



## **Office of the Foster Youth Ombudsperson Cover Sheet**

Date: October 8, 2024

Case No: 202405-1

A complaint was submitted to the Office of the Foster Youth Ombudsperson (OOFY) in May 2024 regarding two agencies, referred to as “Agency 1” and “Agency 2” in this Report of Findings and Recommendations. Agency 2 began working with the family before the case was transferred to Agency 1, the current responsible social service agency. A draft Report of Findings and Recommendations was shared with Agency 1, 2, and the Guardian ad Litem Program on July 30, 2024. OOFY received a response from Agency 1 on August 29, 2024. OOFY finalized the attached Report of Findings and Recommendations on September 6, 2024, and sent a revised copy to all parties. Agency 1 provided additional written information on September 25, 2024. The following PDF includes both the final OOFY report and written responses from Agency 1. Agency 2 did not provide a written response to be included.

## Office of the Foster Youth Ombudsperson Report of Findings and Recommendations

Date: September 6, 2024

Case No: 202405-1

### **OOFY Overview**

The Office of the Foster Youth Ombudsperson (OOFY) is tasked with the power to

- “receive a complaint from any source concerning the health, safety, or welfare of a youth in foster care. The ombudsperson may, at the request of another or on the ombudsperson's own initiative, investigate any action of an agency or a family foster home, custodian, parent, or facility licensed by the state, including a residential treatment facility and secured detention facility. The ombudsperson may exercise powers without regard to the finality of any action.
- “investigate, upon a complaint or upon personal initiative, any action of an agency, including a request from a youth in foster care to examine the physical placement where the child resides”
- “request and be given access to information from an agency that is necessary for performing the ombudsperson's responsibilities.”

The scope and authority of our office is outlined in [Sec. 260C.82 MN Statutes](#). The OOFY is an independent agency, separate from the Department of Human Services (DHS), Department of Children, Youth, and Families (DCYF), and separate from other Minnesota ombuds offices. Our office maintains a commitment to the United States’ Ombudsman Association (USOA) Governmental Standards of independence, impartiality, confidentiality, and a credible review process.

The objective of this review is to identify areas for improvement in Minnesota’s foster care system by looking at issues related to policy, procedure, and practice. In line with our legislative mandate, we aim to “promote the highest attainable standards of competence, efficiency, and justice for youth who are in the care of the state.”

OOFY’s enabling statute gives us the power to make recommendations to an agency or judicial officer if we determine a complaint was valid. Recommendations to the agency or judicial officer can include:

- consider the matter further;
- modify or cancel the agency’s or judicial officer’s actions;
- change a ruling or explain an action; or
- take any other step that the ombudsperson recommends to provide direction or require action by a facility, placement, or custodian providing a residence to the complainant.

### **Issue Summary and Investigation Overview**

The following concerns were brought to the attention of OOFY:

- Lack of consideration of a relative as permanency option: Concern that a maternal relative was not being considered as a permanency option, despite an approved home study assessment.

- Conflict of interest of the Guardian ad Litem (GaL): Concern that the GaL had previously served as a social worker for other members of the family and could not perform their job duties without bias.
- Inappropriate information-sharing and communication.
- Concern that information about the relative's own foster care history was shared with people who were not party to the case nor serving in any professional capacity.
- Concern that communication between the social worker and foster parent was inappropriate/unprofessional.

To explore the concern, OOFY met with:

1. Complainants
2. Agency social worker, manager, supervisors, and directors
3. Guardian ad Litem and supervisor
4. Guardian ad Litem State Program Administrator and Program Staff Attorney
5. DHS staff, American Indian Child Well-Being Unit
6. DHS staff, Adoption/Kinship – Child Safety and Permanency Division

Additionally, OOFY reviewed relevant records available in the Minnesota Government Access (MGA) system, as well as records that were requested and/or received by the involved agency and complainant. [Practice Guide on Relative Search, Notice, Engagement and Placement Consideration for Children in Foster Care](#) and the [Indian Child Welfare Act/Minnesota Indian Family Preservation Act Manual](#) were also reviewed.

