A close-up portrait of a young boy with brown eyes and a plaid jacket. The text is overlaid on the top left and bottom left of the image.

State of Missouri

Office of Child Advocate for Children's
Protection and Services

2013
Annual Report

State of Missouri
Office of
Child Advocate for Children's
Protection and Services
Annual Report 2013

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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

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

The Honorable Mary R. Russell
Chief Justice of the Missouri Supreme Court

Dear Honorable Governor Nixon and Honorable Chief Justice Russell:

I am pleased to present the 2013 Annual Report of the Office of Child Advocate. The report covers the time frame of January 1, 2013 through December 31, 2013.

I am honored to be appointed the Child Advocate. I truly appreciate this opportunity to serve the children and families of Missouri. Our office remains committed to our charge to review 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 5,771 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, Office Manager and Reviewer.

OCA staff:

Kelly Schultz, Missouri Child Advocate

Liz Beasley, Deputy Director

Courtney Davis, Reviewer

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 budget appropriation for 2013-2014 was \$217,340.

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:

- ◆ foster care case management review
- ◆ unsubstantiated hotline investigation reviews
- ◆ mediation between parents and schools regarding abuse allegations
- ◆ child fatality review of children with Children's Division involvement
- ◆ information and referrals for families needing resources

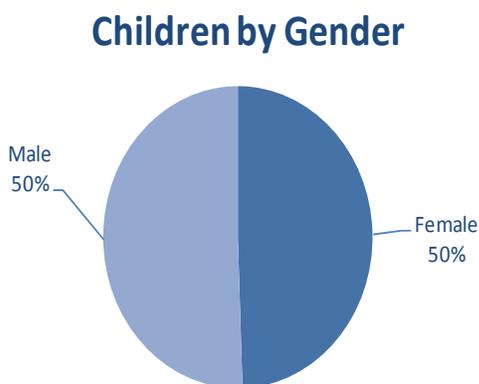
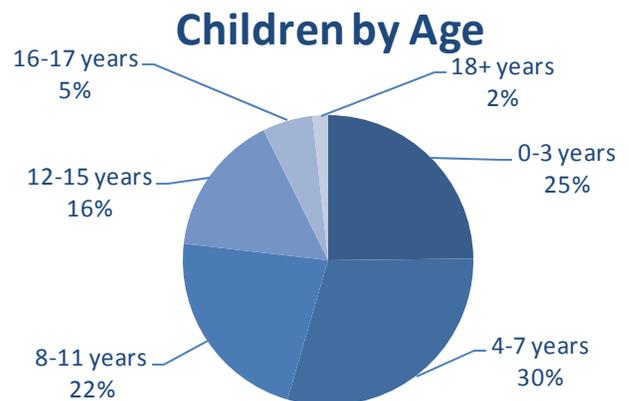
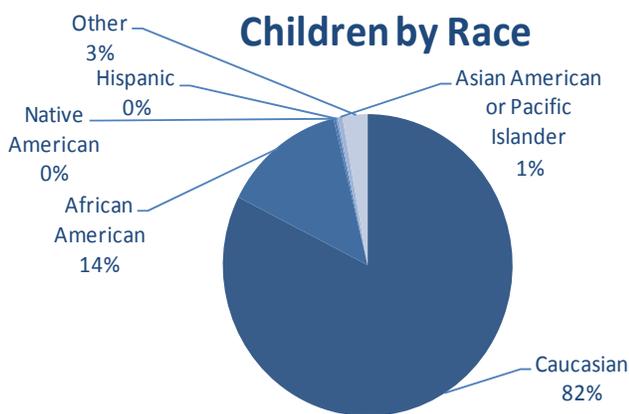
Additional responsibilities include:

