



State of Missouri
Office of
Child Advocate for
Children's Protection
and Services

2011
Annual Report

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Protection and Services
Annual Report 2011

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State of Missouri
**Office of Child Advocate
for Children's Protection and Services**

Jeremiah W. (Jay) Nixon
Governor

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Kelly Schultz
Child Advocate

January 31, 2012

The Honorable Jeremiah W. (Jay) Nixon
Governor of the State of Missouri

The Honorable Richard B. Teitelman
Chief Justice of the Missouri Supreme Court

Dear Honorable Governor Nixon and Honorable Chief Justice Teitelman:

I am pleased to present the 2011 Annual Report of the Office of Child Advocate. The report covers the time frame of January 1, 2011 through December 31, 2011.

I was honored to be appointed the Child Advocate in July 2011. I truly appreciate this opportunity to serve the children and families of Missouri. Our office remains committed to our charge to investigate complaints, advocate for abused and neglected children, mediate between school districts and parents when allegations of child abuse arise in a school setting, and to recommend changes with the goal of improving the system for Missouri's children.

Thank you for your commitment to the children and families of Missouri.

Respectfully submitted by:

A handwritten signature in blue ink, appearing to be 'KS'.

Kelly Schultz

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History

The Office of Child Welfare Ombudsman was established by Governor Bob Holden's Executive Order in 2002 to act as an agent of accountability regarding Children's Protection Services. In 2004, the 92nd General Assembly passed Speaker Catherine Hanaway's House Bill 1453. The legislation changed the office name to the Office of Child Advocate for Children's Protection and Services and strengthened the role of the office. Governor Jay Nixon signed Senator Jane Cunningham's Senate Bill 54 into law in 2011 authorizing the Office of Child Advocate to coordinate mediation efforts between school districts and students when allegations of child abuse arise in a school setting. (See Appendix A for statute language.) Since its inception, the office has served a total of 3,803 children.

Operation of the Office

Staff

The Office of Child Advocate is directed by the Missouri Child Advocate who is appointed by the Governor and Chief Justice of the Supreme Court, with the advice and consent of the Senate. Other staff positions include a Deputy Director and an Office Manager.

OCA staff:
Kelly Schultz, Missouri Child Advocate
Liz Beasley, Deputy Director
Carolyn Swanigan, Office Manager

Budget

The Office of Child Advocate is funded through state general revenue funds and federal funds distributed through the Department of Social Services. The original budget appropriation for 2011-2012 was \$315,125. This amount was adjusted during the 2011 Fiscal Year to a budget appropriation figure of \$214,619 including an adjustment in fulltime employees from 4.0 to 3.0.

Role of the Office

The Office of Child Advocate operates under the Office of Administration and is, therefore, independent of the Department of Social Services, Children's Division, the Department of Mental Health, and the Juvenile Court. The office provides citizens an avenue to obtain an independent and impartial review of disputed decisions, actions and inactions regarding any child at risk of abuse, neglect or other harm.

The Office of Child Advocate offers five primary services to concerned citizens:

- ◆ child welfare case reviews
- ◆ unsubstantiated finding reviews
- ◆ mediation between parents and schools regarding abuse allegations
- ◆ child fatality review of children with Children's Division involvement
- ◆ information and referrals for any other related issues.

Additional responsibilities include:

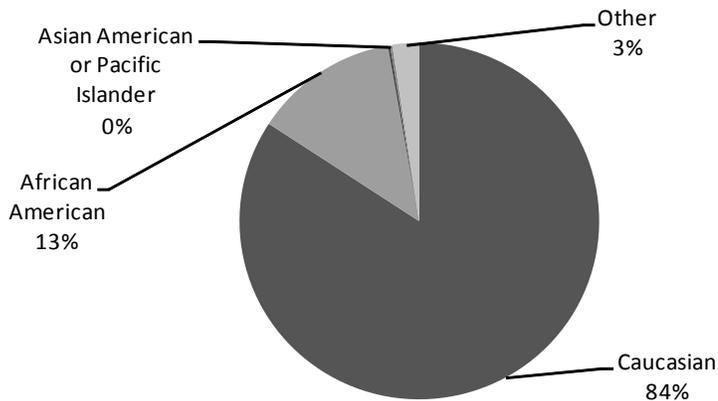
- ♦ offering case specific and systemic recommendations when appropriate
- ♦ improve family services by examining laws, policies and procedures
- ♦ provide an annual report to the Governor and Chief Justice
- ♦ educate the public regarding the child welfare process in Missouri while increasing public awareness of the Office of Child Advocate

