THE COLORADO CHILD PROTECTION OMBUDSMAN BOARD

BY-LAWS

ARTICLE I: PREAMBLE / ORGANIZATION

SB 15-204 established the Colorado Office of the Child Protection Ombudsman (“Office”), an independent agency within the Colorado Judicial Department, as of January 1, 2016. That same organic statute also established the Colorado Child Protection Ombudsman Board (the “Board”), an independent board whose primary purpose is to appoint and evaluate the Child Protection Ombudsman (“Ombudsman”), who serves as the Executive Director of the Office.

The legislative purpose in establishing an independent Office and Board is to improve accountability and transparency in the child protection system, promote better outcomes for children and families involved in the child protection system, and allow families, concerned citizens, mandatory reporters, employees of the state department and county departments, and other professionals who work with children and families to voice their concerns, without fear of reprisal, about the response by the child protection system to children experiencing, or at risk of experiencing, child maltreatment. ¹

Among its duties, the Board assists the Office to promote the mission of the Office to the public. The Office mission is to bring accountability and transparency to the child protection system and promote better outcomes for children and families.

ARTICLE II: THE BOARD

Section 2.1 Composition and Term of Service.

The Board is comprised of twelve members.² The appointing officials for the Board include:

The Chief Justice of the Colorado Supreme Court appoints:

- An individual with experience as respondent parents’ counsel;

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¹ §§ 19-3.3-101(2)(a)-(b) and 19-3.3-102(2)(h), C.R.S. (2016)
² § 19-3.3-102(2)(a), C.R.S. (2016).
• An individual with experience defending juveniles in court proceedings;
• An individual with legal experience in dependency and neglect cases; and
• An individual with experience in criminal justice involving children and youth.³

The Governor appoints:

• An individual with previous professional experience with a rural county human or social services agency or a rural private child welfare advocacy agency;
• An individual with previous experience with the department of human services;
• An individual with previous professional experience with an urban human or social services agency or an urban private child welfare agency; and
• An individual with primary or secondary education.⁴

The President and Minority Leader of the Senate appoints:

• An individual who was formerly a child in the foster care system; and
• An individual with professional experience as a county and community child protection advocate.⁵

The Speaker and the Minority Leader for the House of Representatives appoints:

• A current or former foster parent; and

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⁴ §§ 19-3.3-102(2)(b)(II)(A) – (D), C.R.S. (2016)
⁵ §§ 19-3.3-102(2)(b)(III)(A) – (B), C.R.S. (2016)
• A health care professional with previous experience with child abuse and neglect cases.\(^6\)

Board members shall serve four year terms, except that of the members first appointed, two members appointed by the Chief Justice, the Governor, and the President and Minority Leader of the Senate and one member appointed by either the Speaker or Minority Leader for the House of Representatives shall serve initial terms of two years, as designated by the appointing officials.\(^7\)

The appointing officials shall fill any vacancies on the Board for the remainder of any unexpired term.\(^8\)

**Section 2.2 Compensation.**

Members of the Board shall serve without compensation but may be reimbursed for actual and reasonable expenses incurred in the performance of their duties.\(^9\) Expenses incurred by Board members must be paid by the general operating budget of the Office.\(^10\)

**Section 2.3 Board Vacancy Appointments.**

The Chair or Ombudsman shall immediately notify the relevant appointing authority of any Board member resignation. The relevant appointing official shall fill any vacancy of the Board for the remainder of any unexpired term.\(^11\)

**ARTICLE III: BOARD CHAIR AND VICE-CHAIR**

The Board shall elect by a majority vote a Board Chair and Vice-Chair to oversee Board business. The Board Chair shall serve for a two-year term. The Chair shall preside over the meetings of the Board and work with the Ombudsman to set the Board agenda.

The Vice-Chair shall act in the absence of the Chair.

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\(^6\) §§ 19-3.3-102(2)(b)(IV)(A) – (B), C.R.S. (2016)

\(^7\) § 19-3.3-102(2)(c), C.R.S. (2016)

\(^8\) *Id.*

\(^9\) § 19-3.3-102(2)(e), C.R.S. (2016)

\(^10\) § 19-3.3-102(2)(f), C.R.S. (2016)

\(^11\) § 19-3.3-102(2)(c), C.R.S. (2016)
The election for Board Chair shall take place six months prior to the expiration of the term of service as Board Chair. In the event the individual serving as Board Chair no longer serves on the Board prior to the expiration of the term as Chair, the Vice-Chair shall serve as the Board Chair for the remainder of that term.

