



# State of New Hampshire

## Office of the Child Advocate



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Representative Lynne Ober, Chair  
State of New Hampshire House of Representatives  
Committee on Finance – Division I

March 2, 2021

Dear Chairwoman Ober and members of the Committee,

Thank you for the opportunity to provide updates on the status of the Office of the Child Advocate (the Office) and explain our budget needs. We appreciate the difficult task before you.

On September 18 2020, RSA 21-V went into effect, considerably expanding the Office's jurisdiction and mandate. The Office is now responsible for oversight of all children's services provided by, or through arrangement of, state executive agencies. That includes but is not limited to child protection, juvenile justice, behavioral health, developmental disabilities, early supports, and education. The Office meets its mandate in essentially four main roles:

- Review children's services and care. This includes receiving service complaints, working with relevant agencies to resolve complaints, visiting children in care and assisting them when needed. We also review and monitor critical incidents involving children in State care.
- Review and collaborate on program and policy development. This includes participating on committees, working groups and advisory panels, providing input for system improvements.
- Regularly consult with and advise the governor, legislators, agencies and the public on system issues in the best interests of children.
- Provide outreach and education on State systems, including providing children and other constituents information and referral services, assisting with system navigation; and disseminating research findings, practice standards, and best standards of care.

The Office's 2020 reporting year ended as the statute changed. Our workload in the reporting year prior to jurisdictional expansion included:

- 312 individual constituent complaints processed
- 2,183 critical incidents reviewed, including 18 child deaths
- 10 Critical Incident Summaries
- 14 Individual Child Case Reviews
- 4 System Learning Reviews
- 3 Facilities monitored while under DCYF investigation, and
- 1 In-depth facility review
- 1 System Review on Restraint and Seclusion of Children
- 1 System Review on DCYF's Enhanced Response to Substance Exposed Infants
- 1 Summary System Learning Review Report
- 1 Issue Briefing on Quarantine of children in DCYF custody
- 16 raised bills targeted for testimony, research and guidance
- 34 outreach and education events
- 15 Committees, task forces or councils participated on

Looking ahead to 2022-23, with expanded jurisdiction and duties, we anticipate increased workload, new relationships, and much learning about new areas of children's needs, best practices, and the availability of State services to meet those needs. I hope this brief review helps you understand the Office and its resource needs.

### Committee on Finance, Division I Questions for the Office of the Child Advocate

**1. What new full-time staff has been added to your budget?**

No new full time staff were added for FY22-23. We have a vacant Planning Analyst/Program Coordinator position added in FY21 that was frozen most of the year. It is now posted. Filling that position does not change the budget.

**2. What new part-time staff has been added to your budget?**

For the FY22-23, a Permanent Part Time Legal Aide position has been added.

a. Cost for Permanent, Part Time Legal Aide, labor grade 15, step 1.

Class	Description	Request FY22	Request FY23
020	Current Expenses	200	200
030	Office Equipment & Furnish	2,000	
037	Technology Hardware	1000	
039	Telecommunications	500	
050	Personal Services-Perm. Class	26,646	26,646
	<b>Total Cost</b>	<b>30,346</b>	<b>28,646</b>

b. Need for this position. The Legal Aide position will be responsible for receiving, reviewing, and managing the inflow of critical incident reports. Duties include data entry, researching the incident and the child's DCYF case history, flagging immediate concerns for care or safety, surveilling trends in incident data, periodic reporting of incidents and trends, and, if necessary, working with the agency or institution to address identified trends or concerns.

In reporting year 2019 the Office received and processed 694 critical incident reports. The majority of those reports were from the Sununu Youth Services Center that has a web-based automatic reporting system. It was not until December 2019 that DCYF came into compliance with RSA 21-V:7, I requiring reporting of all incidents to the Office, including those that occur to children in institutional settings. In reporting year 2020, the Office received and processed 2,183 incident reports, tripling the workload. In FY20-21 a temporary part time Legal Secretary position managed much of the critical incident data with support from other staff. The Office prioritized a full time position for this role for FY22-23, but was only approved for part time.

**3. What positions had to be eliminated in order to meet the governor's budget requirements?**

No position had to be eliminated to meet the governor's budget requirements.

**4. Is your agency adequately staffed to complete all work assigned to your agency in state law?**

No. The Office is not adequately staffed to complete all work mandated under RSA 21-V. The Office has a wide mandate for receiving and investigating complaints, reviewing systems, reviewing the care of individual children, providing information and referral services, conducting outreach and education and consulting with the governor, legislature, agencies, and the public on progress and needs of children's

services systems. At present, the Office does some of each domain of the mandate, but not all. We are also not able to consistently complete assignments in a timely manner. For example, we are not able to process complaints and individual investigations in a consistently timely manner. We have a facility review that has been under way for nearly a year. We are just completing a summary report of our 2020 System Learning Reviews in the next week or so. We are two-months delayed in releasing an addendum to our January 2020 report on the restraint and seclusion of children. There are other system reviews we have put on hold pending availability of resources.