Receiving, Investigating and Concluding Complaints

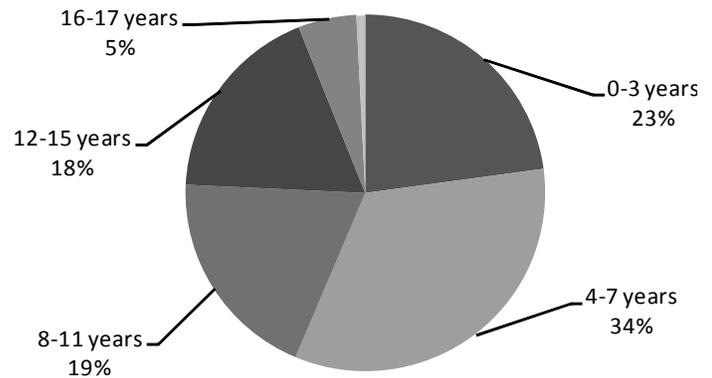
Receiving Complaints

From January 1 through December 31, 2011, the Office of Child Advocate received 674 complaints/contacts including registered concerns from 194 new complainants and 110 unsubstantiated reviews involving 501 children.

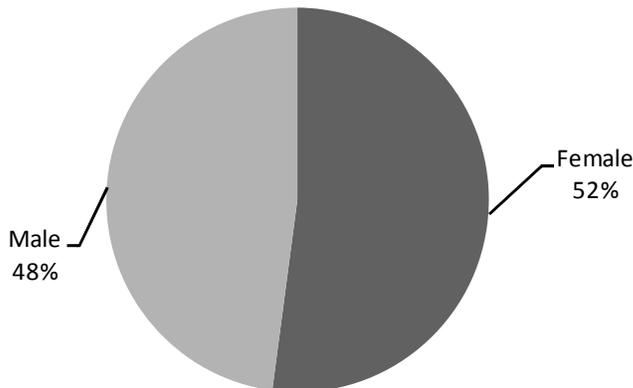
Children by Race



Children by Age

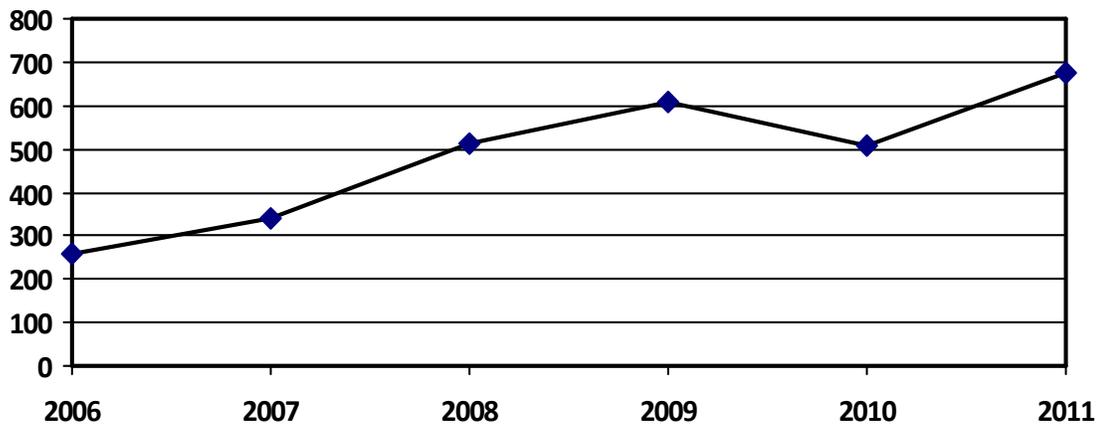


Children by Gender



In 2011, the Office of Child Advocate saw a little over 30% growth in case load from 508 to 674.