ARTICLE IV: BOARD MEETINGS

Section 4.1 Applicability of Open Meetings Law.

The Board’s meetings are subject to the requirements of the Colorado Open Meetings Law, § 24-6-402, C.R.S., except for executive personnel actions and or for meetings requiring the protection of confidentiality for children’s or parents’ personal data.12

Section 4.2 Meetings.

The Board shall meet a minimum of twice a year, but may meet additionally as needed. At least one of the Board’s meetings per year must be held outside of the Denver metropolitan area.13

Regular Board meetings are held every other month commencing in January on the second Thursday of the month. Meetings begin at 8:00 AM and are held in the Ralph L. Carr Judicial Building, located at 1300 Broadway in Denver, Colorado, unless a different date, time or location is designated. The specific conference room where the meeting is located in the Ralph L. Carr Building will change subject to availability.

Board members may participate by telephone to attend meetings, so long as they provide notice to the Ombudsman in advance so that appropriate conferencing technology is made available.

Emergency or special meetings of the Board may be called by the Chair or Ombudsman. Notice of an emergency or special Board meeting shall be delivered by electronic mail or telephone to each Board member, which will include the date, time, location and purpose of the meeting. Notice of the special or emergency Board meeting shall be provided to the Board member no later than 24 hours prior to the time set for the meeting.

12 § 19-3.3-102(4), C.R.S. (2016)
13 § 19-3.3-102(2)(d), C.R.S. (2016)
Section 4.3  **Quorum.**

A majority of the members of the Board, when present at any meeting, shall constitute a quorum.

Section 4.4  **Notice of Meetings.**

The Board shall provide public notice of all its meetings on the Office website, or through such other means as the Chair or Ombudsman deems appropriate. The notice shall include the date, time, location, and agenda for the meeting.

Section 4.5  **Conduct of Meetings.**

All meetings of the Board shall be open to the public. Meetings of the Board shall be conducted generally in keeping with Roberts Rules of Order, except as otherwise provided in these By-Laws, but shall be as informal as circumstances permit.

Members of the public who attend shall be provided a reasonable opportunity to speak at the beginning of the meeting. The Board may from time to time and by a majority vote adopt or amend its policy for the receipt of public comment.

The Board may vote to conduct certain business in Executive Session, as authorized under the organic statute for the Board or the Colorado Open Meetings Law.\textsuperscript{14} Such circumstances that may necessitate Executive Session include, but are not limited to, information that must be kept confidential subject to the attorney-client privilege, personnel matters related to the Ombudsman, or information that must be kept confidential subject to other state or federal laws. The Chair shall announce to the public the general topic for discussion in Executive Session and call for a motion to enter into Executive Session. The Board must vote by two-thirds majority of its membership before it may enter into Executive Session. If the Board votes to enter Executive Session, only those persons invited by the Board may be present during the Executive Session.

Section 4.6  **Voting.**

\textsuperscript{14} § 19-3.3-102(4), C.R.S. (2016); § 24-6-402(3)(a), C.R.S. (2016)
Each member of the Board shall be entitled to one vote in the affairs of the Board. A majority of the quorum passes a measure unless otherwise specified in these By-Laws.

Section 4.7 Minutes.

Minutes for all Board meetings shall be taken. The Board shall have an opportunity to review the minutes of a prior meeting at its next regularly scheduled meeting, and shall approve the minutes by a majority vote, subject to any amendments or corrections. The approved minutes shall constitute the Board's official record of proceedings. The approved minutes shall be made available to the public via the Office website.

Section 4.8 Working Groups.

The Board by a majority vote may designate and appoint one or more Working Groups comprised of Board members, as the Board deems appropriate to serve in an advisory capacity to the Board. No such Working Groups shall have the authority of the Board and shall only perform those functions as determined by the Board. Working Group members may be appointed by the Chair and serve at the pleasure of the Board. A Chair of a Working Group may be appointed by the Chair of the Board.

Any Working Group meeting must comply with the requirements of the Colorado Open Meetings Law. The Board shall provide notice of all its Working Group meetings through the Office website, or through such other means as the Chair or Ombudsman deems appropriate. The notice shall include the date, time, location, and agenda for the Working Group meeting.