We would like to note that while some records were produced and sent to OOFY promptly, our office had to follow-up regarding documents that appeared to be missing. We later learned that specific records requested by our agency (which we obtained from the complainant) had still not been sent by Agency 1 to our office. Whether this was intentional or accidental, the information contained in the omitted records was regarding conduct that was relevant to the complaint. These omitted records covered a timeframe of approximately 3 months.

Further, although OOFY received a complaint regarding the GaL and met with several program staff, OOFY is not investigating these claims or making specific recommendations regarding the GaL Program at this time. OOFY would encourage the GaL Program to consider the recommendations made in this report and any possible application to the GaL Program.

Of note, the Ombudsperson for Foster Youth previously worked as the child foster care licensing supervisor at the agency where the complainant family completed their child foster care and adoption home study assessment. The Ombudsperson is statutorily prohibited from delegating their authority to formally make recommendations to an agency ([Sec. 260C.81 MN Statutes](#)). To comply with this obligation and in efforts to mitigate any real or perceived conflict of interest resulting from the Ombudsperson's prior professional relationship with the complainant family, the Assistant Ombudsperson was assigned responsibility for investigating this case, with oversight by the Ombudsperson. While it was not possible to eliminate any involvement of the Ombudsperson given the small size and unique scope of the office, OOFY communicated this prior relationship to agencies during the investigation.

### **Factual Findings:**

1. OOFY finds that Agency 1 did not follow the process for unknown tribal affiliation. Agency 1 noted that they were not aware of any possible tribal affiliation, despite sending documents to OOFY and others noting possible tribal lineage. ([Sec. 260.751 MN Statutes](#)).

2. OOFY finds that the process of relative consideration by Agency 1 was unclear and insufficient ([DHS-3799D-ENG](#)).
3. OOFY finds that Agency 1 did not follow best practices to engage and involve relatives ([DHS-3799D-ENG](#)).
4. OOFY finds that staff from Agency 1 and Agency 2 may have inappropriately shared information ([Sec. 13.46 MN Statutes](#)). Concerns regarding the GaL in this regard were not reviewed.
5. OOFY finds that communication with the foster parent, including repeated usage of an incorrect name for the foster child, was not sufficiently managed by Agency 1 and Agency 2.
6. OOFY was unable to determine whether a concern about conflict of interest was raised to the appropriate parties.

### **Recommendations:**

Related to the above findings, the Office of the Foster Youth Ombudsperson recommends:

1. Agency 1:
  - a. Agency 1 shall comply with ICWA/MIFPA inquiry, active efforts, and placement preferences for the foster child and for other children served by the agency. This may include engaging in continuous inquiry and following the process for unknown tribal affiliation as documented in [DHS' ICWA/MIFPA Manual](#).
  - b. Agency 1 shall ensure ongoing compliance with ICWA/MIFPA considerations through additional staff training and as needed, consultation with staff from the American Indian Child Well-Being Unit through DHS/DCYF.
  - c. Agency 1 shall comply with [Sec. 260C.221 MN Statutes](#). Parents' concerns regarding specific relatives are required to be brought to the court rather than assessed by the agency.
  - d. Agency 1 shall maintain and follow clear procedures for conducting relative searches before considering nonrelative options as documented in the [Practice Guide on Relative Search, Notice, Engagement and Placement Consideration for Children in Foster Care](#). Relative placement options should be fully explored regardless of prior communication with nonrelative placement options.
  - e. Agency 1 should engage relatives in care and planning for the foster child, including ensuring ongoing visitation and contact with the aim of preserving family connections, to build and strengthen extended family and kin connections, with required safety restrictions if necessary ([DHS-3799D-ENG](#)).
  - f. Agency 1 should be clear and intentional about how private or confidential information is shared. Protected information should not be shared by staff with people who do not have a right to information.
  - g. Agency 1 should include training and guidance for foster parents on the importance of correct name usage and should consistently reinforce correct name usage.
  - h. Agency 1 should consider their conflict of interest policies and procedures, emphasizing avoidance of the perception of conflicts of interest and having clear avenues for parties to escalate concerns.
  - i. Agency 1 should consider the limited usefulness of attachment studies and the lack of research available on their value as an objective tool for decision-making. See [expert consensus paper](#) on misapplication of attachment theory.
2. Agency 2
  - a. Agency 2 shall ensure ongoing compliance with ICWA/MIFPA considerations through additional staff training and as needed, consultation with staff from the American Indian Child Well-Being Unit through DHS/DCYF.
  - b. Agency 2 shall maintain and follow clear procedures for conducting relative searches before considering nonrelative options as documented in the [Practice Guide on Relative Search, Notice,](#)

[Engagement and Placement Consideration for Children in Foster Care](#). Relative placement options should be fully explored regardless of prior communication with nonrelative placement options.