Complaints/Contacts History



The composite number of complaints/contacts received by the Office of Child Advocate and is categorized according to (1) Information and Referrals, (2) New Cases, (3) Reopened cases, (4) Unsubstantiated Reviews, and (5) Unable to Contact (due to phone numbers no longer in service, etc.)

Investigating Complaints

Upon the receipt of a complaint, the Office of Child Advocate notifies the appropriate Children's Division Circuit Manager, Division Director, and Juvenile Office that our office has been requested to review a case. The identity of the complainant is kept confidential unless our office is given permission to share the information with the appropriate parties. The Office of Child Advocate proceeds to determine the appropriate level of investigation. Possible levels of investigation include:

2011 Contacts Received	
341	Information and Referrals
194	New Cases
9	Reopened Cases
110	Unsubstantiated Reviews
20	Unable to Contact
674	Total Number of Contacts

- 1) No investigation needed
- 2) Gather information and interact as necessary with involved parties
- 3) Request and review the Children's Division case file
- 4) Conduct on-site investigation

Concluding Complaints

Reviews and investigations are concluded within 30 business days. Extenuating circumstances may occasionally extend the investigation in certain instances. The Office of Child Advocate will issue a letter of conclusion to the appropriate Children's Division Circuit Manager, Regional Manager, Division Director, Juvenile Office and

the complainant. In cases where confidential information cannot be shared with the complainant, a separate letter will be issued to the complainant. Possible conclusions may involve:

- 1) No perceived policy/procedure error(s) noted
- 2) Perceived policy/procedure error(s) noted
- 3) Perceived practice issue(s) identified
- 4) Identification of best practices by Children's Division
- 5) Case recommendation(s) offered for improving services to the child, children or families.

Promoting the Office

Per section 37.710.1 RSMo, The Office of Child Advocate is authorized, "to take whatever steps are appropriate to see that persons are made aware of the services of the Child Advocate's office, its purpose and how it can be contacted." Between January 1 and December 31, 2011, awareness and visibility of the office was increased as a result of speaking, participation or exhibiting at the following conference and trainings:

- ◆ Missouri Substance Abuse Prevention Network's 2011 Conference
- ◆ Missouri School Counselor Association 63rd Annual Fall Conference
- ◆ Missouri Juvenile Justice Association Fall 2011 Educational Conference
- ◆ Missouri's Hope for Kids, Missouri CASA Association
- ◆ St. Charles School Health Fair
- ◆ Safe Schools and Colleges Conference
- ◆ Alternative Care Conference
- ◆ Children's Trust Fund Child Abuse & Neglect Prevention Conference
- ◆ Missouri Association of School Nurses
- ◆ Missouri Child Advocacy Day
- ◆ Missouri's Twenty-Fourth Annual Pathways Conference
- ◆ Poverty Summit
- ◆ Raising Resilience: Young Adult Panel of Successful Former Foster Youth
- ◆ Tactics in Responding to Repeat Harassment
- ◆ Investigation and Prosecution of Child Abuse Cases/Emerging Concepts
- ◆ Serving Families Impacted by Prenatal Substance Use
- ◆ Tribal Law Enforcement and DEC

Complaint Types and Sources—New Cases

Types of New Complaints

Complaints to the Office of Child Advocate for Children's Protection and Services generally fall into one of three main categories: 1) child safety, including unsubstantiated reviews 2) family separation and reunification, and 3) dependent child health, well-being, and permanency. These categories involve the following issues:

Child Safety _____	90 calls
Unsubstantiated Findings _____	110 calls
<ul style="list-style-type: none"> ◆ Failure to protect child from parental abuse ◆ Failure to address safety concerns involving child in foster care or other substitute care ◆ Failure to address safety concerns involving child being returned to parental care ◆ Failure to provide appropriate services to child at risk of harming self or others 	
Family Separation and Reunification _____	70 calls
<ul style="list-style-type: none"> ◆ Unnecessary removal of child from parental care ◆ Failure to provide appropriate contact between child and family ◆ Failure to reunite families despite parental compliance with court-ordered services ◆ Failure to place child with relatives ◆ Inappropriate termination of parental rights 	
Dependent Child Health, Well-Being, Permanency _____	32 calls
<ul style="list-style-type: none"> ◆ Inappropriate change of child's foster or other substitute placement ◆ Inadequate development or implementation of plan to transition child to new placement ◆ Failure to provide child with appropriate services ◆ Unreasonable delay or opposition to adoption 	
Other _____	2 calls

