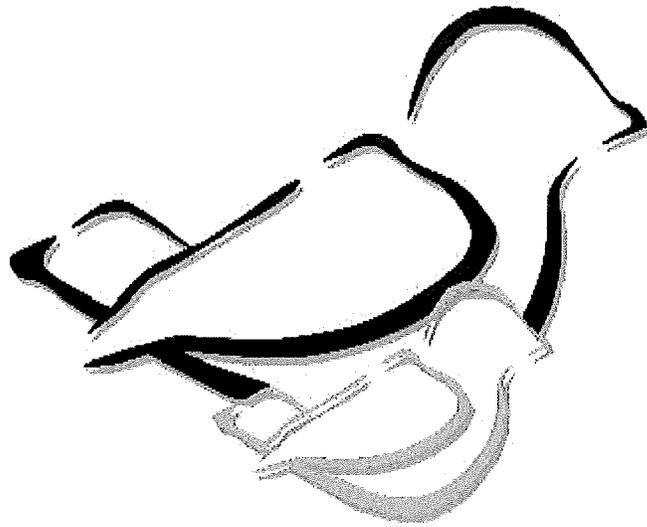


OFFICE OF
CHILD PROTECTION
OMBUDSMAN (OCPO)



ANNUAL REPORT

FY 2013

STATE OF UTAH

DEPARTMENT OF HUMAN SERVICES

ocpo.utah.gov

It is the *vision* of OCPO that through
its involvement with individuals having
concerns about the Division of Child and Family
Services, OCPO will promote *fair resolution*,
effect changes that will improve the
quality of services provided to the
children and families of Utah, and build bridges with
child welfare partners to *effectively work*
for children.

INTRODUCTION

In January 1996, the Executive Director of the Department of Human Services created the Utah Office of Child Protection Ombudsman, independent from Child and Family Services, where the public could report concerns about cases under Child and Family Services' jurisdiction. In 1998, the Utah Legislature codified the role and authority of the Ombudsman's Office by enacting Section 62A-4a-209 of Utah Code, which states:

"...the ombudsman shall, upon receipt of a complaint from any person, investigate whether an act or omission of the division with respect to a particular child: (i) is contrary to statute, rule, or policy; (ii) places a child's health or safety at risk; (iii) is made without an adequate statement of reason; or (iv) is based on irrelevant, immaterial, or erroneous grounds..."

The purpose of the Ombudsman's Office is to receive and investigate complaints, provide a voice to the consumer/complainant, promote a way whereby concerns or disputes are addressed at the lowest level possible, and ensure that Child and Family Services is providing adequate services to their clients. Currently, the Ombudsman's Office is the only independent office in State government where complainants can express their concerns about child welfare cases. For this reason, the Ombudsman's Office is a unique resource to Utah citizens. Since the inception of the Ombudsman's Office, the staff has worked to establish an office that can adequately represent citizens of Utah in addressing constituent concerns regarding services provided by Child and Family Services. Without an Ombudsman's Office, once a consumer has exhausted the available avenues to express a concern or complaint within the Child and Family Services structure, a consumer might feel they need to contact the Division Director, the Executive Director of the Department of Human Services, the media, their legislator, or the Governor's Office in search of a means by which a complaint could be addressed. The Ombudsman's Office fulfills this need.

The Ombudsman's Office staff is knowledgeable regarding Utah Law pertaining to child welfare, as well as Child and Family Services Practice Guidelines. The staff utilizes this knowledge to educate complainants and the general public as to the role and function of the Ombudsman's Office, Utah Law, and Child and Family Services. This is particularly important, as it helps the consumer gain a basic understanding of the processes and procedures Child and Family Services follows in their work to ensure the health and safety of children. Frequently, consumers who contact the Ombudsman's Office are angry and/or upset at the actions taken by a Child and Family Services caseworker with respect to their child or family member, which is often due to a misunderstanding, a lack of communication, or assumptions the complainant makes regarding a specific situation or set of circumstances. The Ombudsman's Office staff assists complainants to effectively communicate concerns to Child and Family Services or the appropriate agency, as well as understand the information being communicated to the complainant by Child and Family Services or other agencies. In addition to the statutory authority to investigate complaints, the Ombudsman's Office serves as a resource to the public by providing information regarding community services, the child welfare system, and other agencies.