Filling the vacant Planning Analyst/Program Coordinator position that was frozen will provide some relief. The new part time Legal Aide will provide stability where currently we have relied upon a temporary position to help with managing data from incident reports. However, without a full time Legal Aide, we are limited in the analysis of the incident data that we can do. A second ombudsman position (Assistant Child Advocate) will be necessary to improve constituent response time and ready us for increased volume as our expanded jurisdiction becomes better known. We have been limited in our ability to meet with children across the state. We have not done the outreach and education to the community required since the Office's jurisdiction expanded. We expect as we meet those mandates, the volume of complaints and constituent inquiries will increase significantly. It should be noted that people who contact the Office of the Child Advocate with complaints are people who feel the State has not served them well. They are frustrated and often in despair because their complaint involves children. We aim to be as responsive as possible with constituents to both meet needs and repair their relationships with the State.

**5. If the answer to Q. 4 is no, please describe.**

If we cannot add adequate staffing, should we consider suspending that law for the biennium? No. RSA 21-V was carefully crafted to protect children's interests, to ensure the state meets its obligations to children, to promote efficient operations of state systems, and to protect the State from costly liability. There is nothing in the statute that is not intricately intertwined with the effectiveness of the Office's role. We are already seeing detrimental impacts on children and families from the COVID-19 pandemic, but the trauma from the pandemic will continue and likely fully manifest over the next few years. The Office must be informed, connected and situated for maximum effectiveness.

**6. What things are you doing (found in state law) that could be eliminated and why?**

There is not anything the Office is doing that could be eliminated. Our mandate is unique in that it mixes both oversight with guidance, outreach and education. Limiting the work to oversight would risk a punitive, antagonistic relationship with the agencies. Our review process is grounded in Safety Science, an evaluative science common to safety-critical industries such as nuclear power, aviation and healthcare. The science confirms better outcomes and greater efficiency with positive, collaborative relationships. Guidance, outreach, and education influences a collaborative, engaging relationship with the agencies that will more likely affect reform. Relationships of conflict generally generate resistance and resentment, which hinders progress and impacts the quality of services provided. The current law affords a broad, effective, mandate.

**7. What priorities did you have that were not funded? Cost? Description? Impact of not funding?**

The Office had two essential priorities that were not funded, new positions and an office vehicle. Since submitting the prioritized budget, the Office has identified a third priority necessary for effective operations, a new case management system. Each is explained below.

a. Priority 1- Positions: Full Time Legal Aide, Full Time Ombudsman

1. Legal Aide. This position was requested as a full time position. The governor's budget allows for a part time position. This position is integral to critical incident surveillance through extensive data entry and incident investigation. There is a demonstrated need for this position to be full time. As described above, the position has primary responsibility for managing data collection and entry

of all incidents reported to the OCA pursuant to RSA 21-V:7. As DHHS comes into compliance with reporting, the volume of reports of all incidents will be unmanageable. At this time, the Office is the only entity closely monitoring incidents of restraint and seclusion of children in institutional settings. With expanded jurisdiction, we anticipate receiving complaints requiring review of critical incidents in schools, most notably restraints and seclusion of children. In school year 2019-2020 the Department of Education reported 2,666 incidents of restraint and seclusion of children in schools. This position also generates data to support analysis that informs other mandates.

*Impact of not funding Full time Legal Aide:*

The part time Legal Aide position is helpful but does not meet the entirety of need. Without this position, pursuant to RSA 9:4, IV (f) and RSA 21-V:2, II, (a), (c), (d), (e), (f), the Office will have delayed data capture and less timely investigations related directly to children’s current safety and wellbeing. The Office will also have decreased capacity to provide timely, relevant data analysis for system support and reform. Without this position the mandate to surveil incidents would be delayed, missing opportunity to identify practices that place children at risk and unmet needs.

**FT vs PT Legal Aide - Additional costs**

Class	Description	Request FY22	Request FY23
010	Personal Services-Perm. Class	7,226	8,649
060	Benefits	20,680	21,549
	<b>Total Cost</b>	<b>27,906</b>	<b>30,198</b>

2. Assistant Child Advocate / Ombudsman Position. There is a demonstrated need to create an additional full time Assistant Child Advocate position. With the expanded jurisdiction of the office per RSA 21-V, oversight activities will increase beyond the capacity of current staff under RSA 21-V:2, II (a)-(f), III (a)-(c), IV, V, VI, VII. The Assistant Child Advocate receives, investigates and manages constituent complaints, conducts individual child case reviews when cases are complex and disagreement exists about a child’s best interest, and assists with special system reviews that emerge from case complaints. This position provides information and referral services to assist persons navigating state service systems. This position engages children and ensures their interests are protected. In reporting year 2020, the Office received 312 constituent complaints. Expansion of the Office’s jurisdiction occurred just prior to the end of the last reporting period and thus is not reflected in the 2020 workload. Expansion of jurisdiction also places the Office without an expert resource for expected complaints regarding education services. This new position would be expected to have special expertise in education, special education, and disability services.