Sources of New Complaints

Most of the complaints received by the Office of Child Advocate are from biological parents of children in state care or custody. The majority of parents call to express dissatisfaction over policy, procedure, or certain practices with which they disagree. Specific concerns may revolve around placement, visitation, safety, communication and other related matters. Grandparents are the second highest source of complaints. These calls usually involve grandparents wanting placement of grandchildren that have been removed from the parent's home or grandparents who are concerned about the safety of their grandchildren living with a parent or other caretaker.

Caller Relationship	No.	Caller Relationship	No.
Anonymous	1	Grandparent	46
Attorney	1	Other Relative	13
Biological Parent	92	Other Relationship	13
Community Professional or Service Provider	9	Step-Parent	4
Foster Parent	15	Total:	194

Foster parents also call the Office of Child Advocate with concerns. In certain cases, the Office of Child Advocate has helped to facilitate more direct communication among the parties involved and a better understanding of the issues.

Location of Children Referred

Complaints come from across the state and from relatives living in other states. The Office of Child Advocate identifies patterns of concern within a county and across the State. However, the number of calls we receive in a county often is only reflective of the number of children in care and the level of awareness of our office in a specific location.



Policy/Procedure Concerns, Practice Issues and Recommendations

In the vast majority of referred cases, no violations of policy, practice or state statutes were noted. Likewise the majority of reviews did not require a case specific or systemic recommendation. The Office of Child Advocate issued the following concerns and recommendations in 2011 (the number in parenthesis indicate number of times concerns were noted) :

Policy Concerns and Practice Issues

- ◆ Documentation more than 6 months out of time frames (47)
- ◆ Investigation out of time frames (15)
- ◆ Possible release of confidential information/redacted records were sent that were readable (4)
- ◆ Child not interviewed during investigation (3)
- ◆ Did not offer Family Centered Services (FCS) with high risk assessment, failure to cooperate with services in the past, past family history with Children's Division (3)
- ◆ Father was not notified or considered potential placement prior to custody taken (2)
- ◆ Information not shared with foster parents regarding past allegations of sexualized behavior of children in care (2)
- ◆ Disconnect/ lack of coordination between Children's Division and Juvenile Office (3)
- ◆ Incomplete investigation (2)
- ◆ Case manager not timely in response to Office of Child Advocate inquiries (2)
- ◆ Diligent search for grandparent placement not conducted
- ◆ Home visit and interviews of children not conducted in timely manner
- ◆ Ended visits prior to Termination of Parental Rights (TPR) and took 2 ½ months to schedule requested Family Support Team (FST)
- ◆ No progress on case
- ◆ Supervisor had not approved documentation
- ◆ 72 hour FST not held
- ◆ Counties inconsistent in basis for removal practices
- ◆ In conclusion of the hotline, the wrong person was listed to be placed in state custody
- ◆ Case manager changed three times in ten months - significant retention issues in county
- ◆ Children should have been transitioned home if appropriate and no safety concerns
- ◆ Inconsistencies in information documented
- ◆ Team allowed TPR to be signed when mentally unstable
- ◆ No one answering phones in Children's Division office
- ◆ No safety plan issued
- ◆ Changing the unsupervised visits with less than 24 hours notice
- ◆ Foster parent listed child on Facebook as daughter

