Office of Colorado’s Child Protection Ombudsman

LETTER OF COMPLIANCE CONCERN

Case Number 2019-3920

Stephanie Villafuerte,
Child Protection Ombudsman

January 28, 2020
Introduction

By design, the Office of Colorado’s Child Protection Ombudsman (CPO) serves as an independent, neutral problem solver that helps citizens navigate a complex child protection system in an expert and timely manner. The Ombudsman has independent access to child protection records that are not otherwise available to the public. This allows the CPO to objectively review and investigate complaints, deliver recommendations and drive systemic reform through research and education. Through objective study the CPO works to improve the delivery of services to children and families within the child protection system.

Jurisdiction

The CPO receives “complaints concerning child protection services made by, or on behalf of, a child relating to any action, inaction, or decision of any public agency or any provider that receives public moneys that may adversely affect the safety, permanency, or well-being of a child. The ombudsman may, independently and impartially, investigate and seek resolution of such complaints, which resolution may include, but need not be limited to, referring a complaint to the state department or appropriate agency or entity and making a recommendation for action relating to a complaint.” See C.R.S. §19-3.3-103(1)(a)(I)(A).

Pursuant to C.R.S. §19-3.3-101-110, the CPO does not have the authority to:
- Investigate allegations of abuse and/or neglect.
- Interfere or intervene in any criminal or civil court proceeding.
- Review or investigate complaints related to judges, magistrates, attorneys or guardians ad litem.
- Overturn any court order.
- Mandate the reversal of an agency/provider decision.
- Offer legal advice.

Identified Compliance Concerns

If, through the course of any case the CPO determines that an agency or provider may have violated any rules or laws, the CPO will issue a letter to the agency or provider outlining its compliance concerns. The agency or provider will be given 15 business days to provide a response to the CPO.

The CPO’s letter, and any response submitted by the agency or provider, will then be provided to the agency or provider’s supervising entity. The supervising entity will then make the final determination of whether a violation of law or rule occurred and provide any relevant remedies. The supervising entity will have 15 business days to make their determination and respond to the CPO. After the supervising entity submits its response, the CPO will post its letter, the agency or provider’s response and the supervising entity’s determination on the CPO’s website.
Public Disclosure

In meeting its statutory requirements to “improve accountability and transparency in the child protection system and promote better outcomes for children and families involved in the child protection system,” as stated in C.R.S. §19-3.3-101(2)(a), the CPO will provide the public and stakeholders any recommendations it makes to an agency/provider.

Impartiality

To maintain its impartiality – and in keeping with statute – the CPO will independently collect information, records and/or documents from an agency/provider when reviewing and/or investigating a complaint. “In investigating a complaint, the ombudsman shall have the authority to request and review any information, records, or documents, including records of third parties, that the ombudsman deems necessary to conduct a thorough and independent review of a complaint so long as either the state department or a county department would be entitled to access or receive such information, records, or documents.” See C.R.S. §19-3.3-103(1)(a)(II)(A)
Office of Colorado’s Child Protection Ombudsman

Letter of Compliance Concern

Case 2019 - 3920

(Delivered December 10, 2019)
To: Tracey Garchar, Director  
Mesa County Department of Human Services  
510 29 ½ Road  
Grand Junction, CO 81502

From: Amanda Pennington, Child Protection Systems Analyst  
Office of Colorado’s Child Protection Ombudsman  
1300 Broadway, Suite 430  
Denver, CO 80203

Date: December 10, 2019

Subject: Possible Compliance Concerns, CPO Case 2019 – 3920

Dear Director Garchar,

On October 3, 2019, the Office of Colorado’s Child Protection Ombudsman (CPO) was contacted by a mother who was concerned that her child was removed from her home without a plan for reunification. The mother states that the child’s stay in foster care is negatively impacting the child’s well-being and that the case is being mishandled by the Mesa County Department of Human Services (MCDHS). The CPO has reviewed the available information regarding the family. The CPO has identified areas in which the MCDHS may not be in compliance with the requirements of Volume 7.

Case Summary

On June 6, 2019, the MCDHS received a report concerning a 1-year-old child not being properly supervised by her mother, who was struggling with mental health issues. The MCDHS assessed the report and found that the mother was neglectful. The child was removed and placed into foster care, and a court and child welfare case were opened. As of November 22, 2019, the child remains in foster care.

Volume 7 Regulations /Children’s Code Requirements

Volume 7 and the Colorado Children’s Code contain the minimum guiding principles and standards to which county human services departments are held in assessing and ensuring a child’s safety. The CPO found that the following rules are the most relevant to the identified compliance concerns: 7.301.24, 7.301.3, 7.104.15 and 7.202.1.

