



OFFICE OF FAMILY
REPRESENTATION AND ADVOCACY
Improving lives through outstanding advocacy

OVERSIGHT COMMISSION GOVERNANCE GUIDELINES

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Overview

The Office of Family Representation and Advocacy ("Office") was created as an adjunct agency by the Family Representation and Advocacy Act ("Act"), Section 32A-27-1 through 32A-27-13, NMSA 1978. The Act established the Family Representation and Advocacy Commission to exercise independent oversight of the Office.

The Commission will provide guidance and support to the Executive Director of the Office to support the Office's delivery of services to children, parents, custodians, or guardians whose children are, or are at risk of being placed in the legal custody of the Children, Youth and Families Department, and to eligible adults under the Fostering Connections Act.

The purpose of these Guidelines is to provide general guidelines and standards of conduct for Commission members and to implement the provisions of the Act. The Commission shall review and update the Commission Guidelines biannually, or as necessary, to ensure that they continue to be realistic and relevant, and reflect the needs of the Office, the Commission, and those persons OFRA was created to serve.

Purpose

The purpose of the Office of Family Representation and Advocacy is to appoint, compensate, evaluate, and retain attorneys and other staff in a manner that provides for the highest quality of legal representation for eligible adults, children and parents, custodians, or guardians under the Fostering Connections Act, whose children are, or are at risk of being placed, in the legal custody of the children, youth and family's department. Family Representation and Advocacy Act, NMSA 1978, Sections 32A-27-1 through 32A-27-13 (2022).

The purpose of the Oversight Commission is to provide guidance and oversight to the Office and Executive Director in:

- A. Developing and continuously improving practice models and standards based on child welfare best practices;
- B. Providing zealous representation of all clients;
- C. Ensuring that clients are provided with due process and procedural fairness;
- D. Promoting positive outcomes for children and their families, including decreased time to permanency and swift resolution of cases; and
- E. Working closely with the Children, Youth and Families Department to leverage federal funding pursuant to Title IV-E of the federal Social Security Act.



Guiding Principles

The Oversight Commission and the Office are committed to strengths-based advocacy and representation of all clients, understanding that children and families do best when their unique strengths are recognized, their needs and interests are self-defined, and that these strengths, needs, and interests drive the representation and services they receive. To provide the zealous and tenacious representation children and families deserve, the Oversight Commission and the Office embrace and uphold the following values and practices:

We respect families. Parents have a right to parent their child, and children have a right to be raised by their parent; children, whenever possible, belong with their families.

We respect children and their right to be safe. We also recognize and promote the importance of a child's emotional, psychological, educational, and overall well-being.

We raise up the voices of children and families. Children and families must have meaningful input into the services and resources in their case plans.

We know that children and parents are more than just their child and family welfare case. Children and parents are whole people with talents, interests, feelings, histories, culture and communities.

We see the obstacles for children and families of color. We are committed to equity in our work with children and families of color.

We affirm and respect the diversity of families and cultures by encouraging, fostering, and maintaining cultural connections.

We respect and protect the rights of children and parents regardless of race, gender, religion, sexual orientation, national, ethnic, or social origin, socioeconomic status, language, political or other opinion, disability, or other status.

We promote the continuous and systematic improvement of the quality of OFRA's services through rigorous evaluation and quality monitoring.

We follow family-centered best practices that promote child safety, well-being, dignity, equity, and permanence.

We provide a platform for the voices of children and parents in our policy and system reform efforts.

We create and support highly qualified interdisciplinary legal teams. We build skills, commitment, hope, and well-being through professional development and hold all staff and contractors to the highest standards.

We engage the community at large to help shape our policy, advocacy, and system improvement efforts.

We serve as a participative and transformational leader promoting the importance of parent and child representation, the unique and essential role our advocates play, and the need to respect and value their work.