- ◆ No phone or supervised visits for several months for one sibling while contact allowed with other siblings and mom
- ◆ No eminent danger and kids left in custody; FSTs not held frequently enough to progress case
- ◆ No documentation of hotline investigations and whether the recommended services were addressed in the FCS that was already open
- ◆ Ended phone calls and visits with paternal grandparents due to tension with caseworker, not due to best interest of child
- ◆ Child placed in another state with increasing medical and developmental needs, no insurance, no assistance, no access to medical records; Missouri cannot ensure his needs are being met
- ◆ No phone calls returned in timely manner
- ◆ Conversation between caseworker and child possibly chilling any further disclosures and better suited for therapy
- ◆ Breast feeding not accommodated, did not let family support member attend FST, and did not work well with incarcerated parent
- ◆ Attempting to enforce no contact in community among adults
- ◆ Adjudication of child was out of time frames without appropriate visitation
- ◆ Did not visually confirm safety of sleeping toddler
- ◆ No one interviewed for current investigation
- ◆ Did not provide parent copy of requested redacted report
- ◆ Did not inspect alleged perpetrator's home
- ◆ Family member did not sign safety plan verifying correct information
- ◆ Reporter not contacted
- ◆ Interview did not address all allegations; not all witnesses were interviewed
- ◆ Interview says child disclosed to friend while conclusion says child did not disclose to friend
- ◆ Child Advocacy Center (CAC) interview cornered child, questioned accuracy of statements made by child, and did not clarify time frames, number of times, or ask follow-up questions for details when child disclosed
- ◆ Lack of communication and coordination between Out-of-Home Investigation (OHI) and Licensing
- ◆ Did not ask follow-up questions when previous incident was discovered or about decision to wait several days prior to seeking medical attention
- ◆ Did not verify safety in the home after initial visit at school for two days
- ◆ Case manager voicemail did not indicate extended leave, give alternate contact and no one checking messages
- ◆ Case closed without reviewing the CAC interviews
- ◆ Three discrepancies by the alleged perpetrator that created concern
- ◆ Did not agree with Unsubstantiated Finding – schedule CAC and take into consideration hospital and police report
- ◆ Did not agree with Unsubstantiated Finding – record reasoning for overturning finding by administrative review
- ◆ Did not agree with Unsubstantiated Finding – concerns regarding hospital report, injuries not matching perpetrator's explanation, and sanitation concerns in home
- ◆ Did not agree with Unsubstantiated Finding – Preponderance of Evidence (POE) based on PTSD diagnosis, SAFE exam, and CAC disclosure

- ◆ Did not agree with Unsubstantiated Finding – should have contacted doctor's office
- ◆ Did not agree with Unsubstantiated Finding – contact past parents of daycare and review foster parent's license
- ◆ Did not agree with Unsubstantiated Finding – request custody and place with current placement if parents do not cooperate with voluntary placement by removing their child, harassing phone calls, or announced visits
- ◆ Did not agree with Unsubstantiated Finding – all parties disclose domestic abuse involving knife with children present, disclosure by child of abuse and supporting physical evidence enough to reach POE

Recommendations

- ◆ Offer Family Centered Services (FCS)/open Intensive In Home Services (IIS) (10)
- ◆ Sibling-only visits (5)
- ◆ Therapy for child (5)
- ◆ Parent visits should be increased/started/reinstated (3)
- ◆ Attachment/bonding assessment (3)
- ◆ Interview additional collateral contacts (3)
- ◆ Identify better procedure for incoming calls, messages and transferring cases during vacations/illnesses (3)
- ◆ Continue progress toward reunification (3)
- ◆ Focus on permanency (2)
- ◆ Review case to address systemic concerns (2)
- ◆ CAC and/or SAFE exam (2)
- ◆ POE unknown perpetrator when evidence of sexual abuse exist but the identity is unknown (2)
- ◆ Correct errors or inconsistencies in documentation (2)
- ◆ Review restraint/de-escalation training in residential facilities (2)
- ◆ Offer FCS to both custodial and non-custodial parents with allegations of abuse in separate households (2)
- ◆ Therapy for parent/family therapy (2)
- ◆ Quicker communication with Law Enforcement and send notification to school at the beginning of an investigation to avoid lengthy delays
- ◆ Obtain consent for medical records on alleged perpetrators
- ◆ Better utilize open FCS case
- ◆ Put strong safety net in place for children with several FCS cases and IIS opened
- ◆ Child should remain in protective custody due to a POE on an unknown perpetrator and child's safety cannot be verified in home
- ◆ Child should not be in Alternative Care
- ◆ Child should be placed into protective custody due to chronic neglect
- ◆ Place child on trial home visit
- ◆ Co-investigate with law enforcement
- ◆ Children's Division should fully investigate in the event law enforcement does not, review CAC interview regardless interview being conducted out of state, past unsubstantiated findings should not predetermine an unsubstantiated finding in open investigation
- ◆ Assist with transportation for visits when children placed out-of-county

