March 14, 2016

 The Health and Human Services Commission proposes, on behalf of the Department of Family and Protective Services (DFPS), amendments to §§702.801, 702.811, 702.813, 702.841, 702.843, 702.845, 702.847, and 702.849; repeal of §§702.815, 702.817, 702.819, 702.821, 702.823, and 702.825; and new §§702.815, 702.817, 702.819, 702.821, 702.823, 702.825, 702.827, and 702.829, in Chapter 702, concerning General Administration. The purpose of the amendments, repeals, and new sections is to comply with the mandates of Senate Bill 830 from the 84th Texas Legislature, Regular Session 2015, which amended Chapter 531 of the Texas Government Code by adding Subchapter Y and also amended Section 40.0041 of the Human Resources Code by adding Subsections (g) and (h) concerning the Ombudsman For Children and Youth in Foster Care.

 Pursuant to the bill, the Health and Human Services Commission (HHSC) was tasked with appointing an ombudsman for children and youth in the conservatorship of DFPS to serve as a neutral party in assisting the children and youth with complaints regarding issues concerning any HHSC agency, including DFPS. Pursuant to the bill, the following new rules are being proposed:

 (1) New rule §702.815 which clarifies that a current foster child or youth may file complaints with the Ombudsman For Children and Youth in Foster Care and explains the types of issues for which the foster children or youth may file a complaint and seek assistance from the office.

 (2) New rule §702.817 which explains how DFPS will assist the Ombudsman for Children and Youth in Foster Care in reviewing and investigating complaints.

 In addition to the above changes, the purpose of the amendments and repeals to Subchapter I of this chapter is also to update the rules where they are no longer accurate, as the rules were last updated in 2002. The updates seek to conform the rules to the Office of Consumer Affairs' (OCA's) current practice and policy concerning its process for receiving and reviewing complaints regarding case-specific activities of the DFPS program areas as well as reviewing substantiated findings of child abuse or neglect.

The summary of the changes is as follows:

 The amendment to §702.801: (1) clarifies that OCA only reviews designated perpetrator findings for child abuse and neglect allegations; and (2) updates the name of the department and OCA.

 The amendment to §702.811 updates the names of the department and OCA as well as the link to the DFPS public website.

 The amendment to §702.813 clarifies that the following individuals may file complaints with OCA, in addition to the individuals already listed in the rule: (1) consumers, service recipients, and persons or entities regulated by DFPS who have a concern or complaint regarding a specific case; (2) individuals from the public who have a concern or complaint regarding a specific case, including but not limited to extend family, friends of the family, or foster parents; (3) other state agencies when the complaint is regarding a specific case; (4) government officials, including judges; and (5) former foster children or youth, including youth that are 18 years of age or older and are in extended foster care. The rule also updates the names of the department and OCA.

 Section 702.815 is being repealed and incorporated into new §702.819.

 New §702.815 explains (1) that children and youth under 18 years of age that are currently in the conservatorship of DFPS may file complaints with HHSC's Ombudsman For Children and Youth in Foster Care regarding any issues that are within the authority of any agency under HHSC, including DFPS, and further provides the various methods of contacting the office to file a complaint; (2) that current foster youth and children may also contact the office to seek assistance in reporting allegations of abuse or neglect to DFPS.

 Section 702.817 is being repealed and incorporated into new §702.821.

 New §702.817 explains that DFPS will assist the Ombudsman For Children and

Youth in Foster Care in reviewing and investigating complaints filed by current foster children and youth by: (1) collaborating with the office to develop and implement an annual outreach plan to promote awareness of the office among the youth and children; (2) providing the office with access to DFPS records relating to complaints, cooperating with the office in responding to questions that the office may have regarding complaints, and providing information requested by the office in order to assist in resolving complaints; and (3) cooperating with the office to create consequences, based on the circumstances of the complaint and the severity of the retaliation, for any person who is found to have retaliated against a child or youth in the conservatorship of DFPS because of a complaint made to the office.