Commission's Role and Duties

I. General Commission Roles and Responsibilities

- A. Articulate mission/purpose. It is the Commission's responsibility to work with the Executive Director to create and review statements such as mission, vision, purpose, values, operating principles, etc.
- B. Select the Executive Director. The Commission must reach consensus on the Executive Director's responsibilities and undertake a careful search to find the most qualified individual for the position.



- C. Support and evaluate the Executive Director. The Commission should ensure that the Executive Director has the moral and professional support needed to further the goals of the organization.
- D. Ensure effective planning. The Commission must actively participate with the Executive Director in the strategic planning process, setting goals and determining how to monitor progress towards those goals.
- E. Set policies for OFRA consistent with mission and purpose. Policies reflect principles and preferred actions set by the Commission that the Executive Director and staff articulate as practices and procedures, i.e., how the policy will be implemented.
- F. Assist in developing the annual budget and ensuring that proper financial controls are in place to protect assets and provide proper financial oversight.
- G. Build a competent Commission. The Commission has a responsibility to articulate prerequisites for candidates, orient new members, and periodically and comprehensively evaluate their own performance.
- H. Ensure legal and ethical integrity. The Commission is ultimately responsible for adherence to legal standards and ethical norms.
- I. Enhance the organization's public standing. The Commission should clearly articulate the organization's mission, accomplishments, and goals to the public and garner support from the community.
- J. The Commission and its members have the ethical responsibility to meet the duty of care, the duty of loyalty, and the duty of obedience. These are:
 - 1. **Duty of Care:** Take care of the agency by ensuring prudent use of all assets, including facility, people, and good will;
 - 2. **Duty of Loyalty:** Ensure that the agency's activities and transactions are, first and foremost, advancing its mission; recognize and disclose conflicts of interest; make decisions that are in the best interest of the agency; not in the best interest of the individual Commission member (or any other individual or entity); and
 - 3. **Duty of Obedience:** Ensure that the agency obeys applicable laws and regulations; follows its own bylaws; and that the agency adheres to its stated purposes/mission.

II. Specific Commission Role and Responsibilities

- A. Appointment of Executive Director
 - 1. The Commission shall appoint an Executive Director for a term of four years upon approval of two-thirds of its members. An Executive Director may be reappointed for subsequent terms.
 - 2. The Executive Director may be removed by the Commission upon approval of two-thirds of Commission members; provided that no removal shall occur without notice and an opportunity for a hearing.
- B. Adopt and Monitor Policies

The Commission shall:

 - 1. Exercise independent oversight of the Office to review and approve standards and provide guidance and support to the Executive Director.



2. Review and approve fair and consistent policies for the operation of the Office and the provision of services to children and parents, custodians, or guardians whose children are, or are at risk of being placed, in the legal custody of the Children, Youth and Families Department, and to young people eligible to participate in Fostering Connections.

C. Oversight of the Office

The Commission shall:

1. Evaluate the performance of the Executive Director annually, or as needed.
2. Review the Office's budget request for submission to the Department of Finance and Administration and the Legislative Finance Committee and either approve the budget request as submitted or make adjustments for final approval.
3. Review progress toward the strategic plan's goals and metrics.
4. Refrain from involvement in the duties of the Executive Director with respect to the employment, supervision, management, evaluation, and termination of staff as well as the oversight of contractors.

D. Legislative Recommendations

The Commission may:

1. Adopt positions of support, neutrality, or opposition for proposed legislation and regulations affecting the child welfare system in New Mexico.
2. In collaboration with the Executive Director, make recommendations for new or revised legislation which bears upon the duties and responsibilities of the Office. Such recommendations shall not be considered final until approved by a majority of the members following a reasonable period of review.