- ◆ Review supervision of case
- ◆ Remove middle siblings when concerns that lead to removal of younger and older siblings have not been addressed
- ◆ Offer services directly after years of documented concerns rather than linking to services in community
- ◆ Talk with mom in addition to paramour
- ◆ Hold community meeting to address concerns of school, Children's Division, and Law Enforcement
- ◆ More concise death report and investigation
- ◆ Document reasons for placement changes
- ◆ Ask court to reverse decision and place child back in custody
- ◆ Review case to review working with older youth
- ◆ Look at discrepancies in provider rates
- ◆ New investigation and send information to prosecutor
- ◆ Caseworker should conduct interview rather than Law Enforcement in this case
- ◆ Make and document case-by-case decisions regarding interviewing children younger than three
- ◆ Use Internet Crimes Task Force in the future to gather evidence
- ◆ Document number of school days missed
- ◆ Reassign case to a different worker or supervisor
- ◆ Would have preferred finding to be Unsubstantiated-preventative services indicated when 10 year old is meeting the needs of younger sibling not mom
- ◆ Request CAC interview for more information regarding children perpetrating on other children
- ◆ Home visit later in the evening when concerns are reported to take place
- ◆ Review handling of unredacted reports due to possible release of caller identity
- ◆ Talk with school after initial report
- ◆ Make second home visit at a time when noncustodial parent is known to have child
- ◆ Check ID if unsure who investigator is interviewing
- ◆ Interview sibling at CAC
- ◆ Request Law Enforcement to administer lie detector test to both parents
- ◆ No unsupervised contact with alleged perpetrator, address concerns of domestic violence in FCS, and continue urine analysis (UA)
- ◆ Not necessary to hold staffing if current foster placement has preference due to length of time in home and no relatives are appropriate
- ◆ Dad's repeated contact with mom against safety plan can jeopardize his child's placement in his home; future incidents of domestic violence in front of the child should be treated as a hotline for both parents
- ◆ Children should remain with bonded placement provider

Effectiveness Measurements

The Office of Child Advocate has established measurement gauges to help ensure effectiveness in serving Missouri children and families. These include initial response time, time frame for completing new investigations, and time allotment for completing unsubstantiated reviews.

A timely initial response is of fundamental importance. A 90% goal has been set to contact the complainant within three business days of any new complaint.

The goal of the Office of Child Advocate is to complete <80% of the investigations and unsubstantiated reviews within thirty business days of receipt of the complaint. This goal, however, is considered fluid due to other potentially relevant factors. For example, cases involving the court system may be kept open beyond thirty days to sufficiently monitor the court process. In other instances, conducting a complete and thorough investigation may require an extended period of time.

Measurement	Goal	Met
Contact complainant within 3 business days after complaint received	90%	87.3%
Complete investigation within 30 business days of receiving complaint	80%	77%
July 1, 2010—June 30, 2011		

Staff reductions down to 2.35 full time employees for the first half of 2011 negatively impacted the ability of the Office of Child Advocate to meet time frame goals. When staffing levels were increased to 3 full time employees for the remaining part of the year, the office once again was able to complete more than 80% of investigations and unsubstantiated reviews within 30 days. We are committed to improving our effectiveness measurements in 2012.

Acknowledgements

The Office of Child Advocate wishes to thank Governor Jeremiah W. (Jay) Nixon and the General Assembly for their support.

Appreciation is also expressed to the Office of Administration, including Commissioner Kelvin L. Simmons.

The Office of Child Advocate expresses appreciation to the Children's Division, Juvenile Offices, and other agencies that work to help ensure the safety and well-being of children.

We wish to recognize the service and dedication of Steve Morrow who served as the Missouri Child Advocate from 2006 to 2011.

Appendix

State of Missouri

Missouri Revised Statutes

Chapter 37

Office of Administration

Definitions.