As necessary, the Ombudsman's Office investigates complaints to determine whether DCFS, with regard to a particular child, acted in accordance with Utah Law and DCFS Practice Guidelines. The Ombudsman's Office may not be able to provide the complainant's desired outcome in response to each complaint filed; however, each complaint reported to the Ombudsman's Office receives

objective and thorough consideration. For example, if a complainant believes that the removal of a child from the parent was illegal, the Ombudsman’s Office would provide information to the complainant as to the legal process involved when a child is removed from the parent’s custody. The Ombudsman’s Office will try to determine whether the complainant has additional concerns. Should additional concerns be identified, such as the parent is not receiving visitation or that the child has a medical need Child and Family Services is not meeting, the Ombudsman’s Office will process those concerns through the intake protocol.

Although the Ombudsman’s Office is small, the well-qualified staff offers a high standard of service to both the individual consumer and to Child and Family Services. The Ombudsman’s Office often receives positive feedback and complainants often thank the Ombudsman’s staff for listening and taking the time to educate them about the child welfare process.

INTAKE PROCESS

In FY2013, the Ombudsman’s Office processed 362 complaints. The number of complaints received by the Ombudsman’s Office has fluctuated over the last five years, with an average of 358 complaints received during each fiscal year (Chart 1).

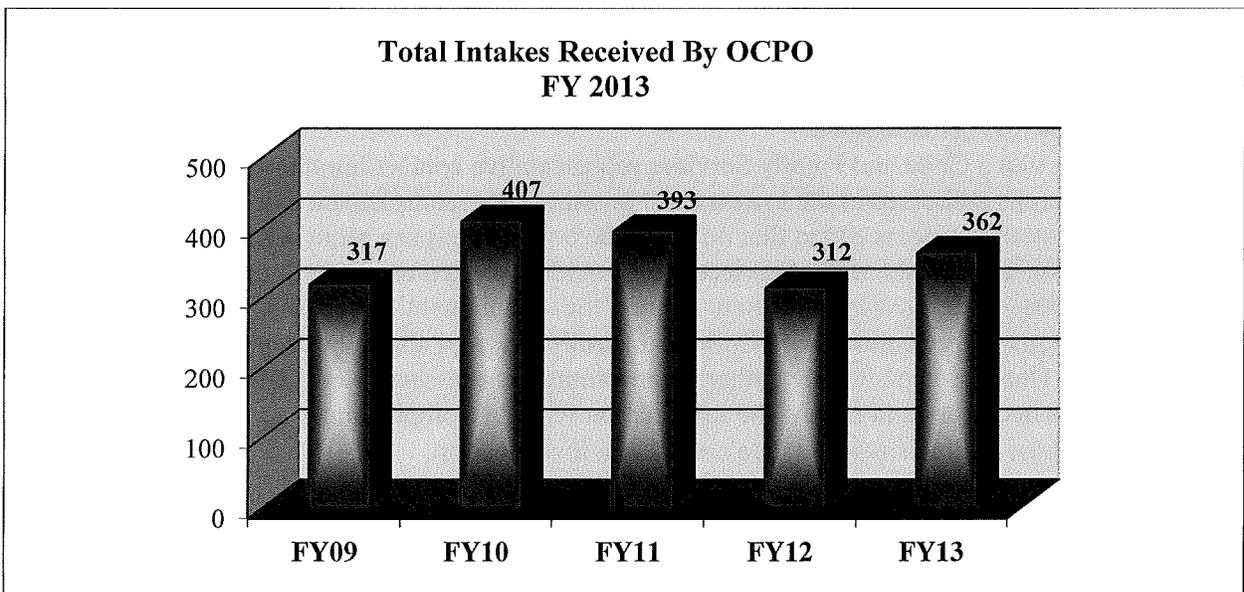


Chart 1

Each contact with the Ombudsman’s Office is treated as though the expressed concerns might result in an investigation. The Ombudsman’s staff spends as much time talking with the complainant as necessary in order to understand the complainant’s concern and the context in which the concern arose. The Intake process is especially important to the complainant, as it gives that person an opportunity to share their story. Many complainants express that this is the first time they have been provided the opportunity to explain their situation or their concerns to someone who understands and has the knowledge to help them, even if it is only to provide information. The Ombudsman’s Office staff is skilled in gathering information with probing questions in order to determine how to proceed. This is not to say that the Ombudsman’s staff find validity in the complainant’s concerns at this stage of the process, but staff begin the process through which enough information is gathered to articulate

the complainant's concerns to Child and Family Services so that the complainant's concerns can be addressed at the lowest level possible.

There are times when the complainant expresses concern about an issue outside the scope of the Ombudsman's authority or role. For example, a complaint that law enforcement did not follow up with criminal charges against a parent for a neglect situation would not be accepted by the Ombudsman's Office. Although there are situations brought to the Ombudsman's Office's attention that do not result in any action taken by this office, Ombudsman's staff still allow the complainant the time they need to describe their problem and to assist them with referrals or services about which they can inquire through a different agency or source.

