

# **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.<sup>1</sup>

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 comprises twelve members.<sup>2</sup> 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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<sup>1</sup> §§ 19-3.3-101(2)(a)-(b) and 19-3.3-102(2)(h), C.R.S. (2022)

<sup>2</sup> § 19-3.3-102(2)(a), C.R.S. (2022).

- 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.<sup>3</sup>

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 experience in primary or secondary education.<sup>4</sup>

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.<sup>5</sup>

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

- A current or former foster parent; and

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<sup>3</sup> §§ 19-3.3-102(2)(b)(I)(A) – (D), C.R.S., (2022)

<sup>4</sup> §§ 19-3.3-102(2)(b)(II)(A) – (D), C.R.S. (2022)

<sup>5</sup> §§ 19-3.3-102(2)(b)(III)(A) – (B), C.R.S. (2022)

- A health care professional with previous experience with child abuse and neglect cases.<sup>6</sup>

Board members shall serve four-year terms. The appointing officials shall fill any vacancies on the Board for the remainder of any unexpired term.<sup>7</sup>

## **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.<sup>8</sup> Expenses incurred by Board members must be paid by the general operating budget of the Office.<sup>9</sup>

## **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.<sup>10</sup>

## **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. No Board Chair shall be eligible to serve as such for more than two successive two-year terms. The Vice-Chair shall also serve for a two-year term. No Vice-Chair shall be eligible to serve as such for more than two successive two-year terms, although a Vice-Chair may serve as Board Chair immediately following a Vice-Chair 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.

The election for Board Chair or Vice-Chair shall take place four months prior to the expiration of the term of service as Board Chair or Vice-Chair. Nominations shall be

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<sup>6</sup> §§ 19-3.3-102(2)(b)(IV)(A) – (B), C.R.S. (2022)

<sup>7</sup> § 19-3.3-102(2)(c), C.R.S. (2022).

<sup>8</sup> § 19-3.3-102(2)(e), C.R.S. (2022)

<sup>9</sup> § 19-3.3-102(2)(f), C.R.S. (2022)

<sup>10</sup> § 19-3.3-102(2)(c), C.R.S. (2022)

submitted six months prior to the expiration of the term of service as Board Chair or Vice-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. In the event the individual serving as Vice-Chair no longer serves on the Board prior to the expiration of the term as Vice-Chair, the Board Chair shall appoint an interim Vice-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.<sup>11</sup>

### **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.<sup>12</sup>

Regular Board meetings are held every other month commencing in January. A schedule for meetings will be determined and meeting dates and times shall be made available at least a year in advance. Meeting locations are subject to change and will be provided in advance, and an option for Board members and the public to attend the meeting via videoconference service will be available. Attendance by telephone or videoconference will count the same as attendance in person.

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.

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<sup>11</sup> § 19-3.3-102(4), C.R.S. (2022)

<sup>12</sup> § 19-3.3-102(2)(d), C.R.S. (2022)

**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. On the election of a new Board Chair, the Chair shall determine the length of public comment time at meetings during the Chair's term and provide guidelines. This information shall be posted on the Office website. 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.<sup>13</sup> 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.

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<sup>13</sup> § 19-3.3-102(4), C.R.S. (2022); § 24-6-402(3)(a), C.R.S. (2022)

**Section 4.6            Voting.**

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 comprising 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. A videoconference option will be provided for Working Group meetings and participation by videoconference will count the same as attendance in person.

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 at 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 the Chair’s 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;<sup>14</sup>
- To discharge the Ombudsman;<sup>15</sup>
- To fill any Ombudsman vacancy;<sup>16</sup>
- To evaluate the Ombudsman’s performance based on feedback received related to the Ombudsman;<sup>17</sup>
- To develop a public complaint process related to the Ombudsman’s performance.<sup>18</sup>

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

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<sup>14</sup> § 19-3.3-102(3)(a)(I), C.R.S. (2022)

<sup>15</sup> *Id.*

<sup>16</sup> § 19-3.3-102(3)(a)(II), C.R.S. (2022)

<sup>17</sup> § 19-3.3-102(3)(a)(III), C.R.S. (2022)

<sup>18</sup> § 19-3.3-102(3)(a)(IV), C.R.S. (2022)

- 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;<sup>19</sup>
- 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;<sup>20</sup>
- To promote the mission of the Office to the public;<sup>21</sup> 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.<sup>22</sup>

## **Section 5.2            Appointment of the Ombudsman.**

The Board may only appoint an Ombudsman by a two-thirds majority vote of the Board membership.<sup>23</sup>

The Board shall be provided human resources assistance with the hiring process for the Ombudsman, either through internal human resources, an outside consultant, or the State Court Administrator’s Office (“SCAO”) 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.

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<sup>19</sup> § 19-3.3-102(3)(b), C.R.S. (2022)

<sup>20</sup> § 19-3.3-102(3)(c), C.R.S. (2022)

<sup>21</sup> § 19-3.3-102(3)(h), C.R.S. (2022)

<sup>22</sup> § 19-3.3-102(3)(i), C.R.S. (2022)

<sup>23</sup> § 19-3.3-102(3)(a)(I), C.R.S. (2022)



### **Section 5.3            Evaluation of the Ombudsman.**

The General Assembly shall set the Ombudsman’s compensation, and such compensation may not be reduced during the term of the Ombudsman.<sup>24</sup> While the General Assembly sets the compensation for the Ombudsman, the Board may, as part of its annual 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.

Each year, the Board shall conduct an evaluation 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.

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<sup>24</sup> *Id.*

**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. (2022). The public complaint process is an attachment to these Bylaws.

**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 is not subject to further Board review. The Ombudsman retains all other legal rights to appeal and 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.

**Section 5.7            Board Members’ Conflict of Interest Responsibilities.**

Board members may not receive direct or indirect economic compensation or other benefit from decisions made by that member or in consideration of a vote in which the member was involved.<sup>25</sup> Board members have a responsibility to disclose any actual or potential conflicts of interest before the matter involving the conflict of interest is addressed at a Board meeting. Board members also must disclose any matters that do not rise to the level of an actual conflict but could create an

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<sup>25</sup> § 24-5-108.5, C.R.S. (2022)

appearance of impropriety to the public before the matter involving the appearance of impropriety is addressed at a Board meeting. Board members who disclose such conflicts must, if they choose not to recuse themselves, disclose on the record why they believe their participation in consideration of the matter is appropriate. Board members must provide the Ombudsman and the Board Chair with a list of organizations for themselves or family members in the same household, or family members with whom they have a financial interest, as well as any organizations or matters for which the member believes there may be the appearance of impropriety, on the Board Conflict of Interest Form and keep this information updated.

## **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.<sup>26</sup>

### **Section 6.2 Board Documents.**

The term “Board Documents” is limited to “any and all documents relating to the appointment, evaluation, or termination of a current or past Ombudsman.” Board Documents are retained and may be kept by the Board’s general counsel at the Colorado Department of Law. 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.**

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<sup>26</sup> § 19-3.3-102(5), C.R.S. (2022)

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 March 9, 2023.  
Amended and effective by the Board on May 13, 2021.  
Amended and effective by the Board on September 10, 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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ANN M. ROAN  
Board Chair

  
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JUDITH MARTINEZ  
Board Vice-Chair