

**From:** [Sunset Advisory Commission](#)  
**To:** [Cecelia Hartley](#)  
**Subject:** FW: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)  
**Date:** Tuesday, October 14, 2014 4:55:02 PM

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-----Original Message-----

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]  
Sent: Tuesday, October 14, 2014 4:33 PM  
To: Sunset Advisory Commission  
Subject: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)

Submitted on Tuesday, October 14, 2014 - 16:33

Agency: HEALTH AND HUMAN SERVICES COMMISSION HHSC

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Your Comments About the Staff Report, Including Recommendations Supported or Opposed: One Voice Texas fully supports moving Residential Child Care Licensing from DFPS. There is an inherent conflict of interest with a regulatory body falling under the agency whose functions it is supposed to be monitoring. We also support the recommendation regarding strengthening the authority and function of the HHSC ombudsman's office; however, it is unclear in the report if each functional area would still have an independent ombudsman's office.

Any Alternative or New Recommendations on This Agency:

New Recommendation #1-3: #1) One functional area that is missing from the current HHSC Sunset Report is Prevention. Prevention involves keeping children and families out of crisis systems including foster care, juvenile detention, prison, inpatient psychiatric hospitals etc. It is a task common across the current state agencies; however, within these agencies prevention/family strengthening efforts are often weakened given the split focus between prevention and crisis intervention which leads to poor planning and jeopardized funding. A perfect example of this is PEI under DFPS. A prevention division would create efficiencies in other areas and would further reduce fragmentation across agencies; #2) One ombudsman's office should exist under HHSC. This office should consist of the staff from the current agency ombudsman's office so that expertise is not lost. This would centralize reporting regarding policy and practice of HHSC agencies, divisions etc. There are policy recommendations in recommendation 3 that would be very beneficial to this model; #3) If the Sunset Commission does not adopt this recommendation, then DFPS should have an independent ombudsman's office (currently called the Office of Consumer Affairs). There are several policy changes that need to either be included in the Sunset legislation or another bill along with rulemaking after session. The recommendations from One Voice Texas and Texas CASA are below:

AUTONOMY

- The Commissioner of the Department of Family and Protective Services shall have no authority to:
  - o create or change the policy and practice of the Office of Consumer Affairs
  - o determine the budget of the Office of Consumer Affairs or
  - o make decisions regarding personnel of the Office of Consumer Affairs
- Administrative attachment would move from DFPS to HHSC
- A budget line item for the Office of Consumer Affairs shall be established within the Health & Human Services Commission budget

#### CONFIDENTIALITY

Confidentiality for the reporter of and child who is the subject of the report of alleged or suspected abuse or neglect shall follow the guidelines defined in Title 5, Subtitle E, Chapter 261, Subchapter C Section 261.201 of the Family Code.

#### RETALIATION

OCA and Child Care Licensing must have a policy in place which outlines the consequences, based on the extent of the offense and severity of retaliation, for individuals and agencies found to have engaged in retaliation against a child or youth in foster care.

**SPECIFIC PROTOCOLS FOR HANDLING CALLS FROM CHILDREN/YOUTH IN FOSTER CARE** The Office of Consumer Affairs shall open a case for any child in foster care that calls the office with either a complaint.

The OCA shall develop a policy to ensure when a child calls with an inquiry, OCA staff determines if the inquiry is based on potential violations and should be treated as a complaint. (For example, if a child calls and says, “do I have a right to get my ID?” vs. “my foster parent won’t allow me to have my ID”. The first question may be treated as an inquiry and no case would be open even though the child may be deprived of acquiring an ID, which is a violation. A further line of questioning would be needed.)

If the child alleges abuse or neglect, the Office of Consumer Affairs shall assist the child in reporting the allegation to Statewide Intake and shall open a case that shall stay open for the duration of the investigation and resolution by Residential Child Care Licensing and Children’s Protective Services.

The Office of Consumer Affairs shall establish a secure form of communication with the child in order to ensure that he/she is made aware of the results of the investigation including the substantiation of any complaints that are brought to the attention of or determined by the Office of Consumer Affairs.

It needs to be listed in policy that no matter what the nature of the complaint, if it is from a child in foster care, then it needs to be separately investigated by OCA

#### OUTREACH PLAN

The Office of Consumer Affairs shall be responsible for developing and implementing an outreach plan to all parties who can potentially make inquiries or complaints. This outreach plan shall be updated annually and shall include, but not be limited to:

- Notification signs in residential facilities where DFPS clients reside. Signs must be placed in safe, private spaces, easily accessible to clients.
- Notification of the function of the Office of Consumer Affairs to: Guardian ad Litem, CASA and staff of CPS, RCCL and APS.

#### SUBSTANTIATION OF COMPLAINTS

- The Office of Consumer Affairs shall have the authority to substantiate on as many complaints deemed valid by their investigation.
- The Office of Consumer Affairs shall have the authority to substantiate on complaints/violations uncovered during the course of their investigation even if those complaints were not originally indicated by the reporter of the initial complaint. Newly identified complaints should trigger an additional line of investigation.

#### REPORTING

The Office of Consumer Affairs shall be required to regularly report performance data to the Health and Human Services Commission and the Commissioner of DFPS.

On a yearly basis, the Office of Consumer Affairs shall provide the following information to the Health and Human Services Commission, the Commissioner of DFPS and the legislature:

- Performance data including a breakdown of the nature of the inquiries and complaints tied to the source of the report as well as the way in which complaints were resolved
- What changes DFPS Regions and or state level DFPS made to resolve complaints
- A glossary of terms
- Trends of inquiries and complaints
- Underlying causes and systemic remedies
- Outreach activities and strategy for next year
- Public feedback on performance data and patterns of inquiries and complaints

DFPS shall post this report on their web page

My Comment Will Be Made Public: I agree