 Section 702.819 is being repealed and incorporated into new §702.823.

 New §702.819 incorporates the contents of repealed §702.815 except for the following changes: (1) clarifies that the Review of Perpetrator Designation is only available for substantiated child abuse and neglect findings; (2) clarifies that the complaint process is not available for complaints related to civil rights issues and DFPS personnel issues, or when OCA determines that a review of the complaint would interfere with an ongoing litigation, investigation, or prosecution; (3) updates the title of the rule; and (4) updates the names of the department and OCA.

 Section 702.821 is being repealed and incorporated into new §702.825.

 New §702.821 incorporates the contents of repealed §702.817 except for the following changes: (1) updates OCA's toll-free number, fax number, email, and link to the DFPS public website for purposes of contacting OCA to file a complaint; and (2) updates the names of the department and OCA.

 Section 702.823 is being repealed and incorporated into new §702.827.

 New §702.823 incorporates the contents of repealed §702.819 except that the names of the department and OCA have been updated.

 New §702.825 incorporates the contents of repealed §702.821 except for the following changes: (1) updates the rule to clarify that the Office of Consumer Affairs provides the complainant information by mail or telephone regarding the procedure for investigating and resolving a complaint; and (2) updates the names of the department and OCA.

 Section 702.827 is being repealed and incorporated into new §702.823.

 New §702.827 incorporates the contents of repealed §702.823 except for the following changes: (1) clarifies that OCA reviews complaints to determine whether applicable rule and statute were violated in addition to DFPS's policies and procedures; (2) clarifies that OCA adheres to confidentiality requirements specified in state and federal law in addition to the Texas Open Records Act; (3) deletes the part of subsection (a) that states that OCA does not investigate issues in ongoing or forthcoming litigation or when the complaint relates to a law enforcement investigation or criminal prosecution if OCA determines it would interfere with the litigation and investigation as it has been incorporated into new rule §702.819; (4) clarifies that OCA provides status information on a quarterly basis to *all* persons or entities who file a complaint regarding a specific case, if there is a pending complaint, unless the information would jeopardize an undercover investigation; (5) updates the rule to reflect that electronic and paper copies of OCA case files will be purged every two years after the complaint is closed; and (6) updates the names of the department and OCA.

 New §702.829 incorporates the contents of repealed §702.825 except for the following changes: (1) clarifies that reports regarding the number, type, and resolution of complaints made against DFPS must be sent to the State Office Program Administrators, and not the executive director; (2) updates the rule to note that OCA also provides monthly reports to the HHSC's Office of the Ombudsman that is included in the written report to HHSC's executive director; and (3) updates the names of department and OCA.

 The amendment to §702.841: (1) reflects that a Review of Perpetrator Designation is only available for substantiated findings of child abuse or neglect; (2) clarifies that a review is not available if the request for review is to challenge orders or findings made by the court in which the suit affecting the parent-child relationship has been filed, if there is pending litigation against DFPS that relates to the designation, or if the requestor does not otherwise qualify for a review regardless of if the requestor qualified for an Administrative Review of Investigation Findings (ARIF); and (3) updates the names of the department and OCA.

 The amendment to §702.843: (1) updates OCA's toll-free number, fax number, email, and link to the DFPS public website for purposes of contacting OCA to request a Review of Perpetrator Designation; (2) clarifies that a designated perpetrator of child abuse or neglect has 45 days from the date of the ARIF to request a review; and (3) updates the names of the department and OCA.

 The amendment to §702.845 updates the name of OCA and deletes the timeframe for acknowledgement of a request for a Review of Perpetrator Designation.

 The amendment to §702.847 clarifies that a Review of Perpetrator Designation is conducted as a desk review and updates the names of the department and OCA.