- c. Agency 2 should be clear and intentional about how private or confidential information is shared. Protected information should not be shared by staff with people who do not have a right to information.

### **Conclusion:**

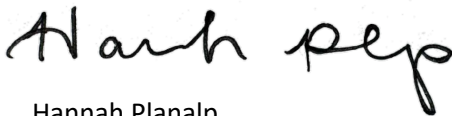
Under the authority provided to the Office of the Foster Youth Ombudsperson in Minnesota Law, the OOFY respectfully submits this report of findings and recommendations. These recommendations may effectuate positive change and can improve the lives of similarly situated children and youth in Minnesota's foster care system.

Before publishing, the agency has 45 days to provide a written response to this report in defense or mitigation of OOFY's recommendation or conclusion. The published report will include any statement of reasonable length made to the OOFY by the agency.

Sincerely,



Misty Coonce, MSW, LISW  
Ombudsperson for Foster Youth



Hannah Planalp  
Assistant Ombudsperson

*Data related to individual complaints and cases is classified as private or confidential ([Sec. 13.876 MN Statutes](#)).*

*Neither the ombudsperson nor any member of the ombudsperson's staff shall be compelled to testify or to produce evidence in any judicial or administrative proceeding with respect to any matter involving the exercise of the ombudsperson's official duties.*

*No proceeding or civil action except removal from office or a proceeding brought pursuant to chapter 13 shall be commenced against the foster youth ombudsperson for actions taken under sections [260C.80](#) to [260C.82](#), unless the act or omission demonstrates malicious intent or was grossly negligent ([Sec. 260C.82 MN Statutes](#)).*



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## FAMILY SERVICES

August 29, 2024

Ms. Hannah Planalp, Assistant Ombudsperson for Foster Youth  
Office of the Foster Youth Ombudsperson  
50 Sherburne Ave  
St. Paul, MN 55155

RE: Case Number 202405-1

Dear Ms. Planalp,

Chippewa County Family Services received the report written and signed by you, as well as the Ombudsperson for Foster Youth Misty Coonce. The agency has not addressed this response to Ms. Coonce as we feel there is a conflict with any involvement with Ms. Coonce related to this complaint. It was noted by Ms. Coonce from the outset that she previously worked with the complainant during her previous employment with Ampersand Families. The social worker assigned to the case in question had multiple prior contacts via email and also one phone call between July 26, 2022 and September 26, 2022 with Ms. Coonce related to the foster care licensing process of the complainant and also signed off on the completed home study as the agency supervisor on December 16, 2022.

CCFS received notice on May 16, 2024 that a complaint had been made to the Office of Ombudsperson for Foster Youth (OOFY) related to a lack of consideration of a relative as a permanency option, a conflict of interest by the Guardian ad Litem, and inappropriate information sharing and communication. An initial meeting was held with myself, my director Lisa Schultz, and yourself and Ms. Coonce with OOFY on May 20, 2024. The assigned social worker was not available to meet on that date, but scheduled a separate meeting on June 4, 2024. It is my understanding that a separate meeting was held with the Guardian ad Litem and her supervisor. The final report draft was received by CCFS on July 30, 2024.

The report received on July 30, 2024 noted Agency 1 did not provide all records as requested. The agency provided information that it felt was needed. In recent communications with OOFY, it was learned that more information was wanted and was ultimately provided to OOFY by the complainant. At no time did OOFY request that CCFS provide the specific additional information. Had OOFY requested that CCFS provide the older case notes from the previous child protection case prior to the agency opening the Adoption/Guardianship case for the child, the agency would have immediately provided it. It was not known to the agency that it was wanted and therefore was not omitted intentionally.