During the intake process, staff may complete a variety of tasks to ensure that the complainant's concerns are identified and addressed. It is important for the Ombudsman's Office to categorize complainant concerns so that the level of review or decisions made is appropriate. Some intake calls are identified at the time of the initial communication with the complainant as requiring a review of the Child and Family Services' Child Welfare Management System, called SAFE; others are identified as being outside the scope or authority of this office, as illustrated in the example above; and still others require the Ombudsman's Office to gather additional information before being able to determine what course of action, if any, is warranted. During the initial contact with a complainant, the Ombudsman's staff explains that at any time during the process, the complainant can choose to do any of the following:

- Withdraw his/her complaint.
- Request that a Child and Family Services representative contact him/her in an effort to have the concerns addressed at the lowest level possible. The complainant can have the Ombudsman's process end at that point, or the complainant can request that, in addition to the above, Child and Family Services also provide a written response to the Ombudsman's Office describing the action taken to address the complainant's concerns.
- Request no further contact with Child and Family Services about the complaint, but request that the Ombudsman's Office gather the information necessary to evaluate whether further action is necessary and review the information with the complainant.
- Request the Ombudsman's Office conduct an investigation.

In those instances where the complainant requests the Ombudsman's Office obtain a written response from Child and Family Services, the Ombudsman's Office staff member reviews the response with the complainant. At that time, the Ombudsman's Office staff work with the complainant to determine whether they desire further action, such as an Ombudsman review or investigation. Typically at this stage, the Ombudsman's Office staff has not researched the Child and Family Services case in SAFE. Once a decision is made to conduct a review, the Ombudsman's Office staff begins researching the complainant's concerns with the information contained in the Child and Family Services electronic record. When a review is completed, the Ombudsman's Office notifies the complainant of its findings. At that point, either the Ombudsman's Office will take no further action or accept the case for investigation.

The majority of the Ombudsman's Office staff time is spent in the Intake process, which includes: speaking with the complainant; preparing the complainant concerns to forward to Child and Family Services; reviewing written responses with the complainant; conducting research into the

complainant's concerns; reviewing the Child and Family Services records; and, making a determination as to what further action is necessary.

During FY2013, the Ombudsman's staff forwarded 151 complaints to Child and Family Services to request a response or to allow Child and Family Services the opportunity to address the concern at the lowest level possible. Included in the 362 complainant calls were situations that were described by the complainant in such a way that a decision could be made during the initial call that either no action could be taken by this office, or a further review of the Child and Family Services' case was warranted. This process will be described in this report under the Ombudsman Review section.