 The amendment to §702.849 reflects the current procedure OCA follows once a Review of Perpetrator Designation is complete, including clarifying that: (1) if OCA does not concur with the ARIF, the ARIF documents and OCA review material are forwarded to the CPS assistant commissioner or designee for consideration; (2) if OCA and the program assistant commissioner or designee do not agree on the disposition, the case is forwarded to the DFPS general counsel who reviews the case and makes the final decision as the DFPS commissioner's designee. It also updates the names of the department and OCA.

 The Department discussed the rule proposals and collaborated with HHSC's Office of the Ombudsman prior to drafting the rules. Additional stakeholder input will be obtained during the public comment period for the rules.

 Lisa Subia, Chief Financial Officer of DFPS, has determined that for the first five-year period the proposed amendments, repeals, and new sections will be in effect, there will not be any significant costs or revenues to state or local government as a result of enforcing or administering these sections.

 Ms. Subia also has determined that for each year of the first five years the amendments, repeals, and new sections are in effect, the public benefit anticipated as a result of enforcing these rule changes will be that children and youth in foster care will have an avenue to make complaints regarding any issues or concerns they have while in foster care to an entity that is independent of DFPS in order to ensure that their rights are protected. There is no anticipated economic cost to persons who are required to comply with the proposed amendments, repeals and new sections.

 Ms. Subia has determined that the proposed amendments, repeals, and new sections do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under §2007.043, Government Code. Questions about the content of the proposal may be directed to Jose A. Martinez at (512) 929-6739 in DFPS's Office of Consumer Affairs Division. Electronic comments may be submitted to Jose.Martinez@dfps.state.tx.us. Written comments on the proposal may be submitted to Texas Register Liaison, Legal Services-550, Department of Family and Protective Services E-611, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the Texas Register.

Title 40, Social Services & Assistance, Part 19, Dept. of Family and Protective Services

Chapter 702, General Administration

Subchapter I, **Office of Consumer Affairs** [Ombudsman] Services

Division 1, **Office of Consumer Affairs** [Ombudsman Office]

TAC Section Number(s) §702.801

Proposed Action

X Amendment

Proposed Date of Adoption:

X Other (Specify)

 30 Days After Publication

The amendment is proposed under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including the Department of Family and Protective Services; and HRC §40.021, which provides that the Family and Protective Services Council shall study and make recommendations to the Executive Commissioner and the Commissioner regarding rules governing the delivery of services to persons who are served or regulated by the department.

The amendment generally implements Human Resources Code §40.0041.

§702.801. What is the **Office of** **Consumer Affairs** [Ombudsman Office]?

 (a) The **Office of** **Consumer Affairs** [Ombudsman Office] **of the Texas Department of Family and Protective Services (DFPS)** [PRS] is a neutral party that reviews complaints regarding case-specific activities of the **DFPS** [PRS] program areas to determine if **DFPS's** [PRS's] policies and procedures were followed. The complaint process is described in Division 2 of this subchapter (relating to **Office of** **Consumer Affairs** [Ombudsman Office] Complaint Process).

 (b) The **Office of** **Consumer Affairs** [Ombudsman Office] also conducts reviews of case-specific findings that designate an individual as a [an alleged] perpetrator of abuse[,] **or** neglect[, or exploitation]. The review process is described in Division 3 of this subchapter (relating to **Office** **of** **Consumer Affairs** [Ombudsman Office] Review of [Alleged] Perpetrator Designation).

This agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on .

Title 40, Social Services & Assistance, Part 19, Dept. of Family and Protective Services

General Licensing

Page 2 of 11

Chapter 702, General Administration

Subchapter I, **Office of Consumer Affairs** [Ombudsman] Services

Division 2, **Office of Consumer Affairs** [Ombudsman] Complaint Process

TAC Section Number(s) §§702.811, 702.813, 702.815, 702.817, 702.819, 702.821, 702.833, 702.825, 702.827, 702.829

Proposed Action

X Amendment

X New

Proposed Date of Adoption:

X Other (Specify)

 30 Days After Publication

The amendments and new sections are proposed under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including the Department of Family and Protective Services; and HRC §40.021, which provides that the Family and Protective Services Council shall study and make recommendations to the Executive Commissioner and the Commissioner regarding rules governing the delivery of services to persons who are served or regulated by the department.