E. Individual Commission Member Responsibilities

Individual Commission members shall:

1. Respect the role of the Commission as outlined in these Guidelines. Attend and participate in Commission meetings and activities.
2. Prepare for Commission meetings by reading materials and studying issues in advance of the meeting in order to meaningfully contribute to the advisory process.
3. Respect the time commitment required by arriving prior to the start of the meeting and remaining until its conclusion.
4. Refrain from interference or performance of any function assigned to the Executive Director or staff. Interact appropriately with the Executive Director, Office staff, contractors, and the public.
5. Refrain from interference with the discretion, professional judgment or advocacy of an appointed attorney, contract attorney, staff attorney, contract employee, or office employee in the representation and advocacy of a client pursuant to the Act.
6. Maintain the confidentiality of non-public information shared or disclosed by reason of their position as a Commission member.
7. Communicate the position of the Commission as approved but refrain from identifying as a member when offering own opinion. Overall, the Commission speaks as a whole.

F. Commission Chair and Vice-Chair

1. The Chair's principal role is to lead the Commission in conducting Commission business and ensuring



the integrity of the Commission's processes. The Chair's specific duties are to:

- a. Provide leadership to the Commission in terms of collegiality and ethical conduct.
 - b. Ensure that Commission operations and activities are consistent with Commission Guidelines and legal requirements.
 - c. Set the Commission meeting agenda with input from members and the Executive Director, setting priorities and scheduling agenda items as appropriate.
 - d. Convene and conduct Commission meetings and direct the process of the Commission deliberations pursuant to these Guidelines.
 - e. Ensure information flow to the Commission that is comprehensive and timely.
2. The Chair and Vice-Chair shall be elected for two-year terms by Commission members. Both the Chair and Vice-Chair may serve successive terms.
 3. In the absence or incapacity of the Chair, the Vice-Chair shall carry out the duties of the Chair.
 4. In the event that the Chair resigns or becomes unable to complete their term, the Vice-Chair shall assume the Chair's position for the remainder of the Chair's term, and a new Vice-Chair shall be elected at the next Commission meeting. The new Vice-Chair will serve for the remainder of the former Vice-Chair's term. If the Vice-Chair resigns or becomes unable to complete their term, a new Vice-Chair shall be elected at the next Commission meeting.

G. Committees and Workgroups

Committees and workgroups may be formed at the direction of the Commission or at the discretion of the Chair. These committees and workgroups shall be ad hoc, unless otherwise specified; shall be empowered to make recommendations to the Commission; and may include non-Commission members. Committees and workgroups shall report at each Commission meeting on the status of its activities.

1. Committees and workgroups shall submit recommendations to the Chair for dissemination to the Commission.
2. Members of committees and workgroups should allot sufficient time to serve the purpose of the group.

H. Chain of Command

The chain of command between the Chair, members of the Commission, the Executive Director and staff shall be as follows: the Executive Director will report to the Chair who, in turn, will keep the Commission members informed. Staff questions will be directed to the Executive Director who will then contact the Chair.

III. Member Composition

The Commission consists of thirteen members, including:

- A. The Director of the University of New Mexico School of Law's Corinne Wolfe Center for Child and Family Justice, or the Director's designee.
- B. The Director of the Administrative Office of the Courts' Court Improvement Commission, or the Director's designee.
- C. The Dean of the New Mexico State University School of Social Work or the Dean of New Mexico Highlands University School of Social Work, or the Dean's designee, in alternating terms.



- D. Three members appointed by the governor who demonstrate a commitment to high-quality legal representation or to working with and advocating for the population served by the Office.
- E. Five members appointed by the Chief Justice of the Supreme Court, including:
 - 1. Two members who either served as former Children's Court judges or attorneys in the child welfare system; and
 - 2. Three members, including: a youth with lived experience in the legal custody of the Children, Youth and Families Department; a parent with lived experience having one or more children in the legal custody of the Children, Youth and Families Department; and a member with lived experience with the Children, Youth and Families Department or another child welfare agency as a youth, a parent or both.
- F. One member appointed by the Speaker of the House of Representatives.
- G. One member appointed by the President Pro Tempore of the Senate.