OMBUDSMAN REVIEW

An Ombudsman Review may occur under one of three circumstances: 1) when a complainant is not satisfied with the response from Child and Family Services; 2) when a complainant is unwilling to work with Child and Family Services; or, 3) when the Ombudsman's Office is particularly concerned about an issue. In these instances, the Ombudsman's Office will proceed with an Ombudsman Review to determine the appropriate action to be taken. This type of review is conducted by the Deputy Ombudsman or an Assistant Ombudsman. The Ombudsman Review will result in one of three decisions: 1) The Ombudsman's Office will not take any further action; 2) The Ombudsman's Office will make a formal referral to Child and Family Services Administration to facilitate communication between Child and Family Administration and the complainant, and/or make informal recommendations to address oversights identified during the review that were not included in the initial complaint; 3) The Ombudsman's Office will accept the case for investigation, as the complainant's concerns warrant further review and investigation. The second option, in which informal recommendations are made to Child and Family Services, was implemented to manage workloads as budget cuts reduced the Ombudsman's Office staff while the number of complaints remained constant. Coordinating with Child and Family Services Administration on this level allows the Ombudsman's Office to provide more timely and effective outcomes for the complainant, while simultaneously providing more timely and effective feedback to Child and Family Services for improved case management.

The Ombudsman's Office considers several factors when conducting an Ombudsman Review to assess whether a complaint will be accepted for investigation. In addition to reviewing the Child and Family Services records, the Ombudsman's Office considers whether this office can give the person filing the complaint the outcome they are seeking. Another factor considered is whether further involvement by the Ombudsman's Office will impact the direction of the case.

When the Ombudsman's Office finds that Child and Family Services acted in accordance with DCFS Policy and Practice Guidelines, and there is no violation of Utah Law, the Ombudsman's Office determines that no further action will be taken. Conversely, a case is accepted for an investigation when it appears that the complainant's concerns have merit and it would be appropriate for the Ombudsman's Office to make recommendations to Child and Family Services.

For example in FY2013, as in previous years, there were multiple cases in which the complainant stated that the desired outcome was to regain custody of his/her children. The Ombudsman's Office also received requests for assistance in having Child and Family Services involvement in a family terminated or for the Ombudsman's Office to determine whether a parent received adequate reunification services. In these situations, the Ombudsman's Office would determine that no further

action would be taken, as decisions regarding custody and reunification services are under the jurisdiction of the Juvenile Court and any decisions regarding these matters would be made by the Juvenile Court Judge.

Also, complainants often report concerns regarding the Juvenile Court Judge presiding over the case, the child’s Guardian ad Litem, or the Assistant Attorney General, all of which are outside the authority of the Ombudsman’s Office. These are cases in which the Ombudsman’s Office would refer the complainant to other resources and inform the complainant that concerns of this nature would not be acted upon by this office.