37.700. As used in sections 37.700 to 37.730, the following terms mean:

- (1) "Office", the office of the child advocate for children's protection and services within the office of administration, which shall include the child advocate and staff;
- (2) "Recipient", any child who is receiving child welfare services from the department of social services or its contractors, or services from the department of mental health.

Office established--appointment of child advocate.

37.705. 1. There is hereby established within the office of administration the "Office of Child Advocate for Children's Protection and Services", for the purpose of assuring that children receive adequate protection and care from services, programs offered by the department of social services, or the department of mental health, or the juvenile court. The child advocate shall report directly to the commissioner of the office of administration.

2. The office shall be administered by the child advocate, who shall be appointed jointly by the governor and the chief justice of the Missouri supreme court with the advice and consent of the senate. The child advocate shall hold office for a term of six years and shall continue to hold office until a successor has been duly appointed. The advocate shall act independently of the department of social services, the department of mental health, and the juvenile court in the performance of his or her duties. The office of administration shall provide administrative support and staff as deemed necessary.

Access to information--authority of office--confidentiality of information.

37.710. 1. The office shall have access to the following information:

- (1) The names and physical location of all children in protective services, treatment, or other programs under the jurisdiction of the children's division, the department of mental health, and the juvenile court;

(2) All written reports of child abuse and neglect; and

(3) All current records required to be maintained pursuant to chapters 210 and 211.

2. The office shall have the authority:

(1) To communicate privately by any means possible with any child under protective services and anyone working with the child, including the family, relatives, courts, employees of the department of social services and the department of mental health, and other persons or entities providing treatment and services;

(2) To have access, including the right to inspect, copy and subpoena records held by the clerk of the juvenile or family court, juvenile officers, law enforcement agencies, institutions, public or private, and other agencies, or persons with whom a particular child has been either voluntarily or otherwise placed for care, or has received treatment within this state or in another state;

(3) To work in conjunction with juvenile officers and guardians ad litem;

(4) To file any findings or reports of the child advocate regarding the parent or child with the court, and issue recommendations regarding the disposition of an investigation, which may be provided to the court and to the investigating agency;

(5) To file amicus curiae briefs on behalf of the interests of the parent or child;

(6) To initiate meetings with the department of social services, the department of mental health, the juvenile court, and juvenile officers;

(7) To take whatever steps are appropriate to see that persons are made aware of the services of the child advocate's office, its purpose, and how it can be contacted;

(8) To apply for and accept grants, gifts, and bequests of funds from other states, federal, and interstate agencies, and independent authorities, private firms, individuals, and foundations to carry out his or her duties and responsibilities. The funds shall be deposited in a dedicated account established within the office to permit moneys to be expended in accordance with the provisions of the grant or bequest;

(9) Subject to appropriation, to establish as needed local panels on a regional or county basis to adequately and efficiently carry out the functions and duties of the office, and address complaints in a timely manner; and

(10) To mediate between alleged victims of sexual misconduct and school districts as provided in subsection 1 of section 160.262.

3. For any information obtained from a state agency or entity under sections 37.700 to 37.730, the office of child advocate shall be subject to the same disclosure restrictions and confidentiality requirements that apply to the state agency or entity

providing such information to the office of child advocate. For information obtained directly by the office of child advocate under sections 37.700 to 37.730, the office of child advocate shall be subject to the same disclosure restrictions and confidentiality requirements that apply to the children's division regarding information obtained during a child abuse and neglect investigation resulting in an unsubstantiated report.

Complaint procedures--annual report, contents.

37.715. 1. The office shall establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of children who are recipients of the services of the departments of social services and mental health, and the juvenile court. Such procedures shall address complaints relating to the actions, inactions, or decisions of providers or their representatives, public or private child welfare agencies, social service agencies, or the courts which may adversely affect the health, safety, welfare, or rights of such recipient.

2. The office shall establish and implement procedures for the handling and, whenever possible, the resolution of complaints.

3. The office shall have the authority to make the necessary inquiries and review relevant information and records as the office deems necessary.