- ♦ 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

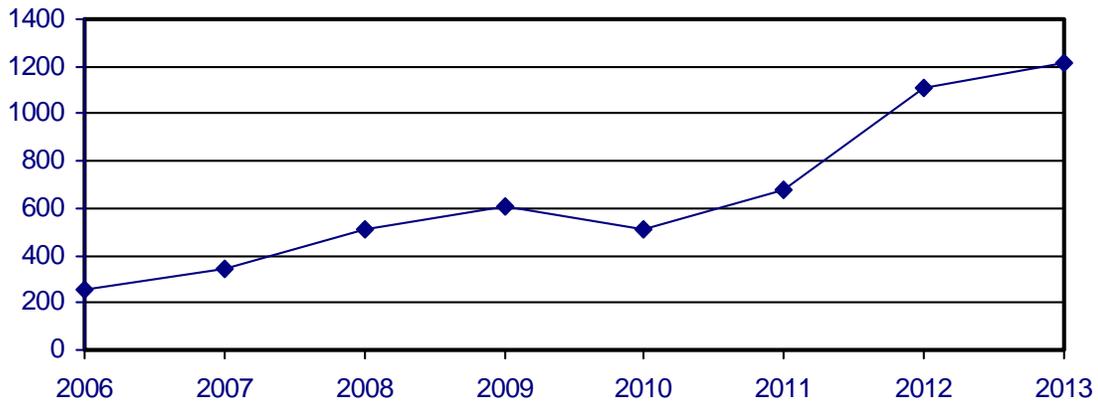
Receiving Complaints

From January 1 through December 31, 2013, the Office of Child Advocate received 1,214 complaints/contacts including registered concerns from 430 new complainants, 347 unsubstantiated, 4 mediation and 16 fatality reviews involving 1,104 children.



In 2013, the Office of Child Advocate saw a little over 10% growth in case load from 1,107 to 1,214*.

Complaints/Contacts History



The composite number of complaints/contacts received by the Office of Child Advocate and is categorized according to (1) New Cases, (2) Reopened Cases, (3) Unsubstantiated Reviews, (4) Information and Referrals, (5) Fatalities*, (6) Mediation and (7) Unable to Contact (due to phone numbers no longer in service, etc.)

*Beginning in 2012, fatalities were included.

2013 Contacts Received	
430	New Cases
36	Reopened Cases
347	Unsubstantiated Reviews
354	Information and Referrals
16	Fatalities*
4	Mediation
27	Unable to Contact
1214	Total Number of Contacts

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:

- 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 review

Concluding Complaints

Reviews and investigations are concluded within 30 business days. Extenuating circumstances may occasionally extend the investigation in certain instances, such as continued court dates, ongoing concerns or new allegations. 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 policy/procedure error(s) noted
- 2) Policy/procedure error(s) noted
- 3) 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 37.710.2 (7) 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, 2013, awareness and visibility of the office was increased as a result of speaking, participation or exhibiting at the following conference and trainings:

- ◆ Missouri Continues School Improvement 2013 Powerful Learning Conference Mo Professional Learning Communities
- ◆ 40th Annual Conference on the Young Years (DESE)
- ◆ 2013 Show-Me Professional Development Conference
- ◆ Missouri Child Advocacy Day
- ◆ Missouri Association of Drug Court Professionals Training Conference
- ◆ 9th Annual Prevention and Intervention Conference ; The Children's Center
- ◆ Missouri Juvenile Justice Association (MJJA) Spring 2013: Educational Spring Conference
- ◆ Midwest Foster Care and Adoption (MFCAA)-ONE Conference
- ◆ Missouri Sheriffs' Association and Training Academy
- ◆ Session III & IV of the Greater Missouri Leadership Challenge
- ◆ Missouri Juvenile Justice Association (MJJA) Fall 2013 : Education Fall Conference
- ◆ Missouri School Counselor Association Annual Fall Conference
- ◆ 2013 Champions of Change; Missouri Coalition of Children's Agencies
- ◆ Missouri State Teachers Association
- ◆ Missouri Coordinated School Health Coalition Annual Conference
- ◆ Brochures sent to WIC offices