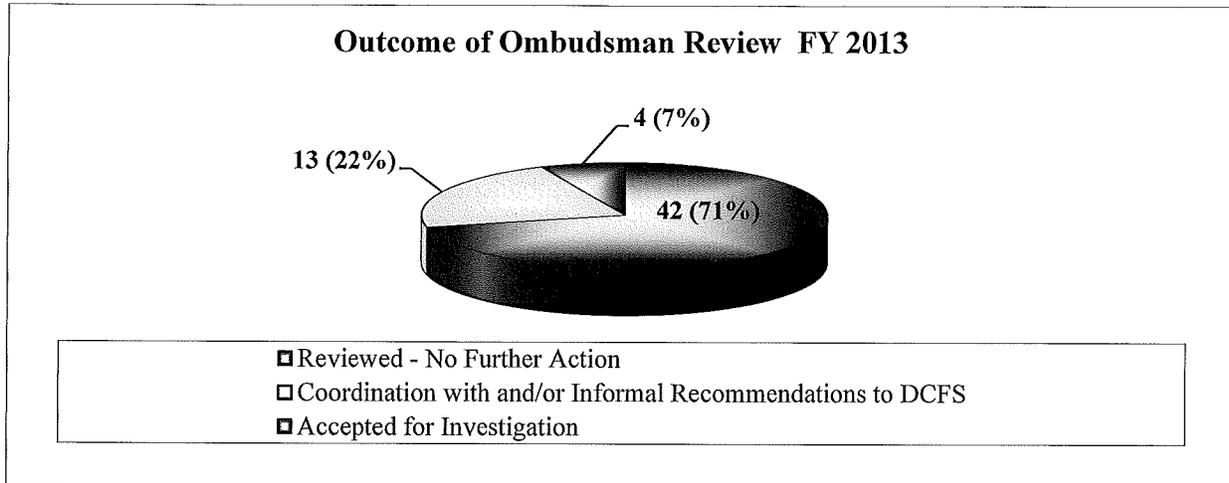


Chart 2

During FY2013, the Ombudsman’s Office completed 59 Ombudsman Reviews. Of the 59 reviews, it was determined that further investigation was not needed in 42 (71%) of the cases. At the conclusion of 13 Ombudsman Reviews, OCPO made informal recommendations/suggestions to DCFS to address concerns that may not have been included in the initial complaint, but were identified during the Ombudsman Review, and/or facilitated communication between the complainant and DCFS Administration. At the conclusion of four Ombudsman Reviews, OCPO determined that further review was required, and the cases were accepted for investigation (Chart 2).

INVESTIGATIONS

During FY2013, the Ombudsman’s Office completed 17 investigations. An investigation may contain multiple concerns. The Ombudsman’s Office investigates to determine the validity of each individual concern reported by a complainant. When the Ombudsman’s Office finds evidence to support a complainant’s concern or finds documentation that Child and Family Services did not act in accordance with Utah Law or Child and Family Services Policies and Practice Guidelines, the concern is documented as a valid concern. For example, if a Child and Family Services caseworker does not document that the alleged perpetrator was interviewed during the course of the Child Protective Services investigation as required by Utah Law and Practice Guidelines, OCPO will document this as a valid concern.

Complainants do not typically have knowledge of Utah Law or the Child and Family Services Practice Guidelines; therefore, a violation may be unknown to the complainant. During the

Ombudsman Review or the investigation of a case such oversights may be identified and addressed by the Ombudsman's Office.

The 17 investigations completed in FY2013 encompassed 82 individual concerns. Of these 82 concerns that were investigated, 47 (57%) of the concerns were reported to the Ombudsman's Office by a complainant, and 35 (43%) were identified by the Ombudsman's Office (Chart 3).