If a member's professional status changes in a way that renders the member ineligible pursuant to the provisions of the Act, the member shall resign immediately.

A member may be removed by the Commission for malfeasance, misfeasance, or neglect of duty.

IV. Member Qualifications

- A. A member of the Commission shall:
 - 1. Possess significant experience in the representation of children, youth, parents, custodians or guardians in abuse and neglect proceedings;
 - 2. Possess significant experience with the child welfare system as a professional (attorney, GAL, CASA, Social Worker or judge) parent, custodian, guardian or former foster youth; or
 - 3. Demonstrate a commitment to high-quality legal representation or to working with and advocating for the population served by the Office.
- B. The following persons shall not be appointed to serve on the Commission:
 - 1. Current employees of the Children, Youth and Families Department;
 - 2. Current employees of the Office;
 - 3. Current judges, judicial officials, or their employees; or
 - 4. Persons who currently contract with or receive funding from the Office or their employees

V. Terms of Appointment

- A. The Director of the University of New Mexico School of Law's Corinne Wolfe Center for Child and Family Justice or designee, and the Director of the Administrative Office of the Courts' Court Improvement Project, shall serve as permanent members. Initial terms of members appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall be for two years. Initial terms of members appointed by the governor, the Chief Justice of the Supreme Court and the Dean of a School of Social work shall be for three years.
- B. Subsequent terms for appointed members shall be for four years. Appointed Commission members shall not serve more than two consecutive terms. An appointed Commission member shall serve until the



member's successor has been appointed and qualified. The Commission shall fill a vacancy for the remainder of the unexpired term pursuant to Membership Composition and Membership Qualifications.

VI. Reimbursement

Commission members shall be entitled to compensation pursuant to the provisions of the Per Diem and Mileage Act (NMSA 1978, Sections 10-8-1 through 10-8-8 (2021)) and shall receive no other perquisite, compensation, or allowance.

VII. Commission Meetings

- A. The Commission shall meet at least four times a year, as determined by a majority of Commission members. Meetings shall be held at the call of the Chair or Executive Director or at the request of four Commission members, and may be in person or by ZOOM or other electronic format.
- B. A majority of Commission members constitutes a quorum for the transaction of business, and an action by the Commission shall not be valid unless seven or more members concur.
- C. A Commission member may select a designee to serve in the member's place no more than once per year. This refers to designating a person to sit in for a meeting, not the permanent designation of a member as provided for above, and not a voting member.
- D. If a Commission member is absent from three consecutive meetings, or from four out of any eight consecutive meetings, the Commission may recommend to the appointing person or entity that the member be removed and replaced. However, the member may file a request with the Commission, at or before the next regular meeting following the third consecutive absence or fourth absence out of eight consecutive meetings, setting forth the reasons for the absences and requesting that the recommendation not be made. The Commission shall vote on whether to grant the request.
- E. All meetings shall be conducted in accordance with the Open Meetings Act (NMSA 1978, Sections 10-15-1 through 10-15-4 (year)). The Commission shall annually adopt an open meetings resolution that describes what notice for a public meeting is reasonable when applied to the Family Representation and Advocacy Commission.
- F. Discussion to obtain consensus will be the prevailing procedure used at meetings. Parliamentary procedure will be used when a decision is to be recorded and transmitted as a recommendation.
- G. The minutes of each Commission meeting shall contain the name of each Commission member present at the meeting, the names of all other individuals in attendance at the meeting, a general description of the subject matter of the items discussed by the Commission, the wording of all motions before the Commission and the votes of the Commission on every item of business dispensed with by vote. Office staff shall compile the minutes of the meeting. The approved minutes of the meeting shall constitute the official record of business transacted at the meeting.
- H. All meetings shall comply with the Americans with Disabilities Act (ADA). The Commission shall provide reasonable accommodations to individuals with disabilities where appropriate.
- I. Subject to full consideration of other agenda items and available times, Commission meetings may include a scheduled time for public input. When recognized by the Commission Chair, non-members may provide testimony to the Commission.