The amendments and new sections implement Texas Government Code §§531.992; 531.993; 531.995 and Texas Human Resources Code §40.0041.

§702.811. How can a member of the public find out about the complaint process?

**The Texas Department of Family and Protective Services (DFPS)** [PRS] publicizes the availability of the complaint process and the mailing address and telephone number to which complaints should be sent through:

 (1) signs displayed in **DFPS** [PRS] offices;

 (2) **DFPS** [Ombudsman Office] brochures;

 (3) the **DFPS** [PRS] public web site **at** [**http://www.dfps.state.tx.us**](http://www.dfps.state.tx.us)[.] [The address is http://www.tdprs.state.tx.us]; and

 (4) other methods determined by **DFPS** [PRS].

§702.813. Who may file complaints?

The **Office of Consumer Affairs** [Ombudsman Office] complaint process is available to:

 (1) consumers, service recipients, and persons or entities regulated by **the Department of Family and Protective Services (DFPS) who have a concern or complaint regarding a specific case** [PRS];

 (2) **individuals from the public who have a concern or complaint regarding a specific case, including but not limited to extended family, friends of the family, or foster parents;**

 **(3)**[(2)] other state agencies **when the complaint is regarding a specific case**;

 **(4)**[(3)] **government officials, including judges and** state and federal legislative and executive offices; [and]

 **(5)**[(4)] **DFPS** [PRS] employees, if the complaint alleges a violation of **DFPS** [PRS] policy in a case-specific situation**;**[.] **and**

 **(6) former foster children or youth, including youth that are 18 years of age or older and are in extended foster care. A child or youth who is currently in the conservatorship of DFPS, may still file a complaint through the process described in §702.815 of this title (relating to May current foster children and youth file complaints?).**

**§702.815. May current foster children and youth file complaints?**

 **(a) Yes. If a child or youth who is under 18 years of age and currently in the conservatorship of the Department of Family and Protective Services (DFPS) seeks to file a complaint, the child or youth should be directed to the Health and Human Services Commission's Ombudsman For Children and Youth in Foster Care. To file the complaint, the current foster child or youth may contact the Ombudsman for Children and Youth in Foster Care through the following methods:**

 **(1) Toll-free phone: 1-844-286-0769;**

 **(2) Toll-free fax: 1-888-780-8099;**

 **(3) Mail: Texas Health and Human Services Commission, Foster Care Ombudsman, MC H-700, P O Box 13247, Austin, Texas 78711-3247; or**

 **(4) Email:** **fco@hhsc.state.tx.us**

 **(b) A current foster child or youth may file a complaint regarding any issues that are within the authority of DFPS or another health and human services agency. This includes individual complaints that allege violations of agency procedures or policies or other violations.**

 **(c) A current foster child or youth may also contact the Ombudsman For Children and Youth in Foster Care to seek assistance in reporting allegations of abuse or neglect to DFPS.**

**§702.817. How will the Department of Family and Protective Services (DFPS) assist the Health and Human Services Commission's Ombudsman For Children and Youth in Foster Care office in reviewing and investigating complaints filed by current foster children or youth?**

 **(a) DFPS will collaborate with the Ombudsman For Children and Youth in Foster Care to develop and implement an annual outreach plan to promote awareness of the office among children and youth in the conservatorship of DFPS.**

 **(b) DFPS will provide the Ombudsman For Children and Youth in Foster Care with access to DFPS records relating to the complaint, cooperate with the office in responding to questions that the Ombudsman may have regarding the complaint, and provide information requested by the office in order to assist in resolving complaints.**