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1 Code of Colorado Regulations, 12 CCR 2509
2 See Trails Referral ID [redacted], Findings and Closure Summary
Identified Compliance Concerns

The CPO has reviewed the documentation in Trails along with the relevant rule package and sections of Volume 7. The CPO found several areas in which the MCDHS may not be in compliance with state regulations. This information was last verified by the CPO on December 5, 2019. Specifically, the CPO observed:

1. Documentation in Trails does not demonstrate that the family services plan includes all required participants. If accurate, this is a violation of Volume 7, 7.301.24, as the plan requires components for the child, county department and service providers.

2. Documentation in Trails does not demonstrate the family services plan has been reviewed within the 90-day timeframe. If accurate, this is a violation of Volume 7, 7.301.3, as the plan is required to be reviewed every 90 days after its completion. This is to ensure child safety and monitor services and progress towards reunification.

3. Documentation in Trails does not demonstrate that the father was notified of the outcome of the assessment. If accurate, this is a violation Volume 7, 7.104.15, which requires non-custodial parents be notified of the outcomes of assessment, unless the parent’s whereabouts are unknown, or it is not in the best interest of the child.

4. Documentation in Trails does not demonstrate that the assigned caseworker contacted the father since the assessment began. Documentation does not demonstrate that the assigned caseworker contacted the mother, face-to-face, in August 2019 and September 2019. If accurate, this is a violation of Volume 7, 7.202.1, which requires monthly face-to-face contact with the mother, and at minimum, telephone contact with the father, who lives out-of-state.

5. The CPO identified a practice concern regarding the child’s living arrangement and placement documentation in Trails not being current.

Conclusion

Pursuant to policies 4.200 and 5.200 in the Colorado Child Protection Ombudsman’s (CPO) Case Practices and Operating Procedures, the CPO will notify any agency or provider if it identifies potential violations of law or rule. The CPO will NOT make a final determination of whether the violation took place. Instead, the CPO will ask the relevant agency or provider to respond to the CPO’s concerns in writing.

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3 Trails: comprehensive child welfare information system
4 See Trails Case ID: FSP
5 12 CCR 2509-4, Rule 7.301.24
6 See Trails Case ID: FSP Review
7 12 CCR 2509-4, Rule 7.301.3
8 See Trails Referral ID: Interview and Closure Summary
9 12 CCR 2509-2, Rule 7.104.15
10 See Trails Case ID: Contacts
11 See Trails Case ID: Living Arrangement and FSP Placement
After receiving the MCDHS’ response, the CPO will submit its original letter and MCDHS’ full response to the Colorado Department of Human Services (CDHS), which serves as the MCDHS’ supervising entity. (See C.R.S. § 26-1-11 and C.R.S. § 26-1-118.) The CDHS will then determine whether any violations occurred and any relevant remedies. The CDHS will have 20 business days to make its determination and respond to the CPO in writing. After receipt of the CDHS’ response, the CPO will post this correspondence and both responses to the CPO’s website. All child and family information will be redacted prior to the public release.

Please provide the MCDHS response to the possible violations listed in this letter no later than January 3, 2020.

Thank you for your time and please do not hesitate to contact me if you have any questions.

Sincerely,

Amanda Pennington
Amanda Pennington
Child Protection Systems Analyst

Approved by:

Stephanie Villafuerte
Stephanie Villafuerte
Child Protection Ombudsman
Ms. Pennington,

The following is Mesa County’s response to Trails Assessment/Case ID: [redacted] and [redacted]

1. Documentation in Trails does not demonstrate that the family services plan includes all required participants. If accurate, this is a violation of Volume 7, 7.301.24, as the plan requires components for the child, county department and service providers.

   a. In reviewing the Treatment Plan, there is a component for Mesa (county), [redacted] and [redacted] placement provider

2. Documentation in Trails does not demonstrate the family services plan has been reviewed within the 90-day timeframe. If accurate, this is a violation of Volume 7, 7.301.3, as the plan is required to be reviewed every 90 days after its completion. This is to ensure child safety and monitor services and progress towards reunification.

   a. There is no current 90 day review. Discussed with Supervisor and Caseworker and this will be entered and approved by January 3, 2020.

   b. While looking into this case, removal occurred in July and the adjudicatory trial was not scheduled until December. No treatment plan had therefore been ordered and the caseworker was not completing court reports. The caseworker then missed entering in the 90 day review. To help with this issue, a training will be held with the Permanency Team (1/13/20) to discuss timeliness of 90 day reviews and how to use their trackers and/or calendars in order to not miss entering a 90 day review when there is such a delay in the court process. Additionally, the Permanency Supervisors will utilize one supervision each month with each workers to complete case reviews. At this time, one of the items to be reviewed will be the 90 day review in Trails.