Office of Family Representation and Advocacy Executive Director

- A. The Executive Director is responsible to the Commission for the operation of the Office. The Executive



Director shall manage all operations of the Office and shall:

1. Administer and carry out the provisions of the Act
 2. Exercise authority over and provide general supervision of employees
 - a. Oversee funding, including federal funding;
 - b. Administer and supervise contracts for attorneys and other employees; and represent and advocate for the Office and its clients.
- B. The Executive Director is granted every power express and implied that is necessary for the fulfillment of the Executive Director's duties, including authority to:
1. Set standards relating to:
 - a. Minimum experience, training and qualifications for contract and staff attorneys for child welfare cases;
 - b. Monitoring and evaluating contract and staff attorneys and other contract and office staff, including attorneys appointed to cases to resolve conflicts of interest;
 - c. Managing caseloads and workloads, including load monitoring protocols for staff attorneys, contract attorneys, office staff and contract staff; and
 - d. Competent and efficient representation of clients whose cases present conflicts of interest;
 2. Hire, exercise general supervisory authority over, and evaluate the performance of all employees of the Office in accordance with rules and regulations of the State Personnel Board.
 3. Delegate authority to subordinates as the Executive Director deems necessary and appropriate.
 4. Employ and fix the compensation of persons necessary to discharge the Executive Director's duties and enter into contracts with private attorneys and law firms as necessary to carry out the provisions of the Act.
 5. Organize the Office into units as the Executive Director deems necessary and appropriate to carry out the Executive Director's duties.
 6. Develop and annually update a strategic plan with measurable goals and metrics.
 7. Conduct research and studies that will improve the operation of the Office and the administration of the Act; collect new and existing data recognizing the limits of existing data as well as Tribal data sovereignty.
 8. Provide courses of instruction and practical training, including training on cultural and related matters, for employees of the Office that will improve the operation of the office and the administration of the Act.
 9. Purchase or lease property for use of the Office
 10. Maintain records and statistical data that reflect the operation and administration of the Office, including a system that allows the Office to:
 - a. Collect and analyze data on outcomes for children and families.
 - b. Maintain client confidentiality of information.
 - c. Evaluate the effectiveness of the Office's programs and practices.
 - d. Inform and guide continuous quality improvement.



11. Submit an annual report to the Oversight Commission
 12. Develop the budget and necessary appropriations request needed to fund that budget for the fiscal year and submit the proposed budget and appropriations request to the Commission for its review.
 13. Present the Commission with a detailed financial summary of income and expenses regularly. The financial reports shall cover all funds appropriated to, or administered, earned or expended by the Office from any source whatsoever, including federal, state, and local funds.
 14. Overall exercise leadership of OFRA and in the larger child and family welfare community.
 15. Formulate a fee schedule for attorneys or law firms who are not employees of the Office but who serve as contracted counsel pursuant to the Act.
 16. Formulate a fee schedule for other contract staff who are not employees of the Office but who serve clients pursuant to the Act.
 17. Establish a grievance procedure for clients represented by a staff attorney or contract attorney or served by Office or contract staff;
 18. Certify contracts and expenditures for litigation expenses, including contracts and expenditures for experts, investigators, witnesses and attorney contracts.
 19. Perform other duties as set forth by the Commission.
- C. The Executive Director shall establish an appellate division within the Office. The appellate division shall be led by a chief appellate attorney. The establishment of an appellate division will happen over time as resources permit.
- D. The Executive Director shall establish at least five regional offices that align with the five regional offices of the Children, Youth and Families Department to accommodate all judicial districts that exist within the five regions. The Executive Director shall appoint a regional manager in each region. The regional manager shall administer the operation of the region and shall serve at the pleasure of the Executive Director. Each regional manager shall reside in this state and shall be an attorney licensed to practice law in the highest courts of the state.