 **(c) DFPS will cooperate with the Ombudsman for Children and Youth in Foster Care to create consequences, based on the circumstances of the complaint and the severity of the retaliation, for any person who is found to have retaliated against a child or youth in the conservatorship of DFPS because of a complaint made to the Ombudsman.**

**§702.819. When does the Office of Consumer Affairs not accept complaints for review?**

**The complaint process is not available:**

 **(1) to individuals who have been designated as perpetrators of abuse or neglect. Those individuals must use procedures specified in Division 3 of this subchapter (relating to Office of Consumer Affairs Review of Perpetrator Designation), unless the complaint relates to issues other than the case disposition;**

 **(2) for complaints the Office of Consumer Affairs has reviewed multiple times and has made all reasonable efforts within agency policy and procedures to resolve;**

 **(3) for complaints related to civil rights issues;**

 **(4) for complaints regarding or from Department of Family and Protective Services staff relating to personnel issues; or**

 **(5) if the Office of Consumer Affairs discovers that the subject of a complaint is an issue in ongoing or forthcoming litigation against DFPS, except for ongoing Child Protective Services conservatorship cases, or is the subject of a law enforcement investigation or criminal prosecution, and the Office of Consumer Affairs determines that the review would interfere with the litigation, investigation, or prosecution.**

**§702.821. How does a complainant file a complaint?**

**A complainant may contact the Office of Consumer Affairs for direct case-specific complaints concerning the Department of Family and Protective Services (DFPS) using one of the following methods:**

 **(1) sending a correspondence via mail to the Office of Consumer Affairs, Texas Department of Family and Protective Services, Mail Code Y-946, P.O. Box 149030, Austin, Texas 78714-9030;**

 **(2) calling the toll-free number: 1-800-720-7777;**

 **(3) sending a facsimile to the Office of Consumer Affairs at 512-339-5892;**

 **(4) using the DFPS public web site at** [**http://www.dfps.state.tx.us**](http://www.dfps.state.tx.us)**; or**

 **(5) sending an email to** [**oca@dfps.state.tx.us**](file:///C%3A%5CUsers%5Cmcdonacr%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CTemporary%20Internet%20Files%5CContent.Outlook%5CHOAWGEVE%5Coca%40dfps.state.tx.us)**.**

**§702.823. Must a complainant go through another agency complaint process before contacting the Office of Consumer Affairs?**

**No. Although the Department of Family and Protective Services encourages complaint resolution at the local level, a complainant may file a complaint with the Office of Consumer Affairs at any time, without going through another agency process for complaint resolution.**

**§702.825. How does a complainant know if the Office of Consumer Affairs received the complaint?**

 **(a) The Office of Consumer Affairs acknowledges receipt of each complaint, informs the complainant whether the complaint meets the criteria for an Office of Consumer Affairs complaint, and provides the complainant information by mail or telephone regarding the procedures for investigating and resolving a complaint.**

 **(b) A complaint may be accepted initially and later refused if subsequent investigation or developments determine that the complaint is no longer appropriate for the Office of Consumer Affairs.**

**§702.827. How does the complaint process work?**

1. **The Office of Consumer Affairs reviews complaints to determine whether**

**applicable rule, statute, or the policies and procedures of the Department of Family and Protective Services (DFPS) were followed.**

1. **The Office of Consumer Affairs provides status information at least**

**quarterly to the complainant, if there is a pending complaint, unless the information would jeopardize an undercover investigation.**

 **(c) The Office of Consumer Affairs notifies the complainant of the findings made by the Office of Consumer Affairs, within the limits of confidentiality required by the Texas Open Records Act and state and federal law.**

 **(d) If the Office of Consumer Affairs determines that applicable rule, statute, or DFPS's policies and procedures were not followed, the Office of Consumer Affairs notifies appropriate agency staff so appropriate corrective measures can be taken.**

 **(e) The Office of Consumer Affairs keeps a file for each complaint. The electronic file and paper copies of the records will be purged every two years after the complaint is closed.**

**§702.829. What are the reporting requirements of the Office of Consumer Affairs?**

**The Office of Consumer Affairs prepares and delivers a report annually to the Commissioner for the Department of Family and Protective Services (DFPS) and State Office Program Administrators regarding the number, type, and resolution of complaints made against DFPS. The Office of Consumer Affairs also provides a monthly report to the Health and Human Services Commission's Office of the Ombudsman that is included in the written report to the Health and Human Services Commission's executive director.**

 This agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

 Issued in Austin, Texas, on .