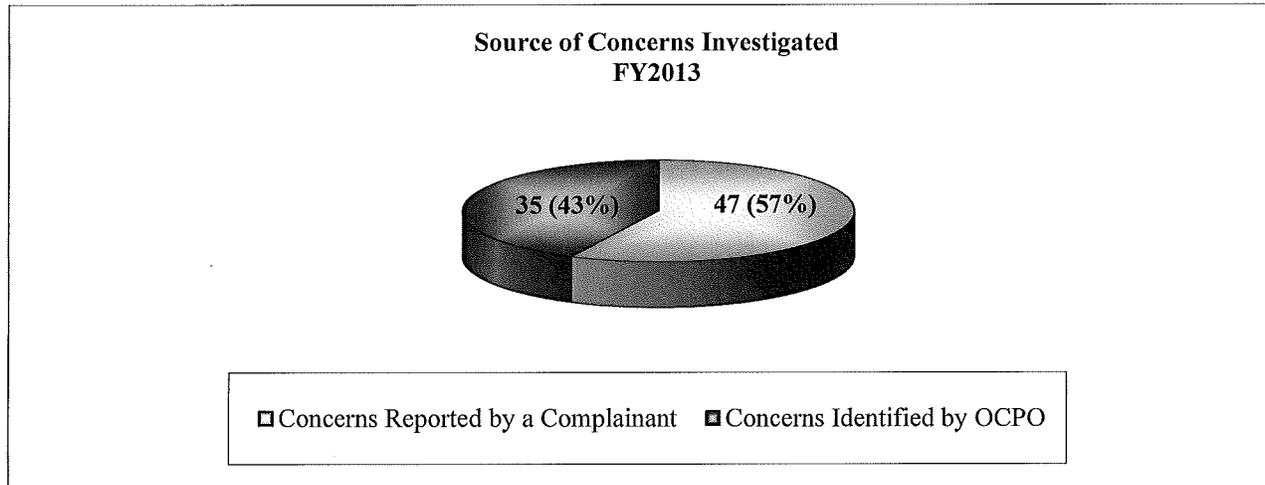


Chart 3

The following is a sample of concerns expressed by complainants and found to be valid during FY2013:

- The Permanency caseworker reduced the father's visitation from one hour to a half hour without adequate reason as required.
- Child Protective Services caseworkers do not have the necessary tools to effectively interview children with special needs.
- The Child Protective Services caseworker required a mother to obtain employment although the mother was not under court jurisdiction or court ordered to do so.
- The Child Protective Services caseworker did not investigate child abuse/neglect allegations as thoroughly as required.
- The Child Protective Services caseworker did not sufficiently interview a child as required.
- The Child Protective Services caseworker issued formal recommendations to a caregiver and required verification of their completion despite the absence of a court order or an ongoing case.
- The Permanency worker did not provide the foster parents with information regarding a foster child's behavior prior to placing the child in their home as required.
- The Child Protective Services caseworker did not interview the alleged perpetrator as required.
- The Child Protective Services caseworker did not complete documentation in the Child Protective Services case as required.
- The Permanency worker did not complete the documentation in the foster care case as required.
- The alleged victim was not informed that they were allowed to have a person of their choice present during the interview as required.