3. Documentation in Trails does not demonstrate that the father was notified of the outcome of the assessment. If accurate, this is a violation Volume 7, 7.104.15, which requires non-custodial parents be notified of the outcomes of assessment, unless the parent’s whereabouts are unknown, or it is not in the best interest of the child.

   a. The father was contacted on June 10th and notified of the shelter hearing. It does not appear he was contacted again at assessment closure.

4. Documentation in Trails does not demonstrate that the assigned caseworker contacted the father since the assessment began. Documentation does not demonstrate that the assigned caseworker contacted the mother, face-to-face, in August 2019 and September 2019. If accurate, this is a violation of Volume 7, 7.202.1, which requires monthly face-to-face contact with the mother, and at minimum, telephone contact with the father, who lives out-of-state.

"The Mission of Mesa County Department of Human Services is to help individuals and families achieve safety, stabilization, and opportunity for meaningful employment."
a. An email sent to an email address that was reported to be for the father of child on December 20, 2019. After speaking with the caseworker, there were failed attempts that were made to attempt to reach the father, however these were not accurately document into Trails. The caseworker and supervisor discussed this area needing improvement.

b. A September contact was scheduled for 9/11/19, however, the mother failed to show up for this meeting with the caseworker.

c. After further research into the case, a Family Engagement Meeting was held on August 21, 2019. The mother was present for this meeting. The caseworker will be entering in a ROC note to state that a face to face occurring in August.

5. The CPO identified a practice concern regarding the child’s living arrangement and placement documentation in Trails not being current.

a. In review of FSP 4B and 4C, the current foster home is listed as child’s current placement effective 7/11/19. Information is included on this page regarding the appropriateness of this placement for this child.

Many conversations have been held with the mother on this case, at all levels. Child Welfare Manager [redacted] scheduled a time to meet with her and she showed up 30 minutes late. Multiple conversations have been held at the supervisor and casework level. The entire treatment team has responded to many messages from this mother to help her navigate through her child welfare case. We have utilized her attorney and at the most recent hearing a request for a GAL was made for the mother, and approved by the Court. There are significant concerns with this mother’s mental health and her ability to care for a young child. At this time, we do not know the full diagnosis as the mother is not consistent with her treatment.

Thank you,

Joe Kellerby

Director, Child Welfare

Mesa County Department of Human Services

"The Mission of Mesa County Department of Human Services is to help individuals and families achieve safety, stabilization, and opportunity for meaningful employment."
Colorado Department of Human Services

Response Letter

Case 2019-3920

(Delivered January 28, 2020)
This letter from the Colorado Department of Human Services, Division of Child Welfare (DCW) is a response to Child Protection Ombudsman (CPO) Complaint 2019-3920, regarding Mesa County Department of Social Services. DCW has reviewed the complaint, the county’s response, Trails case files, and relevant sections of Colorado Regulations: 7.301.24, 7.301.3, 7.104.15 and 7.202.1 which are detailed below.

Concern 1: Documentation in Trails does not demonstrate that the family services plan includes all required participants. If accurate, this is a violation of Volume 7, 7.301.24, as the plan requires components for the child, county department and service providers.

DCW response to concern 1: After reviewing the Treatment Plan and other supporting documentation within Trails, the required components identified in 7.301.24 appear to be present. DCW disagrees this concern is in violation of Volume 7.

Concern 2: Documentation in Trails does not demonstrate the family services plan has been reviewed within the 90-day timeframe. If accurate, this is a violation of Volume 7, 7.301.3, as the plan is required to be reviewed every 90 days after its completion. This is to ensure child safety and monitor services and progress towards reunification.

DCW response to concern 2: After reviewing the family services plan, it is an accurate concern that Mesa County did not complete a 90 day review within the regulation outlined in 7.301.3. The current family services plan was not created and approved before the complaint was filed. DCW is in agreement that this is a violation of Volume 7 regulations, 7.301.3.

Concern 3: Documentation in Trails does not demonstrate that the father was notified of the outcome of the assessment. If accurate, this is a violation Volume 7, 7.104.15, which requires non-custodial parents be notified of the outcomes of assessment, unless the parent’s whereabouts are unknown, or it is not in the best interest of the child.

DCW response to concern 3: After reviewing the contents of the contact tab it is accurate that Mesa County failed to notify the father of the outcomes of the assessment. DCW is in agreement that this is a violation of Volume 7 regulation, 7.104.15

Concern 4: Documentation in Trails does not demonstrate that the assigned caseworker contacted the father since the assessment began. Documentation does not demonstrate that the assigned caseworker contacted the
mother, face-to-face, in August 2019 and September 2019. If accurate, this is a violation of Volume 7, 7.202.1, which requires monthly face-to-face contact with the mother, and at minimum, telephone contact with the father, who lives out-of-state.

