervention.” The Ombudsman has the discretion to act informally to resolve a complaint such as providing information and referrals, or mediating disagreements.
- g) OFCO attempts to keep both the complainant and DSHS apprised of the status of the investigation and to complete the investigation in a timely manner.
- h) When OFCO makes an adverse finding related to the issue(s) brought to OFCO by the complainant, OFCO informs the complainant as to the adverse finding and the results of intervention.
- i) In the course of investigating a complaint, OFCO may identify violations of law, policy or procedure or unreasonable action or inaction not related to the issues raised by the complainant. OFCO has authority to investigate these other issues and to address these with the agency.

- j) In cases where the complaint is unresolved at the local office or regional management, and OFCO finds that a violation of law, policy or procedure or unreasonable action has taken place, notification will be made to DSHS management of the case and issues of concern and the nature of OFCO's intervention.
- k) If OFCO determines there is a concerning pattern to the nature of complaints received regarding a particular practice, policy, activity, or individual notification will be made to DSHS management so issues can be addressed as quickly as possible.

2. DSHS Guiding Principles. DSHS's guiding principles with respect to programs serving families and children reflect the agency's mission and vision and demonstrate a commitment to keep children safe while strengthening and preserving families and partnering with communities to provide high-performing programs in an integrated organization working in partnership for statewide impact.

a. Relationship with OFCO

DSHS recognizes that OFCO provides an important and essential oversight role over the agency. DSHS works cooperatively with OFCO staff during an investigation and supports open communication with OFCO.

DSHS staff is trained regarding OFCO's authority to investigate agency matters, and DSHS staff roles and responsibilities during an OFCO investigation.

E. THE FOLLOWING TERMS AND CONDITIONS, IN ACCORDANCE WITH THE GUIDING PRINCIPLES CONTAINED HEREIN, ARE MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES:

1. Preliminary Systemic Investigations and Report (Annual & Systemic)

a. Consultation. Prior to issuing a public report concerning DSHS, the Ombudsman will give the agency an opportunity to review, comment or

respond to the report by providing a confidential preliminary copy of the report to DSHS.

- b. Confidentiality.** The preliminary report is confidential and will be so titled on the cover page. DSHS shall not release, disclose, or publicize the preliminary report or any of its content to the public or any other entity without the express written permission of OFCO. If agreed to by OFCO, DSHS may share the preliminary report with other state officials only if it is necessary.
- c. Agency May Seek Modification.** DSHS may seek modification of an opinion, finding, recommendation or statement of fact or law presented in the preliminary report by submitting a written request to the Ombudsman within 15 working days of the date of receipt of the report. OFCO may request an agency response sooner if OFCO deems this necessary for public health, safety or welfare. OFCO may extend the agency response time upon a showing of good cause by DSHS.
- d. OFCO Consideration of Requested Modification.** If DSHS seeks modification of the preliminary report, OFCO shall consider the agency's request before it prepares its final report and shall notify the agency of the acceptance or rejection of that request within 15 working days of receiving the request. OFCO may extend its time to respond by notifying DSHS CA in writing of the reason for the extension.
- e. No Agency Modification.** If DSHS does not request modification, the preliminary report becomes the final report 15 working days after the date the agency received the preliminary report. OFCO reserves the right to make stylistic, grammatical, and organizational changes to the report without further review by DSHS.

2. Final Report

- a. Transmittal of Report to Agency.** After OFCO considers requested modifications to a preliminary report from DSHS and has notified the

agency of its decision to accept or reject the proposed modifications, if any, to a preliminary report, OFCO shall send the final report to the Secretary of DSHS and the Assistant Secretary of Children's Administration (CA). OFCO may meet in person to present its reports to the Secretary, CA Assistant Secretary, and other Department representatives, upon request. The final report is not subject to further modification by DSHS.

- b. Issuance of Final Report.** OFCO will issue its final report with the agency's unedited response to the preliminary report. Based on considerations of length and expense of a printed report, OFCO has the discretion to summarize the agency response in the printed final report. If OFCO summarizes the agency response, it will then include the full agency response in an on-line version of OFCO's final report.
- c. Posting of OFCO Reports.** OFCO's final reports will be posted on the OFCO website and access to such reports may be provided on the DSHS website through a link to the OFCO website.
- d. DSHS Response to OFCO Reports.** The department will respond to OFCO report findings and recommendations within 30 days of receiving them and develop an action plan and implementation plan as appropriate that may include, but is not limited to, policy modification/development, academy curriculum modification, or topic specific training for staff.
- e. DSHS Quality Assurance Plan in Response to OFCO Reports.** DSHS will provide a status report to OFCO on action plans and implementation plans no less than two times a year at 6 month intervals to be mutually agreed upon. DSHS may agree and support a recommendation in an OFCO report, but may not have the resources for implementation or may plan for implementation at a later date. These details will be included in the DSHS quality assurance plan in response to OFCO reports.

3. Complaint Investigation

- a. Procedure after Investigation of Complaint.** Upon conclusion or in the course of OFCO's investigation of a complaint, OFCO shall

communicate “preliminary” adverse findings in writing to DSHS when OFCO finds that the agency or agency employee is in violation of law, policy, or procedure, or that the agency has unreasonably exercised its authority.

b. Agency May Seek Modification of Adverse Complaint

Finding. DSHS may seek modification of an adverse complaint finding (i.e. a finding that the agency is in violation of law, policy, or procedure) within 10 working days of the date of receipt of the adverse finding. OFCO may request an agency response sooner if OFCO deems this necessary for public health, safety or welfare. OFCO may extend the agency response time upon a showing of good cause by DSHS.

c. Notifying Complainant of Finding. After DSHS has responded or if the agency does not respond to OFCO within the specified timeframe, OFCO shall inform the complainant as to the results of OFCO’s investigation. OFCO will include in its letter a summary of the complaint and investigative activities, OFCO’s findings and recommendations (if any), and the agency’s response. The agency will not be provided a copy of the letter OFCO sends to the complainant due to confidentiality restrictions.

d. OFCO Role in Mediation. The department may request OFCO to act as mediator in cases or situations where issues remain unresolved between the department, constituents, other parties, providers or community partners.

F. MODIFICATION OF INTER-AGENCY AGREEMENT. Modifications within the scope of this INTER-AGENCY AGREEMENT shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed.

G. TERMINATION OF INTER-AGENCY AGREEMENT. Any of the parties, in writing, may terminate the INTER-AGENCY AGREEMENT, in whole or in part at any time.

Signed by:

Mary Meinig
Director Ombudsman
Office of the Family and Children's
Ombudsman

Susan Dreyfus
Secretary
Department of Social and Health Services

Date

Date

Denise Revels Robinson
Assistant Secretary
Children's Administration, DSHS

Date