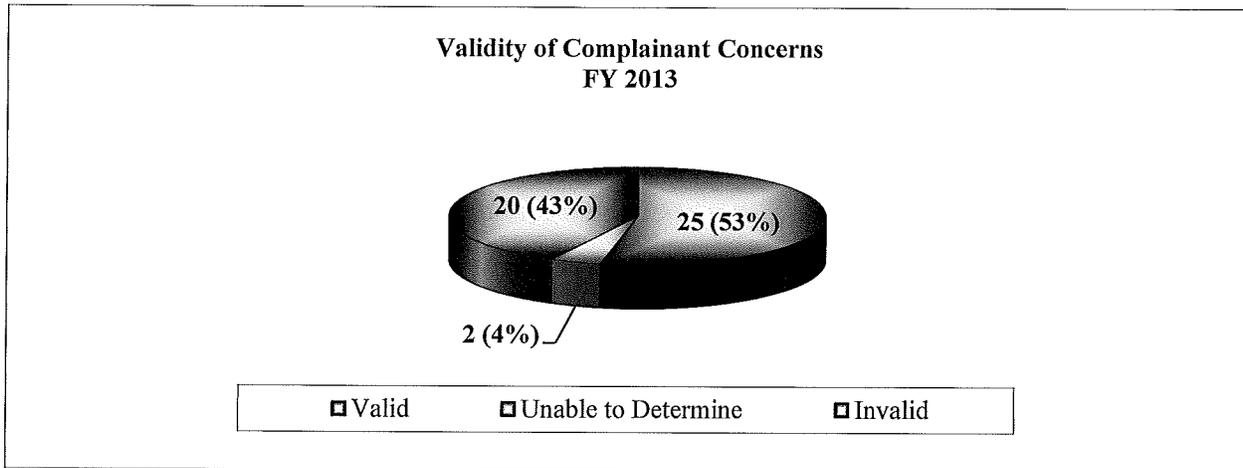


Chart 4

Of the 47 concerns reported to the Ombudsman’s Office by the complainant, the Ombudsman’s Office found 25 (53%) of the complainant concerns to be valid and 20 (43%) to be invalid. The Ombudsman’s Office was unable to determine the validity of 2 (4%) complainant concerns (Chart 4). A finding of “unable to determine” is made when there is no means by which the Ombudsman’s Office can verify that a situation or concern occurred. For example, if a complainant expressed concern that a Child and Family Services caseworker was rude, treated the complainant with disrespect, or made concerning statements during a conversation, the Ombudsman’s Office would be unable to determine the validity of the complainant’s concern, as the Ombudsman’s Office may be unable to corroborate the alleged incident; however, Child and Family Services would be asked to address the issue with the caseworker. Overall, the Ombudsman’s Office found 60 (73%) of the 82 concerns investigated during FY2013 to be valid. These 60 concerns included 25 complainant concerns and 35 Ombudsman concerns.

RECOMMENDATIONS

The Ombudsman’s Office found 60 concerns to be valid and made a total of 55 recommendations to Child and Family Services during FY2013. Child and Family Services implemented 100% of the recommendations. The Ombudsman’s Office did not make a recommendation for every valid concern, and made multiple recommendations for some valid concerns; therefore, the number of valid concerns and number of recommendations do not match.

The 55 recommendations included 43 recommendations that Child and Family Services take action to address the concerns to prevent similar oversights from happening in future cases (Chart 5). For example, the Ombudsman’s Office recommended that in current and future cases:

- The Child Protective Services caseworker should make a finding for each allegation of child abuse or neglect.
- The Child Protective Services caseworker should interview each alleged victim of abuse or neglect.
- The Child Protective Services caseworker should interview the alleged perpetrator.
- The Child Protective Services caseworker should ensure that a parent understands when there is not a court order that services are not required.

- The Child Protective Services caseworker should interview collateral contacts.
- The Child Protective Services caseworker should give adequate consideration to credible witness statement and the opinions of professionals when making case decisions.
- The Child Protective Services caseworker should inform a child of his or her right to have a support person during a Child Protective Services interview.
- The Child Protective Services on-call caseworker should communicate information the on-call worker gathered about the case to the ongoing caseworker in a timely manner.
- The foster care caseworker should include the parents or guardians in school meetings or health care visits.
- The foster care caseworker should provide the foster parents with information regarding foster children’s behavior before they are placed in their home.
- The foster care caseworker should document in the case record when prospective placements are allowed to review the child’s case information.
- The foster care caseworker should ensure that accurate and complete case activities, including Child and Family Team Meetings, are documented in the case record.
- The foster care caseworker should notify parents and document decisions regarding visitation and therapy in the case record.
- The foster care caseworker should notify parents in a timely manner of changes that affect the family’s visitation.
- The foster care caseworker should convene a Child and Family Team Meeting when significant changes occur or when critical case decisions need to be made.
- The foster care caseworker should make every effort to maintain visitation continuity between the children and their parents.