Title 40, Social Services & Assistance, Part 19, Dept. of Family and Protective Services

Chapter 702, General Administration

Subchapter I, **Office of Consumer Affairs** [Ombudsman] Services

Division 2, **Office of Consumer Affairs** [Ombudsman] Complaint Process

TAC Section Number(s) §§702.815, 702.817, 702.819, 702.821, 702.823, 702.825

Proposed Action

X Repeal

Proposed Date of Adoption:

X Other (Specify)

 30 Days After Publication

The repeals are proposed under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including the Department of Family and Protective Services; and HRC §40.021, which provides that the Family and Protective Services Council shall study and make recommendations to the Executive Commissioner and the Commissioner regarding rules governing the delivery of services to persons who are served or regulated by the department.

 The repeals generally implement Human Resources Code §40.0041.

§702.815. Who may not file complaints with the Ombudsman Office?

§702.817. How does a complainant file a complaint?

§702.819. Must a complainant go through another agency complaint process before contacting

the Ombudsman Office?

§702.821. How does a complainant know if the Ombudsman Office received the complaint?

§702.823. How does the complaint process work?

§702.825. What are the reporting requirements of the Ombudsman Office?

 This agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

 Issued in Austin, Texas, on .

Title 40, Social Services & Assistance, Part 19, Dept. of Family and Protective Services

Chapter 702, General Administration

Subchapter I, **Office of Consumer Affairs** [Ombudsman] Services

Division 3, **Office of Consumer Affairs** [Ombudsman Office] Review of [Alleged] Perpetrator Designation

TAC Section Number(s) §§702.841, 702.843, 702.845, 702.847, 702.849

Proposed Action

X Amendment

Proposed Date of Adoption:

X Other (Specify)

 30 Days After Publication

 The amendments are proposed under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including the Department of Family and Protective Services; and HRC §40.021, which provides that the Family and Protective Services Council shall study and make recommendations to the Executive Commissioner and the Commissioner regarding rules governing the delivery of services to persons who are served or regulated by the department.

 The amendment generally implements Human Resources Code §40.0041.

§702.841. Who can request an **Office** **of Consumer Affairs** [Ombudsman Office] Review of [alleged] perpetrator designation?

 (a) Anyone who has been determined to be a perpetrator of abuse **or**[,] neglect[, or exploitation] as a result of an investigation conducted by the Child Protective Services **(CPS)** Program of **the Department of Family and Protective Services (DFPS)** [PRS] can request an **Office** **of Consumer Affairs** [Ombudsman Office] Review. The individual must use the Administrative Review of Investigative Findings **(ARIF)** process offered by the Child Protective Services Program before the individual is eligible for the **Office** **of Consumer Affairs** [Ombudsman Office] Review.

 (b) An **Office** **of Consumer Affairs** [Ombudsman Office] Review is not available **in the following situations:**

 **(1)** if **DFPS** [PRS] determines that a court of competent jurisdiction has issued an order that is legally consistent with the **DFPS** [PRS] finding on the allegation of abuse[,] **or** neglect[, or exploitation] for which the Review was requested**;**[.]

 **(2) if the complaint is to challenge any other orders or findings made by the court in which the suit affecting the parent-child relationship has been filed, including removal orders;**

 **(3) if there is pending litigation against DFPS related to the designation; or**

 **(4) if the requester does not qualify for an Office of Consumer Affairs Review even if the requester qualified for the ARIF.**

§702.843. Are there timeframes for requesting the **Office** **of Consumer Affairs** [Ombudsman Office] Review?