Any business of the Working Group will be conducted in public. Unless there is a quorum of the Board membership present and such topic or issue was part of the public notice for the Working Group meeting, there shall not be any formal votes taken. Participation by telephone at a Working Group meeting is permitted to the extent the Working Group member provides advance notice to the Ombudsman and appropriate conferencing technology is available.

Minutes of any Working Group meeting shall be taken, and available for the Board for their inspection at their next regularly scheduled meeting. The minutes of any Working Group meeting shall be made available to the public via the Office website.
Section 4.9 Attendance.

Attendance to all regular Board meetings is mandatory, unless previously excused by the Chair, Vice-Chair or Ombudsman. If a Board member has more than three consecutive unexcused absences, the Chair, in his discretion and as may be delegated to the Ombudsman, may report such circumstances to the Board member’s appointing authority.

ARTICLE V: BOARD DUTIES

Section 5.1 Board Duties Generally.

The Board has the following duties and responsibilities specific to personnel oversight of the Ombudsman:

- To appoint the Ombudsman;\textsuperscript{15}

- To discharge the Ombudsman;\textsuperscript{16}

- To fill any Ombudsman vacancy;\textsuperscript{17}

- To evaluate the Ombudsman’s performance based on feedback received related to the Ombudsman;\textsuperscript{18}

- To develop a public complaint process related to the Ombudsman’s performance.\textsuperscript{19}

The Board’s other duties and responsibilities related to its advisory role to the Ombudsman and Office include:

- To oversee and advise the Ombudsman on the strategic direction of the Office and its mission and to help promote the use, engagement, and access to the Office;\textsuperscript{20}

\textsuperscript{15} § 19-3.3-102(3)(a)(I), C.R.S. (2016)

\textsuperscript{16} Id.

\textsuperscript{17} § 19-3.3-102(3)(a)(II), C.R.S. (2016)

\textsuperscript{18} § 19-3.3-102(3)(a)(III), C.R.S. (2016)

\textsuperscript{19} § 19-3.3-102(3)(a)(IV), C.R.S. (2016)

\textsuperscript{20} § 19-3.3-102(3)(b), C.R.S. (2016)
• To work cooperatively with the Ombudsman to provide fiscal oversight of the general operating budget of the Office and to ensure the Office operates in compliance with the provisions of the organic statute, the Memorandum of Understanding, and state and federal laws concerning the child welfare system;\textsuperscript{21}

• To promote the mission of the Office to the public;\textsuperscript{22} and

• To provide assistance, as practicable and as requested by the Ombudsman, to facilitate the statutory intent of the organic statute establishing the Office and Board.\textsuperscript{23}

**Section 5.2  Appointment of the Ombudsman.**

The Board may only appoint an Ombudsman by a two-thirds majority vote of the Board membership.\textsuperscript{24}

The Board shall work with the Human Resources Department for the State Court Administrator’s Office (“SCAO”), which may provide assistance with the hiring process for the Ombudsman, as outlined in the Memorandum of Understanding between the Colorado Judicial Department and the Office dated October 15, 2015, or any successor agreement.

The Board shall review the applications that are received, narrow the pool to a certain number of finalists, conduct interviews of the finalists, conduct reference checks, and vote by a two-thirds majority for appointment of the Ombudsman. The hiring process for a future Ombudsman will comply with the requirements of the Colorado Open Meetings Law.

**Section 5.3  Evaluation of the Ombudsman.**

\textsuperscript{21} \S 19-3.3-102(3)(c), C.R.S. (2016)
\textsuperscript{22} \S 19-3.3-102(3)(h), C.R.S. (2016)
\textsuperscript{23} \S 19-3.3-102(3)(i), C.R.S. (2016)
\textsuperscript{24} \S 19-3.3-102(3)(a)(I), C.R.S. (2016)
The General Assembly shall set the Ombudsman’s compensation, and such compensation may not be reduced during the term of the Ombudsman. While the General Assembly sets the compensation for the Ombudsman, the Board may, as part of its ongoing evaluation of the Ombudsman, provide recommendations to the General Assembly for any salary increases of the Ombudsman during the regularly scheduled budget process for the Office.