DCW response to concern 4: After reviewing documentation in the Trails case file, a contact was created for the mother and father on August 21, 2019, as both parents attended a Family Engagement Meeting (FEM). The FEM was documented in the state automated case management system thus meeting the requirements of 7.202.1 for the month of August for mother and father.

There were no face to face contacts with the father documented in the state automated case management system prior to the FEM and therefore DCW is in partial agreement with concern 4, as this is a violation of Volume 7 regulation, 7.202.1, in regard to the father during the assessment.

Concern 5: The CPO identified a practice concern regarding the child’s living arrangement and placement documentation in Trails not being current.

DCW response to concern 5: After reviewing the Service Authorization Tab in Trails, the current provider is entered correctly in conjunction with the appropriate service order dates. DCW disagrees this concern is in violation of Volume 7.

DCW has reviewed Mesa County’s response to the violations above. DCW has developed an action plan with the Mesa County Department of Human Services to provide technical assistance to address quality and monthly face-to-face contacts with parent(s), guardians and prospective permanent caregivers. DCW staff will provide technical assistance by providing guidance for executing documentation of the following areas of concern: quality face-to-face monthly parent(s) contacts, and timely completion and review of the treatment plan within 90 days (7.301.21). DCW will follow up at the next quarterly meeting scheduled for February, 2020 and ongoing monitoring will occur at subsequent quarterly meetings.

DCW will oversee and continue to provide supervision and guidance as needed. Please let us know if you have any further concerns or questions.

Sincerely,

Kari Daggett,
Deputy Director, Division of Child Welfare
Grievance/Inquiry Review Form

[To be completed by the assigned Division of Child Welfare (DCW) County Intermediary]

<table>
<thead>
<tr>
<th>Unit/Intermediary: CPS Joey Brozek</th>
<th>County: Mesa</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Assigned (by manager): 1-1-20</td>
<td>Due Date: 2-6-20</td>
</tr>
<tr>
<td>Complaint Number: CPO 19-3920, DCW 4-2020</td>
<td></td>
</tr>
<tr>
<td>Complainant Role (Select from the following):</td>
<td></td>
</tr>
<tr>
<td>--- Parent, Guardian, Legal Custodian</td>
<td></td>
</tr>
<tr>
<td>X Office of Colorado's Child Protection Ombudsman</td>
<td></td>
</tr>
<tr>
<td>--- Attorney</td>
<td></td>
</tr>
<tr>
<td>--- Other: Specify Role:</td>
<td></td>
</tr>
</tbody>
</table>

The basis of grievance/inquiry (mark all that apply):

___ Federal/State Statutory violation
X___ Administrative rule violation
___ Other county practice, policy, procedure, etc. (specify): ________________________________

DCW assessment of county disposition of grievance/inquiry:
X___ Agree with county disposition
___ Disagree with county disposition

DCW assessment of action/s taken by county:
X___ Agree with action/s taken by county
___ Disagree with action/s taken by county

Action/s taken by DCW:
___ DCW did not find a violation of federal/state statute and/or of the administrative rules, therefore, no further action will be taken by DCW.
X___ DCW found the following violation federal/state statute and/or of the administrative rules:

J.Brozek will review practice concerns and have discussion during the quarterly visit. After reviewing the family services plan, it is an accurate concern that Mesa County did not complete a 90 day review within the regulation outline in 7.201.3. The current family services plan was not created and approved before the complaint was filed. After reviewing the contents of the contact tab it is accurate that Mesa County failed to notify the father of the outcomes of the assessment. DCW is in agreement that this is a violation of Volume 7 regulation 7.104.16. There were no face to face contacts with the father documented in the state automated case management system prior to the FEM and therefore this is violation of Volume 7 regulation 7.202.1, in regards to father during the assessment.

Based upon this finding, the following action/s will be taken by DCW:

Technical assistance (TA) and/or guidance (i.e. date, actions, next steps etc.):

DCW staff will provide technical assistance by providing guidance for executing documentation of the following areas of concern: quality face-to-face monthly parent(s) contacts, and timely completion and review of the treatment plan within 90 days (7.301.21). DCW will follow up at the next quarterly meeting scheduled for February, 2020 and ongoing monitoring will occur at subsequent quarterly meetings.

Other(specific):

Printed Name AND Signature of DCW County Intermediary

Joey Brozek

Printed Name AND Signature of DCW County Intermediary Supervisor

D.H.C.  

Printed Name AND Signature of DCW Unit Manager

__ Date review form sent to county and client services 1-16-20 (CPO Only) Date response sent