 **(a)** Yes. Except for good cause determined by the **Office** **of Consumer Affairs** [Ombudsman Office] director, an individual must request an **Office** **of Consumer Affairs** [Ombudsman Office] Review in writing within **45 calendar** [30] days after the date the Administrative Review of Investigative Findings (ARIF) notification letter was sent.

 (**b) An individual may request the Office of Consumer Affairs Review using one of the following methods:**

 **(1)** **mailing** **the** [The Review] request [must be sent] to the **Office** **of Consumer Affairs** [Ombudsman Office], Texas Department of **Family and** Protective [and Regulatory] Services, Mail Code Y-946, P.O. Box 149030, Austin, Texas 78714-9030**;**[. The Review request may also be sent]

 **(2) sending a** [by] facsimile to the **Office of Consumer Affairs** [Ombudsman Office] at **512-339-5892** [512-834-3782]**;**[, or by contacting the Ombudsman Office]

 **(3)** using the **Department of Family and Protective Services** [PRS] public web site **at** [**http://www.dfps.state.tx.us**](http://www.dfps.state.tx.us)**; or**[. The address is: http://www.tdprs.state.tx.us.]

 **(4) sending an email to** **oca@dfps.state.tx.us**.

§702.845. How does a requester know if the **Office** **of Consumer Affairs** [Ombudsman Office] received the request?

The **Office** **of Consumer Affairs** [Ombudsman Office] acknowledges receipt of the request in writing [within 30 days from the date the request is received].

§702.847. How does the **Office** **of Consumer Affairs** [Ombudsman Office] Review work?

 [(a)] The **Office** **of Consumer Affairs** [Ombudsman Office] reviews:

 (1) the program case record;

 (2) the Administrative Review of Investigation Findings documents; and

 (3) additional information that was available during the original investigation and either was considered or should have been considered by staff performing the investigation. Only in extraordinary circumstances, at the discretion of the **Office** **of Consumer Affairs** [Ombudsman Office] director, will new information be considered in the **Office** **of Consumer Affairs** [Ombudsman Office] Review.

 [(b) The Ombudsman Office determines whether an interview with the requester is needed to facilitate the Review process.]

§702.849. What happens when the **Office** **of Consumer Affairs** [Ombudsman Office] completes the Review?

After completing the Review, the **Office of Consumer Affairs** [Ombudsman Office] prepares written findings and recommendations.

 (1) If the **Office** **of Consumer Affairs** [Ombudsman Office] findings sustain the Administrative Review of Investigation Findings (ARIF), the **Office** **of Consumer Affairs** [Ombudsman Office] director **or designee** notifies the requester of the final disposition of the case.

 (2) If the **Office** **of Consumer Affairs** [Ombudsman Office] does not concur with the ARIF, the ARIF documents and **Office** **of Consumer Affairs** [Ombudsman Office] Review materials are forwarded to the program **assistant commissioner** [deputy director] or [his] designee for consideration. [The Ombudsman Office director and staff meet with the program deputy director or the director's designee to examine the evidence to reach concurrence on the case finding.]

 (A) If concurrence is reached, the **Office** **of Consumer Affairs** [Ombudsman Office] forwards a notification letter to the requester advising the requester of the findings.

 (B) If the **Office** **of Consumer Affairs** [Ombudsman Office] and the **CPS** **assistant commissioner** [program deputy director] **or designee** do not agree, the case is forwarded to **Department of Family and Protective Services'** [PRS's] general counsel, who reviews the case and makes [recommendations] **the final decision as the DFPS commissioner's designee** [to PRS's executive director for final disposition]. The **Office** **of Consumer Affairs** [executive director or the director's designee] then notifies the requester of the final case disposition.

 This agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

 Issued in Austin, Texas, on .