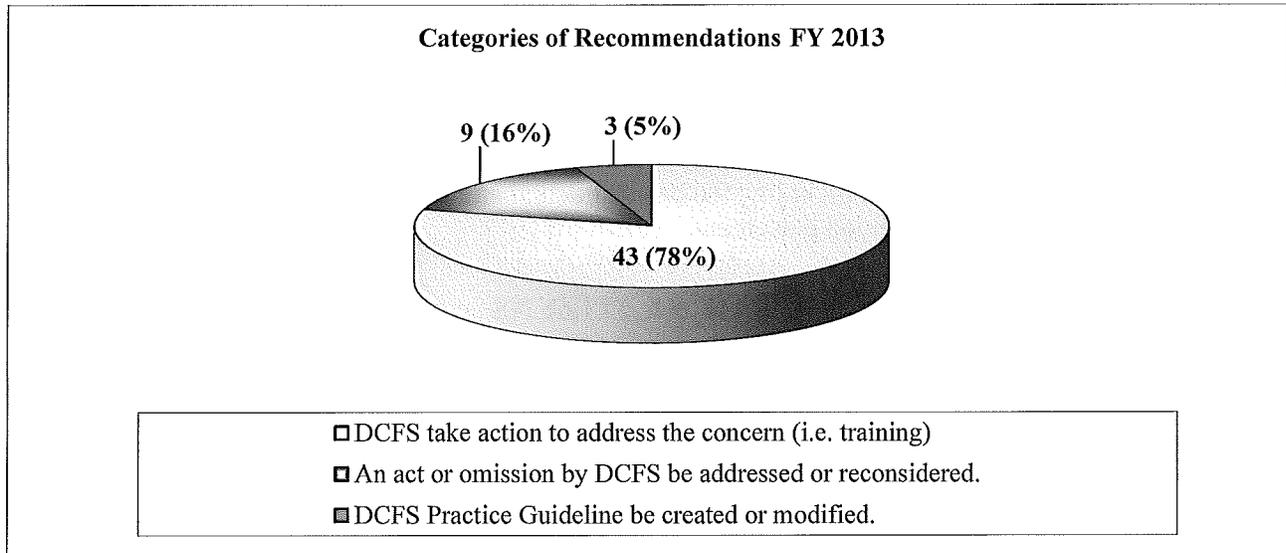


Chart 5

The Ombudsman’s Office made nine recommendations that an act or omission by Child and Family Services be addressed or reconsidered (Chart 5). The following recommendations were made:

- The foster care caseworker staff significant changes to visitation with the Child and Family Team prior to approving or making changes to the parent’s visitation plan.

- DCFS State Administration take appropriate action to ensure that Courtesy Clinical Services and Clinical Intervention Services caseworkers are documenting accurate and complete casework activities.
- DCFS State Administration ensures that all Child Protective Services caseworkers are consistently issuing Notice of Agency Action letters to alleged perpetrators and documenting that issuance in the case record.
- The Child Protective Services supervisor address with a Child Protective Services caseworker that a parent believed he was required by DCFS to obtain employment.
- The Child Protective Services supervisor and the Child Protective Services caseworker review the case record to ensure that documentation of the roles of individuals involved in the case are accurate.
- The Child Protective Services supervisor and the Child Protective Services caseworker amend the DCFS database to reflect an accurate case finding.
- DCFS Regional Administration conduct an inquiry and take appropriate action regarding caseworkers going to a home without an open DCFS case.
- The Child Protective Services caseworker review activity dates for accuracy and amend the record if dates were incorrect.
- DCFS Regional Administration conduct an inquiry and take appropriate action regarding a Child Protective Services caseworker failing to report a Child Protective Services referral to the Intake Office prior to investigating a case.

The Ombudsman's Office made three recommendations that DCFS Administration create or modify policy, processes or procedures (Chart 5). The following recommendations were made:

- DCFS Administration develop a Practice Guideline and/or interview protocol that addresses CPS interviews of children with special needs.
- DCFS Administration provide training to caseworkers to build and enhance their interviewing skills of children with special needs.
- DCFS Administration explore a means to provide formal notification of denial of kinship placement to applicants, including the basis of denial and a method of recourse to those individuals who are denied placement.

A UNIQUE SERVICE FOR UTAH'S CITIZENS

The Ombudsman's Office is contacted by complainants who report their frustrations and concerns on a variety of issues. Some complainants contact this office with the hope that knowledgeable staff can provide him/her with information and/or clarification regarding their particular set of circumstances. Some complainants are seeking assurance that Child and Family Services staff are handling their case appropriately. In some cases, the Ombudsman's staff can communicate with the complainant that the Child and Family Services caseworker is indeed complying with Utah Law and Practice Guidelines. Other individuals who contact this office express other beliefs about Child and Family Services interventions. Often times, complainants report both valid and invalid concerns. The Ombudsman's Office is in the unique position to educate and help identify and communicate concerns, as well as make recommendations for practice improvement in child welfare cases. The Ombudsman's Office maintains a positive working relationship with Child and Family Services, which promotes addressing casework concerns and implementing the Ombudsman Office's recommendations.