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 2) family separation

and reunification, and 3) dependent child health, well-being, and permanency. These categories involve the following issues:

Child Safety _____	228 calls
Unsubstantiated Findings _____	347 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 _____	137 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 _____	62 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 _____	3 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

Caller Relationship	No.	Caller Relationship	No.
Anonymous	2	Legal Guardian	1
Biological Parent	161	Other Relationship	44
Community Professional or Service Provider	27	Other Relative	47
Foster Parent	32	Public Defender	1
Grandparent	109	Step-Parent	5
Law Enforcement	1	Total:	430

complaints and other relatives are the third highest. These calls usually involve family wanting placement of children that have been removed from the parent's home or family who are concerned about the safety of the children living with a parent or other caretaker.

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 more than 80% of the investigations and unsubstantiated reviews within thirty business days of receipt of the complaint. However, many factors may cause a case to remain open, out of timeframes. 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 due to ongoing concerns.

Measurement	Goal	Met
Contact complainant within 3 business days after complaint received	90%	98.2%
Complete investigation within 30 business days of receiving complaint	80%	87.6%
July 1, 2012—June 30, 2013		

Timely case reviews will remain a challenge in light of a 10% increase in case numbers.

Recommendations for Systematic Improvements

Juveniles with Problem Sexual Behaviors

The response to juveniles with problem sexual behavior continues to vary greatly among the multidisciplinary professionals of child welfare. This results in differences in how cases are handled, investigated, and the type of therapeutic treatment both the victim and the juvenile perpetrator receive throughout different regions of the State. The variances are often the result of the definition of the role of the members of the team, assignment of responsibility among professionals, practice differences among regions of the state, and the ages of the perpetrator and the victim. Unfortunately, at times, the variances result in two or more juveniles being failed. The Office of Child Advocate recommended last year that child welfare professionals including Children's Division, Juvenile Officers, Law Enforcement, Child Advocacy Centers, Prosecutors, Therapists, etc. actively define their roles and responsibilities when there are concerns that a juvenile, that does not have care, custody and control, sexually abuses another child. At this time we believe that Children's Division is best suited to ensure the safety and wellbeing of the children involved including safety planning, linking to mental health treatment, and providing necessary support and services to the family. This does not preclude other agencies involvement and responsibility to both children, rather recommends that Children's Division conducts an initial assessment to identify the needs of all children and families involved.

Duplicated Calls

When an allegation has been previously addressed in an earlier investigation, the hotline call is duplicated. In the FACES system, the conclusion screen is blank when the call has been duplicated. The Office of Child Advocate recommends that documentation regarding the duplication appears in the conclusion screen for two reasons. 1) It is important to document that the specific incident has previously been investigated; not that a similar allegation or allegation of the same nature but occurring at a different date has been investigated. 2) When the previous unsubstantiated investigation has been expunged, all that is left is the blank duplicated conclusion screen. This would make it difficult to determine in the event of future calls what has previously been investigated, duplicated, or if there are new elements or new incidents that have not been previously addressed.

Toll-Free Hotline for Out-of-State Calls

Currently the Missouri Child Abuse/Neglect Hotline does not accept calls from out-of-state phone numbers. Many times individuals call the Office of Child Advocate in the middle of the night. Our office is not staffed 24 hours a day, 7 days a week. However, the calls are forwarded to the Director's personal cell phone due to this concern. The Office of Child Advocate is concerned that some callers may not attempt alternate ways to report. With many people using their cell phone number as their primary number, keeping their cell phone numbers the same after moves, and Missouri sharing borders with many states including our two largest cities of St. Louis and Kansas City, Children's Division should reconsider not accepting calls from out-of-state phone numbers.



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 Doug Nelson.

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.

Appendix A

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; or to file such pleadings necessary to intervene on behalf of the child at the appropriate judicial level using the resources of the office of the attorney general;

(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 or charter schools 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 and charter schools 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, charter school, or school district shall be required to participate in mediation under this section. If either the school district or charter school 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.