*Impact of not funding full time Assistant Child Advocate Position:*

Without the Assistant Child Advocate position, pursuant to RSA 9:4, IV (c), (d), (g) and RSA 21-V:2, II (a) –(f), III (a)-(c), IV, V, VI, VII, the OCA’s ability to provide information and referral, investigation, mediation, systemic review and advocacy services for children and their families will be delayed. There will be delayed response to constituent complaints and targets for outreach and education unmet. Those constituents are already frustrated and in conflict with State agencies. Rapid response to complaints is necessary to identify resolution and also to minimize liability of the State, repairing and promoting positive relationships between citizens and the State of New Hampshire. It is also critical to timely identifying gaps in the system to bring forth for reform.

**FT Assistant Child Advocate / Ombudsman- costs**

Class	Description	Request FY22	Request FY23
010	Personal Services-Perm. Class	50,954	53,177
020	Current Expenses	200	200
030	Office Equipment & Furnish	2,000	
038	Technology Software	500	
039	Telecommunications	1000	
060	Benefits	33,653	35,626
	<b>Total Cost</b>	<b>88,307</b>	<b>89,003</b>

## c. Priority 2- Agency Vehicle

Agency vehicle. To meet the governor's target, the Office reduced the request for an agency vehicle. The Office requires a vehicle to lower travel costs associated with statutory obligation pursuant to RSA 21-V:2, II, III, IV, VI, and VII; all require periodic travel. During the COVID-19 pandemic restrictions, institutions where children are placed are not being visited or inspected. This will be priority for the Office, including visits to out-of-state institutions. Investigations, outreach and consultations at times require on-site interviews and observation. Staff education and training to maintain a high level of expertise in all jurisdictional areas of specialty also require travel. A dedicated vehicle will decrease reimbursement costs for staff personal vehicle use, as well as administrative time to process requests for reimbursement or pool vehicles. This is an efficiency action for staff and expenditures and it increases outreach and investigative efforts. Travel costs were considerably low in FY20-21 due to pandemic-related restrictions on visiting places where children are located. That delay anticipates increased travel needs in FY23 and beyond.

*Impact of not funding an office vehicle:*

Without an office vehicle, the Office is at risk for high travel costs associated with personal vehicle reimbursements and/or pool rentals. There is also a risk of reducing outreach and investigative efforts due to higher costs and inefficiencies.

**Agency Vehicle- costs**

Class	Description	Request FY23	Adjust FY23	Revised FY23
030	Equipment New/Replacement	21000	-6609	14391

## b. Priority 3- Case Management System

Case Management System. This third priority has been identified since budget submission in fall 2020.

In 2018 the Office of the Child Advocate was invited by the Department of Information Technology (DoIT) to pilot the Salesforce platform for a case management system (CMS) at no cost. Salesforce is currently being developed as a statewide enterprise system. The constituent-related and investigative work of the Office requires a specialized case management system that accommodates investigative processes and stores case information. It must also be responsive to timelines of procedure, and measuring outcomes of Office effectiveness. The Office initially anticipated receiving a Salesforce model used by other Child Advocate Offices around the country, but that did not come to fruition. The Salesforce platform received is not a good fit to the Office's work and, due to competing responsibilities, DoIT programmers have not been available for nearly three years to refine the system to our needs. Beginning FY22, DoIT will be charging the Office for Salesforce use, 1% of the total costs of Salesforce.

The Office has identified an alternate product designed specifically for oversight offices like ours. It is secure, customizable and supports a data driven agency. Purchasing this product would situate the Office to be more responsive, timely and accommodating of system analytics most useful to our unique mandate for providing guidance. The alternative system would also provide independence, relieving the Office of dependence on DoIT for system adjustments. The Office wishes to shift funds from the DoIT transfers and allocate them towards the new software and add additional funds as outlined below, for the alternative Wingswept product, or an acceptable alternative, in order to be more responsive to the mandate.

*Impact of not funding a new case management system:*

The greatest impact of not funding an appropriate case management system is the continued inability for the Office to generate meaningful and responsive reporting and analytics about State systems' performance, including the performance of the Office. Without a responsive system designed to prompt task completion in case work and monitor timeliness of workload management, the Office will continue to be at risk for slow case completion and even cases lost to follow up as the workload increases. An appropriate case management system is the best way to hold the Office accountable and promote transparency in oversight work.

**New Case Management System - costs**

Class	Description	Request FY22	Adjust FY22	Revised FY23	Request FY23	Adjust FY23	Revised FY23
027	Transfers to OIT	34,803	-15,384	19,419	23,515	-16,153	7,362
038	Technology - Software	1000	26500 – 51,616	27,500 – 52,616	1000	16,347	17, 347

8. Please be prepared to discuss any HB2 sections that apply to your agency.

Thank you for the opportunity to explain the mandate and resource needs of the Office of the Child Advocate for SFY 2022-23. I look forward to discussing this with you on Wednesday, March 10, 2021 at 9:00.

Very truly yours,



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