4. The office may recommend to any state or local agency changes in the rules adopted or proposed by such state or local agency which adversely affect or may adversely affect the health, safety, welfare, or civil or human rights of any recipient. The office shall make recommendations on changes to any current policies and procedures. The office shall analyze and monitor the development and implementation of federal, state and local laws, regulations and policies with respect to services in the state and shall recommend to the department, courts, general assembly, and governor changes in such laws, regulations and policies deemed by the office to be appropriate.

5. The office shall inform recipients, their guardians or their families of their rights and entitlements under state and federal laws and regulations through the distribution of educational materials.

6. The office shall annually submit to the governor, the general assembly, and the Missouri supreme court a detailed report on the work of the office of the child advocate for children's protection and services. Such report shall include, but not be limited to, the number of complaints received by the office, the disposition of such complaints, the number of recipients involved in complaints, the state entities named in complaints and whether such complaints were found to be substantiated, and any recommendations for improving the delivery of services to reduce complaints or improving the function of the office of the child advocate for children's protection and services.

Files may be disclosed at discretion of child advocate, exceptions--privileged information--penalty for disclosure of confidential material.

37.725. 1. Any files maintained by the advocate program shall be disclosed only at the discretion of the child advocate; except that the identity of any complainant or recipient shall not be disclosed by the office unless:

(1) The complainant or recipient, or the complainant's or recipient's legal representative, consents in writing to such disclosure; or

(2) Such disclosure is required by court order.

2. Any statement or communication made by the office relevant to a complaint received by, proceedings before, or activities of the office and any complaint or information made or provided in good faith by any person shall be absolutely privileged and such person shall be immune from suit.

3. Any representative of the office conducting or participating in any examination of a complaint who knowingly and willfully discloses to any person other than the office, or those persons authorized by the office to receive it, the name of any witness examined or any information obtained or given during such examination is guilty of a class A misdemeanor. However, the office conducting or participating in any examination of a complaint shall disclose the final result of the examination with the consent of the recipient.

4. The office shall not be required to testify in any court with respect to matters held to be confidential in this section except as the court may deem necessary to enforce the provisions of sections 37.700 to 37.730, or where otherwise required by court order.

Immunity from liability, when.

37.730. 1. Any employee or an unpaid volunteer of the office shall be treated as a representative of the office. No representative of the office shall be held liable for good faith performance of his or her official duties under the provisions of sections 37.700 to 37.730 and such representative shall be immune from suit for the good faith performance of such duties. Every representative of the office shall be considered a state employee under section 105.711.

2. No reprisal or retaliatory action shall be taken against any recipient or employee of the departments or courts for any communication made or information given to the office. Any person who knowingly or willfully violates the provisions of this subsection is guilty of a class A misdemeanor.

Chapter 160
~~Schools--General Provisions~~
Section 160.262

Mediation, office of the child advocate to coordinate, when--procedures--binding agreement, when.

160.262. 1. The office of the child advocate as created in section 37.705 shall be authorized to coordinate mediation efforts between school districts and students when requested by both parties when allegations of child abuse arise in a school setting. The office of the child advocate shall maintain a list of individuals who are qualified mediators. The child advocate shall be available as one of the mediators on the list from which parents can choose.

2. Mediation procedures shall meet the following requirements:

(1) The mediation process shall not be used to deny or delay any other complaint process available to the parties; and

(2) The mediation process shall be conducted by a qualified and impartial mediator trained in effective mediation techniques who is not affiliated with schools or school professional associations, is not a mandated reporter of child abuse under state law or regulation, and who is available as a public service.

3. No student, parent of a student, school employee, or school district shall be required to participate in mediation under this section. If either the school district or the student or student's parent does not wish to enter into mediation, mediation shall not occur.

4. Each session in the mediation process shall be scheduled in a timely manner and be held in a location that is convenient to the parties in dispute.

5. Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent administrative proceeding, administrative hearing, nor in any civil or criminal proceeding of any state or federal court.

6. If the parties resolve a dispute through the mediation process, the parties shall execute a legally binding agreement that sets forth the resolution and:

(1) States that all discussions that occurred during the mediation process shall remain confidential and may not be used as evidence in any subsequent administrative proceeding, administrative hearing, or civil proceeding of any federal or state court; and

(2) Is signed by a representative of each party who has authority to bind the party.