Contained within the report were findings made. Below are a summary of the findings, as well as responses of the agency specific to each finding:

- process of unknown Tribal affiliation. Upon review of SSIS chronology documentation, it was learned that while inquiry occurred with the parents during the assigned workers initial contact with the parents, as well as by myself during the EPC Court hearing, both did not document the inquiry. The assigned worker was able to go back to the audio recorded contact with the parents to determine both parents denied any Tribal affiliation within the United States. The agency does acknowledge that inquiry with extended family (in this case the complainant) did not occur.

- Process of relative consideration by Agency 1 (CCFS) was unclear and insufficient. During the interview with OOFY I believe I did not remember to include that the agency had had 2 relatives come forward – one maternal and one paternal. The agency did not wish to move the child, and then potentially move him again, while waiting for all home studies to be completed and received before making a decision. This was reviewed with the Courts and the Courts ultimately determined that the child would not be moved during this process.

Upon receiving notice that the paternal relative's home study was not approved, myself, the assigned social worker, another social worker not working the case, and the guardian ad litem all met to discuss the two home studies (for the current placement and for the complainant) and how each could meet the 10 Best Interest Factors for the child. Following that meeting, a letter was drafted and filed with the Court outlining the decision process and the final decision. The parents' appeal was still in process and during the scheduled hearing regarding this matter on April 18, 2023, the Courts deferred making a decision on the matter until the appeal process was completed.

- Agency one did not follow best practices to engage and involve relatives. The agency feels that based on the concerns made by the mother continuously and repeatedly during Court hearings and calls/emails/texts with the agency, the agency engaged and involved relatives (the complainant) to the extent it felt met the safety of the child. The agency provided visitation with complainant, as well as the paternal relative that expressed interest. As noted above, the paternal relative's home study was denied. Following that denial, the relative stopped scheduling visits.
- Staff from Agency 1, Agency 2, and GAL may have inappropriately shared information. When asked for specific information, OOFY stated it was related to the relative's own foster care experience (2015 files, page 36/120). These records that were shared were initially provided by the mother of the child and filed into the case along with letters explaining why she did not wish the complainant to be a placement resource for her son. As such the agency was in receipt of the records and they became part of the agency's file related to decision making. The "letter from adoptive mom of girls" was actually obtained and provided by the former GAL and therefore became part of the agency record.
- Communication with foster parent, including repeated usage of an incorrect name for the foster child, was not sufficiently managed by Agency 1 and Agency 2. CCFS acknowledges at least one instance where the assigned social worker did use the incorrect name after it was brought to the attention of the agency and supervisor, by the parents, that this was happening. Additional redirection and education by supervisor to assigned worker was completed and requests that any further usage of this incorrect name by the foster parents should be prohibited by the social worker. I also spoke with the child foster care licenser with Kandiyohi County (the responsible licensing agency) regarding the concerns that had been brought forward. It was my understanding that the foster parents were also redirected by their licensing worker to discontinue the use of the incorrect name.
- Whether a conflict of interest was raised to the appropriate parties. The agency was made aware at the first contact following the appointment of the current GAL regarding the GAL's prior short working relationship with the complainant. The GAL stated she had spoken with her supervisor about this relationship and made her aware. The agency deferred to the judgement of the supervisor for the GAL to determine and address any conflict or potential conflict of interest.



CCFS has reviewed the findings, as well as the recommendations. Below are the agency's specific responses to each of the recommendations.