The Board shall conduct Annual Evaluations of the Ombudsman, which shall include at minimum, a completed self-evaluation of the Ombudsman, comments and feedback from the Office staff, and completed evaluation forms of Board members. The Board may delegate to the Chair or another Board member the responsibility of preparing a draft Annual Ombudsman Evaluation that combines the Ombudsman’s self-evaluation, Office staff comments and feedback, and Board member evaluations. The Board shall review the draft Annual Ombudsman Evaluation, and by majority vote, approve a final Annual Ombudsman Evaluation subject to any corrections, amendments, or deletions. The final Annual Ombudsman Evaluation shall be delivered to the Ombudsman, who shall at the next regularly scheduled meeting have an opportunity to provide a response, either through written or verbal means, or both. To the extent the Board seeks to coincide the Annual Evaluation process with the state fiscal year (July 1 to June 30), the Board may need to conduct an evaluation that may encompass more than a twelve month cycle. Such a determination to change the timing of the Annual Evaluation may be conducted by Board motion.

The Board may conduct a Formal Comprehensive Evaluation of the Ombudsman, if the Board determines such an evaluation is necessary and proper. The Formal Comprehensive Evaluation may include a completed self-evaluation of the Ombudsman, comments and feedback from Office staff, comments and feedback from the public, comments and feedback from other stakeholders of the child welfare system, and completed Board evaluation forms. The Board shall follow the same procedures utilized for the Annual Evaluation with respect to the drafting, review, final, and response of the Formal Comprehensive Evaluation. The Board may obtain feedback from the public and other stakeholders through other mechanisms rendering the need for a Formal Comprehensive Evaluation unnecessary.

Section 5.4 Public Complaint Procedure.
The Board shall develop a public complaint process related to the Ombudsman to comply with § 19-3.3-102(3)(a)(IV), C.R.S. (2016).

Section 5.5  Termination of the Ombudsman.

The Board may terminate an Ombudsman’s employment for cause by a two-thirds majority vote of the Board membership.

A decision by the Board to terminate the Ombudsman is final and not subject to appeal, review, or grievance.

Section 5.6  Advisory Role of the Board to the Ombudsman.

To discharge its advisory role and provide assistance to the Ombudsman, when requested, the Board shall from time to time offer suggestions, advice, recommendations or other input to the Ombudsman. Such input may be provided at regularly scheduled meetings, Working Groups, or individual Board member meetings with the Ombudsman.

In order to help promote the use, engagement and access to the Office, work cooperatively with the Ombudsman on fiscal oversight of the Office, promote the mission of the Office, or provide other assistance, the Board may from time to time solicit suggestions from the Ombudsman as to how the Board may effectively discharge these advisory services to the Ombudsman and Office staff.

ARTICLE VI:  BOARD DOCUMENTS

Section 6.1  Applicability of the Colorado Open Records Act.

The records of the Board are subject to the Colorado Open Records Act, found in part 2 of article 72 of title 24, C.R.S.26

Section 6.2  Board Documents.

The term “Board Documents” as used herein refers to “any and all documents relating to the appointment, evaluation, or termination of a current or past Ombudsman.”

26 § 19-3.3-102(5), C.R.S. (2016)
This excludes any documents that may be kept by the Human Resources Department for the SCAO related to the Ombudsman’s payroll and leave that may be kept as part of the administrative duties undertaken by SCAO pursuant to the Memorandum of Understanding between the Colorado Judicial Department and the Office of the Child Protection Ombudsman dated October 15, 2015, or any successor agreement.

The Board shall draft and approve a Document Retention Policy that complies with the retention and destruction of Board Documents in compliance with state and federal law.

ARTICLE VII: AMENDMENTS

Section 7.1 Procedures.

These By-Laws may be amended or repealed, in whole or in part, by a majority vote at any publicly noticed meeting of the Board and are effective upon adoption or amendment.

Section 7.2 Distribution.

The Chair, as may be delegated to the Ombudsman, shall provide a copy of the latest version of these By-Laws to all new Board members upon their appointment, and to any other person who requests a copy. The latest version of the By-Laws shall be made available to the public via the Office website.

Section 7.3 History.

Amended and effective by the Board on ________________, 2020.
Amended and effective by the Board on May 9, 2019.
Adopted and effective by the Board on July 13, 2017.

CHILD PROTECTION OMBUDSMAN BOARD:

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KENNETH PLOTZ
Board Chair

SIMONE JONES
Board Vice-Chair