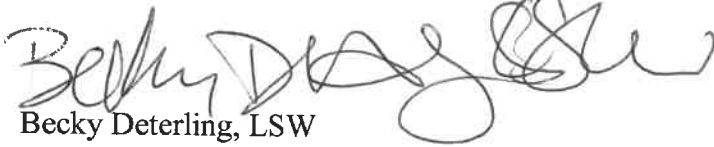
- a) The agency has recommitted efforts to ensure training of all steps of the ICWA/MIFPA inquiry process are followed, including inquiry of known relatives and continuous inquiry if affiliation is not known. With recent legislative changes to MIFPA, the agency is awaiting opportunities from MN Dept of Children, Youth, and Families/MN Child Welfare Training Academy for updated training opportunities related to these legislative changes.
- b) The agency has recommitted efforts to ensure training of all steps of the ICWA/MIFPA inquiry process are followed, including inquiry of known relatives. With recent legislative changes to MIFPA, the agency is awaiting opportunities from MN Dept of Children, Youth, and Families/MN Child Welfare Training Academy for updated training opportunities related to these legislative changes.
- c) The agency did bring to the Court the request made by the mother to not place with the complainant, as noted in the letter dated March 16, 2023 and file on or about the same date.
- d) The agency feels this was conducted properly. While some visits with the complainant did not happen as often, some were due to weather and road conditions and others were due to illnesses of the child that were out of the control of others.
- e) The agency did not request that the visitation be ended by the Court. That request was made by the Guardian ad Litem (GAL) and ultimately ordered by the Court. CCFS did not have an opinion on the matter. CCFS has noted the ongoing concerns expressed by the foster parents and the for the child's overall well-being before and after visits.
- f) Information related to the complainant and mother's prior foster care experience, as well as prior CP case notes were initially shared by the child's mother. That information was filed into the Court case and served on the agency and became part of agency record. As a result, the information was considered when making the final decision for placement and ultimately also served as part of any ongoing discovery in the matter.
- g) CCFS is not the licensing entity for the foster parents. While the assigned worker did have instances of using the incorrect name, once CCFS became aware of the incorrect name usage and the instances of incorrect usage brought to the attention later insisted and ensured ongoing reinforcement of worker and foster parents to use the correct name. The agency continues to reinforce the usage of the correct name.
- h) CCFS will work to review current conflict of interest policies as it pertains to agency/county specific conflicts. As it pertains to outside entities, the agency is unable to comment on policies/procedures of those entities. The agency was made aware of prior historical knowledge and contact that the GAL had with the complainant and was informed that GAL made their supervisor aware of this and GAL remained appointed to the case.
- i) CCFS did not request the attachment study and actually indicated the agency would not be requesting the study. The attachment study results did not impact the final decision, which had been made prior to the study and report, to place with the foster parents or complete the APA with the foster parents. As noted in Court, it was the GAL that requested the study. Because the study included both the foster parents and the relative, the agency did not object to the request made by the GAL.

In closing, the agency continues to be committed to ensuring ongoing education and training related to ICWA/MIFPA, including any new changes in legislation and how that impacts our work. We will continue to work with the MN Dept of Children, Youth, and Families and utilize their child safety and permanency department to request technical assistance and feedback when needed. The agency continues to put relative/kinship placements above non-relative so long as there are no safety concerns related to placement with relatives. A review of the agency's placement history would show this ongoing commitment. We take relative placement seriously and strive to include connections with relatives when non-relative placements



must take place due to safety and/or the need for closer connection to the reunification home while still working reunification efforts.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Becky Deterling".

Becky Deterling, LSW  
Social Services Supervisor

A handwritten signature in cursive script, appearing to read "Lisa Schultz".

Lisa Schultz  
Chippewa County Family Services Director



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## FAMILY SERVICES

September 25, 2024

Ms. Hannah Planalp, Assistant Ombudsperson for Foster Youth  
Office of the Foster Youth Ombudsperson  
50 Sherburne Ave  
St. Paul, MN 55155

RE: Case Number 202405-1

Dear Ms. Planalp,

After reviewing the amended OOFY report provided to the agency on September 6, 2024, we would like to provide additional information.

As it pertains to concern #3: Inappropriate information-sharing and communication, specifically that information about the relative's own foster care history was shared with people who were not party to the case nor serving in any professional capacity. While I cannot say for certain that the complainant was specifically referring to the current foster parents' knowledge of the complaints made while he was a foster parent, I would like to clarify how the foster parents would have initially come to learn the concerns.

To my knowledge, the foster parents have attended every scheduled Court hearing for the case. The child's birth mother stated on the record during more than one hearing, including during the TPR trial and during proceedings during post permanency time period, her concerns for her son's safety if he were to be placed in the home of the complainant. She further explained why she felt this way, explaining that she had been previously abused by the complainant. The agency did not share this information with the foster parents, but rather they came to learn it during Court proceedings.

Thank you for the opportunity to provide additional information following the receipt of the amended report from OOFY.

Respectfully submitted,

/e/ Becky Deterling, LSW  
Becky Deterling, LSW  
Social Services Supervisor

/e/ Lisa Schultz  
Lisa Schultz  
Chippewa County Family Services Director